

Railroad Safety Reform
Act of 2002

An important bill -- H.R.4761 -- sponsored by Minnesota Rep. James L. Oberstar, was introduced on May 16, 2002. The bill has been referred to the House subcommittee on Transportation and Infrastructure, which referred it to the Subcommittee on Railroads.

The bill proposes to reform the safety practices of the railroad industry, to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

HR 4761 IH

107th CONGRESS

2d Session

H. R. 4761

To reform the safety practices of the railroad industry, to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2002

Mr. OBERSTAR (for himself and Mr. FILNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To reform the safety practices of the railroad industry, to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Railroad Safety Reform Act of 2002'.

(b) TABLE OF CONTENTS-

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SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The railroad industry has achieved a reduction in the number of fatalities, and the number of some types of accidents, such as collisions and grade-crossing accidents, has fallen sharply. But the number of derailments and employee fatalities has remained almost unchanged in recent years, and some key safety issues have not been adequately addressed. Employee fatigue remains a critical problem, and harassment and intimidation of railroad employees continue to cast doubt on the reliability of rail safety statistics and to create a hostile working environment that is not conducive to safety. Concerted efforts are needed to address these problems so that railroad safety can be further improved.

(2) The Safety Assurance and Compliance Program is an approach to safety that emphasizes the active partnership of the Federal Railroad Administration, rail labor representatives, and railroad management in identifying current safety problems and jointly developing effective solutions to those problems. One fundamental principle of this approach is tracing a safety problem to its root cause and attacking that cause rather than only its symptoms. Where a problem is determined to be system-wide, this approach calls for a system-wide solution. Under this approach, the Federal Railroad Administration seeks to focus its inspection and enforcement resources on the most serious safety problems. This approach has demonstrated significant capacity for identifying and eliminating the root cause of system-wide safety problems by enlisting those most directly affected by such problems--railroad employees and managers--in a partnership effort. Used together with the Federal Railroad Administration's regular inspections and enforcement tools, this approach provides a firm basis for addressing the safety challenges facing the changing railroad industry and advancing toward the safety program's ultimate goal of zero tolerance for any safety hazard in the railroad industry.

(3) The Railroad Safety Advisory Committee, which was established under the Federal Advisory Committee Act (5 U.S.C. App. 2), is proving to be an effective means of involving interested members of the railroad community in the development of railroad safety rules issued by the Federal Railroad Administration. The continued use of this collaborative method of developing safety regulations is more likely to produce rules that are based on an industry consensus and, accordingly, that are more readily understood and more consistently complied with, than rules developed under more traditional methods.

SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act 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.

TITLE I--EMPLOYEE FATIGUE

SEC. 101. DEFINITIONS.

Section 21101 is amended--

(1) by amending paragraph (2) to read as follows:

`(2) `dispatching service employee' means an operator, train dispatcher, or other train employee, including an employee of an independent contractor, who--

`(A) by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements; or

`(B) directly supervises an employee who carries out responsibilities described in subparagraph (A),

but such term does not include a power director.';

(2) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (7), and (8), respectively;

(3) by inserting after paragraph (2) the following new paragraph:

`(3) `dually employed' means being at the same time in the employ of two or more railroad carriers, of two or more independent contractors, or of both one or more railroad carriers and one or more independent contractors.';

(4) in paragraph (4), as so redesignated by paragraph (2) of this section, by striking `or a train employee' and inserting `a train employee, a power director, or a transport vehicle driver';

(5) by inserting after paragraph (4), as so redesignated by paragraph (2) of this section, the following new paragraphs:

`(5) `independent contractor' means an independent contractor to a railroad carrier and includes a subcontractor to an independent contractor.

`(6) `power director' means--

`(A) a train employee, including an employee of an independent contractor, who affects the movement of trains through control of third rail or pantographic electric power; and

`(B) an individual, including an employee of an independent contractor, who--

`(i) supervises operations and sectionalizing of an electric power distribution system which transmits electrical energy for the propulsion of trains;

`(ii) directs opening and closing of circuit breakers affecting the movement of trains and for the protection of employees and others engaged in work on, or in close proximity to,

any portion of the electric power distribution system which transmits electrical energy for the propulsion of trains; or

`(iii) disconnects and sectionalizes switches as required for the movement of trains and for the protection of employees and others engaged in work on, or in close proximity to, any portion of the electric power distribution system which transmits electrical energy for the propulsion of trains.';

(6) in paragraph (7), as so redesignated by paragraph (2) of this section, by striking `employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems' and inserting `engaged in installing, repairing, or maintaining signal systems, including an employee of an independent contractor, and including any individual who directly supervises an individual engaged in those activities';

(7) in paragraph (8), as so redesignated by paragraph (2) of this section, by inserting `and an employee of an independent contractor, and any individual who directly supervises an individual engaged in those activities' after `including a hostler'; and

(8) by adding at the end the following new paragraphs:

`(9) `transport motor vehicle' means a motor vehicle used to transport any person employed by a railroad carrier or its independent contractors to or from a work site.

`(10) `transport vehicle driver' means a manager, supervisor, official, agent, or other employee of a railroad carrier or its independent contractor who drives a transport motor vehicle to or from a work site for the purpose of transporting persons employed by a railroad carrier or its independent contractors.'

SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EMPLOYEES.

(a) GENERAL RULES- Section 21103(a) is amended--

(1) by striking `officers' and inserting `managers, supervisors, officers,'; and

(2) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

`(1) unless that employee, during the prior 24 hours, has had at least 8 consecutive hours off duty, during which the employee receives no communication from such employing railroad carrier or its managers, supervisors, officers, and agents;

`(2) for a period in excess of 12 consecutive hours;

`(3) after that employee has been on duty for 10 or more consecutive hours, unless that employee immediately after being released from such period of duty has at least 10 consecutive hours off duty;

`(4) unless that employee has received notice at least 8 hours before beginning such duty;

`(5) unless that employee has had at least one period of at least 24 consecutive hours off duty in the past 7 days; and

`(6) unless, when last released from duty at that employee's home terminal, the employee had as much time off duty at the employee's home terminal as the employee most recently had off duty at an away-from-home designated terminal of the employee.

In the case of a dually employed employee, a railroad carrier shall not be held responsible for violating this subsection because of the employee's work schedule for another employer if none of the railroad carrier's managers, supervisors, officers, and agents had actual knowledge of that work schedule. For purposes of the preceding sentence, a railroad carrier's managers, supervisors, officers, and agents shall be considered to have actual knowledge of the work schedules of the train employees of its independent contractors. A railroad carrier shall be held responsible for the actions of its independent contractors in requiring or allowing a train employee to remain or go on duty.'

(b) DETERMINING TIME ON DUTY- Section 21103(b) is amended--

(1) in paragraph (3), by striking `the railroad carrier' and inserting `a railroad carrier or independent contractor';

(2) in paragraph (4), by inserting `or waiting on a train for deadhead transportation from a duty assignment' after `to a duty assignment';

(3) in paragraph (7)(D), by striking `officer or agent' and inserting `manager, supervisor, officer, or agent'; and

(4) by inserting the following new paragraph at the end:

`(8) All time on duty for any railroad carrier or independent contractor shall be included.'

(c) NOTICE ABOUT DUAL EMPLOYMENT- Section 21103 is amended by adding at the end the following new subsection:

`(d) NOTICE ABOUT DUAL EMPLOYMENT- (1) Not later than January 31 each year, a railroad carrier shall inform in writing each train employee engaged in or connected with the movement of a train the railroad carrier operates--

`(A) that all time spent performing aggregate duty for one or more railroad carriers and one or

more independent contractors counts as time on duty under this section;

`(B) about the employee's responsibilities under paragraph (2); and

`(C) about the penalties applicable under section 21303 to a failure to comply with paragraph (2) of this subsection.

`(2) A dually employed train employee shall--

`(A) inform each of his or her railroad carrier and independent contractor employers in writing within 5 days after entering into an employment relationship with an additional railroad carrier or independent contractor; and

`(B) ensure that each of his or her railroad carrier and independent contractor employers is kept informed about the employee's work schedule with each of the other employing railroad carriers and independent contractors.

`(3) A railroad carrier or independent contractor receiving written notification of dual employment shall retain a copy of the notification for a period of two years after the termination of such dual employment status. A copy of such notification shall be made available to representatives of the Secretary of Transportation for inspection and copying during normal business hours at the railroad carrier's or independent contractor's system headquarters and at such subsystem headquarters as may be required by the Secretary by regulation.'

SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EMPLOYEES.

(a) GENERAL RULES- Section 21104(a)(2) is amended--

(1) by striking `officers' and inserting `managers, supervisors, officers,'; and

(2) by inserting after subparagraph (C) the following:

`In the case of a dually employed employee, a railroad carrier shall not be held responsible for violating this paragraph because of the employee's work schedule for another employer if none of the railroad carrier's managers, supervisors, officers, and agents had actual knowledge of that work schedule. For purposes of the preceding sentence, a railroad carrier's managers, supervisors, officers, and agents shall be considered to have actual knowledge of the work schedules of the signal employees of its independent contractors. A railroad carrier shall be held responsible for the actions of its independent contractors in requiring or allowing a signal employee to remain or go on duty.'

(b) DETERMINING TIME ON DUTY- Section 21104(b) is amended--

(1) in paragraph (2), by striking `the railroad carrier' and inserting `a railroad carrier or independent contractor';

(2) in paragraph (3), by striking `, 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'; and

(3) by inserting the following new paragraph at the end:

`(8) All time on duty for any railroad carrier or independent contractor shall be included.'

(c) EMERGENCIES- Section 21104(c) is amended by adding at the end the following:

`In the case of a grade crossing at which a grade crossing protection device is continuously operating or wholly nonoperational, a signal employee may be allowed to remain or go on duty as provided under this subsection to prevent motorists from entering such grade crossing, but may not be allowed to remain or go on duty as provided under this subsection to repair or inspect the device. If a signal employee has not received 8 or 10 consecutive hours off duty as required by subsection (a)(2), and such employee is called to duty between 12 midnight and 6 a.m., the employee in his sole judgment may refuse to go on duty if he feels too tired to perform the work safely.'

(d) NOTICE ABOUT DUAL EMPLOYMENT- Section 21104 is amended by adding at the end the following new subsection:

`(d) NOTICE ABOUT DUAL EMPLOYMENT- (1) Not later than January 31 each year, a railroad carrier shall inform in writing each signal employee engaged in installing, repairing, or maintaining signal systems for the railroad carrier--

`(A) that all time spent performing aggregate duty for one or more railroad carriers and one or more independent contractors counts as time on duty under this section;

`(B) about the employee's responsibilities under paragraph (2); and

`(C) about the penalties applicable under section 21303 to a failure to comply with paragraph (2) of this subsection.

`(2) A dually employed signal employee shall--

`(A) inform each of his or her railroad carrier and independent contractor employers in writing within 5 days after entering into an employment relationship with an additional railroad carrier or independent contractor; and

`(B) ensure that each of his or her railroad carrier and independent contractor employers is kept informed about the employee's work schedule with each of the other employing railroad carriers and independent contractors.

`(3) A railroad carrier or independent contractor receiving written notification of dual employment shall retain a copy of the notification for a period of two years after the termination of such dual employment status. A copy shall be made available to representatives of the Secretary of Transportation for inspection and copying during normal business hours at the railroad carrier's or independent contractor's system

headquarters and at such subsystem headquarters as may be required by the Secretary by regulation.'

SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING SERVICE EMPLOYEES AND POWER DIRECTORS.

(a) APPLICATION- Section 21105(a) is amended by inserting 'or power director' after 'dispatching service employee'.

(b) GENERAL RULES- Section 21105(b) is amended--

(1) by striking 'subsection (d)' and inserting 'subsection (e)';

(2) by inserting 'by a railroad carrier or its managers, supervisors, officers, and agents' after 'or allowed'; and

(3) by inserting after paragraph (2) the following:

'In the case of a dually employed employee, a railroad carrier shall not be held responsible for violating this subsection because of the employee's work schedule for another employer if none of the railroad carrier's managers, supervisors, officers, and agents had actual knowledge of that work schedule. For purposes of the preceding sentence, a railroad carrier's managers, supervisors, officers, and agents shall be considered to have actual knowledge of the work schedules of the dispatching service employees of its independent contractors. A railroad carrier shall be held responsible for the actions of its independent contractors in requiring or allowing a dispatching service employee to remain or go on duty.'

(c) REDESIGNATION- Subsections (c) and (d) of section 21105 are redesignated as subsections (d) and (e), respectively.

(d) POWER DIRECTORS- Section 21105 is amended by inserting after subsection (b) the following new subsection:

'(c) POWER DIRECTORS- A railroad carrier and its managers, supervisors, officers, and agents may not require or allow a power director to remain or go on duty for more than a total of 12 hours during a 24-hour period.'

(e) DETERMINING TIME ON DUTY- Section 21105(d), as so redesignated by subsection (c) of this section, is amended to read as follows:

'(d) DETERMINING TIME ON DUTY- In determining under subsection (b) or (c) the time a dispatching service employee or power director is on or off duty, time spent performing any other service for one or more railroad carriers or independent contractors (or a combination thereof) during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place, and counts toward the employee's aggregate time on duty.'

(f) NOTICE ABOUT DUAL EMPLOYMENT- Section 21105 is amended by adding at the end the following new subsection:

`(f) NOTICE ABOUT DUAL EMPLOYMENT- (1) Not later than January 31 each year, a railroad carrier shall inform each of its dispatching service employees and power directors in writing--

`(A) that all time spent performing aggregate duty for one or more railroad carriers and one or more independent contractors counts as time on duty under this section;

`(B) about the employee's responsibilities under paragraph (2); and

`(C) about the penalties applicable under section 21303 to a failure to comply with paragraph (2) of this subsection.

`(2) A dually employed dispatching service employee or power director shall--

`(A) inform each of his or her railroad carrier and independent contractor employers in writing within 5 days after entering into an employment relationship with an additional railroad carrier or independent contractor; and

`(B) ensure that each of his or her railroad carrier and independent contractor employers is kept informed about the employee's work schedule with each of the other employing railroad carriers and independent contractors.

`(3) A railroad carrier or independent contractor receiving written notification of dual employment shall retain a copy of the notification for a period of two years after the termination of such dual employment status. A copy shall be made available to representatives of the Secretary of Transportation for inspection and copying during normal business hours at the railroad carrier's or independent contractor's system headquarters and at such subsystem headquarters as may be required by the Secretary by regulation.'

(g) TECHNICAL AMENDMENTS- (1) The heading of section 21105 is amended by inserting `and power directors' after `service employees'.

(2) The item in the table of sections of chapter 211 relating to section 21105 is amended by inserting `and power directors' after `service employees'.

SEC. 105. EMPLOYEE SLEEPING QUARTERS.

Section 21106 is amended to read as follows:

`Sec. 21106. Limitations on employee sleeping quarters

`(a) GENERAL RULE- A railroad carrier and its managers, supervisors, officers, and agents may provide sleeping quarters (including crew quarters, camp or bunk cars, and

trailers) for employees, including signal employees, and for any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters--

`(1) are clean, safe, and sanitary;

`(2) give those employees and other individuals an opportunity for rest free from the interruptions caused by noise; and

`(3) provide a separate bedroom for each employee or other individual.

`(b) LOCATION- Effective January 1, 2003, sleeping quarters referred to in subsection (a) shall not be located in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

`(c) MAXIMUM NOISE LEVELS- The Secretary, in prescribing regulations under this section, shall set maximum noise levels which may be experienced in sleeping quarters. Such levels shall be based in part on single event noise levels.'

SEC. 106. FATIGUE MANAGEMENT PLANS.

(a) AMENDMENT- Chapter 211 is amended by adding at the end the following new section:

`Sec. 21109. Fatigue management plans

`(a) PLAN SUBMISSION-

`(1) REQUIREMENT- (A) Each Class I and Class II railroad carrier, each railroad carrier providing intercity rail passenger transportation (as such term is defined in section 24102), and each railroad carrier providing commuter rail passenger transportation (as such term is defined in section 24102), shall submit to the Secretary of Transportation a fatigue management plan that is designed to reduce the fatigue experienced by railroad employees employed by the railroad carrier or its independent contractors and to reduce the likelihood of accidents and injuries caused by fatigue. The plan shall address safety effects of fatigue on all employees, including employees not covered by this chapter. The plan shall be submitted not later than 1 year after the date of the enactment of this section, or not later than 45 days prior to commencing operations, whichever is later.

`(B) In the interest of railroad safety, additional categories or classes of railroad carriers may be required to submit a fatigue management plan, as determined under regulations prescribed by the Secretary.

`(C) The Secretary may require resubmission or revision of a fatigue management plan at any time.

`(2) CONTENTS OF PLAN- The fatigue management plan shall--

`(A) include the railroad carrier's--

`(i) reasons for deciding whether to include or not include each element described in subsection (b)(2) and (3) in the fatigue management plan; and

`(ii) analysis supporting each element included in the plan;

`(B) describe how every condition on the railroad carrier's property, and every type of employee, that is likely to be affected by fatigue is addressed in the plan; and

`(C) include the name, title, address, and telephone number of the primary person to be contacted with regard to review of the plan.

`(3) APPROVAL- (A) The Secretary shall review each proposed plan and proposed amendment to a plan and approve or disapprove such plan or amendment based on whether the requirements of this section are sufficiently and appropriately addressed and the proposals are adequately justified in the plan or amendment.

`(B) If the proposed plan or amendment to the plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific points in which the proposed plan or amendment to the plan is deficient, and the railroad carrier shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. If a railroad carrier does not submit a plan (or, when directed by the Secretary, an amended plan), or if a railroad carrier's amended plan is not approved by the Secretary, the Secretary shall prescribe a fatigue management plan for the railroad carrier.

`(4) AMENDMENTS- Each affected railroad carrier shall file any proposed amendment to its plan with the Secretary not later than 60 days prior to the proposed effective date of the amendment.

`(5) EMPLOYEE PARTICIPATION- (A) Each affected railroad carrier shall consult with, and employ good faith and use its best efforts to reach agreement by consensus with, all of its directly affected employee groups on the contents of the fatigue management plan and amendments to the plan, and, except as provided in subparagraph (C), shall jointly with such groups submit the plan and each amendment to the plan to the Secretary.

`(B) In the event that labor organizations represent classes or crafts of directly affected employees of the railroad carrier, the railroad carrier shall consult with these organizations in drafting the plan and amendments to the plan. The Secretary may provide assistance to such parties in the drafting of the plan and amendments to the plan.

`(C) If the railroad carrier and its directly affected employees (including any 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 or an amendment to the plan, then--

`(i) the railroad carrier shall file the plan or amendment with the Secretary; and

`(ii) directly affected employees and labor organizations representing a class or craft of directly affected employees may, at their option, file a statement with the Secretary explaining their views on the plan or amendment on which consensus was not reached.

`(b) ELEMENTS OF THE FATIGUE MANAGEMENT PLAN-

`(1) CONSIDERATION OF VARYING CIRCUMSTANCES- Each plan filed with the Secretary under the procedures of subsection (a) shall take into account the varying circumstances of operations by the railroad carrier on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

`(2) ISSUES AFFECTING ALL EMPLOYEES- With respect to all directly affected employees, including scheduled employees and nonscheduled employees, the railroad carrier shall consider the need to include in its fatigue management plan elements addressing each of the following issues:

`(A) Education and training on the physiological and psychological factors that affect fatigue, as well as strategies to counter fatigue, based on current and evolving scientific and medical research and literature.

`(B) Opportunities for identification, diagnosis, and treatment of sleep disorders, including--

`(i) screenings as part of required physical examinations;

`(ii) questionnaires to identify employees at risk; and

`(iii) home screening of employees,

with the results thereof assessed by physicians with a specialization in sleep disorders.

`(C) Effects on employee fatigue of emergency response involving both short-term emergency situations, including derailments, and long-term emergency situations, including natural disasters.

`(D) Scheduling practices involving train lineups and calling times, including work/rest cycles for shift workers and on-call employees that permit employees to compensate for cumulative sleep loss by guaranteeing a minimum number of consecutive days off (exclusive of time off due to illness or injury).

`(E) Minimizing the incidence of fatigue due to rotating shifts.

`(F) The effects of staffing levels and workloads on fatigue.

`(G) Alertness strategies, such as policies on napping, to address acute sleepiness and fatigue while an employee is on duty.

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

`(I) In connection with the scheduling of a duty call, increasing the number of consecutive hours of rest off duty, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

`(J) Avoiding abrupt changes in rest cycles for employees returning to duty after an extended absence due to circumstances such as illness, injury, or vacation.

`(3) ISSUES AFFECTING NONSCHEDULED EMPLOYEES- With respect only to nonscheduled employees, the railroad carrier shall consider the need to include in its fatigue management plan elements addressing each of the following issues:

`(A) Lengthening the notice provided to an employee of the time to report for duty.

`(B) Work/rest cycles that guarantee a greater minimum number of consecutive days off than is afforded to scheduled employees (exclusive of time off due to illness or injury).

`(c) WAIVER-

`(1) PETITION- A railroad carrier and all labor organizations representing any class or craft of directly affected employees of the railroad carrier may jointly request, as part of a proposed fatigue management plan, the waiver of any provisions of this chapter. The Secretary shall publish any petition for such a waiver in the Federal Register and shall provide all parties an opportunity to comment on the petition. The Secretary shall also, on the request of any interested party, conduct a hearing on the petition.

`(2) AUTHORITY TO WAIVE- The Secretary is authorized to waive any provision of this chapter pursuant to a request under paragraph (1) or paragraph (3) if the petition demonstrates to the Secretary's satisfaction that--

`(A) the waiver permits procedures that are essential to achieving the objectives of reducing fatigue and enhancing safety, which would not be lawful without the waiver; and

`(B) the plan effectively protects the safety interest addressed by the provision to be waived.

`(3) WHEN EMPLOYEES ARE NOT REPRESENTED BY LABOR ORGANIZATIONS- In the event that labor organizations do not represent classes or

crafts of directly affected employees of a railroad carrier, the railroad carrier may, after consulting with all of its directly affected employees or employee groups in drafting the waiver request, request the waiver of any provisions of this chapter, subject to the same conditions and procedures as a request made under paragraph (1).

`(d) COMPLIANCE AND ENFORCEMENT-

`(1) COMPLIANCE REQUIREMENT- Effective upon approval or prescription of a fatigue management plan and amendments thereto under this section, compliance with that fatigue management plan and those amendments becomes mandatory and enforceable by the Secretary.

`(2) EFFECTIVE DATE- A fatigue management plan may include effective dates later than the date of approval of the plan, and may include different effective dates for different parts of the plan.

`(3) AUDITS- To enforce this section, the Secretary may conduct inspections and periodic audits of a railroad carrier's compliance with its fatigue management plan.

`(e) DEFINITIONS- For purposes of this section--

`(1) the term `directly affected employees' means employees, including employees of an independent contractor, to whose hours of service the terms of a fatigue management plan specifically apply;

`(2) the term `interested party' includes a labor organization representing employees of a railroad carrier performing work similar to the work performed by the directly affected employees (who are not members of a labor organization) of another railroad carrier requesting a waiver under subsection (c);

`(3) the term `nonscheduled employee' means an employee that is not a scheduled employee; and

`(4) the term `scheduled employee' means an employee who is assigned to work a tour of duty with a regular and predictable starting and stopping time.'.

(b) TABLE OF SECTIONS AMENDMENT- The table of sections for chapter 211 is amended by adding at the end the following new item:

`21109. Fatigue management plans.'.

SEC. 107. CONFORMING AMENDMENTS.

(a) Section 21102(a)(4) is amended by striking `officer or agent' and inserting `manager, supervisor, officer, or agent'.

(b) Section 21303(a)(1) is amended by inserting `or 21109' after `section 21108'.

(c) Section 21303(c) is amended by striking `officers and agents' and inserting `managers, supervisors, officers, agents, and independent contractors'.

SEC. 108. LIMITATIONS ON DUTY HOURS OF TRANSPORT VEHICLE DRIVERS.

(a) AMENDMENT- Chapter 211 is amended by adding at the end the following new section:

`Sec. 21110. Limitations on duty hours of transport vehicle drivers

`(a) GENERAL- Except as provided in subsection (c) of this section, a railroad carrier and its managers, supervisors, officers, and agents may not require or allow a transport vehicle driver to remain or go on duty--

`(1) unless that transport vehicle driver has had at least 8 consecutive hours off duty, during which the transport vehicle driver receives no communication from such employing railroad carrier or its managers, supervisors, officers, and agents, during the prior 24 hours;

`(2) for a period in excess of 10 consecutive hours;

`(3) unless that transport vehicle driver has received notice at least 8 hours before going on duty; and

`(4) unless that transport vehicle driver has had at least one period of at least 24 consecutive hours off duty in the past 7 days.

In the case of a dually employed transport vehicle driver, a railroad carrier shall not be held responsible for violating this subsection because of the transport vehicle driver's work schedule for another employer if none of the railroad carrier's managers, supervisors, officers, and agents had actual knowledge of that work schedule. For purposes of the preceding sentence, a railroad carrier's managers, supervisors, officers, and agents shall be considered to have actual knowledge of the work schedules of the transport vehicle driver employees of its independent contractors. A railroad carrier shall be held responsible for the actions of its independent contractors in requiring or allowing a transport vehicle driver to remain or go on duty.

`(b) DETERMINING TIME ON DUTY- In determining under subsection (a) of this section the time a transport vehicle driver is on or off duty, the following rules apply:

`(1) Time on duty begins when the transport vehicle driver reports for duty and ends when the transport vehicle driver is finally released from duty.

`(2) Time when the transport vehicle driver is engaged in or connected with the movement of a transport motor vehicle is time on duty, even when such vehicle is not actually transporting employees of a railroad carrier or its independent contractor.

`(3) Time spent performing any other service for a railroad carrier or for an independent contractor for the benefit of a railroad carrier during a 24-hour period in which the transport vehicle driver is engaged in or connected with the movement of a transport motor vehicle is time on duty.

`(c) EMERGENCIES- A transport vehicle driver, who encounters an emergency and cannot, because of that emergency, safely complete a transportation assignment within the 10-hour maximum driving time permitted by subsection (a)(2), may drive and be permitted or required to drive a transport motor vehicle for not more than 2 additional hours in order to complete that transportation assignment or to reach a place offering safety for the occupants of the transport motor vehicle and security for the transport motor vehicle, if such transportation assignment reasonably could have been completed within such 10-hour period absent the emergency. A railroad carrier shall exercise due diligence to avoid or limit excess service even in the event of an emergency.

`(d) NOTICE ABOUT DUAL EMPLOYMENT- (1) Not later than January 31 each year, a railroad carrier shall inform each of its transport vehicle drivers in writing--

`(A) that all time spent performing aggregate duty for one or more railroad carriers and one or more independent contractors counts as time on duty under this section;

`(B) about the transport vehicle driver's responsibilities under paragraph (2); and

`(C) about the penalties applicable under section 21303 to a failure to comply with paragraph (2) of this subsection.

`(2) A dually employed transport vehicle driver shall--

`(A) inform each of his or her railroad carrier and independent contractor employers in writing within 5 days after entering into an employment relationship with an additional railroad carrier or independent contractor; and

`(B) ensure that each of his or her railroad carrier and independent contractor employers is kept informed about the transport vehicle driver's work schedule with each of the other employing railroad carriers and independent contractors.

`(3) A railroad carrier or independent contractor receiving written notification of dual employment shall retain a copy of the notification for a period of two years after the termination of such dual employment status. A copy shall be made available to representatives of the Secretary of Transportation for inspection and copying during normal business hours at the railroad carrier's or independent contractor's system headquarters and at such subsystem headquarters as may be required by the Secretary by regulation.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections for chapter 211 is amended by adding after the item relating to section 21109 the following new item:

`21110. Limitations on duty hours of transport vehicle drivers.'

SEC. 109. ELECTRONIC RECORDKEEPING.

(a) AMENDMENT- Chapter 211 is amended by adding at the end the following new section:

`Sec. 21111. Electronic recordkeeping

`In rules or waivers issued under this part concerning recordkeeping related to compliance with this chapter, the Secretary of Transportation shall, where appropriate, permit that records be made, maintained, or submitted by electronic means. The Secretary shall ensure that railroad carriers making, maintaining, or submitting such records by electronic means--

`(1) provide adequate training to their employees on how to use those electronic means; and

`(2) establish appropriate safeguards to ensure data integrity.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections for chapter 211 is amended by adding after the item relating to 21110 the following new item:

`21111. Electronic recordkeeping.'

SEC. 110. SPLIT SHIFTS.

Section 21103, as amended by section 102 of this Act, is further amended by adding at the end the following new subsection:

`(e) SPLIT SHIFTS- (1) A railroad carrier and its managers, supervisors, officers, and agents may require a train employee to work a split shift only if the split shift begins between 12:01 a.m. and 11:59 a.m. and ends before 2:00 a.m. on the day following the day on which the shift begins.

`(2) For purposes of this subsection, the term `split shift' means a tour of duty in which an employee, having just completed a rest period of at least 8 hours, reports for duty, works an initial work period, has an interim period for rest of at least 4 hours but less than 8 hours at the employee's designated terminal, and then works one or more additional work periods before being released for a rest period of at least 8 hours.

`(3) For railroad carriers providing commuter rail passenger transportation, as defined in section 24102 of this title, and with respect to train employees engaged in such transportation, this subsection shall take effect 90 days after the date of the enactment of the Railroad Safety Reform Act of 2002. For railroad carriers other than those providing such commuter rail passenger transportation, and for train employees engaged in other

forms of railroad transportation, this subsection shall take effect 2 years after the date of the enactment of the Railroad Safety Reform Act of 2002.'

SEC. 111. ROTATING SHIFTS.

(a) AMENDMENT- Chapter 211 is amended by adding at the end the following new section:

`Sec. 21112. Rotating shifts

`(a) GENERAL RULE- Except as provided in sections 21103(c), 21104(c), and 21105(e), a railroad carrier and its managers, supervisors, officers, and agents may not require or allow an employee to report for duty to begin an 8-hour shift which begins at a time that is more than 4 hours earlier or more than 6 hours later than the time of day when that employee, within the previous 72 hours, began a prior 8-hour shift.

`(b) DETERMINING TIME ON DUTY- For purposes of this section, the rules for determining time on duty stated in sections 21103(b), 21104(b), and 21105(d), as appropriate, shall apply.

`(c) STUDY- Not later than 2 years after the date of the enactment of the Railroad Safety Reform Act of 2002, the Secretary of Transportation shall transmit to the Congress the results of a study of--

`(1) the effect of rotating shifts on employee fatigue; and

`(2) alternative methods of preventing fatigue due to rotating shifts.

Such report may include proposals for revisions to this chapter.

`(d) DEFINITION- For purposes of this section, the term `8-hour shift' means a period during which an employee is on duty for 8 consecutive hours or longer.'

(b) CONFORMING AMENDMENT- The table of sections for chapter 211 is amended by adding at the end the following new item:

`21112. Rotating shifts.'

SEC. 112. RECOMMENDATIONS ON HOURS OF SERVICE CHANGES.

The Railroad Safety Advisory Committee shall convene a working group to consider what legislative changes might be appropriate to chapter 211 of title 49, United States Code, relating to hours of service. Not later than 9 months after the date of the enactment of this Act, the Advisory Committee shall report to the Administrator of the Federal Railroad Administration on whether it has reached consensus on any recommended changes, and if so what they are. The Administrator shall transmit the recommendations of the Advisory Committee to the Congress. If the Advisory Committee has not reached consensus on any recommendations, the Administrator shall, not later than 6 months after

receiving the report of the Advisory Committee, transmit to the Congress the Administrator's recommendations for appropriate legislative changes to such chapter 211.

TITLE II--PROTECTION OF EMPLOYEES AND WITNESSES

SEC. 201. EXPANSION OF EMPLOYEE PROTECTIONS.

(a) PROTECTED ACTIONS- Section 20109(a) is amended to read as follows:

`(a) PROTECTED ACTIONS- A railroad carrier engaged in interstate or foreign commerce, and an officer or employee of such a railroad carrier, shall not by threat, intimidation, or otherwise attempt to prevent an employee from, or discharge, discipline, or in any way discriminate against an employee for--

`(1) filing a complaint or bringing or causing to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety, chapter 51 or 57 of this title;

`(2) testifying in a proceeding described in paragraph (1);

`(3) notifying, or attempting to notify, the railroad carrier of a work-related personal injury or work-related illness of an employee;

`(4) cooperating with a safety investigation by the Secretary of Transportation or the National Transportation Safety Board;

`(5) furnishing information to the Secretary of Transportation, the National Transportation Safety Board, or any other public official as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

`(6) accurately reporting hours of duty or dual employment status pursuant to chapter 211.'

(b) HAZARDOUS CONDITIONS- Section 20109(b) is amended to read as follows:

`(b) HAZARDOUS CONDITIONS- (1) A railroad carrier engaged in interstate or foreign commerce, and an officer or employee of such a railroad carrier, shall not by threat, intimidation, or otherwise attempt to prevent an employee from, or discharge, discipline, or in any way discriminate against an employee for--

`(A) reporting a hazardous condition;

`(B) refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

`(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous condition, if the conditions described in paragraph (2) exist.

`(2) A refusal is protected under paragraph (1)(B) and (C) if--

`(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

`(B) the employee reasonably concludes that--

`(i) the hazardous condition presents an imminent danger of death or serious injury; and

`(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

`(C) the employee, where possible, has notified the carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately.

`(3) This subsection does not apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.'

(c) ENFORCEMENT AND DISPUTE RESOLUTION- Section 20109(c) is amended--

(1) by striking `DISPUTE RESOLUTION- A dispute' and inserting `ENFORCEMENT AND DISPUTE RESOLUTION- (1) The Secretary of Transportation may enforce this section under section 20111, the Attorney General may enforce this section under section 20112, and the States may enforce this section under section 20113.

`(2) Any employee aggrieved by a violation of subsection (a) or (b) may in a civil action obtain appropriate relief.

`(3) A dispute';

(2) by striking `180 days after it is filed' and inserting `60 days after it is filed if the violation is a form of discrimination that involves discharge, suspension, or another action affecting pay, and 180 days after the dispute, grievance, or claim is filed if the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay';

(3) by striking the last sentence and inserting the following: `If the employee has been found by the Board, division, delegate, or board of adjustment to have been discharged, suspended, or otherwise discriminated against in violation of subsection (a) or (b) of this

section, the employee shall be made whole, including reinstatement, with an award of back pay, and with all benefits and accumulated seniority. The employee may also be awarded punitive damages sufficient to deter the railroad carrier from such conduct in the future.'; and

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

`(4) An employee may not seek relief under both paragraph (2) and paragraph (3) with respect to the same violation.'

(d) PENALTIES-

(1) CIVIL PENALTIES- Section 21302(a)(1) is amended by striking `a regulation prescribed or order issued under chapter 201 of this title' and inserting `chapter 201 of this title, or a regulation prescribed or order issued under chapter 201,'.

(2) CRIMINAL PENALTIES- Section 21311(a) is amended--

(A) by striking `or' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting `; or'; and

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

`(6) violates section 20109.'

(e) EXCLUSION FROM EMPLOYMENT-

(1) AMENDMENT- Chapter 213 is amended by adding at the end the following new subchapter:

`SUBCHAPTER III--EXCLUSION FROM EMPLOYMENT

`Sec. 21321. Exclusion from employment

`(a) EXCLUSION FROM EMPLOYMENT- The Secretary of Transportation may, in order to preserve railroad safety and protect safety-critical railroad employees from harassment and intimidation, issue an order excluding from employment by a railroad carrier as a safety-critical employee, including employment as a supervisor of a safety-critical employee, any individual--

`(1) who has violated section 20109 of this title or who has harassed or intimidated a railroad employee with the intent of discouraging that employee from reporting--

`(A) a reportable accident or injury; or

`(B) track, equipment, or operating practices that violate the standards promulgated by the Secretary pursuant to this part; and

`(2) who has demonstrated personal dishonesty or willful or continuing disregard for railroad safety or the integrity or accuracy of railroad safety reporting requirements under section 20901 of this title.

`(b) OPPORTUNITY FOR HEARING- An order under subsection (a) may be issued only after the individual who is the subject of the proposed order is given notice of the reasons for the proposed order and an opportunity for a hearing.

`(c) DURATION- An order under subsection (a) shall be of indefinite duration. Not less than 1 year after the issuance of such an order, an individual subject to such an order may petition the Secretary for the rescission of the order. The Secretary may grant such a petition if the Secretary finds that employment by a railroad carrier of the individual who was the subject of the order is not likely to result in a reduction in railroad safety or in an increased likelihood of harassment and intimidation of safety-critical railroad employees.'

(2) TABLE OF SECTIONS AMENDMENT- The table of sections of part A of subtitle V is amended by adding at the end the following:

`SUBCHAPTER III--EXCLUSION FROM EMPLOYMENT

`21321. Exclusion from employment.'

(3) CONFORMING AMENDMENTS- (A) The heading of chapter 213 is amended by inserting `and remedies' after `penalties'.

(B) The item relating to chapter 213 in the table of chapters of subtitle V is amended by inserting `AND REMEDIES' after `PENALTIES'.

SEC. 202. EMPLOYEE REPORTS.

Section 20901(a) is amended--

(1) by striking `the carrier's operations' and inserting in lieu thereof `the operations of the carrier or of any contractor to the carrier working on the carrier's property or operating the carrier's equipment'; and

(2) by inserting `The report shall also include copies of any written safety-related complaint or report filed with the carrier by an employee or contractor during the month, whether or not the complaint or report relates to a reported accident or incident.' after `contributed to the accident or incident.'

SEC. 203. AUDITS OF REPORTING.

Section 20901 is amended by adding at the end the following new subsection:

`(c) AUDITS- A railroad carrier shall at least annually have an audit conducted of the process by which it reports accidents and incidents pursuant to subsection (a). The audit

shall determine whether the reporting process is substantially accurate as to the numbers and severity of accidents and incidents. The audit shall be conducted by an independent auditor approved by the Secretary.'

SEC. 204. INTERFERING WITH OR HAMPERING SAFETY INVESTIGATIONS.

(a) AMENDMENT- Subchapter II of chapter 213 is amended by adding at the end the following new section:

`Sec. 21312. Interfering with or hampering safety investigations

`(a) IN GENERAL- It shall be unlawful for any person knowingly to interfere with, obstruct, or hamper an investigation by the Secretary of Transportation conducted under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title.

`(b) INTIMIDATION AND HARASSMENT- It shall be unlawful for any person, with regard to an investigation conducted by the Secretary under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title, knowingly or intentionally to use intimidation, harassment, threats, or physical force toward another person, or corruptly persuade another person, or attempt to do so, or engage in misleading conduct toward another person, with the intent or effect of--

`(1) influencing the testimony or statement of any person;

`(2) hindering, delaying, preventing, or dissuading any person from--

`(A) attending a proceeding or interview with, testifying before, or providing a written statement to, a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector or State railroad safety inspector, or their superiors;

`(B) communicating or reporting to a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector, or a State railroad safety inspector, or their superiors, information relating to the commission or possible commission of one or more violations of this part or of chapter 51 of this title; or

`(C) recommending or using any legal remedy available to the Secretary under this title; or

`(3) causing or inducing any person to--

`(A) withhold testimony, or a statement, record, document, or other object, from the investigation;

`(B) alter, destroy, mutilate, or conceal a statement, record, document, or other object with intent to impair the integrity or availability of the statement, record, document, or other object for use in the investigation;

`(C) evade legal process summoning that person to appear as a witness, or to produce a statement, record, document, or other object, in the investigation; or

`(D) be absent from an investigation to which such person has been summoned by legal process.

`(c) ELEMENTS OF VIOLATION- (1) For the purposes of this section, the testimony or statement, or the record, document, or other object, need not be admissible in evidence or free from a claim of privilege.

`(2) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance that the investigation is being conducted by the Secretary under section 20703 or 20902 of this title or by the National Transportation Safety Board under chapter 11 of this title.

`(d) CRIMINAL PENALTIES- A person violating this section shall be fined under title 18, imprisoned for not more than two years, or both.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections of subchapter II of chapter 213 is amended by adding at the end the following new item:

`21312. Interfering with or hampering safety investigations.'

TITLE III--GRADE CROSSING SAFETY

SEC. 301. TOLL-FREE NUMBER TO REPORT GRADE CROSSING PROBLEMS.
Section 20152 is amended to read as follows:

`Sec. 20152. Emergency notification of grade crossing problems

`By January 1, 2004, each railroad carrier shall--

`(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; and

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

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

`(3) upon receiving a report of a malfunction or disabled vehicle pursuant to paragraph (1), and after contacting trains pursuant to paragraph (2), contact 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 appropriate to responding to the hazardous circumstance; and

`(4) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear--

`(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 number as described in paragraph (1);

`(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation and the Association of American Railroads; and

`(D) a statement that reporting a disabled vehicle blocking the railroad tracks should be done immediately, before any attempt is made to remove the vehicle from the tracks.

The Secretary of Transportation shall implement this section through appropriate regulations.'

SEC. 302. GRADE CROSSING SIGNAL VIOLATIONS.

(a) AMENDMENTS- Section 20151 is amended--

(1) by amending the section heading to read as follows:

`Sec. 20151. Railroad trespassing, vandalism, and signal violation prevention strategy';
(2) in subsection (a)--

(A) by striking `and vandalism affecting railroad safety' and inserting in lieu thereof `, vandalism affecting railroad safety, and violations of grade crossing signals';

(B) by inserting `, concerning trespassing and vandalism,' after `such evaluation and review'; and

(C) by inserting `The second such evaluation and review, concerning violations of grade crossing signals, shall be completed before November 2, 2003.' after `November 2, 1994.';

(3) in the subsection heading of subsection (b), by inserting `FOR TRESPASSING AND VANDALISM PREVENTION' after `OUTREACH 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) Within 18 months after the date of the enactment of the Railroad Safety Reform Act of 2002, 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 grade crossing signals.'; and

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

(d) DEFINITION- For purposes of this section, the term 'violation of grade crossing signals' 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, that creates a hazard of an accident involving injury or property damage at the grade crossing.'

(b) CONFORMING AMENDMENT- The item relating to section 20151 in the table of sections for subchapter II of chapter 201 is amended to read as follows:

20151. Railroad trespassing, vandalism, and signal violation prevention strategy.'

TITLE IV--PASSENGER SERVICE SAFETY STANDARDS

SEC. 401. EMERGENCY WINDOWS.

Section 20133 is amended by adding at the end the following new subsection:

(e) EMERGENCY WINDOWS- (1) After January 1, 2004, all railroad cars, including self-propelled cars, used for providing transportation for members of the general public shall have emergency windows installed in at least one half of their window locations.

`(2) For purposes of this subsection, the term `emergency window' means a window designed to permit rapid and easy removal for passenger escape in an emergency without tools.

`(3) This subsection shall not apply to railroad cars used by tourist, excursion, scenic, or historic railroads that are not part of the general system of railroad transportation and that do not operate at speeds in excess of 30 miles per hour.'

SEC. 402. PASSENGER RAILROAD SIGNAL SYSTEMS.

(a) AMENDMENT- (1) Section 20502 is amended by adding at the end the following new subsection:

`(c) PASSENGER RAILROAD SIGNALS- Each railroad line on which passenger service operates, except lines where automatic train stop or cab signaling equipment is in use for all passenger service, shall have installed approach and stop signals such that at least one approach signal intervenes between a passenger station stop and a subsequent stop signal.'

(2) The amendment made by paragraph (1) shall take effect January 1, 2004.

(b) STUDY- The Secretary of Transportation shall, within 1 year after the date of the enactment of this Act, transmit to the Congress a report on the results of a study of the safety implications of signal systems and their placement. In conducting the study, the Secretary shall consult with representatives of railroad labor, railroad management, and railroad equipment manufacturers. After transmitting the report, the Secretary shall initiate appropriate rulemaking proceedings under chapter 205 to implement the recommendations made in the report.

SEC. 403. PASSENGER LOCOMOTIVE FUEL TANKS.

(a) AMENDMENT- Chapter 207 is amended by adding at the end the following new section:

`Sec. 20704. Passenger locomotive fuel tanks

`(a) REQUIREMENTS- Any locomotive manufactured after the date of the enactment of the Federal Railroad Safety Enhancement Act of 2002, and delivered to a railroad carrier on or after January 1, 2004, for use on passenger trains, except for a locomotive intended primarily for yard switching purposes, shall--

`(1) be equipped with fuel tanks that are internal and compartmentalized;

`(2) be equipped with internal fuel tank bulkheads and skin that are either 3/8 inch steel plate with 25,000-pound yield strength or another material of equivalent strength; and

`(3) have fuel tank vent systems that are designed to prevent those systems from becoming a path of fuel loss in the event the tank is placed in an abnormal orientation due to a locomotive derailling.

`(b) DEFINITIONS- For purposes of this section--

`(1) the term `compartmentalized' means having an interior divided into at least 4 separate compartments designed so that penetration of the exterior skin of any 1 compartment shall result in loss of fuel only from that compartment; and

`(2) the term `internal' means having its lowest point at least 18 inches above the lowest point on the locomotive wheel tread, and being enclosed by, or part of, the locomotive structure.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections of chapter 207 is amended by adding at the end the following new item:

`20704. Passenger locomotive fuel tanks.'

SEC. 404. POSITIVE TRAIN CONTROL.

(a) AMENDMENTS- Section 20150 is amended--

(1) by striking `progress report' in the section heading;

(2) by inserting `(a) PROGRESS REPORT- ' before `The Secretary of Transportation'; and

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

`(b) SCHEDULE FOR IMPLEMENTATION- (1) The Secretary shall--

`(A) before March 31, 2003--

`(i) develop a model for assessing the risks associated with accident or injury on railroad corridors;

`(ii) compile data on each railroad corridor to enable the application of the model developed under clause (i); and

`(iii) rank railroad corridors on the basis of their risks associated with accident or injury;

`(B) before October 1, 2003, identify high-priority railroad corridors the Secretary will require to be equipped with positive train control systems, which shall include, at a minimum, all railroad lines on which more than 42 regularly scheduled passenger trains per week operate and all railroad lines on which more than 2,500,000 tons of hazardous materials are transported each year; and

`(C) before October 1, 2004, issue regulations establishing standards for the use of positive train control systems and requiring their use on high-priority railroad corridors by no later than September 30, 2005.

`(2) For purposes of this subsection--

`(A) the term `passenger train' does not include trains operated by tourist, excursion, scenic, or historic railroads that are not part of the general system of railroad transportation and that do not operate at speeds in excess of 30 miles per hour; and

`(B) the term `positive train control system' means a system for automatically controlling the speed of or stopping a train to prevent collisions, enforce speed restrictions, and protect roadway workers and their equipment in the event that the train operator has failed to take appropriate action.'

(b) CONFORMING AMENDMENT- The item relating to section 20150 in the table of sections of subchapter II of chapter 201 is amended by striking `progress report'.

TITLE V--SAFETY RULEMAKING AND ENFORCEMENT

SEC. 501. PURPOSE.

Section 20101 is amended to read as follows:

`Sec. 20101. Purpose

`The purpose of this part is to assign and maintain safety as the highest priority in every area of railroad operations and to reduce railroad-related accidents and incidents.'

SEC. 502. RAILROAD SAFETY CONFERENCE.

(a) IN GENERAL- The Secretary of Transportation shall convene, within 6 months after the date of the enactment of this Act and annually thereafter, a conference to determine what are the most important actions needed to improve the safety of railroad operations. Each such conference shall provide an opportunity for the participants to present their views, respond to the views of other participants, and discuss railroad safety issues with other participants so that a consensus can be reached.

(b) PARTICIPANTS- Each conference convened pursuant to subsection (a) shall include as participants, at a minimum, appropriate representatives of the Department of Transportation, railroad management, railroad labor, railroad passengers, railroad equipment suppliers, and railroad shippers, as well as individuals representing community interests.

(c) REPORT TO CONGRESS- The Secretary of Transportation shall, within 3 months after the completion of a conference convened pursuant to subsection (a), transmit to the Congress a report summarizing the results of the conference.

SEC. 503. RULEMAKING PROCESS.

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

`Sec. 20116. Rulemaking process

`(a) RULES PROPOSED BY RAILROAD SAFETY ADVISORY COMMITTEE- A rule that has been proposed unanimously by the Railroad Safety Advisory Committee shall be issued as a proposed rule by the Secretary of Transportation without preparation of a regulatory analysis, regulatory evaluation, or any other assessment of the costs or benefits of the proposed rule, and without soliciting the approval or comment of any Federal agency or employee outside the Department of Transportation.

`(b) INCORPORATION BY REFERENCE- 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 that reference is to a particular code, rule, standard, requirement, or practice adopted before the date on which the rule is issued by the Secretary, and unless the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections of subchapter I of chapter 201 is amended by adding after the item relating to section 20115 the following new item:

`20116. Rulemaking process.'

SEC. 504. CRANE SAFETY.

The Secretary of Transportation shall initiate a rulemaking, based on the recommendations of the Railroad Safety Advisory Committee, to ensure the safety of operators of railroad cranes and other hoisting equipment, and of railroad employees working in the vicinity of cranes and other hoisting equipment. If the Railroad Safety Advisory Committee has not made consensus recommendations within 12 months after the date of the enactment of this Act, the Secretary shall discharge the Committee of its responsibilities under this section and shall, within 24 months after the date of the enactment of this Act, issue a final rule.

SEC. 505. RAILROAD CAR VISIBILITY.

Section 20148(b) is amended by striking `initiate a rulemaking proceeding to' and inserting `, not later than 1 year after the date of the enactment of the Railroad Safety Reform Act of 2002,'.

SEC. 506. HIGH-SPEED RAIL NOISE REGULATION.

(a) AMENDMENT- Chapter 201 is amended by adding a new section at the end as follows:

`Sec. 20154. High-speed rail noise regulation

`The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prescribe regulations addressing noise emissions from high-speed rail systems, including magnetic levitation systems, when operating at speeds greater than 150 miles per hour. Such regulations shall be prescribed to protect the public health and welfare, including the health and welfare of railroad employees, taking into account the degree of noise reduction achievable through the application of the best available technology and the cost of compliance. Regulations issued under this section shall be in lieu of railroad-related noise regulations issued pursuant to the Noise Control Act of 1972 (42 U.S.C. 4916(a)) only for locomotives, cars, and consists of locomotives and cars, when operating at speeds greater than 150 miles per hour.'

(b) TABLE OF SECTIONS AMENDMENT- The table of sections of chapter 201 is amended by adding at the end the following new item:

`20154. High-speed rail noise regulation.'

SEC. 507. TRACK SAFETY.

Section 20142 is amended to read as follows:

`Sec. 20142. Track safety

`(a) SPEED OF INSPECTION VEHICLES- Not later than one year after the date of the enactment of the Federal Railroad Safety Enhancement Act of 2002, the Secretary of Transportation shall issue rules requiring that no track inspection shall be conducted from a vehicle traveling at a speed of more than 15 miles per hour, unless the Secretary can demonstrate that operations at higher speeds provide equally accurate inspection information.

`(b) MAINTENANCE-OF-WAY EQUIPMENT- (1) All track motor vehicles, self-propelled maintenance-of-way equipment, and other equipment which is designed with a wheeled carriage allowing the equipment to move along a railroad track shall be designed and maintained so as to conduct electrical current from one rail of the track to the other, enabling the activation of signal systems designed to detect the presence of locomotives, cars, trains, and other rolling equipment on the track.

`(2) All roadway work groups and lone roadway workers when working in a classification yard shall be equipped with portable equipment permitting the motion of freely rolling railroad cars to be automatically arrested.

`(c) DEFINITIONS- For purposes of this section--

`(1) the term `roadway work group' means 2 or more roadway workers working together on a common task who are in direct communication with each other; and

`(2) the term `roadway worker' means an employee of a railroad carrier, or of a contractor to a railroad carrier, including a maintenance-of-way worker or a signalman, who is working on or near railroad track.

`(d) EFFECTIVE DATE- Subsection (b)(1) shall take effect on January 1, 2004.'

SEC. 508. ENHANCED INSPECTION AND INVESTIGATION AUTHORITY UNDER THE FEDERAL RAILROAD SAFETY LAWS.

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

`(c) RAILROAD RADIO COMMUNICATIONS- (1) To carry out the Secretary's responsibilities under this part, officers, employees, or agents of the Secretary are authorized to conduct the following kinds of inspection and investigative activities at reasonable times and in a reasonable manner:

`(A) To receive or assist in receiving a radio communication that is broadcast or transmitted over a railroad carrier's dedicated frequency not for the use of the general public, with or without making their presence known to the sender or other receivers of the communication, and with or without obtaining the consent of the sender or other receivers of the communication.

`(B) To communicate the existence, contents, substance, purport, effect, or meaning of a communication described in subparagraph (A).

`(C) To record a communication described in subparagraph (A) by any means, including writing and tape recording.

`(2) The purposes for which officers, employees, or agents of the Secretary are permitted to engage in the activities set forth in paragraph (1) of this subsection include rulemaking, accident investigation, and acquiring general information as to railroad operations.

`(3) Information obtained in compliance with paragraphs (1) and (2) of this subsection may not be used as evidence for the assessment or collection of civil penalties, or for the implementation of other enforcement mechanisms provided in section 5122, 20702(b), 20111, 20112, 20113, or 20114 of this title, or in any disciplinary proceeding by a railroad carrier, but may be used as background for further investigation which might lead to the discovery of other useful evidence.

`(4) The authority granted by this subsection shall be an exception to the general prohibitions of section 605 of title 47, United States Code, and chapter 119 of title 18, United States Code.'

SEC. 509. 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. 510. SAFETY INSPECTORS.

Section 20115 is amended--

(1) by amending paragraph (1) of subsection (a) to read as follows:

`(1) shall cover the costs of providing 400 railroad safety inspectors, in addition to those already employed by the Federal Railroad Administration as of October 1, 1998, to improve the safety of railroad carriers subject to this chapter;';

(2) in subsection (c)(2), by striking `only to carry out this chapter' and inserting in lieu thereof `only for the purposes described in subsection (a)(1)';

(3) in subsection (c)(3), by striking `of activities under' and all that follows through `financed by the fees' and inserting in lieu thereof `described in subsection (a)(1)';

(4) in the heading of subsection (d), by striking `ANNUAL REPORT' and inserting `REPORTS';

(5) in subsection (d)(1), by striking `90 days after the end of each fiscal year in which fees are collected under this section' and inserting in lieu thereof `180 days after the end of fiscal year 2005, and every 3 years thereafter';

(6) in subsection (d)(1)(A), by striking `that fiscal year' and inserting in lieu thereof `the 3 previous fiscal years';

(7) in subsection (d)(2), by striking `for a fiscal year'; and

(8) by striking subsection (e).

TITLE VI--MISCELLANEOUS PROVISIONS

SEC. 601. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following new subsection:

`(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS- In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's safety jurisdiction under section 20102 of this title, the Administrator of the Federal Transit Administration shall consult with the Administrator of the Federal Railroad Administration concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.'.

SEC. 602. TECHNICAL AMENDMENTS REGARDING ADJUSTMENT OF CIVIL PENALTIES FOR INFLATION.

(a) CHAPTER 201 GENERAL VIOLATIONS- In section 21301(a)(2), insert after `\$10,000' and after `\$20,000' the following: `, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)'.

(b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLATIONS AND CHAPTER 203-209 VIOLATIONS- In section 21302(a)(2), insert after '\$10,000' and after '\$20,000' the following: ', as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)'.

(c) CHAPTER 211 VIOLATIONS- In section 21303(a)(2), insert after '\$10,000' and after '\$20,000' the following: ', as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note)'.

SEC. 603. CERTIFICATION OF LOCOMOTIVE ENGINEERS AND OTHER SAFETY-RELATED RAILROAD PERSONNEL.

(a) AMENDMENT- Section 20135 is amended to read as follows:

Sec. 20135. Certification of locomotive engineers and other safety-related railroad personnel

(a) IN GENERAL- The Administrator of the Federal Railroad Administration shall establish a program for issuing certificates for--

(1) carmen;

(2) conductors;

(3) dispatchers;

(4) locomotive engineers;

(5) power directors;

(6) signalmen;

(7) track inspectors; and

(8) trainmen,

to individuals when the Administrator finds, after investigation, that the individuals are qualified for, and physically able to perform the duties related to, the position to be authorized by the certificates. After January 1, 2004, no person shall carry out the responsibilities of the carman, conductor, dispatcher, locomotive engineer, power director, signalman, track inspector, or trainman unless that person has been certificated for that position by the Administrator.

(b) GENERAL QUALIFICATIONS- The program established under subsection (a)--

(1) shall provide qualification standards and minimum training requirements for each type of position described in subsection (a); and

`(2) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules.

`(c) LOCOMOTIVE ENGINEERS-

`(1) QUALIFICATIONS- The program established under subsection (a), in the case of certification of a locomotive engineer--

`(A) except as provided in paragraph (2)(A), shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking certification, including--

`(i) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

`(ii) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

`(B) may require, based on the individual's driving record, disqualification or the granting of a certificate conditioned on requirements the Administrator prescribes; and

`(C) shall require an individual seeking certification--

`(i) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Administrator, as the Administrator requires; and

`(ii) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Administrator, as the Administrator requires.

`(2) WAIVERS- (A) The Administrator shall prescribe standards and establish procedures for waiving paragraph (1)(A) for an individual or class of individuals who the Administrator decides are not currently unfit to operate a locomotive. However, the Administrator may waive paragraph (1)(A) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in subparagraph (B)(i) or (ii) only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Administrator.

`(B) An individual may not be denied a certificate under paragraph (1)(A) because of--

`(i) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

`(ii) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance,

if the individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Administrator.

`(3) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION- The Administrator, employer, or prospective employer, as appropriate, shall make information obtained under paragraph (1)(C) available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Administrator, employer, or prospective employer that contains information to which the comment is related.

`(d) DELEGATION-

`(1) IN GENERAL- Subject to any regulations, supervision, and review the Administrator may prescribe, the Administrator may delegate, to a qualified private person or an employee under the supervision of that person, a matter related to--

`(A) the examination, testing, and inspection necessary to issue a certificate under this section; and

`(B) issuing the certificate.

`(2) RESCISSION- The Administrator may rescind a delegation under this section at any time for any reason the Administrator considers appropriate.

`(3) RECONSIDERATION- A person affected by an action of a person to whom responsibilities have been delegated under this subsection may apply for reconsideration of the action by the Administrator, and, on the Administrator's own initiative, the Administrator may reconsider the action of such a person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides that the action is warranted, the Administrator shall affirm the action.

`(e) SUSPENSION OR REVOCATION-

`(1) AUTHORITY- The Administrator may review the certification of any employee holding a certificate under this section. The Administrator may suspend or revoke a certificate issued under this section if--

`(A) the employee, in the course of railroad employment, has engaged in or authorized a practice that endangers human life, including authorizing the use of unsafe equipment or track; or

`(B) the Administrator decides after reviewing the actions or qualifications of the employee that railroad safety and the public interest require such a suspension or revocation.

The length of a suspension shall be at the discretion of the Administrator. In determining the length of a suspension, the Administrator shall take into account the seriousness of the unsafe practice and the employee's past safety record.

`(2) PROCEDURES- Before acting to suspend or revoke a certificate, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder of the certificate with an opportunity to answer the charges and to be heard on why the certificate should not be suspended or revoked. Except as provided in paragraph (3), the action of the Administrator suspending or revoking a certificate shall be stayed pending the outcome of an appeal under subsection (f).

`(3) EMERGENCIES- If the Administrator determines that an emergency exists and that railroad safety requires that a suspension or revocation be effective immediately, then the Administrator's action shall be effective immediately.

`(f) APPEALS- The Administrator shall establish an appropriate procedure through which a person adversely affected by--

`(1) an action denying a certificate under this section; or

`(2) an order suspending or revoking a certificate under subsection (e),

may appeal such action or order. If a finding is made under that appeals procedure, after notice and an opportunity for a hearing, that railroad safety and the public interest do not require affirmation of the original action or order, the Administrator shall amend, modify, or reverse that action or order.

`(g) CERTIFICATION OF SAFETY-

`(1) BY A CARMAN- (A) After January 1, 2004, no locomotive, railroad car, or train shall depart its initial terminal until it has been inspected and its safety has been certified in writing by a carman certificated under this section.

`(B) After January 1, 2004, no locomotive, railroad car, or train shall be used or operated after it has been repaired or reported to have a defect potentially affecting safety until it has been inspected by a carman certificated under this section and its safety has been subsequently certified in writing by that carman. A safety certification made under this

paragraph may be made conditional on the locomotive, railroad car, or train being repaired at the first practical opportunity.

`(2) BY A SIGNALMAN- (A) After January 1, 2004, no signal system shall be used to signal that a train may proceed or to control the movement of automobiles at grade crossings unless its safety has been certified in writing by a signalman certificated under this section in accordance with regulations issued by the Secretary of Transportation requiring such certification--

`(i) when a signal system is first placed in service;

`(ii) after it has been modified or disarranged; and

`(iii) at least once a year.

The Secretary may by regulation require that certain kinds of signal systems be inspected and certified more frequently than is required by clauses (i) through (iii).

`(B) After January 1, 2004, no signal system shall be used to signal that a train may proceed or to control the movement of automobiles at grade crossings after that signal system has been repaired or reported to have a defect potentially affecting safety until it has been inspected by a signalman certificated under this section and its safety has been subsequently certified in writing by that signalman.

`(3) BY A TRACK INSPECTOR- (A) After January 1, 2004, no track shall be used to operate locomotives, railroad cars, or trains unless the safety of that track has been certified in writing by a track inspector certificated under this section each time the track is inspected as required by regulations issued by the Secretary under this chapter. In no event shall such inspections be required less often than once a month.

`(B) After January 1, 2004, no track shall be used after it has been repaired or reported to have a defect potentially affecting safety until it has been inspected by a track inspector certificated under this section and its safety for its anticipated use has been subsequently certified in writing by that track inspector.

`(h) AUTHORITY TO REFUSE TO OPERATE TRAINS OR LOCOMOTIVES- A locomotive engineer may refuse to operate a train or locomotive if that locomotive engineer is not satisfied that the train or locomotive can be operated safely.

`(i) DEFINITIONS- For purposes of this section--

`(1) the term `carman' means a railroad employee who inspects, tests, maintains, and repairs brakes, other mechanical systems and components, and safety appliances on railroad cars or locomotives;

`(2) the term `conductor' means a railroad road or yard employee who is in charge of a train's passengers or freight;

`(3) the term `dispatcher' has the meaning given the term `dispatching service employee' in section 21101 of this title;

`(4) the term `locomotive engineer' means an operator of a locomotive other than--

`(A) a person who operates a locomotive solely within the confines of a locomotive repair or servicing area; and

`(B) a person who operates a locomotive for short distances for inspection and maintenance purposes;

`(5) the term `power director' has the meaning given such term in section 21101 of this title;

`(6) the term `signalman' has the meaning given the term `signal employee' in section 21101 of this title;

`(7) the term `track inspector' means a railroad employee whose sole responsibility is to inspect track, report on its condition, and authorize its use by locomotives, railroad cars, and trains; and

`(8) the term `trainman' means a railroad road or yard employee who is under the supervision of a conductor.'

(b) TABLE OF SECTIONS AMENDMENT- The item relating to section 20135 in the table of sections of chapter 201 is amended to read as follows:

`20135. Certification of locomotive engineers and other safety-related railroad personnel.'

(c) EFFECT OF AMENDMENT- Notwithstanding the amendment made by subsection (a), the requirements for licensing or certification of locomotive operators under section 20135 as in effect before the date of the enactment of this Act shall continue in effect until the program established under the amendment made by subsection (a) takes effect with respect to locomotive engineers.

SEC. 604. TRANSPORT MOTOR VEHICLE INSPECTIONS.

(a) DEFINITION- Section 20301(a) is amended to read as follows:

`(a) DEFINITIONS- In this chapter--

`(1) the term `vehicle' means a car, locomotive, tender, or similar vehicle; and

`(2) the term `transport motor vehicle' means a motor vehicle used to transport employees of a railroad carrier or its independent contractors to or from a work site.'

(b) INSPECTION REQUIREMENT- Section 20302 is amended by adding at the end the following new subsection:

`(f) TRANSPORT MOTOR VEHICLES- A railroad carrier shall not require or allow a transport motor vehicle to be used to transport employees to or from a work site, whether that transport motor vehicle is owned or operated by the railroad carrier or by an independent contractor to the railroad carrier, unless the transport motor vehicle has been tested and inspected at appropriate intervals, in accordance with regulations promulgated by the Secretary, to ensure that it has been properly maintained and can safely transport railroad employees.'

SEC. 605. CONRAIL SAFETY EXEMPTION.

Section 711 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797j) is repealed.

SEC. 606. SENIORITY RIGHTS.

(a) AMENDMENT- Part E of subtitle V is amended by adding at the end the following new chapter:

`CHAPTER 285--SENIORITY RIGHTS

`Sec.

`28501. Seniority rights.

`Sec. 28501. Seniority rights

`Reemployment rights, seniority rights, and the right to return to employment after a leave of absence from a railroad carrier, negotiated by a labor organization pursuant to the Railway Labor Act, shall not be considered for purposes of section 208(b) of title 18 to be a financial interest so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from an officer or employee who has such rights. Such an officer or employee shall be considered to have received in advance a written determination to that effect.'

(b) TABLE OF CHAPTERS AMENDMENT- The table of chapters of part E of subtitle V is amended by adding at the end the following new item:

`285. SENIORITY RIGHTS

--28501'

END