

ceive a carrier hearing to review his or her specimen test results that were determined to be in violation of the program. A dispute or grievance raised by a railroad carrier or its employee, except a probationary employee, in connection with the carrier's alcohol and drug testing program and the application of this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153).

(Added Pub. L. 110-432, div. A, title IV, § 409(a), Oct. 16, 2008, 122 Stat. 4887.)

§ 20166. Emergency escape breathing apparatus

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 that require railroad carriers—

(1) to provide emergency escape breathing apparatus suitable to provide head and neck coverage with respiratory protection for all crewmembers in locomotive cabs on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release;

(2) to provide convenient storage in each freight train locomotive to enable crewmembers to access such apparatus quickly;

(3) to maintain such equipment in proper working condition; and

(4) to provide their crewmembers with appropriate training for using the breathing apparatus.

(Added Pub. L. 110-432, div. A, title IV, § 413(a), Oct. 16, 2008, 122 Stat. 4889.)

Editorial Notes

REFERENCES IN TEXT

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

§ 20167. Reports on highway-rail grade crossing safety

(a) REPORT.—Not later than 4 years after the date by which States are required to submit State highway-rail grade crossing action plans under section 11401(b) of the Fixing America's Surface Transportation Act (49 U.S.C. 22907 note), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the State highway-rail grade crossing action plans, including—

(1) an analysis and evaluation of each State railway-highway crossings program under section 130 of title 23, including—

(A) compliance with section 11401 of the Fixing America's Surface Transportation Act and section 130(g) of title 23; and

(B) the specific strategies identified by each State to improve safety at highway-rail grade crossings, including crossings with multiple accidents or incidents;

(2) the progress of each State in implementing its State highway-rail grade crossings action plan;

(3) the number of highway-rail grade crossing projects undertaken pursuant to section 130 of title 23, including the distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

(4) which States are not in compliance with their schedule of projects under section 130(d) of title 23; and

(5) any recommendations for future implementation of the railway-highway crossings program under section 130 of title 23.

(b) UPDATES.—Not later than 5 years after the submission of the report required under subsection (a), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall—

(1) update the report based on the State annual reports submitted pursuant to section 130(g) of title 23 and any other information obtained by or available to the Administrator of the Federal Railroad Administration; and

(2) submit the updated report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) DEFINITIONS.—In this section:

(1) HIGHWAY-RAIL GRADE CROSSING.—The term “highway-rail grade crossing” means a location within a State, other than a location at which 1 or more railroad tracks cross 1 or more railroad tracks at grade, at which—

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks, either at grade or grade-separated; or

(B) a pathway explicitly authorized by a public authority or a railroad carrier that—

(i) is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others;

(ii) is not associated with a public highway, road, or street, or a private roadway; and

(iii) crosses 1 or more railroad tracks, either at grade or grade-separated.

(2) STATE.—The term “State” means a State of the United States or the District of Columbia.

(Added Pub. L. 117-58, div. B, title II, § 22403(b)(1), Nov. 15, 2021, 135 Stat. 735.)

Editorial Notes

REFERENCES IN TEXT

Section 11401 of the Fixing America's Surface Transportation Act, referred to in subsec. (a), is section 11401 of title XI of div. A of Pub. L. 114-94, which is set out as a note under section 22907 of this title.

PRIOR PROVISIONS

A prior section 20167, Pub. L. 110-432, div. A, title IV, § 418(a), Oct. 16, 2008, 122 Stat. 4891, related to railroad safety infrastructure improvement grants, prior to re-