

Rail Safety Act of 2021, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified pursuant to subsection (b)(1); and

(2) not later than 90 days before implementing any significant operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan, after consultation with any applicable host railroad, that addresses such operational or territorial operating change.

(e) **NEW SERVICE.**—If a railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation did not exist on the date of enactment of the FAST Act (Public Law 114-94; 129 Stat. 1312), such railroad carrier, in consultation with any applicable host railroad carrier, shall—

(1) survey its routes pursuant to subsection (a) not later than 90 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021; and

(2) develop an action plan pursuant to subsection (b) not later than 120 days after the date on which such survey is complete.

(f) **ALTERNATIVE SAFETY MEASURES.**—The Secretary may exempt from the requirements under this section each segment of track for which operations are governed by a positive train control system certified under section 20157, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

(g) **PROHIBITION.**—No new intercity or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with the requirements under this section.

(h) **SAVINGS CLAUSE.**—Nothing in this section may be construed to prohibit the Secretary from applying the requirements under this section to other segments of track at high risk of overspeed derailment.

(Added Pub. L. 117-58, div. B, title II, §22415(a), Nov. 15, 2021, 135 Stat. 746.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsecs. (d)(1) and (e)(1), is the date of enactment of title II of div. B of Pub. L. 117-58, which was approved Nov. 15, 2021.

The date of enactment of the FAST Act, referred to in subsec. (e), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

§ 20170. Pre-revenue service safety validation plan

(a) **PLAN SUBMISSION.**—Any railroad providing new, regularly scheduled, intercity or commuter rail passenger transportation, an extension of existing service, or a renewal of service that has been discontinued for more than 180 days shall develop and submit for review a comprehensive pre-revenue service safety validation plan to the

Secretary of Transportation not later than 60 days before initiating such revenue service. Such plan shall include pertinent safety milestones and a minimum period of simulated revenue service to ensure operational readiness and that all safety sensitive personnel are properly trained and qualified.

(b) **COMPLIANCE.**—After submitting a plan pursuant to subsection (a), the railroad shall adopt and comply with such plan and may not amend the plan without first notifying the Secretary of the proposed amendment. Revenue service may not begin until the railroad has completed the requirements of its plan, including the minimum simulated service period required by the plan.

(c) **RULEMAKING.**—The Secretary shall promulgate regulations to carry out this section, including—

(1) requiring that any identified safety deficiencies be addressed and corrected before the initiation of revenue service; and

(2) establishing appropriate deadlines to enable the Secretary to review and approve the pre-revenue service safety validation plan to ensure that service is not unduly delayed.

(Added Pub. L. 117-58, div. B, title II, §22416(a), Nov. 15, 2021, 135 Stat. 747.)

§ 20171. Requirements for railroad freight cars placed into service in the United States

(a) **DEFINITIONS.**—In this section:

(1) **COMPONENT.**—The term “component” means a part or subassembly of a railroad freight car.

(2) **CONTROL.**—The term “control” means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity, representation on the board of directors of an entity, proxy voting on the board of directors of an entity, a special share in the entity, a contractual arrangement with the entity, a formal or informal arrangement to act in concert with an entity, or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity.

(3) **COST OF SENSITIVE TECHNOLOGY.**—The term “cost of sensitive technology” means the aggregate cost of the sensitive technology located on a railroad freight car.

(4) **COUNTRY OF CONCERN.**—The term “country of concern” means a country that—

(A) is identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021;

(B) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and

(C) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(5) NET COST.—The term “net cost” has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(6) QUALIFIED FACILITY.—The term “qualified facility” means a facility that is not owned or under the control of a state-owned enterprise.

(7) QUALIFIED MANUFACTURER.—The term “qualified manufacturer” means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.

(8) RAILROAD FREIGHT CAR.—The term “railroad freight car” means a car designed to carry freight or railroad personnel by rail, including—

- (A) a box car;
- (B) a refrigerator car;
- (C) a ventilator car;
- (D) an intermodal well car;
- (E) a gondola car;
- (F) a hopper car;
- (G) an auto rack car;
- (H) a flat car;
- (I) a special car;
- (J) a caboose car;
- (K) a tank car; and
- (L) a yard car.

(9) SENSITIVE TECHNOLOGY.—The term “sensitive technology” means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to connect to, collect data from, or exchange data with another device, including—

- (A) onboard telematics;
- (B) remote monitoring software;
- (C) firmware;
- (D) analytics;
- (E) global positioning system satellite and cellular location tracking systems;
- (F) event status sensors;
- (G) predictive component condition and performance monitoring sensors; and
- (H) similar sensitive technologies embedded into freight railcar components and sub-assemblies.

(10) STATE-OWNED ENTERPRISE.—The term “state-owned enterprise” means—

- (A) an entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or
- (B) an individual acting under the direction or influence of a government or agency described in subparagraph (A).

(11) SUBSTANTIALLY TRANSFORMED.—The term “substantially transformed” means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

(12) USMCA.—The term “USMCA” has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

(b) REQUIREMENTS FOR RAILROAD FREIGHT CARS.—

(1) LIMITATION ON RAILROAD FREIGHT CARS.—A railroad freight car wholly manufactured on or after the date that is 1 year after the date of issuance of the regulations required under subsection (c)(1) may only operate on the United States general railroad system of transportation if—

(A) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;

(B) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and

(C) none of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) LIMITATION ON RAILROAD FREIGHT CAR CONTENT.—

(A) PERCENTAGE LIMITATION.—

(i) INITIAL LIMITATION.—Not later than 1 year after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(ii) SUBSEQUENT LIMITATION.—Effective beginning on the date that is 3 years after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(B) CONFLICT.—The percentages specified in clauses (i) and (ii) of subparagraph (A), as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

(c) REGULATIONS AND PENALTIES.—

(1) REGULATIONS REQUIRED.—Not later than 2 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall issue such regulations as are necessary to

carry out this section, including for the monitoring and sensitive technology requirements of this section.

(2) **CERTIFICATION REQUIRED.**—To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall annually certify to the Secretary of Transportation that any railroad freight cars to be so provided meet the requirements under this section.

(3) **COMPLIANCE.**—

(A) **VALID CERTIFICATION REQUIRED.**—At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (2) for the year in which such car begins operation.

(B) **REGISTRATION OF NONCOMPLIANT CARS PROHIBITED.**—A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this section in the Association of American Railroad’s¹ Umler system.

(4) **CIVIL PENALTIES.**—

(A) **IN GENERAL.**—Pursuant to section 21301, the Secretary of Transportation may assess a civil penalty of not less than \$100,000, but not more than \$250,000, for each violation of this section for each railroad freight car.

(B) **PROHIBITION ON OPERATION FOR VIOLATIONS.**—The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under subparagraph (A) from providing additional railroad freight cars for operation on the United States general railroad system of transportation until the Secretary determines—

- (i) such manufacturer is in compliance with this section; and
- (ii) all civil penalties assessed to such manufacturer pursuant to subparagraph (A) have been paid in full.

(Added Pub. L. 117–58, div. B, title II, §22425(a), Nov. 15, 2021, 135 Stat. 753.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subssecs. (a)(4)(A) and (c)(1), is the date of enactment of title II of div. B of Pub. L. 117–58, which was approved Nov. 15, 2021.

CHAPTER 203—SAFETY APPLIANCES

Sec.	
20301.	Definition and nonapplication.
20302.	General requirements.
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¹ So in original. Probably should be “Association of American Railroads”.

§ 20301. Definition and nonapplication

(a) **DEFINITION.**—In this chapter, “vehicle” means a car, locomotive, tender, or similar vehicle.

(b) **NONAPPLICATION.**—This chapter does not apply to the following:

- (1) a train of 4-wheel coal cars.
- (2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.
- (3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.
- (4) a car, locomotive, or train used on a street railway.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 881; Pub. L. 104–287, §5(52), Oct. 11, 1996, 110 Stat. 3393.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20301(a)	45:8 (“trains, locomotives, tenders, cars, and similar vehicles”).	
20301(b)	45:9 (3d sentence). 45:6 (1st sentence proviso). 45:8 (words after 16th comma).	Mar. 2, 1893, ch. 196, §6 (1st sentence proviso), 27 Stat. 532; restated Apr. 1, 1896, ch. 87, 29 Stat. 85. Mar. 2, 1903, ch. 976, §1 (words after 23d comma), 32 Stat. 943.

Subsection (a) is added to avoid repeating the substance of the definition throughout this chapter.

In subsection (b), the words before clause (1) are substituted for “*Provided*, That nothing in sections 1 to 7 of this title shall apply to” in 45:6 because 45:9, 11, and 16 provide that 45:9 and 11–16 apply to the same vehicles and trains as 45:1–7 apply to. In clause (1), the word “coal” is added for clarity because of the decision of the Supreme Court in *Baltimore & Ohio Railway Co. v. Jackson*, 353 U.S. 325, 333 (1957) and the legislative history of 45:6 (proviso). See 24 Cong. Rec. 1477 (1893). The text of 45:8 (words after last comma) is omitted as unnecessary because of the definition of “railroad” in section 20102 of the revised title.

PUB. L. 104–287

This amends 49:20301(b) to clarify the restatement of 45:8 by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 881).

Editorial Notes

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–287 added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–287 effective July 5, 1994, see section 8(1) of Pub. L. 104–287, set out as a note under section 5303 of this title.

§ 20302. General requirements

(a) **GENERAL.**—Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

- (1) a vehicle only if it is equipped with—