

One Hundred Tenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

DIVISION A—RAIL SAFETY

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE
49.**

(a) **SHORT TITLE.**—This division may be cited as the “Rail Safety Improvement Act of 2008”.

(b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

- Sec. 1. Short title; table of contents; amendment of title 49.
- Sec. 2. Definitions.
- Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD SAFETY IMPROVEMENTS

- Sec. 101. Federal Railroad Administration officers and duties.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Railroad safety risk reduction program.
- Sec. 104. Implementation of positive train control.
- Sec. 105. Railroad safety technology grants.
- Sec. 106. Reports on statutory mandates and recommendations.
- Sec. 107. Rulemaking process.
- Sec. 108. Hours-of-service reform.
- Sec. 109. Protection of railroad safety risk analyses information.
- Sec. 110. Pilot projects.

**TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY
AND TRESPASSER PREVENTION**

- Sec. 201. Pedestrian crossing safety.
- Sec. 202. State action plans.
- Sec. 203. Improvements to sight distance at highway-rail grade crossings.
- Sec. 204. National crossing inventory.
- Sec. 205. Telephone number to report grade crossing problems.
- Sec. 206. Operation Lifesaver.
- Sec. 207. Federal grants to States for highway-rail grade crossing safety.
- Sec. 208. Trespasser prevention and highway-rail grade crossing safety.
- Sec. 209. Accident and incident reporting.
- Sec. 210. Fostering introduction of new technology to improve safety at highway-rail grade crossings.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.
- Sec. 302. Civil penalty increases.
- Sec. 303. Enforcement report.

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- Sec. 304. Expansion of emergency order authority.
- Sec. 305. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.
- Sec. 306. Railroad radio monitoring authority.
- Sec. 307. Update of Federal Railroad Administration's website.
- Sec. 308. Emergency waivers.
- Sec. 309. Enforcement by the Attorney General.
- Sec. 310. Criminal penalties.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Minimum training standards and plans.
- Sec. 402. Certification of certain crafts or classes of employees.
- Sec. 403. Track inspection time study.
- Sec. 404. Study of methods to improve or correct station platform gaps.
- Sec. 405. Locomotive cab studies.
- Sec. 406. Development and use of rail safety technology.
- Sec. 407. Unified treatment of families of railroad carriers.
- Sec. 408. Study of repeal of Conrail provision.
- Sec. 409. Limitations on non-Federal alcohol and drug testing by railroad carriers.
- Sec. 410. Critical incident stress plan.
- Sec. 411. Railroad carrier employee exposure to radiation study.
- Sec. 412. Alcohol and controlled substance testing for maintenance-of-way employees.
- Sec. 413. Emergency escape breathing apparatus.
- Sec. 414. Tunnel information.
- Sec. 415. Museum locomotive study.
- Sec. 416. Safety inspections in Mexico.
- Sec. 417. Railroad bridge safety assurance.
- Sec. 418. Railroad safety infrastructure improvement grants.
- Sec. 419. Prompt medical attention.
- Sec. 420. Employee sleeping quarters.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

- Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
- Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.
- Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

- Sec. 601. Short title.
- Sec. 602. Clarification of general jurisdiction over solid waste transfer facilities.
- Sec. 603. Regulation of solid waste rail transfer facilities.
- Sec. 604. Solid waste rail transfer facility land-use exemption authority.
- Sec. 605. Effect on other statutes and authorities.

TITLE VII—TECHNICAL CORRECTIONS

- Sec. 701. Technical corrections.

(c) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this division:

- (1) CROSSING.—The term “crossing” means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade where—
 - (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) DEPARTMENT.—The term “Department” means the Department of Transportation.

(3) RAILROAD.—The term “railroad” has the meaning given that term by section 20102 of title 49, United States Code.

(4) RAILROAD CARRIER.—The term “railroad carrier” has the meaning given that term by section 20102 of title 49, United States Code.

(5) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

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

(b) IN TITLE 49.—Section 20102 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘Class I railroad’, ‘Class II railroad’, and ‘Class III railroad’ mean railroad carriers that have annual carrier operating revenues that meet the threshold amount for Class I carriers, Class II carriers, and Class III carriers, respectively, as determined by the Surface Transportation Board under section 1201.1-1 of title 49, Code of Federal Regulations.”; and

(3) by adding at the end thereof the following:

“(4) ‘safety-related railroad employee’ means—

“(A) a railroad employee who is subject to chapter 211;

“(B) another operating railroad employee who is not subject to chapter 211;

“(C) an employee who maintains the right of way of a railroad;

“(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

“(E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and

“(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) of title 49, United States Code, is amended to read as follows:

“(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

“(A) \$225,000,000 for fiscal year 2009;

“(B) \$245,000,000 for fiscal year 2010;

“(C) \$266,000,000 for fiscal year 2011;

“(D) \$289,000,000 for fiscal year 2012; and

“(E) \$293,000,000 for fiscal year 2013.

“(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System

vehicles and track geometry vehicles or other comparable technology as needed to assess track safety consistent with the results of the track inspection study required by section 403 of the Rail Safety Improvement Act of 2008.

“(3) There are authorized to be appropriated to the Secretary \$18,000,000 for the period encompassing fiscal years 2009 through 2013 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

“(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2009 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.”

TITLE I—RAILROAD SAFETY IMPROVEMENTS

SEC. 101. FEDERAL RAILROAD ADMINISTRATION OFFICERS AND DUTIES.

Section 103 is amended by striking subsections (b) through (e) and inserting the following:

“(c) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

“(d) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

“(e) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

“(f) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the career service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator.

“(g) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

“(1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211;

“(2) the duties and powers related to railroad policy and development under subsection (j); and

“(3) other duties and powers prescribed by the Secretary.

“(h) LIMITATION.—A duty or power specified in subsection (g)(1) may be transferred to another part of the Department of Transportation or another Federal Government entity only when specifically provided by law. A decision of the Administrator in carrying out the duties or powers of the Administration and involving notice and hearing required by law is administratively final.

“(i) AUTHORITIES.—Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions at the Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.”.

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration as of the date of enactment of this Act, the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of accidents, incidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

(2) Improving the consistency and effectiveness of enforcement and compliance programs.

(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

(4) Improving research efforts to enhance and promote railroad safety and performance.

(5) Preventing railroad trespasser accidents, incidents, injuries, and fatalities.

(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.

(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee

on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President's budget submission.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies. The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

(2) REPORT TO CONGRESS.—Beginning in 2009, not later than November 1 of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. RAILROAD SAFETY RISK REDUCTION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 201 is amended by adding at end thereof the following:

“§ 20156. Railroad safety risk reduction program

“(a) IN GENERAL.—

“(1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation—

“(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities;

“(B) to submit its program, including any required plans, to the Secretary for review and approval; and

“(C) to implement the program and plans approved by the Secretary.

“(2) RELIANCE ON PILOT PROGRAM.—The Secretary may conduct behavior-based safety and other research, including pilot programs, before promulgating regulations under this subsection and thereafter. The Secretary shall use any information and experience gathered through such research and pilot programs under this subsection in developing regulations under this section.

“(3) REVIEW AND APPROVAL.—The Secretary shall review and approve or disapprove railroad safety risk reduction program plans within a reasonable period of time. If the proposed plan is not approved, the Secretary shall notify the affected

railroad carrier as to the specific areas in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within a reasonable period of time following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

“(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Secretary. The Secretary shall approve or disapprove any program submitted under this paragraph.

“(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad carrier will implement the contents of the program as approved by the Secretary.

“(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

“(d) PROGRAM ELEMENTS.—

“(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, incidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

“(A) the mitigation of aspects that increase risks to railroad safety; and

“(B) the enhancement of aspects that decrease risks to railroad safety.

“(2) REQUIRED COMPONENTS.—Each railroad carrier’s safety risk reduction program shall include a risk mitigation plan in accordance with this section, a technology implementation plan that meets the requirements of subsection (e), and a fatigue management plan that meets the requirements of subsection (f).

“(e) TECHNOLOGY IMPLEMENTATION PLAN.—

“(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop, and periodically update as necessary, a 10-year technology implementation plan that describes the railroad carrier’s plan for development, adoption, implementation, maintenance, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program. Any updates to the plan are subject to review and approval by the Secretary.

“(2) TECHNOLOGY ANALYSIS.—A railroad carrier’s technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing

technologies, including processor-based technologies, positive train control systems (as defined in section 20157(i)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, highway-rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (c).

“(3) IMPLEMENTATION SCHEDULE.—A railroad carrier’s technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

“(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that—

“(A) each railroad carrier’s technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

“(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018.

“(f) FATIGUE MANAGEMENT PLAN.—

“(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop and update at least once every 2 years a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Any such update shall be subject to review and approval by the Secretary.

“(2) TARGETED FATIGUE COUNTERMEASURES.—A railroad carrier’s fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

“(3) ADDITIONAL ELEMENTS.—A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

“(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.

“(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

“(C) Effects on employee fatigue of an employee’s short-term or sustained response to emergency situations, such as derailments and natural disasters, or engagement in other intensive working conditions.

“(D) Scheduling practices for employees, including innovative scheduling practices, on-duty call practices, work and rest cycles, increased consecutive days off for employees, changes in shift patterns, appropriate scheduling practices for varying types of work, and other aspects of employee scheduling that would reduce employee fatigue and cumulative sleep loss.

“(E) Methods to minimize accidents and incidents that occur as a result of working at times when scientific and medical research have shown increased fatigue disrupts employees’ circadian rhythm.

“(F) Alertness strategies, such as policies on napping, to address acute drowsiness and fatigue while an employee is on duty.

“(G) Opportunities to obtain restful sleep at lodging facilities, including employee sleeping quarters provided by the railroad carrier.

“(H) The increase of the number of consecutive hours of off-duty rest, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

“(I) Avoidance of abrupt changes in rest cycles for employees.

“(J) Additional elements that the Secretary considers appropriate.

“(g) CONSENSUS.—

“(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

“(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any nonprofit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

“(h) ENFORCEMENT.—The Secretary shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, risk mitigation plan, technology implementation plan, or fatigue management plan.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20155 the following:

“20156. Railroad safety risk reduction program.”

SEC. 104. IMPLEMENTATION OF POSITIVE TRAIN CONTROL.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 103 of this division, is further amended by adding at the end thereof the following:

“§ 20157. Implementation of positive train control systems

“(a) IN GENERAL.—

“(1) PLAN REQUIRED.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall develop and submit to the Secretary of Transportation a plan for implementing a positive train control system by December 31, 2015, governing operations on—

“(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided;

“(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in parts 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations, are transported; and

“(C) such other tracks as the Secretary may prescribe by regulation or order.

“(2) IMPLEMENTATION.—The plan shall describe how it will provide for interoperability of the system with movements of trains of other railroad carriers over its lines and shall, to the extent practical, implement the system in a manner that addresses areas of greater risk before areas of lesser risk. The railroad carrier shall implement a positive train control system in accordance with the plan.

“(b) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a).

“(c) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan, the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific areas in which the proposed plan is deficient, and the railroad carrier or other entity shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

“(d) REPORT.—Not later than December 31, 2012, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems.

“(e) ENFORCEMENT.—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit or comply with a plan for implementing positive train control under subsection (a).

“(f) OTHER RAILROAD CARRIERS.—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section or section 20156, or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section 20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

“(g) REGULATIONS.—The Secretary shall prescribe regulations or issue orders necessary to implement this section, including regulations specifying in appropriate technical detail the essential functionalities of positive train control systems, and the means by which those systems will be qualified.

“(h) CERTIFICATION.—The Secretary shall not permit the installation of any positive train control system or component in revenue service unless the Secretary has certified that any such system or component has been approved through the approval process set forth in part 236 of title 49, Code of Federal Regulations, and complies with the requirements of that part.

“(i) DEFINITIONS.—In this section:

“(1) INTEROPERABILITY.—The term ‘interoperability’ means the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries.

“(2) MAIN LINE.—The term ‘main line’ means a segment or route of railroad tracks over which 5,000,000 or more gross tons of railroad traffic is transported annually, except that—

“(A) the Secretary may, through regulations under subsection (g), designate additional tracks as main line as appropriate for this section; and

“(B) for intercity rail passenger transportation or commuter rail passenger transportation routes or segments over which limited or no freight railroad operations occur, the Secretary shall define the term ‘main line’ by regulation.

“(3) POSITIVE TRAIN CONTROL SYSTEM.—The term ‘positive train control system’ means a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 103 of this division, is amended by inserting after the item relating to section 20156 the following:

“20157. Implementation of positive train control systems.”

SEC. 105. RAILROAD SAFETY TECHNOLOGY GRANTS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 104 of this division, is further amended by adding at the end thereof the following:

“§ 20158. Railroad safety technology grants

“(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators and monitors, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

“(b) GRANT CRITERIA.—

“(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, railroad suppliers, and State and local governments for projects described

in subsection (a) that have a public benefit of improved safety and network efficiency.

“(2) CONSIDERATIONS.—Priority shall be given to projects that—

“(A) focus on making technologies interoperable between railroad systems, such as train control technologies;

“(B) accelerate train control technology deployment on high-risk corridors, such as those that have high volumes of hazardous materials shipments or over which commuter or passenger trains operate; or

“(C) benefit both passenger and freight safety and efficiency.

“(3) IMPLEMENTATION PLANS.—Grants may not be awarded under this section to entities that fail to develop and submit to the Secretary the plans required by sections 20156(e)(2) and 20157.

“(4) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 80 percent of the total cost of such project.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation \$50,000,000 for each of fiscal years 2009 through 2013 to carry out this section. Amounts appropriated pursuant to this section shall remain available until expended.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 104 of this division, is further amended by inserting after the item relating to section 20157 the following:

“20158. Railroad safety technology grants.”.

SEC. 106. REPORTS ON STATUTORY MANDATES AND RECOMMENDATIONS.

Not later than December 31, 2008, and annually thereafter, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the specific actions taken to implement unmet statutory mandates regarding railroad safety and each open railroad safety recommendation made by the National Transportation Safety Board or the Department’s Inspector General.

SEC. 107. RULEMAKING PROCESS.

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by inserting after section 20115 the following new section:

“§ 20116. Rulemaking process

“No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order, or the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20115 the following:

“20116. Rulemaking process.”.

SEC. 108. HOURS-OF-SERVICE REFORM.

(a) CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—Section 21101(4) is amended by striking “employed by a railroad carrier”.

(b) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.—Section 21103 is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to—

“(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours—

“(A) on duty;

“(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

“(C) in any other mandatory service for the carrier;

“(2) remain or go on duty for a period in excess of 12 consecutive hours;

“(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

“(4) remain or go on duty after that employee has initiated an on-duty period each day for—

“(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier except that—

“(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

“(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier; or

“(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee’s home terminal during which time the employee is unavailable for any service for any railroad carrier, if—

“(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective

bargaining agreements entered into during such period expressly provide for such a schedule;

“(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

“(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees’ work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.”;

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

“(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.—

“(1) A railroad carrier may not require or allow an employee—

“(A) to exceed a total of 40 hours per calendar month spent—

“(i) waiting for deadhead transportation; or

“(ii) in deadhead transportation from a duty assignment to the place of final release, following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

“(B) to exceed a total of 30 hours per calendar month spent—

“(i) waiting for deadhead transportation; or

“(ii) in deadhead transportation from a duty assignment to the place of final release, following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

“(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by—

“(A) a casualty;

“(B) an accident;

“(C) an act of God;

“(D) a derailment;

“(E) a major equipment failure that prevents the train from advancing; or

“(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

“(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead

transportation from a duty assignment to the place of final release in excess of the requirements of paragraph (1).

“(4) If—

“(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus

“(B) the time on duty, exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours.”; and

(3) by adding at the end thereof the following:

“(e) COMMUNICATION DURING TIME OFF DUTY.—During a train employee’s minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee’s rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads’ efficient operations and on-time performance of its trains.”.

(c) LIMITATION ON DUTY HOURS OF SIGNAL EMPLOYEES.—Section 21104 is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty —

“(1) for a period in excess of 12 consecutive hours; or

“(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.”;

(2) by striking “duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.” in subsection (b)(3) and inserting “duty.”;

(3) by inserting “A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.” after “service.” in subsection (c); and

(4) by adding at the end the following:

“(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee’s minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee’s rest. Nothing in this subsection shall

prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

“(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Administration.”

(d) ALTERNATE HOURS OF SERVICE REGIME.—

(1) APPLICATION OF HOURS OF SERVICE REGIME.—Section 21102 is amended—

(A) by striking the section caption and inserting the following:

“§ 21102. Nonapplication, exemption, and alternate hours of service regime”; and

(B) by adding at the end thereof the following:

“(c) APPLICATION OF HOURS OF SERVICE REGIME TO COMMUTER AND INTERCITY PASSENGER RAILROAD TRAIN EMPLOYEES.—

“(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of—

“(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or

“(B) the date that is 3 years following the date of enactment of the Rail Safety Improvement Act of 2008.

“(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).

“(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall—

“(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and

“(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

“(4) In this subsection:

“(A) The terms ‘commuter rail passenger transportation’ and ‘intercity rail passenger transportation’ have the meaning given those terms in section 24102 of this title.

“(C) The term ‘new section 21103’ means section 21103 of this chapter as amended by the Rail Safety Improvement Act of 2008.

“(D) The term ‘old section 21103’ means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.”.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 211 is amended by striking the item relating to section 21102 and inserting the following:

“21102. Nonapplication, exemption, and alternate hours of service regime.”.

(e) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Chapter 211 is amended by adding at the end thereof the following:

“§ 21109. Regulatory authority

“(a) IN GENERAL.—In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations—

“(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

“(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

“(3) to limit or eliminate the amount of time an employee spends waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is considered neither on duty nor off duty under this chapter;

“(4) for signal employees—

“(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee’s headquarters or directly to the employee’s residence; and

“(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

“(5) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

“(b) REGULATIONS GOVERNING THE HOURS OF SERVICE OF TRAIN EMPLOYEES OF COMMUTER AND INTERCITY PASSENGER RAILROAD CARRIERS.—Within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls, communications during time off duty, and time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release, that could affect employee fatigue and railroad safety.

“(c) CONSIDERATIONS.—In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue,

a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

“(d) TIME LIMITS.—

“(1) If the Secretary determines that regulations are necessary under subsection (a), the Secretary shall first request that the Railroad Safety Advisory Committee develop proposed regulations and, if the Committee accepts the task, provide the Committee with a reasonable time period in which to complete the task.

“(2) If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months.

“(3) If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008.

“(e) PILOT PROJECTS.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

“(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

“(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

“(2) WAIVER.—The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot project under this subsection.

“(f) DUTY CALL DEFINED.—In this section the term ‘duty call’ means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.”.

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for chapter 211 is amended by adding at the end thereof the following:

(B) The first sentence of section 21303(a)(1) is amended by inserting “including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008),” after “this title,” the second place it appears.

(f) RECORD KEEPING AND REPORTING.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations—

(A) to adjust record keeping and reporting requirements to support compliance with chapter 211 of title 49, United States Code, as amended by this Act;

(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

(2) PROCEDURE.—In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements.

(g) DELAY IN IMPLEMENTATION OF DUTY HOURS LIMITATION CHANGES.—The amendments made by subsections (a), (b), and (c) shall take effect 9 months after the date of enactment of this Act.

SEC. 109. PROTECTION OF RAILROAD SAFETY RISK ANALYSES INFORMATION.

(a) AMENDMENT.—Subchapter I of chapter 201 is amended by adding at the end thereof the following:

“§ 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.

“§ 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.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20117 the following:

“20118. Prohibition on public disclosure of railroad safety analysis records.

“20119. Study on use of certain reports and surveys.”.

SEC. 110. PILOT PROJECTS.

Section 21108 is amended to read as follows:

“§ 21108. Pilot projects

“(a) IN GENERAL.—As of the date of enactment of the Rail Safety Improvement Act of 2008, a railroad carrier or railroad carriers and all nonprofit employee labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of—

“(1) a waiver of compliance with this chapter as in effect on the date of enactment of the Rail Safety Improvement Act of 2008; or

“(2) a waiver of compliance with this chapter as it will be effective 9 months after the enactment of the Rail Safety Improvement Act of 2008,

to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter, including

requirements concerning maximum on-duty and minimum off-duty periods.

“(b) GRANTING OF WAIVERS.—The Secretary may, after notice and opportunity for comment, approve such waivers described in subsection (a) for a period not to exceed two years, if the Secretary determines that such a waiver of compliance is in the public interest and is consistent with railroad safety.

“(c) EXTENSIONS.—Any such waiver, based on a new petition, may be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

“(d) REPORT.—The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, no later than December 31, 2012, or, if no projects are completed prior to December 31, 2012, no later than 6 months after the completion of a pilot project, a report that—

“(1) explains and analyzes the effectiveness of any pilot project established pursuant to a waiver granted under subsection (a);

“(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

“(3) recommends any appropriate legislative changes to this chapter.

“(e) DEFINITION.—For purposes of this section, the term ‘directly affected covered service employees’ means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.”.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

SEC. 201. PEDESTRIAN CROSSING SAFETY.

Not later than 1 year after the date of enactment of this Act, 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.

SEC. 202. STATE ACTION PLANS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall identify the 10 States that

have had the most highway-rail grade crossing collisions, on average, over the past 3 years and require those States to develop a State grade crossing action plan within a reasonable period of time, as determined by the Secretary. The plan shall identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and shall focus on crossings that have experienced multiple accidents or are at high risk for such accidents. The Secretary shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements and shall cover a period of time determined to be appropriate by the Secretary. The Secretary may condition the awarding of any grants under section 20158, 20167, or 22501 of title 49, United States Code, to a State identified under this section on the development of such State's plan.

(b) REVIEW AND APPROVAL.—Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is disapproved, the Secretary shall notify the affected State as to the specific areas in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary.

SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 105 of this division, is further amended by inserting after section 20158 the following:

“§ 20159. Roadway user sight distance at highway-rail grade crossings

“Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 105 of this division, is amended by inserting after the item relating to section 20158 the following new item:

“20159. Roadway user sight distance at highway-rail grade crossings.”

SEC. 204. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Subchapter II of chapter 201, as amended by section 203 of this division, is further amended by adding at the end the following new section:

“§ 20160. National crossing inventory

“(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6

months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

“(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates or with respect to the trackage over which it operates; or

“(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(b) UPDATING OF CROSSING INFORMATION.—

“(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

“(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates or with respect to the trackage over which it operates; or

“(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

“(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Rail Safety Improvement Act of 2008 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

“(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation’s statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this section.

“(d) DEFINITIONS.—In this section:

“(1) CROSSING.—The term ‘crossing’ means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

“(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.

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

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 203 of this division, is amended by inserting after the item relating to section 20159 the following:

“20160. National crossing inventory.”.

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

“(1) NATIONAL CROSSING INVENTORY.—

“(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

“(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

“(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation’s statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this subsection.

“(4) DEFINITIONS.—In this subsection—

“(A) ‘public crossing’ means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

“(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

“(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of non-vehicular 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; and

“(B) ‘State’ means a State of the United States, the District of Columbia, or Puerto Rico.”.

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting “with section 20160 or” after “comply” in the first sentence; and

(B) by inserting “section 20160 of this title or” after “violating” in the second sentence.

(2) Section 21301(a)(2) is amended by inserting “The Secretary shall impose a civil penalty for a violation of section 20160 of this title.” after the first sentence.

SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSSING PROBLEMS.

(a) IN GENERAL.—Section 20152 is amended to read as follows:

“§ 20152. Notification of grade crossing problems

“(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall require each railroad carrier to—

“(1) establish and maintain a toll-free telephone service for rights-of-way over which it dispatches trains, to directly receive calls reporting—

“(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads;

“(B) disabled vehicles blocking railroad tracks at such grade crossings;

“(C) obstructions to the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of a train’s approach; or

“(D) other safety information involving such grade crossings;

“(2) upon receiving a report pursuant to paragraph (1)(A) or (B), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

“(3) upon receiving a report pursuant to paragraph (1)(A) or (B), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities as appropriate;

“(4) upon receiving a report pursuant to paragraph (1)(C) or (D), timely investigate the report, remove the obstruction if possible, or correct the unsafe circumstance; and

“(5) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

“(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

“(B) an explanation of the purpose of that toll-free telephone number; and

“(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

“(b) WAIVER.—The Secretary may waive the requirement that the telephone service be toll-free for Class II and Class III rail carriers if the Secretary determines that toll-free service would be cost prohibitive or unnecessary.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20152 and inserting the following:

“20152. Notification of grade crossing problems.”.

SEC. 206. OPERATION LIFESAVER.

(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. The program shall include, as appropriate, development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. The program shall also include, as appropriate, school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver’s member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this division. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

- (1) \$2,000,000 for each of fiscal years 2010 and 2011; and
- (2) \$1,500,000 for each of fiscal years 2012 and 2013.

SEC. 207. FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end thereof the following:

“CHAPTER 225—FEDERAL GRANTS TO STATES FOR HIGHWAY-RAIL GRADE CROSSING SAFETY

“Sec.

“22501. Financial assistance to States for certain projects.

“22502. Distribution.

“22503. Standards for awarding grants.

“22504. Use of funds.

“22505. Authorization of appropriations.

“§ 22501. Financial assistance to States for certain projects

“The Secretary of Transportation shall make grants—

“(1) to a maximum of 3 States per year for development or continuance of enhanced public education and awareness activities, in combination with targeted law enforcement, to significantly reduce violations of traffic laws at highway-rail grade crossings and to help prevent and reduce injuries and fatalities along railroad rights-of-way; and

“(2) to provide for priority highway-rail grade crossing safety improvements, including the installation, repair, or improvement of—

“(A) railroad crossing signals, gates, and related technologies, including median barriers and four quadrant gates;

“(B) highway traffic signalization, including highway signals tied to railroad signal systems;

“(C) highway lighting and crossing approach signage;

“(D) roadway improvements, including railroad crossing panels and surfaces; and

“(E) related work to mitigate dangerous conditions.

“§ 22502. Distribution

“The Secretary shall provide the grants to the State agency or agencies responsible for highway-rail grade crossing safety.

“§ 22503. Standards for awarding grants

“(a) SECTION 22501(1) GRANTS.—The Secretary shall provide grants under section 22501(1) based upon the merits of the proposed program of activities provided by the State and upon a determination of where the grants will provide the greatest safety benefits. The Secretary may give priority to States that have developed and implemented a State grade crossing action plan, as described under section 202 of the Rail Safety Improvement Act of 2008.

“(b) SECTION 22501(2) GRANTS.—The Secretary shall provide grants to State and local governments under section 22501(2) to provide priority grade crossing safety improvements on an expedited basis at a location where there has been a highway-rail grade crossing collision within the previous two years involving major loss of life or multiple serious bodily injuries.

“§ 22504. Use of funds

“(a) IN GENERAL.—Any State receiving a grant under section 22501(1) shall use the funds to develop, implement, and continue to measure the effectiveness of a dedicated program of public education and enforcement of highway-rail crossing safety laws and to prevent casualties along railroad rights-of-way. The Secretary may not make a grant under this chapter available to assist a State or political subdivision thereof in establishing or continuing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

“(b) MAXIMUM GRANT AMOUNT UNDER SECTION 22501(2).—No grant awarded under section 22501(2) may exceed \$250,000.

“§ 22505. Authorization of appropriations

“There are authorized to be appropriated to the Secretary \$1,500,000 for each of fiscal years 2010 through 2013 to carry out the provisions of section 22501(1) of this chapter. There are authorized to be appropriated to the Secretary \$1,500,000 for each of fiscal years 2010 through 2013 to carry out the provisions of

section 22501(2) of this chapter. Amounts appropriated pursuant to this section shall remain available until expended.”.

(b) CONFORMING AMENDMENT.—The subtitle analysis for subtitle V is amended by inserting after the item relating to chapter 223 the following:

“225. Federal grants to States for highway-rail grade crossing safety22501”.

SEC. 208. TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING SAFETY.

(a) TRESPASSER PREVENTION AND HIGHWAY-RAIL GRADE CROSSING WARNING SIGN VIOLATIONS.—Section 20151 is amended—

(1) by striking the section heading and inserting the following:

“§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy”;

(2) by striking subsection (a) and inserting the following:

“(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property, vandalism affecting railroad safety, and violations of highway-rail grade crossing signs, signals, markings, or other warning devices and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Rail Safety Improvement Act of 2008. The Secretary shall revise the model prevention strategies and enforcement codes periodically.”;

(3) by inserting “FOR TRESPASSING AND VANDALISM PREVENTION” in the subsection heading of subsection (b) after “OUT-REACH PROGRAM”;

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting “(1)” after “MODEL LEGISLATION.—”; and

(C) by adding at the end the following new paragraph:

“(2) Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signs, signals, markings, or other warning devices.”; and

(5) by adding at the end the following new subsection:

“(d) DEFINITION.—In this section, the term ‘violation of highway-rail grade crossing signs, signals, markings, or other warning devices’ includes any action by a motorist, unless directed by an authorized safety officer—

“(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

“(2) to drive through a flashing grade crossing signal;

“(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

“(4) in the vicinity of a grade crossing, who creates a hazard of an accident involving injury or property damage at the grade crossing.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

“20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy.”.

(c) EDUCATIONAL OR AWARENESS PROGRAM ITEMS FOR DISTRIBUTION.—Section 20134(a) is amended by adding at the end the following: “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.”.

SEC. 209. ACCIDENT AND INCIDENT REPORTING.

The Federal Railroad Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to any Federal national accident database.

SEC. 210. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this division, is further amended by adding at the end the following:

“§ 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.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 204 of this division, is further amended by inserting after the item relating to section 20160, the following:

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

TITLE III—FEDERAL RAILROAD ADMINISTRATION

SEC. 301. HUMAN CAPITAL INCREASES.

(a) IN GENERAL.—The Secretary shall increase the number of Federal Railroad Administration employees by—

- (1) 50 employees in fiscal year 2009;
- (2) 50 employees in fiscal year 2010;
- (3) 50 employees in fiscal year 2011;
- (4) 25 employees in fiscal year 2012; and
- (5) 25 employees in fiscal year 2013.

(b) FUNCTIONS.—In increasing the number of employees pursuant to subsection (a), the Secretary shall focus on hiring employees—

- (1) specifically trained to conduct on-site railroad and highway-rail grade crossing accident investigations;
- (2) to implement the Railroad Safety Strategy;

(3) to administer and implement section 20156 of title 49, United States Code, relating to the Railroad Safety Risk Reduction Program;

(4) to conduct routine inspections and audits of railroad and hazardous materials facilities and records for compliance with railroad safety laws and regulations;

(5) to inspect railroad bridges, tunnels, and related infrastructure, and to review or analyze railroad bridge, tunnel, and related infrastructure inspection reports;

(6) to prevent or respond to natural or manmade emergency situations or events involving rail infrastructure or employees;

(7) to implement section 20157 of title 49, United States Code, relating to positive train control systems;

(8) to implement section 20164 of title 49, United States Code, relating to the development and use of rail safety technology; and

(9) to support the Federal Railroad Administration's safety mission.

SEC. 302. CIVIL PENALTY INCREASES.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking “\$10,000.” and inserting “\$25,000.”; and

(2) by striking “\$20,000.” and inserting “\$100,000.”.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a)(2) is amended—

(1) by striking “\$10,000.” and inserting “\$25,000.”; and

(2) by striking “\$20,000.” and inserting “\$100,000.”.

(c) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) is amended—

(1) by striking “\$10,000.” and inserting “\$25,000.”; and

(2) by striking “\$20,000.” and inserting “\$100,000.”.

SEC. 303. ENFORCEMENT REPORT.

(a) IN GENERAL.—Subchapter I of chapter 201, as amended by section 109 of this division, is amended by adding at the end the following:

“§ 20120. Enforcement report

“(a) IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public website 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 incidence 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;

“(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 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;

“(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.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 109 of this division, is amended by inserting after the item relating to section 20119 the following:

“20120. Enforcement report.”.

SEC. 304. EXPANSION OF EMERGENCY ORDER AUTHORITY.

Section 20104(a)(1) is amended by striking “death or personal injury” and inserting “death, personal injury, or significant harm to the environment”.

SEC. 305. PROHIBITION OF INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS FOR A VIOLATION OF HAZARDOUS MATERIALS TRANSPORTATION LAW.

Section 20111(c) is amended to read as follows:

“(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—

“(1) If an individual’s violation of this part, chapter 51 of this title, or a regulation prescribed, or an order issued, by the Secretary under this part or chapter 51 of this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and an opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive

functions in the railroad industry for a specified period of time or until specified conditions are met.

“(2) This subsection does not affect the Secretary’s authority under section 20104 of this title to act on an emergency basis.”.

SEC. 306. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

“(c) RAILROAD RADIO COMMUNICATIONS.—

“(1) IN GENERAL.—To carry out the Secretary’s responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct, with or without making their presence known, the following activities in circumstances the Secretary finds to be reasonable:

“(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

“(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

“(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

“(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

“(C) Receiving or assisting in receiving the communication (or any information therein contained).

“(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

“(E) Recording the communication by any means, including writing and tape recording.

“(2) ACCIDENT AND INCIDENT PREVENTION AND INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident and incident prevention and investigation.

“(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

“(i) in a prosecution of a felony under Federal or State criminal law; or

“(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

“(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

“(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

“(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

“(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

“(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.”.

SEC. 307. UPDATE OF FEDERAL RAILROAD ADMINISTRATION'S WEBSITE.

(a) IN GENERAL.—The Secretary shall update the Federal Railroad Administration's public website to better facilitate the ability of the public, including those individuals who are not regular users of the public website, to find current information regarding the Federal Railroad Administration's activities.

(b) PUBLIC REPORTING OF VIOLATIONS.—On the Federal Railroad Administration's public website's home page, the Secretary shall provide a mechanism for the public to submit written reports of potential violations of Federal railroad safety and hazardous materials transportation laws, regulations, and orders to the Federal Railroad Administration.

SEC. 308. EMERGENCY WAIVERS.

Section 20103 is amended—

(1) by striking “WAIVERS.—” in subsection (d) and inserting “NONEMERGENCY WAIVERS.—”;

(2) by striking subsection (e) and inserting the following:

“(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided.”; and

(3) by adding at the end thereof the following:

“(g) EMERGENCY WAIVERS.—

“(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under

this part without prior notice and comment if the Secretary determines that—

“(A) it is in the public interest to grant the waiver;

“(B) the waiver is not inconsistent with railroad safety;

and

“(C) the waiver is necessary to address an actual or impending emergency situation or emergency event.

“(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this part.

“(3) STATEMENT OF REASONS.—The Secretary shall state in the decision issued under this subsection the reasons for granting the waiver.

“(4) CONSULTATION.—In granting a waiver under this subsection, the Secretary shall consult and coordinate with other Federal agencies, as appropriate, for matters that may impact such agencies.

“(5) EMERGENCY SITUATION; EMERGENCY EVENT.—In this subsection, the terms ‘emergency situation’ and ‘emergency event’ mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.”.

SEC. 309. ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) by inserting “this part, except for section 20109 of this title, or” in paragraph (1) after “enforce,”;

(2) by striking “21301” in paragraph (2) and inserting “21301, 21302, or 21303”;

(3) by striking “subpena” in paragraph (3) and inserting “subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition”; and

(4) by striking “chapter.” in paragraph (3) and inserting “part.”.

SEC. 310. CRIMINAL PENALTIES.

Section 21311(b) is amended to read as follows:

“(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing a report in violation of section 20901 of this title shall be fined not more than \$2,500. A separate violation occurs for each day the violation continues.”.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

SEC. 401. MINIMUM TRAINING STANDARDS AND PLANS.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 210 of this division, is further amended by adding at the end the following new section:

“§ 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 inspection 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.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 210 of this division, is amended by inserting after the item relating to section 20161 the following:

“20162. Minimum training standards and plans.”.

SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 401 of this division, is further amended by adding at the end the following new section:

“§ 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).”

(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.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 401 of this division, is amended by inserting after the item relating to section 20162 the following:

“20163. Certification of train conductors.”

SEC. 403. TRACK INSPECTION TIME STUDY.

(a) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study to determine whether—

- (1) the required intervals of track inspections for each class of track should be amended;
- (2) track remedial action requirements should be amended;
- (3) different track inspection and repair priorities or methods should be required; and

(4) the speed at which railroad track inspection vehicles operate and the scope of the territory they generally cover allow for proper inspection of the track and whether such speed and appropriate scope should be regulated by the Secretary.

(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

(4) other relevant information, as determined by the Secretary.

(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by subsection (a), the Secretary shall prescribe regulations based on the results of the study conducted under subsection (a).

(d) CONCRETE CROSS TIES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations for concrete cross ties. In developing the regulations for class 1 through 5 track, the Secretary may address, as appropriate—

- (1) limits for rail seat abrasion;
- (2) concrete cross tie pad wear limits;
- (3) missing or broken rail fasteners;
- (4) loss of appropriate toeload pressure;
- (5) improper fastener configurations; and
- (6) excessive lateral rail movement.

SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT STATION PLATFORM GAPS.

Not later than 2 years after the enactment of this Act, the Secretary shall complete a study to determine the most safe, efficient, and cost-effective way to improve the safety of rail passenger station platforms gaps in order to increase compliance with the requirements under the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), including regulations issued pursuant to section 504 of such Act (42 U.S.C. 12204) and to minimize the safety risks associated with such gaps for railroad passengers and employees.

SEC. 405. LOCOMOTIVE CAB STUDIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, through the Railroad Safety Advisory Committee if the Secretary makes such a request, shall complete a study on the safety impact of the use of personal electronic devices, including cell phones, video games, and other distracting devices, by safety-related railroad employees (as defined in section 20102(4) of title 49, United States Code), during the performance of such employees' duties. The study shall consider the prevalence of the use of such devices.

(b) **LOCOMOTIVE CAB ENVIRONMENT.**—The Secretary may also study other elements of the locomotive cab environment and their effect on an employee’s health and safety.

(c) **REPORT.**—Not later than 6 months after the completion of any study under this section, the Secretary shall issue a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) **AUTHORITY.**—Based on the conclusions of the study required under (a), the Secretary of Transportation may prohibit the use of personal electronic devices, such as cell phones, video games, or other electronic devices that may distract employees from safely performing their duties, unless those devices are being used according to railroad operating rules or for other work purposes. Based on the conclusions of other studies conducted under subsection (b), the Secretary may prescribe regulations to improve elements of the cab environment to protect an employee’s health and safety.

SEC. 406. DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.

(a) **IN GENERAL.**—Subchapter II of chapter 201, as amended by section 402 of this division, is further amended by adding at the end the following new section:

“§ 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, 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.”.

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 201, as amended by section 402 of this division, is amended by inserting after the item relating to section 20163 the following:

“20164. Development and use of rail safety technology.”.

SEC. 407. UNIFIED TREATMENT OF FAMILIES OF RAILROAD CARRIERS.

Section 20102(3), as redesignated by section 2(b) of this division, is amended to read as follows:

- “(3) ‘railroad carrier’ means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated

rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.”.

SEC. 408. STUDY OF REPEAL OF CONRAIL PROVISION.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a study of the impacts of repealing section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j). Not later than 6 months after completing the study, the Secretary shall transmit a report with the Secretary’s findings, conclusions, and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 409. LIMITATIONS ON NON-FEDERAL ALCOHOL AND DRUG TESTING BY RAILROAD CARRIERS.

(a) IN GENERAL.—Chapter 201, as amended by section 406 of this division, is further amended by adding at the end the following:

“§ 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 receive 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).”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 406 of this division, is further amended by inserting after the item relating to section 20164 the following:

“20165. Limitations on non-Federal alcohol and drug testing by railroad carriers.”.

SEC. 410. CRITICAL INCIDENT STRESS PLAN.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

(b) **PLAN REQUIREMENTS.**—Each such plan shall include provisions for—

(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

(2) upon the employee's request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

(c) **SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.**—Within 30 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to define the term “critical incident” for the purposes of this section.

SEC. 411. RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY.

(a) **STUDY.**—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) of title 49, United States Code), supplementing the report submitted under section 5101(b) of that title, which may include—

(1) an analysis of the potential application of “as low as reasonably achievable” principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

(4) a review of the effectiveness of the Department's packaging requirements for radioactive materials.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(c) **REGULATORY AUTHORITY.**—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad

employees from unsafe exposure to radiation during the transportation of radioactive materials.

SEC. 412. ALCOHOL AND CONTROLLED SUBSTANCE TESTING FOR MAINTENANCE-OF-WAY EMPLOYEES.

Not later than 2 years following the date of enactment of this Act, the Secretary of Transportation shall complete a rule-making proceeding to revise the regulations prescribed under section 20140 of title 49, United States Code, to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities.

SEC. 413. EMERGENCY ESCAPE BREATHING APPARATUS.

(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 409 of this division, is further amended by adding at the end the following new section:

“§ 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.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 409 of this division, is amended by inserting after the item relating to section 20165 the following:

“20166. Emergency escape breathing apparatus.”.

SEC. 414. TUNNEL INFORMATION.

Not later than 120 days after the date of enactment of this Act, each railroad carrier shall, with respect to each of its tunnels which—

(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of poison- or toxic-by-inhalation hazardous materials (as defined in parts 171.8, 173.115, and 173.132 of title 49, Code of Federal Regulations) per year, maintain, for at least two years, historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall provide periodic briefings on such information to the governments of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the

methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information (as defined in part 1520.5 of title 49, Code of Federal Regulations) provided by the railroad carrier under this section, consistent with national security interests.

SEC. 415. MUSEUM LOCOMOTIVE STUDY.

(a) **STUDY.**—The Secretary shall conduct a study of the requirements relating to safety inspections of diesel-electric locomotives and equipment that are operated in limited service by railroad-related museums, historical societies, and tourist or scenic railroads. The study shall include an analysis of the safety consequences of requiring less frequent inspections of such locomotives and equipment, including periodic inspections or inspections based on service days and air brake inspections.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 416. SAFETY INSPECTIONS IN MEXICO.

Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary of Transportation certifies that—

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;

(2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;

(3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and

(4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this subsection.

SEC. 417. RAILROAD BRIDGE SAFETY ASSURANCE.

(a) **IN GENERAL.**—Not later than 12 months after the date of enactment of this Act, the Secretary shall promulgate a regulation requiring owners of track carried on one or more railroad bridges to adopt a bridge safety management program to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's railroad transportation system that would result from a catastrophic bridge failure.

(b) **REQUIREMENTS.**—The regulations shall, at a minimum, require each track owner to—

(1) to develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(2) to ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

(3) to maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

(4) to develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

(5) to conduct regular comprehensive inspections of each bridge, at least once every year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

(6) to ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

(7) to ensure that an engineer who is competent in the field of railroad bridge engineering—

(A) is responsible for the development of all inspection procedures;

(B) reviews all inspection reports; and

(C) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

(8) to designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems.

(c) **USE OF BRIDGE MANAGEMENT PROGRAMS REQUIRED.**—The Secretary shall instruct bridge experts to obtain copies of the most recent bridge management programs of each railroad within the expert's areas of responsibility, and require that experts use those programs when conducting bridge observations.

(d) **REVIEW OF DATA.**—The Secretary shall establish a program to periodically review bridge inspection and maintenance data from railroad carrier bridge inspectors and Federal Railroad Administration bridge experts.

SEC. 418. RAILROAD SAFETY INFRASTRUCTURE IMPROVEMENT GRANTS.

(a) **IN GENERAL.**—Subchapter II of chapter 201, as amended by section 413 of this division, is further amended by adding at the end thereof the following:

“§ 20167. Railroad safety infrastructure improvement grants

“(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for safety improvements to railroad infrastructure, including the acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities, including track, bridges, tunnels, yards, buildings, passenger stations, facilities, and maintenance and repair shops.

“(b) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers, and State and local governments for projects described in subsection (a). Grants shall also be made available to assist a State or political subdivision thereof in establishing a quiet zone pursuant to part 222 of title 49, Code of Federal Regulations.

“(c) CONSIDERATIONS.—In awarding grants, the Secretary shall consider, at a minimum—

“(1) the age and condition of the rail infrastructure of the applicant;

“(2) the railroad carrier’s safety record, including accident and incident numbers and rates;

“(3) the volume of hazardous materials transported by the railroad;

“(4) the operation of passenger trains over the railroad; and

“(5) whether the railroad carrier has submitted a railroad safety risk reduction program, as required by section 20156.

“(d) MATCHING REQUIREMENTS.—Federal funds for any eligible project under this section shall not exceed 50 percent of the total cost of such project.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation \$5,000,000 for each of fiscal years 2010 through 2013 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201, as amended by section 413 of this division, is amended by inserting after the item relating to section 20166 the following:

“20167. Railroad safety infrastructure improvement grants.”.

SEC. 419. PROMPT MEDICAL ATTENTION.

(a) IN GENERAL.—Section 20109 is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following:

“(c) PROMPT MEDICAL ATTENTION.—

“(1) PROHIBITION.—A railroad carrier or person covered under this section may not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

“(2) DISCIPLINE.—A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment,

or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness of duty. For purposes of this paragraph, the term 'discipline' means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record."

(b) CONFORMING AMENDMENTS.—Section 20109 is amended—

(1) in subsection (d), as redesignated by subsection (a) of this section—

(A) by striking "(a) or (b)" in paragraph (1) and inserting "(a), (b), or (c)";

(B) by striking "(c)(1)" in paragraph (2)(A)(i) and inserting "(d)(1)";

(C) by striking "(a) or (b)" in paragraph (2)(A)(ii) and inserting "(a), (b), or (c)"; and

(2) in subsection (e), as so redesignated—

(A) by striking "(c)" in paragraph (1) and inserting "(d)";

(B) by striking "(c)" in paragraph (2) and inserting "(d)";

(C) by striking "(c)(3)" in paragraph (2) and inserting "(d)(3)"; and

(D) by striking "(c)" in paragraph (3) and inserting "(d)".

SEC. 420. EMPLOYEE SLEEPING QUARTERS.

Section 21106 is amended—

(1) by inserting "(a) IN GENERAL.—" before "A railroad carrier";

(2) by striking "sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;" in paragraph (1) and inserting "sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;" and

(3) by adding at the end the following:

"(b) CAMP CARS.—Not later than December 31, 2009, any railroad carrier that uses camp cars shall fully retrofit or replace such cars in compliance with subsection (a).

"(c) REGULATIONS.—Not later than April 1, 2010, the Secretary of Transportation, in coordination with the Secretary of Labor, shall prescribe regulations to implement subsection (a)(1) to protect the safety and health of any employees and individuals employed to maintain the right of way of a railroad carrier that uses camp cars, which shall require that all camp cars comply with those regulations by December 31, 2010. In prescribing the regulations, the Secretary shall assess the action taken by any railroad carrier to fully retrofit or replace its camp cars pursuant to this section.

"(d) COMPLIANCE AND ENFORCEMENT.—The Secretary shall determine whether a railroad carrier has fully retrofitted or replaced

a camp car pursuant to subsection (b) and shall prohibit the use of any non-compliant camp car. The Secretary may assess civil penalties pursuant to chapter 213 for violations of this section.”.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PAS- SENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 11 is amended by adding at the end of subchapter III the following:

“§ 1139. Assistance to families of passengers involved in rail passenger accidents

“(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

“(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

“(2) designate an independent nonprofit organization, with experience in disasters and post trauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

“(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

“(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

“(2) communicating with the families of passengers involved in the accident as to the roles, with respect to the accident and the post-accident activities, of—

“(A) the organization designated for an accident under subsection (a)(2);

“(B) Government agencies; and

“(C) the rail passenger carrier involved.

“(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

“(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

“(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

“(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the

accident under subsection (a)(1), determines that further assistance is no longer needed.

“(4) To arrange a suitable memorial service, in consultation with the families.

“(d) PASSENGER LISTS.—

“(1) REQUESTS FOR PASSENGER LISTS.—

“(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier’s train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

“(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

“(2) USE OF INFORMATION.—Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

“(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

“(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

“(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

“(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

“(g) PROHIBITED ACTIONS.—

“(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision thereof) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

“(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action or settlement offer for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other

representative of an attorney) or any potential party to the litigation, including the railroad carrier or rail passenger carrier, to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

“(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

“(h) DEFINITIONS.—In this section:

“(1) RAIL PASSENGER ACCIDENT.—The term ‘rail passenger accident’ means any rail passenger disaster resulting in a major loss of life occurring in the provision of—

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause.

“(2) RAIL PASSENGER CARRIER.—The term ‘rail passenger carrier’ means a rail carrier providing—

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

“(3) PASSENGER.—The term ‘passenger’ includes—

“(A) an employee of a rail passenger carrier aboard a train;

“(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

“(C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

“(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

“(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

“(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad passenger accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

“(2) BOARD ASSISTANCE.—If this section does not apply to a railroad passenger accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

“(k) SAVINGS CLAUSE.—Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 11 is amended by inserting after the item relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger accidents.”

SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 is amended by adding at the end the following:

“§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

“(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Safety Improvement Act of 2008, a rail passenger carrier shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a rail passenger carrier intercity train and resulting in a major loss of life.

“(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

“(1) A process by which a rail passenger carrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

“(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1139(a)(2) of this title or the services of other suitably trained individuals.

“(3) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident

occurs, and for providing staff, to handle calls from the families of the passengers.

“(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

“(5) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger’s name appeared on any preliminary passenger manifest for the train involved in the accident.

“(6) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier and by which any possession of the passenger within the control of the rail passenger carrier (regardless of its condition)—

“(A) will be retained by the rail passenger carrier for at least 18 months; and

“(B) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

“(7) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

“(8) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

“(9) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

“(10) An assurance that the rail passenger carrier will work with any organization designated under section 1139(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

“(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1139(a)(2) of this title for services provided by the organization.

“(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor a rail passenger carrier may release to the public any personal information on a list obtained under subsection (b)(1), but may provide information on the list about a passenger to the passenger’s family members to the extent that the Board or a rail passenger carrier considers appropriate.

“(d) LIMITATION ON STATUTORY CONSTRUCTION.—

“(1) RAIL PASSENGER CARRIERS.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

“(2) INVESTIGATIONAL AUTHORITY OF BOARD AND SECRETARY.—Nothing in this section shall be construed to abridge

the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including the development of information regarding the nature of injuries sustained and the manner in which they were sustained, for the purpose of determining compliance with existing laws and regulations or identifying means of preventing similar injuries in the future.

“(e) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

“(f) DEFINITIONS.—In this section, the terms ‘passenger’ and ‘rail passenger accident’ have the meaning given those terms by section 1139 of this title.

“(g) FUNDING.—Out of funds appropriated pursuant to section 20117(a)(1)(A), there shall be made available to the Secretary of Transportation \$500,000 for fiscal year 2010 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 is amended by inserting after the item relating to section 24315 the following:

“24316. Plan to assist families of passengers involved in rail passenger accidents.”.

SEC. 503. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers (as defined in section 1139(h)(2) of title 49, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and

Transportation containing the model plan and recommendations developed by the task force under subsection (b).

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

SEC. 601. SHORT TITLE.

This title may be cited as the “Clean Railroads Act of 2008”.

SEC. 602. CLARIFICATION OF GENERAL JURISDICTION OVER SOLID WASTE TRANSFER FACILITIES.

Section 10501(c)(2) is amended to read as follows:

“(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over—

“(A) mass transportation provided by a local government authority; or

“(B) a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.”.

SEC. 603. REGULATION OF SOLID WASTE RAIL TRANSFER FACILITIES.

(a) **IN GENERAL.**—Chapter 109 is amended by adding at the end thereof the following:

“§ 10908. Regulation of solid waste rail transfer facilities

“(a) **IN GENERAL.**—Each solid waste rail transfer facility shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined in section 1004(29) of the Solid Waste Disposal Act (42 U.S.C. 6903(29)) that is not owned or operated by or on behalf of a rail carrier, except as provided for in section 10909 of this chapter.

“(b) **EXISTING FACILITIES.**—

“(1) **STATE LAWS AND STANDARDS.**—Not later than 90 days after the date of enactment of the Clean Railroads Act of 2008, a solid waste rail transfer facility operating as of such date of enactment shall comply with all Federal and State requirements pursuant to subsection (a) other than those provisions requiring permits.

“(2) **PERMIT REQUIREMENTS.**—

“(A) **STATE NON-SITING PERMITS.**—Any solid waste rail transfer facility operating as of the date of enactment of the Clean Railroads Act of 2008 that does not possess a permit required pursuant to subsection (a), other than a siting permit for the facility, as of the date of enactment of the Clean Railroads Act of 2008 shall not be required to possess any such permits in order to operate the facility—

“(i) if, within 180 days after such date of enactment, the solid waste rail transfer facility has submitted, in good faith, a complete application for all