

C

Effective: [See Text Amendments]

United States Code Annotated [Currentness](#)  
Title 49. Transportation ([Refs & Annos](#))  
Subtitle V. Rail Programs  
Part A. Safety  
    <sup>↖</sup> [Chapter 201](#). General ([Refs & Annos](#))  
        <sup>↖</sup> [Subchapter I](#). General

→ § 20104. Emergency authority

**(a) Ordering restrictions and prohibitions.--**(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to [section 20103\(e\)](#) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

**(b) Review of orders.--**After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under [section 554 of title 5](#). If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

**(c) Civil actions to compel issuance of orders.--**An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under [section 706 of title 5](#).

CREDIT(S)

(Added [Pub.L. 103-272, § 1\(e\)](#), July 5, 1994, 108 Stat. 864.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1994 Acts.

-----

Revised Section (Statutes	Source (U.S. Code)	Source
Large)		at

-----	
20104(a) . . . . . 45:432(a), (d).	Oct. 16,
1970,	Pub.L.
91-458,	§ 203,
84 Stat.	972;
restated	Oct. 10,
1980,	Pub.L.
96-423,	§ 3, 94
Stat.	1811.
20104(b) . . . . . 45:432(b), (c).	
20104(c) . . . . . 45:432(e).	
-----	
-----	

In subsection (a)(1), the words "or both" are omitted as surplus. The words "immediately may order restrictions and prohibitions ... that may be necessary to abate the situation" are substituted for "may immediately issue an order ... imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation" to eliminate unnecessary words.


In subsection (a)(2), the words "or a combination of conditions and practices" are added for consistency with paragraph (1). The words "(as determined by the Secretary)" are omitted as surplus. The last sentence is substituted for 45:432(d)(last sentence) for clarity.


In subsection (b), the words "the Secretary" are added for clarity.

In subsection (c), the words "issue an order" are substituted for "seek relief" for consistency in this section. The words "The action must be brought in the judicial district" are substituted for "for the judicial district" for consistency in the revised title. [House Report No. 103-180](#).

LIBRARY REFERENCES

American Digest System

Authority, powers, and duties of federal officers and agents generally, see United States  40, 41.

Regulation and control of railroads generally; statutory and official regulation, see Railroads  5 et seq., 223 et seq.

49 U.S.C.A. § 20104, **49 USCA § 20104**

Current through P.L. 109-89 approved 10-13-05

Copr. © 2005 Thomson/West. No. Claim to Orig. U.S. Govt. Works

END OF DOCUMENT