

L. 110-432, which is set out as a note under section 20142 of this title.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-432 amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for fiscal years 1993 through 1998.

1994—Subsec. (a)(1)(C) to (F). Pub. L. 103-440, §202, added subpars. (C) to (F).

Subsec. (e). Pub. L. 103-440, §218, added subsec. (e).

#### § 20118. Prohibition on public disclosure of railroad safety analysis records

(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier's analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary's sole discretion, the Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program or pilot program.

(c) DISCRETIONARY PROHIBITION OF DISCLOSURE.—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

(Added Pub. L. 110-432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4866.)

#### § 20119. Study on use of certain reports and surveys

(a) STUDY.—The Federal Railroad Administration shall complete a study to evaluate whether it is in the public interest, including public safety and the legal rights of persons injured in railroad accidents, to withhold from discovery or admission into evidence in a Federal or State court proceeding for damages involving personal injury or wrongful death against a carrier any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program required under this chapter, including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks. In

conducting this study, the Secretary shall solicit input from the railroads, railroad non-profit employee labor organizations, railroad accident victims and their families, and the general public.

(b) AUTHORITY.—Following completion of the study required under subsection (a), the Secretary, if in the public interest, including public safety and the legal rights of persons injured in railroad accidents, may prescribe a rule subject to notice and comment to address the results of the study. Any such rule prescribed pursuant to this subsection shall not become effective until 1 year after its adoption.

(Added Pub. L. 110-432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4867.)

#### § 20120. Enforcement report

(a)<sup>1</sup> IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public Web site an annual report that—

(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incident reporting, and hazardous materials;

(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

(A) the number of civil penalties assessed;

(B) the initial amount of civil penalties assessed;

(C) the number of civil penalty cases settled;

(D) the final amount of civil penalties assessed;

(E) the difference between the initial and final amounts of civil penalties assessed;

(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

(G) the number of cases referred to the Attorney General for civil or criminal prosecution; and

(H) the number and subject matter of all compliance orders, emergency orders, or precursor agreements;

(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

(4) provide<sup>2</sup> the information required by paragraphs (2) and (3)—

(A) for each Class I railroad individually; and

(B) in the aggregate for—

(i) Class II railroads;

(ii) Class III railroads;

<sup>1</sup> So in original. No subsec. (b) has been enacted.

<sup>2</sup> So in original. Probably should be "provides".

(iii) hazardous materials shippers; and  
 (iv) individuals;

(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—  
 (A) the Locomotive Engineer Review Board;  
 (B) an administrative hearing officer or administrative law judge; or  
 (C) the Administrator of the Federal Railroad Administration;

(6) provides an explanation regarding any changes in the Secretary’s or the Federal Railroad Administration’s enforcement programs or policies that may substantially affect the information reported; and  
 (7) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.

(Added Pub. L. 110-432, div. A, title III, §303(a), Oct. 16, 2008, 122 Stat. 4878; amended Pub. L. 114-94, div. A, title XI, §11316(d), Dec. 4, 2015, 129 Stat. 1676.)

**Editorial Notes**

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §11316(d)(1), substituted “Web site” for “website” in introductory provisions.  
 Subsec. (a)(1). Pub. L. 114-94, §11316(d)(2), substituted “accident and incident reporting” for “accident and incidence reporting”.  
 Subsec. (a)(2)(G). Pub. L. 114-94, §11316(d)(3), inserted “and” at end.  
 Subsec. (a)(5)(B). Pub. L. 114-94, §11316(d)(4), substituted “administrative hearing officer or administrative law judge” for “Administrative Hearing Officer or Administrative Law Judge”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

**§ 20121. Repair and replacement of damaged track inspection equipment**

The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government-owned automated track inspection cars and equipment as a result of third-party liability for such damages, and any amounts collected under this section shall be credited directly to the Railroad Safety and Operations account of the Federal Railroad Administration and shall remain available until expended for the repair, operation, and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

(Added Pub. L. 114-94, div. A, title XI, §11413(a), Dec. 4, 2015, 129 Stat. 1688.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amend-

ment note under section 5313 of Title 5, Government Organization and Employees.

**SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY**

**§ 20131. Restricted access to rolling equipment**

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 872.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20131 .....	45:431(g) (1st sentence cl. (1)).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(g) (1st sentence cl. (1)); added July 8, 1976, Pub. L. 94-348, §5(b), 90 Stat. 820.

The words “within 180 days after July 8, 1976” are omitted as expired.

**§ 20132. Visible markers for rear cars**

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 873.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20132(a) .....	45:431(g) (1st sentence cls. (2), (3)).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(g) (1st sentence cls. (2), (3), last sentence); added July 8, 1976, Pub. L. 94-348, §5(b), 90 Stat. 820.
20132(b) .....	45:431(g) (last sentence).	

In subsection (a), before clause (1), the words “within 180 days after July 8, 1976” are omitted as expired.