The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

(b) INITIAL AND FINAL REGULATIONS.—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after November 2, 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after November 2, 1994.

(c) PERSONNEL.—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

(d) CONSULTATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 873; Pub. L. 103–440, title II, § 215(a), Nov. 2, 1994, 108 Stat. 4623; Pub. L. 104–287, § 5(47), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20133(a)	45:431(h)(1)(A) (1st, last sentences), (B), (4).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, § 202(h); added Oct. 10, 1980, Pub. L. 96–423, § 14, 94 Stat. 1817; Jan. 14, 1983, Pub. L. 97–468, § 702(a), 96 Stat. 2579.
20133(b)	45:431(h)(1)(A) (2d, 3d sentences), (2).	
20133(c)	45:431(h)(3).	

In subsection (a), the words ''within one year after January 14, 1983'' and ''initial'' are omitted as obsolete. The text of 45:431(h)(1)(B) is omitted as executed. The words ''after a hearing in accordance with subsection (b) of this section'' are omitted as surplus because of section 20103(e) of the revised title.

In subsections (b) and (c), the word ''subsequent'' is omitted as surplus.

In subsection (c), the word ''Amtrak'' is substituted for ''National Railroad Passenger Corporation'' for consistency in this subtitle. The word ''regulatory'' is substituted for ''rulemaking'' for consistency in the revised title.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–287, § 5(47)(A), substituted ''November 2, 1994'' for ''the date of enactment of the Federal Railroad Safety Authorization Act of 1994''.

Subsec. (b)(2). Pub. L. 104–287, § 5(47)(B), substituted ''November 2, 1994'' for ''such date of enactment''.

1994—Pub. L. 103–440 amended section generally, substituting present provisions for provisions requiring the Secretary to take administrative action to ensure that the construction, operation, and maintenance of passenger rail equipment maximize the safety of passengers, and providing for areas of consideration and concentration, as well as consultation with Amtrak.

§ 20134. Grade crossings and railroad rights of way

(a) GENERAL.—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction. The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.

(b) SIGNAL SYSTEMS AND OTHER DEVICES.—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) DEMONSTRATION PROJECTS.—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 873; Pub. L. 104–287, § 5(48), Oct. 11, 1996, 110 Stat. 3393; Pub. L. 110–432, div. A, title II, § 208(c), Oct. 16, 2008, 122 Stat. 4876.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20134(a)	45:433(b).	Oct. 16, 1970, Pub. L. 91–458, § 204(b), 84 Stat. 972.
20134(b)	45:431(q).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §§ 202(q), 215(a), (b); added June 22, 1988, Pub. L. 100–342, §§ 20, 23, 102 Stat. 638, 639; Sept. 3, 1992, Pub. L. 102–365, § 2(4), 106 Stat. 972.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
20134(c)	45:445(a), (b).	

In subsection (a), the words ''In addition'' are omitted as surplus. The word ''maintain'' is substituted for ''undertake'' for clarity because the effort has begun. The words ''the objective of'' are omitted as surplus. The words ''To carry out this section, the Secretary may use'' are added for clarity.

In subsection (b), the words ''Not later than June 22, 1989'' are substituted for ''within one year after June 22, 1988'' for clarity.

In subsection (c)(1), before clause (A), and (2), the word ''Secretary'' is substituted for ''Federal Railroad Administration'' for clarity and consistency in the revised title. In this restatement, the Secretary of Transportation carries out all laws. However, this subsection is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words ''and incidents'' are added for consistency in this part.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432 inserted at end ''The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.''

1996—Subsec. (c)(2). Pub. L. 104–287 substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Energy and Commerce''.

PEDESTRIAN CROSSING SAFETY

Pub. L. 110–432, div. A, title II, § 201, Oct. 16, 2008, 122 Stat. 4868, provided that: ''Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including—

''(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

''(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

''(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

''(4) installing fences to prohibit access to railroad tracks; and

''(5) other strategies or methods as determined by the Secretary.''

[For definitions of ''crossing'', ''Secretary'', and ''railroad'', as used in section 201 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

§ 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license