

LOCOMOTIVE INSPECTION ACT

(EXCERPTS FROM 45 U.S.C.)

(INCLUDING AMENDMENTS OF THE RAIL SAFETY IMPROVEMENT ACT OF 1988)

SECTION 22. INSPECTION OF LOCOMOTIVES AND APPURTENANCES;
DEFINITIONS

That the term "railroad," when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).

SECTION 23. USE OF UNSAFE LOCOMOTIVES AND APPURTENANCES
UNLAWFUL; INSPECTION AND TESTS

It shall be unlawful for any railroad to use or permit to be used on its line any locomotive unless said locomotive, its boiler, tender, and all parts and appurtenances thereof are in proper condition and safe to operate in the service to which the same are put, that the same may be employed in the active service of such railroad without unnecessary peril to life or limb, and unless said locomotive, its boiler, tender, and all parts and appurtenances thereof have been inspected from time to time in accordance with the provisions of sections 28-30 and 32 of this title and are able to withstand such test or tests as may be prescribed in the rules and regulations as hereinafter provided for.

SECTION 28. RULES AND INSTRUCTIONS AS TO INSPECTION

Each railroad subject to this chapter shall file its rules and instructions for the inspection of locomotive boilers with the chief inspector within three months after February 17, 1911, and after hearing and approval by the Interstate Commerce Commission, such rules and instructions, with such modifications as the commissioner requires, shall become obligatory upon such railroad: Provided, however, That if any railroad subject to this chapter shall fail to file its rules and instructions the director of locomotive inspection shall prepare rules and instructions not inconsistent herewith for the inspection of locomotive boilers, to be observed by such railroad; which rules and instructions, being approved by the Interstate Commerce Commission, and a copy thereof being served upon the president, general manager, or general superintendent of such railroad, shall be obligatory, and a violation thereof punished as hereinafter provided: Provided also, That such railroad may from time to time change the rules and regulations herein provided for, but such change shall not take effect and the new rules and regulations be in force until the same shall have been filed with and approved by the Interstate Commerce Commission. The director of locomotive inspection shall also make all needful rules, regulations, and instructions not inconsistent herewith for the conduct of his office and for the government of the district inspectors: Provided, however, That all such rules and instructions shall be approved by the Interstate Commerce Commission before they take effect.

SECTION 29. DUTIES OF DISTRICT INSPECTORS; INSPECTION AND REPAIRS BY CARRIERS; NOTICE TO CARRIER OF CONDITION OF BOILER; APPEAL TO DIRECTOR AND REEXAMINATION; FURTHER APPEAL TO SECRETARY

It shall be the duty of each inspector to become familiar, so far as practicable, with the condition of each locomotive boiler 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. Each inspector shall make such personal inspection of the locomotive boilers under his care from time to time as may be necessary to fully carry out the provisions of sections 22-29 and 31-34 of this title, and as may be consistent with his other duties, but he shall not be required to make such inspections at stated times or at regular intervals. His first duty shall be to see that the railroads make inspections in accordance with the rules and regulations established or approved by the Interstate Commerce Commission, and that railroads repair the defects which such inspections disclose before the boiler or boilers or appurtenances pertaining thereto are again put in service. Each railroad subject to such sections shall keep on file the report of each inspection required by such rules and regulations and the report showing the repair of the defects disclosed by the inspection. The rules and regulations referred to in this section shall prescribe the manner in which such reports shall be kept. Whenever any district inspector shall, in the performance of his duty, find any locomotive boiler or apparatus pertaining thereto not conforming to the requirements of the law or the rules and regulations established and approved as hereinbefore stated, he shall notify the railroad in writing that the locomotive is not in serviceable condition, and thereafter such boiler shall not be used until in serviceable condition: Provided, however, That a railroad, when notified by an inspector in writing that a locomotive boiler is not in serviceable condition, because of defects set out and described in said notice, may within five days after receiving said notice, appeal to the director of locomotive inspection by telegraph or by letter to have said boiler reexamined, and upon receipt of the appeal from the inspector's decision, the director of locomotive inspection shall assign one of the assistant directors of locomotive inspection or any district inspector other than the one from whose decision the appeal is taken to reexamine and inspect said boiler within fifteen days from date of notice. If upon such reexamination the boiler is found in serviceable condition, the director of locomotive inspection shall immediately notify the railroad in writing, whereupon such boiler may be put into service without further delay; but if the reexamination of said boiler sustains the decision of the district inspector, the director of locomotive inspection shall at once notify the railroad owning or operating such locomotive that the appeal from the decision of the inspector is dismissed, and upon the receipt of such notice the railroad may, within thirty days, appeal to the Interstate Commerce Commission, and upon such appeal, and after hearing, said commission shall have the power to revise,

modify, or set aside such action of the director of locomotive inspection and declare that said locomotive is in serviceable condition and authorize the same to be operated: Provided further, That pending either appeal the requirements of the inspector shall be effective.

SECTION 30. POWERS AND DUTIES OF INSPECTORS, AND PROVISIONS OF CERTAIN SECTIONS APPLICABLE TO ALL PARTS OF LOCOMOTIVE AND TENDER; EXAMINATIONS OF INSPECTORS

The director of locomotive inspection and the two assistant directors of locomotive inspection, together with all the district inspectors, appointed as hereinbefore provided, shall inspect 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, and the provisions of sections 22-29 and 31-34 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. All inspectors and applicants for the position of inspector shall be examined touching their qualifications and fitness with respect to the additional duties imposed.

SECTION 31. ANNUAL REPORT OF DIRECTOR

The director of locomotive inspection shall make an annual report to the Interstate Commerce Commission of the work done during the year, and shall make such recommendations for the betterment of the service as he may desire.

SECTION 32. REPORT BY RAILROAD TO DIRECTORS AS TO ACCIDENTS; PRESERVATION OF DISABLED PARTS; INVESTIGATION AND REPORT THEREUPON

In the case of accident resulting from failure from any cause of a locomotive boiler or its appurtenances, resulting in serious injury or death to one or more persons, a statement forthwith must be made in writing of the fact of such accident, by the railroad owning or operating said locomotive, to the director of locomotive inspection. Whereupon the facts concerning such accident shall be investigated by the director of locomotive inspection or one of his assistants, or such inspector as the director of locomotive inspection may designate for that purpose. And where the locomotive is disabled to the extent that it cannot be run by its own steam, the part or parts affected by the said accident shall be preserved by said railroad intact, so far as possible, without hindrance or interference to traffic until after said inspection. The director of inspection or an assistant or the designated inspector making the investigation shall examine or cause to be examined thoroughly the boiler or part affected, making full and detailed report of the cause of the accident to the director of locomotive inspection.

SECTION 33. REPORT BY SECRETARY OF INVESTIGATIONS

The Interstate Commerce Commission may at any time call upon the director of locomotive inspection for a report of any accident embraced in section 32 of this title, and upon the receipt of said report, if it deems it to be in the public interest, make reports of such investigations, stating the cause of accident, together with such recommendations as it deems proper. Neither said report nor any report of said investigation nor any part thereof shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation.

SECTION 34. PENALTY FOR VIOLATIONS BY CARRIER; DUTY OF UNITED STATES ATTORNEY TO SUE THEREFOR; DIRECTOR TO GIVE INFORMATION

Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be liable to a penalty in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office; and it shall be the duty of such attorneys, subject to the direction of the Attorney General, to bring such suits upon duly verified information being lodged with them, respectively, of such violations having occurred; and it shall be the duty of the director of locomotive inspection to give information to the proper United States attorney of all violations coming to his knowledge. For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.