

49 U.S.C.A. § 20103

United States Code Annotated [Currentness](#)

Title 49. Transportation ([Refs & Annos](#))

Subtitle V. Rail Programs

Part A. Safety

↖ [Chapter 201.](#) General ([Refs & Annos](#))

↖ [Subchapter I.](#) General

→ **§ 20103. General authority**

**(a) Regulations and orders.**--The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

**(b) Regulations of practice for proceedings.**--The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

**(c) Consideration of information and standards.**--In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

**(d) Waivers.**--The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

**(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 chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

**(f) Tourist railroad carriers.**--In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

CREDIT(S)

(Added [Pub.L. 103-272, § 1\(e\)](#), July 5, 1994, 108 Stat. 863, and amended [Pub.L. 103-440, Title II, § 217](#), Nov. 2, 1994, 108 Stat. 4624; [Pub.L. 107-296, Title XVII, § 1710\(b\)](#), Nov. 25, 2002, 116 Stat. 2319.)

49 U.S.C.A. § 20103

## HISTORICAL AND STATUTORY NOTES

### Revision Notes and Legislative Reports

#### 1994 Acts.

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|---------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 20103 (a) . . . . . | 45:431 (a) (1st sentence cl. (1)) . | Oct. 16, 1970, Pub.L. 91-458, § 202 (a) (1st sentence cl. (1)), (b), (c), 84 Stat. 971.                             |
| 20103 (b) . . . . . | 45:431 (d) (21st-last words) .      | Oct. 16, 1970, Pub.L. 91-458, § 202 (d), 84 Stat. 971; restated July 8, 1976, Pub.L. 94-348, § 5 (a), 90 Stat. 819. |
| 20103 (c) . . . . . | 45:431 (d) (1st-20th words) .       |                                                                                                                     |
| 20103 (d) . . . . . | 45:431 (c) .                        |                                                                                                                     |
| 20103 (e) . . . . . | 45:431 (b) .                        |                                                                                                                     |

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In this part, the word "rule" is omitted as being synonymous with "regulation". The word "standard" is omitted as being included in "regulation".

In subsection (a), the words "(hereafter in this subchapter referred to as the 'Secretary')" in 45:431(a)(1st sentence cl. (1)) are omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section.

In subsection (b), the words "within 180 days after July 8, 1976" are omitted as expired. The word "prescribe" is substituted for "take such action as may be necessary to develop and publish" for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (d), the words "after hearing in accordance with subsection (b) of this section" are omitted as surplus because of the language restated in subsection (e) of this section. [House Report No. 103-180](#).

House Report No. 103-692, see 1994 U.S. Code Cong. and Adm. News, p. 3670.

2002 Acts. [House Report No. 107-609](#)(Part I) and Statement by President, see 2002 U.S. Code Cong. and Adm.

49 U.S.C.A. § 20103

News, p. 1352.

#### Amendments

2002 Amendments. Subsec. (a)(1). [Pub.L. 107-296, § 1710\(b\)](#), following "1970.", inserted: "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary."

1994 Amendments. Subsec. (f). [Pub.L. 103-440, § 217](#), added subsec. (f).

#### Effective and Applicability Provisions

2002 Acts. Amendment by [Pub.L. 107-296](#) effective 60 days after Nov. 25, 2002, see [section 4 of Pub.L. 107-296](#), set out as a note under [6 U.S.C.A. § 101](#).

#### Regulations on Safety and Working Conditions of Locomotive Cabs

[Pub.L. 103-272, § 4\(t\)](#), July 5, 1994, 108 Stat. 1372, provided that:

"**(1)** Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess--

"**(A)** the adequacy of Locomotive Crashworthiness Requirements Standard S-580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

"**(B)** the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

"**(2) Supporting research and analysis.**--In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider--

"**(A)** the costs and benefits associated with equipping locomotives with--

"**(i)** braced collision posts;

"**(ii)** rollover protection devices;

"**(iii)** deflection plates;

"**(iv)** shatterproof windows;

"**(v)** readily accessible crash refuges;

49 U.S.C.A. § 20103

"(vi) uniform sill heights;

"(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

"(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

"(x) functioning and regularly maintained sanitary facilities; and

"(B) the effects on train crews of the presence of asbestos in locomotive components.

"(3) **Report.**--If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision."

## CROSS REFERENCES

Alaska Railroad transfer memoranda sanctioning noncompliance with regulations to continue in effect as waivers of compliance as such term is used in this section, see [45 USCA § 1207](#).

Locomotive operators denied license or certification entitled to hearing under this section, see [49 USCA § 20135](#).

## Administrative Law

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.

## Encyclopedias

## NOTES OF DECISIONS

### **Drug testing regulations [1](#)**

#### [1](#). Drug testing regulations

Random drug testing regulations promulgated by Federal Railroad Administration did not violate separation of

49 U.S.C.A. § 20103

powers doctrine because Secretary of Transportation had authority to promulgate appropriate rules, regulations, orders, and standards for all areas of railroad safety. [Railway Labor Executives' Ass'n v. Skinner, C.A.9 \(Cal.\) 1991, 934 F.2d 1096](#). Constitutional Law  77; Searches And Seizures  78

49 U.S.C.A. § 20103, 49 USCA § 20103

Current through P.L. 108-198 (End) approved 12-19-03

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