

49 USCA § 20702  
49 U.S.C.A. § 20702

UNITED STATES CODE ANNOTATED

TITLE 49. TRANSPORTATION

SUBTITLE V--RAIL PROGRAMS

PART A--SAFETY

CHAPTER 207--LOCOMOTIVES

§ 20702. Inspections, repairs, and inspection and repair reports

**(a) General.**--The Secretary of Transportation shall--

- (1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;
- (2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and
- (3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

**(b) Noncomplying locomotives, tenders, and parts.**--(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may revise or set aside the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is--

**(A)** repaired to comply with this chapter and regulations prescribed under this chapter; or

**(B)** found on reinspection or appeal to be in compliance.

**(c) Reports.**--A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every--

- (1) inspection made under regulations prescribed by the Secretary; and
- (2) repair made of a defect disclosed by such an inspection.

**(d) Changes in inspection procedures.**--A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

CREDIT(S)

(Added [Pub.L. 103-272, § 1\(e\)](#), July 5, 1994, 108 Stat. 885.)

<General Materials (GM) - References, Annotations, or Tables>

## HISTORICAL AND STATUTORY NOTES

### Revision Notes and Legislative Reports

#### 1994 Acts.

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|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20702(a) . . . . . 45:29(1st-3d sentences).<br>103, § 6, 36  | Feb. 17, 1911, ch.<br>Stat. 915; Apr.<br>22, 1940, ch.<br>124, § 1(1)-(3)<br>(related to § 6<br>of Act of Feb. 17,<br>1911), 54<br>Reorg.Plan No. 3 of<br>27, 1965, 79<br>10, 1980,<br>13, 94 Stat.<br>1988, Pub.L.<br>102 Stat. 633. |
| 169, § 2(1st<br>45:30(1st sentence<br>related to 45:29, last | Mar. 4, 1915, ch.<br>sentence related                                                                                                                                                                                                 |

to §§ 5, 6 of  
 sentence).  
 1911, last  
 Stat. 1192; Apr.  
 § 2, 54 Stat.  
 No. 3 of 1965,  
 1965, 79 Stat.

49  
 Pub.L. 89-670, §  
 App.:1655(e)(1)(E)-(G).  
 Stat. 939.

20702(b) ..... 45:29(6th, last  
 sentences).  
 45:30(1st sentence  
 related to 45:29).

49  
 App.:1655(e)(1)(E)-(G).  
 20702(c) ..... 45:29(4th, 5th  
 sentences).

20702(d) ..... 45:28.  
 103, § 5, 36

22, 1940, ch.  
 (related to § 5  
 1911), 54

Reorg.Plan No. 3 of  
 27, 1965, 79  
 22, 1988,  
 14(4), 102

45:30(1st sentence  
 related to 45:28).

49  
 App.:1655(e)(1)(E)-(G).

Act of Feb. 17,  
 sentence), 38  
 22, 1940, ch. 124,  
 148; Reorg.Plan  
 eff. July 27,  
 1320.

Oct. 15, 1966,  
 6(e)(1)(E)-(G), 80

Feb. 17, 1911, ch.  
 Stat. 914; Apr.  
 124, § 1(1)-(3)  
 of Act of Feb. 17,  
 Stat. 148;  
 1965, eff. July  
 Stat. 1320; June  
 Pub.L. 100-342, §  
 Stat. 633.

In this section, the words "locomotive and tender and its parts and appurtenances" and "locomotive, tender, or locomotive or tender part or appurtenance" are substituted for "locomotive boiler" and "boiler or boilers or apparatus pertaining thereto" in 45:29 and "the provision of sections 22 to 29 ... of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances" in 45:30 for clarity and because of the restatement.

In subsection (a), before clause (1), the word "shall" is substituted for "It shall be the duty of", "shall", and "His first duty shall be" in 45:29 and "shall ... and shall have the same powers and duties with respect to all the parts and appurtenances of the locomotive and tender that they have with respect to the boiler of a locomotive and the appurtenances thereof" in 45:30 for clarity and to eliminate unnecessary words. In clause (1), the words "ordinarily housed or repaired in his district, and if any locomotive is ordinarily housed or repaired in two or more districts, then the director of locomotive inspection or an assistant shall make such division between inspectors as will avoid the necessity for duplication of work" in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)-(G). In clause (2), the words "inspect ... as necessary to carry out" are substituted for "make such personal inspection ... from time to time as may be necessary to fully carry out the provisions of" in 45:29 and "inspect" in 45:30 to eliminate unnecessary words. The words "under his care" and "as may be consistent with his other duties" in 45:29 are omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)-(G). The words "but not necessarily" are substituted for "but he shall not be required to make such inspections" in 45:29 to eliminate unnecessary words. In clause (3), the words "inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary" are substituted for "inspections in accordance with the rules and regulations established or approved by the Secretary of Transportation" in 45:29 and "the provision of sections 22 to 29 ... of this title as to the equipment of locomotives shall apply to and include the entire locomotive and tender and all their parts with the same force and effect as it applies to locomotive boilers and their appurtenances" in 45:30 for clarity and because of the restatement. The words "a defective locomotive, tender, part, or appurtenance is used again" are substituted for "the boiler or boilers or appurtenances pertaining thereto are again put in service" in 45:29 for consistency in this subsection. The text of 45:30(last sentence) is omitted as obsolete because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320), 49 App.: 1655(e)(1)(E)-(G), and 5:ch. 33.

In subsection (b), the word "reinspection" is substituted for "reexamination" for consistency in this chapter.

In subsection (b)(1), the words "in the performance of his duty" in 45:29 are omitted as surplus. The words "owned or operated by a railroad carrier" are added for clarity and because of the words "owning or operating such locomotive" in 45:29(last sentence). The words "does not comply with this chapter or a regulation prescribed under this chapter" are substituted for "not conforming to the requirements of the law or the rules and regulations established and approved as hereinbefore stated" in 45:29 to eliminate unnecessary words and because of the restatement. The words "describing any defect resulting in noncompliance" are substituted for "that the locomotive is not in serviceable condition ... because of defects set out and described in said notice" for consistency in this section and to eliminate unnecessary words. The words "written request for a reinspection" are substituted for "appeal ... by telegraph or by letter to have said boiler reexamined" for clarity and to eliminate unnecessary words. The words "an officer or employee of the Department of Transportation" are substituted for "one of the assistant directors of locomotive inspection or any district inspector" because of Reorganization Plan No. 3 of 1965 (eff. July 27, 1965, 79 Stat. 1320) and 49 App.:1655(e)(1)(E)-(G).

In subsection (b)(2), the words "Immediately after the reinspection is completed" are substituted for "upon such reexamination the boiler is found in serviceable condition ... immediately" and "but if the reexamination of said boiler sustains the decision of the district inspector ... at once" in 45:29 to eliminate unnecessary words. The words "give written notice ... stating whether the locomotive, tender, part, or appurtenance is in compliance" are substituted for "in writing" and "that the appeal from the decision of the inspector is dismissed" for clarity and consistency in this subsection. The words "after providing an opportunity for a proceeding" are substituted for "after hearing" as

being more appropriate and for consistency in the revised title and with other titles of the United States Code. The words "may revise or set aside the finding of noncompliance" are substituted for "shall have power to revise, modify, or set aside such action ... and declare that said locomotive is in serviceable condition and authorize the same to be operated" to eliminate unnecessary words.

Subsection (b)(3) is substituted for "and thereafter such boiler shall not be used until in serviceable condition" and "whereupon such boiler may be put into service without further delay" in 45:29 and the text of 45:29(last proviso) for clarity and to eliminate unnecessary words.

In subsection (c), before clause (1), the words "make and keep" are substituted for "keep" for clarity.

Subsection (d) is substituted for the text of 45:28(1st sentence last proviso) and 30(1st sentence related to 45:28) for clarity and because of the restatement. [House Report No. 103-180](#).

#### Administrative Law

##### American Digest System

 Maintenance and repair of motive power and rolling stock, see Railroads 115, 116.

 Regulation of train equipment; repairs and movement of cars for repair, see Railroads 229(8).

#### Encyclopedias

49 U.S.C.A. § 20702, 49 USCA § 20702

Current through P.L. 108-144 (excluding P.L. 108-136, 108-137) approved 12-02-03

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