

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one 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 is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

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

(Added Pub. L. 110-432, div. A, title II, §204(a), Oct. 16, 2008, 122 Stat. 4869.)

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.

§ 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 qualification 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.)

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 programs 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 in-

spection of track or railroad equipment are qualified to assess railroad 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.)

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.

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:

“(b) REPORT.—Not later than 6 months after promulgating regulations under section 20162 of title 49, United States Code, the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

“(c) CRAFTS AND CLASSES TO BE CONSIDERED.—As part of the report, the Secretary shall consider—

- “(1) car repair and maintenance employees;
- “(2) onboard service workers;
- “(3) rail welders;
- “(4) dispatchers;
- “(5) signal repair and maintenance employees; and
- “(6) any other craft or class of employees that the Secretary determines appropriate.

“(d) REGULATIONS.—The Secretary may prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines pursuant to the report required by paragraph (1) are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.”

[For definitions of “Secretary”, “railroad carrier”, and “railroad”, as used in section 402(b)-(d) 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.]

§ 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 regula-

tions, 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.)

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 enactment of the Railroad Safety Enhancement Act of 2008,¹ 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.)

REFERENCES IN TEXT

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

§ 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.

¹ See References in Text note below.