

114-94, div. A, title XI, § 11316(g), Dec. 4, 2015, 129 Stat. 1676.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) to (c), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-94, § 11316(g)(1), substituted “concerning each previously unreported crossing through which it operates with respect to the trackage over which it operates” for “concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates”.

Subsec. (b)(1)(A). Pub. L. 114-94, § 11316(g)(2), substituted “concerning each crossing through which it operates with respect to the trackage over which it operates” for “concerning each crossing through which it operates or with respect to the trackage over which it operates”.

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.

§ 20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings

(a) FINDINGS.—

(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life, serious personal injury, and property damage.

(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

(3) Conventional highway traffic control devices such as flashing lights and gates are often effective in warning motorists of a train’s approach to an equipped crossing.

(4) Since enactment of the Highway Safety Act of 1973, over \$4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

(5) The emergence of new technologies presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

(7) Federal Railroad Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for quali-

fication of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration’s Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

(b) POLICY.—It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.

(c) SUBMISSION OF NEW TECHNOLOGY PROPOSALS.—Railroad carriers and railroad suppliers may submit for review and approval to the Secretary such new technology designed to improve safety at highway-rail grade crossings. The Secretary shall approve by order the new technology designed to improve safety at highway-rail grade crossings in accordance with Federal Railroad Administration standards for the development and use of processor-based signal and train control systems and shall consider the effects on safety of highway-user interface with the new technology.

(d) EFFECT OF SECRETARIAL APPROVAL.—If the Secretary approves by order new technology to provide warning to highway users at a highway-rail grade crossing and such technology is installed at a highway-rail grade crossing in accordance with the conditions of the approval, this determination preempts any State statute or regulation concerning the adequacy of the technology in providing warning at the crossing.

(Added Pub. L. 110-432, div. A, title II, § 210(a), Oct. 16, 2008, 122 Stat. 4876.)

Editorial Notes

REFERENCES IN TEXT

The Highway Safety Act of 1973, referred to in subsec. (a)(4), is title II of Pub. L. 93-87, Aug. 13, 1973, 87 Stat. 282. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 401 of Title 23, Highways, and Tables.

§ 20162. Minimum training standards and plans

(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish—

(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training pro-

grams and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad carrier compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

(b) APPROVAL.—The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

(c) EXEMPTION.—The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008.

(Added Pub. L. 110-432, div. A, title IV, § 401(a), Oct. 16, 2008, 122 Stat. 4883; amended Pub. L. 114-94, div. A, title XI, § 11316(h), Dec. 4, 2015, 129 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (a) and (c), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-94 substituted “railroad carrier compliance with Federal standards” for “railroad compliance with Federal standards”.

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.

OPERATING CREW MEMBER TRAINING, QUALIFICATION, AND CERTIFICATION

Pub. L. 117-58, div. B, title II, § 22410, Nov. 15, 2021, 135 Stat. 740, provided that:

“(a) AUDITS.—Not later than 60 days after the date of enactment of this Act [Nov. 15, 2021], the Secretary [of Transportation] shall initiate audits of the training, qualification, and certification programs of locomotive engineers and conductors of railroad carriers, subject to the requirements of parts 240 and 242 of title 49, Code of Federal Regulations, which audits shall—

“(1) be conducted in accordance with subsection (b);

“(2) consider whether such programs are in compliance with such parts 240 and 242;

“(3) assess the type and content of training that such programs provide locomotive engineers and con-

ductors, relevant to their respective roles, including training related to installed technology;

“(4) determine whether such programs provide locomotive engineers and conductors the knowledge, skill, and ability to safely operate a locomotive or train, consistent with such parts 240 and 242;

“(5) determine whether such programs reflect the current operating practices of the railroad carrier;

“(6) assess the current practice by which railroads utilize simulator training, or any other technologies used to train and qualify locomotive engineers and conductors by examining how such technologies are used;

“(7) consider international experience and practice using similar technology, as appropriate, particularly before qualifying locomotive engineers on new or unfamiliar equipment, new train control, diagnostics, or other on-board technology;

“(8) assess the current practice for familiarizing locomotive engineers and conductors with new territory and using recurrency training to expose such personnel to normal and abnormal conditions; and

“(9) ensure that locomotive engineers and conductor training programs are considered separately, as appropriate, based on the unique requirements and regulations.

“(b) AUDIT SCHEDULING.—The Secretary shall—

“(1) schedule the audits required under subsection (a) to ensure that—

“(A) each Class I railroad, including the National Railroad Passenger Corporation and other intercity passenger rail providers, is audited not less frequently than once every 5 years; and

“(B) a select number, as determined appropriate by the Secretary, of Class II and Class III railroads, along with other railroads providing passenger rail service that are not included in subparagraph (A), are audited annually; and

“(2) conduct the audits described in paragraph (1)(B) in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 [title II of Pub. L. 104-121] (5 U.S.C. 601 note) and appendix C of part 209 of title 49, Code of Federal Regulations.

“(c) UPDATES TO QUALIFICATION AND CERTIFICATION PROGRAM.—If the Secretary, while conducting the audits required under this section, identifies a deficiency in a railroad’s training, qualification, and certification program for locomotive engineers or conductors, the railroad shall update the program to eliminate such deficiency.

“(d) CONSULTATION AND COOPERATION.—

“(1) CONSULTATION.—In conducting any audit required under this section, the Secretary shall consult with the railroad and its employees, including any nonprofit employee labor organization representing the engineers or conductors of the railroad.

“(2) COOPERATION.—The railroad and its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad, shall fully cooperate with any such audit, including by—

“(A) providing any relevant documents requested; and

“(B) making available any employees for interview without undue delay or obstruction.

“(3) FAILURE TO COOPERATE.—If the Secretary determines that a railroad or any of its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad is not fully cooperating with an audit, the Secretary shall electronically notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(e) REVIEW OF REGULATIONS.—The Secretary shall triennially determine whether any update to part 240 or 242 of title 49, Code of Federal Regulations, is necessary to better prepare locomotive engineers and conductors to safely operate trains by evaluating whether such regulations establish appropriate Federal standards requiring railroads—

“(1) to provide locomotive engineers or conductors the knowledge and skills to safely operate trains under conditions that reflect industry practices;

“(2) to adequately address locomotive engineer or conductor route situational awareness, including ensuring locomotive engineers and conductors to demonstrate knowledge on the physical characteristics of a territory under various conditions and using various resources;

“(3) to provide relevant and adequate hands-on training before a locomotive engineer or conductor is certified;

“(4) to adequately prepare locomotive engineers or conductors to understand relevant locomotive operating characteristics, to include instructions on functions they are required to operate on any installed technology; and

“(5) to address any other safety issue that the Secretary determines to be appropriate for better preparing locomotive engineers or conductors.

“(f) ANNUAL REPORT.—The Secretary shall publish an annual report on the public website of the Federal Railroad Administration that—

“(1) summarizes the findings of the prior year’s audits;

“(2) summarizes any updates made pursuant to subsection (c); and

“(3) excludes and confidential business information or sensitive security information.”

REPORT AND REGULATIONS ON CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES

Pub. L. 110-432, div. A, title IV, § 402(b)-(d), Oct. 16, 2008, 122 Stat. 4884, provided that, not later than 6 months after promulgating regulations under this section, the Secretary was to issue a report to Congress about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees was necessary to reduce the number and rate of accidents and incidents or to improve railroad safety and that the Secretary could prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determined necessary to reduce accidents and incidents or to improve railroad safety.

§ 20163. Certification of train conductors

(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that train conductors be trained, in accordance with the training standards developed pursuant to section 20162.

(b) PROGRAM REQUIREMENTS.—In developing the regulations required by subsection (a), the Secretary may consider the requirements of section 20135(b) through (e).

(Added Pub. L. 110-432, div. A, title IV, § 402(a), Oct. 16, 2008, 122 Stat. 4884.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

§ 20164. Development and use of rail safety technology

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Rail Safety Im-

provement Act of 2008, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

(1) switch position monitoring devices or indicators;

(2) radio, remote control, or other power-assisted switches;

(3) hot box, high water, or earthquake detectors;

(4) remote control locomotive zone limiting devices;

(5) slide fences;

(6) grade crossing video monitors;

(7) track integrity warning systems; or

(8) other similar rail safety technologies, as determined by the Secretary.

(b) DARK TERRITORY DEFINED.—In this section, the term “dark territory” means any territory in a railroad system that does not have a signal or train control system installed or operational.

(Added Pub. L. 110-432, div. A, title IV, § 406(a), Oct. 16, 2008, 122 Stat. 4886; amended Pub. L. 114-94, div. A, title XI, § 11316(i), Dec. 4, 2015, 129 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94 substituted “after the date of enactment of the Rail Safety Improvement Act of 2008” for “after enactment of the Railroad Safety Enhancement Act of 2008” in introductory provisions.

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.

§ 20165. Limitations on non-Federal alcohol and drug testing

(a) TESTING REQUIREMENTS.—Any non-Federal alcohol and drug testing program of a railroad carrier must provide that all post-employment tests of the specimens of employees who are subject to both the program and chapter 211 of this title be conducted using a scientifically recognized method of testing capable of determining the presence of the specific analyte at a level above the cut-off level established by the carrier.

(b) REDRESS PROCESS.—Each railroad carrier that has a non-Federal alcohol and drug testing program must provide a redress process to its employees who are subject to both the alcohol and drug testing program and chapter 211 of this title for such an employee to petition for and re-