

115TH CONGRESS
1ST SESSION

S. 1451

To facilitate and promote innovative approaches to railroad safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2017

Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To facilitate and promote innovative approaches to railroad safety, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Railroad Advancement of Innovation and Leadership
7 with Safety Act” or the “RAILS Act”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

Sec. 1. Short title; table of contents; references.

Sec. 2. Definitions.

TITLE I—PROCESS IMPROVEMENTS

- Sec. 111. Data transparency and quality.
- Sec. 112. Performance-based regulations.
- Sec. 113. Public participation.
- Sec. 114. Innovative approaches to improve safety.
- Sec. 115. Guidance.
- Sec. 116. Regulatory impact analyses.
- Sec. 117. Periodic review of Federal Railroad Administration actions.
- Sec. 118. Framework for reviewing future regulations.
- Sec. 119. Application.
- Sec. 120. Effective dates.

TITLE II—MISCELLANEOUS PROVISIONS

Subtitle A—Reorganization of Subtitle V

- Sec. 211. Rail improvement grants.
- Sec. 212. Project delivery.

Subtitle B—Miscellaneous

- Sec. 221. Rulemaking process.
- Sec. 222. Training.
- Sec. 223. Assessments.
- Sec. 224. Miscellaneous authority.
- Sec. 225. Applicability to States.
- Sec. 226. Electronic communications and record keeping.

1 (c) REFERENCES TO TITLE 49, UNITED STATES
 2 CODE.—Except as otherwise expressly provided, wherever
 3 in this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of title 49, United States Code.

7 **SEC. 2. DEFINITIONS.**

8 (a) IN GENERAL.—In this Act:

9 (1) REPORTABLE.—The term “reportable”
 10 means required under part 225 of title 49, Code of
 11 Federal Regulations, or any successor regulation, to
 12 be reported to the Federal Railroad Administration.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Transportation.

3 (b) AMENDMENTS TO CHAPTER 201.—Section 20102
4 is amended—

5 (1) by redesignating paragraphs (2), (3), and
6 (4) as paragraphs (3), (4), and (5), respectively;

7 (2) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) ‘guidance document’ means an agency
10 statement of general applicability and future effect,
11 other than a regulation, that sets forth a policy on
12 a statutory, regulatory, or technical issue or an in-
13 terpretation of a statutory, regulatory, or technical
14 issue.”; and

15 (3) by adding at the end the following:

16 “(7) ‘significant rule’ means any final rule that
17 the Administrator of the Office of Information and
18 Regulatory Affairs of the Office of Management and
19 Budget determines is likely to—

20 “(A) have an annual effect on the economy
21 of \$100,000,000 or more or adversely affect in
22 a material way the economy, a sector of the
23 economy, productivity, competition, jobs, the
24 environment, public health or safety, or State,
25 local, or tribal governments or communities;

1 “(B) create a significant inconsistency or
 2 otherwise interfere with an action taken or
 3 planned by another Federal agency;

4 “(C) materially alter the budgetary impact
 5 of entitlements, grants, user fees, or loan pro-
 6 grams or the rights and obligations of recipi-
 7 ents thereof; or

8 “(D) raise novel legal or policy issues.

9 “(8) ‘supporting information’ includes data,
 10 studies, formulas, models, and scientific, technical,
 11 and economic findings.”.

12 **TITLE I—PROCESS** 13 **IMPROVEMENTS**

14 **SEC. 111. DATA TRANSPARENCY AND QUALITY.**

15 (a) IN GENERAL.—Subchapter I of chapter 201 is
 16 amended by adding at the end the following:

17 **“§ 20122. Data transparency and quality**

18 “(a) DATA TRANSPARENCY.—

19 “(1) OPEN GOVERNMENT.—Not later than the
 20 date on which any proposed rule is published under
 21 this subtitle, the Secretary of Transportation shall
 22 place, in the appropriate docket, all supporting infor-
 23 mation used by the Department of Transportation in
 24 relation to such proposed rule and any associated
 25 analyses.

1 “(2) ACCESSIBILITY.—The supporting informa-
 2 tion and analyses described in paragraph (1) shall
 3 be published on a public website and accessible elec-
 4 tronically.

5 “(3) RULE OF CONSTRUCTION.—Nothing in
 6 this subsection may be construed to require the re-
 7 lease of security-sensitive information or confidential
 8 business information.

9 “(b) DATA QUALITY.—

10 “(1) MINIMUM STANDARD.—The Secretary
 11 shall base each determination whether to propose or
 12 adopt a rule under this subtitle on the best reason-
 13 ably obtainable supporting information, and any as-
 14 sociated analysis, concerning—

15 “(A) the need to be addressed;

16 “(B) how the rule addresses the need; and

17 “(C) the effects, including the benefits and
 18 costs, of the rule.

19 “(2) SOUND SCIENCE.—To the maximum ex-
 20 tent practicable, the best reasonably obtainable sup-
 21 porting information shall include—

22 “(A) up-to-date and relevant data;

23 “(B) appropriately validated models and
 24 formulas;

25 “(C) independent, peer-reviewed—

1 “(i) studies, including, where appro-
 2 priate, statistically significant findings;
 3 and

4 “(ii) scientific, technical, and eco-
 5 nomic findings, including, where appro-
 6 priate, statistically significant findings;
 7 and

8 “(D) evidence that accurately and com-
 9 pletely reflects the need for or effects of the
 10 rule, as applicable.

11 “(3) RULE OF CONSTRUCTION.—Nothing in
 12 this subsection may be construed to authorize the
 13 Secretary to propose or adopt a regulation based on
 14 less stringent information standards than required
 15 under other law.”.

16 (b) TABLE OF CONTENTS.—The table of contents for
 17 chapter 201 is amended by inserting after the item relat-
 18 ing to section 20121 the following:

“20122. Data transparency and quality.”.

19 **SEC. 112. PERFORMANCE-BASED REGULATIONS.**

20 (a) IN GENERAL.—Subchapter I of chapter 201, as
 21 amended by section 111, is further amended by adding
 22 at the end the following:

23 **“§ 20123. Performance-based regulations**

24 “(a) IN GENERAL.—Before proposing or adopting a
 25 rule under this subtitle, the Secretary of Transportation

1 shall consider an approach to the rule that specifies per-
 2 formance objectives rather than identifies or requires the
 3 specific manner of compliance that a regulated entity must
 4 adopt.

5 “(b) EXPLANATION.—If the Secretary selects a pre-
 6 scriptive or nonperformance-based approach to the rule,
 7 the Secretary shall include—

8 “(1) in the summary section of the preamble a
 9 statement that the selected approach is prescriptive
 10 or nonperformance-based; and

11 “(2) a justification, with supporting informa-
 12 tion, for the prescriptive or nonperformance-based
 13 approach, as applicable.”.

14 (b) TABLE OF CONTENTS.—The table of contents for
 15 chapter 201 is amended by inserting after the item relat-
 16 ing to section 20122 the following:

“20123. Performance-based regulations.”.

17 **SEC. 113. PUBLIC PARTICIPATION.**

18 (a) IN GENERAL.—Subchapter I of chapter 201, as
 19 amended by section 112, is further amended by adding
 20 at the end the following:

21 **“§ 20124. Public participation**

22 “(a) IN GENERAL.—Except as provided in subsection
 23 (b), the Secretary of Transportation, before issuing a pro-
 24 posed rule under this part, shall publish an advance notice
 25 of proposed rulemaking in accordance with subsection (c).

1 “(b) EXCEPTIONS.—This section shall not apply if—

2 “(1) the proposed rule is not likely to result in
3 a significant rule; or

4 “(2) the Secretary—

5 “(A) upon inspection, investigation, test-
6 ing, or research, determines that a violation of
7 a provision of this part, including a regulation
8 prescribed under this part, or an unsafe condi-
9 tion or practice constitutes or is causing an im-
10 minent hazard of death or injury to individuals;

11 “(B) determines that the proposed rule has
12 the consensus, in accordance with the estab-
13 lished rules governing the Rail Safety Advisory
14 Committee, of the Rail Safety Advisory Com-
15 mittee;

16 “(C) determines the use of a negotiated
17 rulemaking is in the public interest and con-
18 ducts a negotiated rulemaking under sub-
19 chapter III of chapter 5 of title 5 to negotiate
20 and develop the proposed rule;

21 “(D) determines it is necessary to waive
22 this section in order to implement section
23 20157;

1 “(E) is incorporating the terms of a regu-
 2 latory improvement waiver under section
 3 20125(h); or

4 “(F)(i) is not required by law to publish a
 5 notice of proposed rulemaking before issuing a
 6 final rule; and

7 “(ii) does not voluntarily publish such no-
 8 tice of proposed rulemaking.

9 “(c) ADVANCE NOTICE OF PROPOSED RULE-
 10 MAKING.—

11 “(1) IN GENERAL.—An advance notice of pro-
 12 posed rulemaking published under subsection (a)
 13 shall—

14 “(A) describe the need to be addressed, in-
 15 cluding—

16 “(i) the supporting information dem-
 17 onstrating the need;

18 “(ii) the failures of private markets
 19 that warrant new agency action, if applica-
 20 ble; and

21 “(iii) whether existing law, including
 22 regulations, has created or contributed to
 23 the need;

24 “(B) identify the legal authority under
 25 which the rule may be proposed, including—

1 “(i) whether a rulemaking is specifi-
2 cally directed by statute; and

3 “(ii) each statutory deadline for regu-
4 latory action, if applicable;

5 “(C) describe, in general terms, any avail-
6 able regulatory alternatives, including—

7 “(i) if rulemaking is not specifically
8 directed by statute, the alternative of not
9 regulating;

10 “(ii) any alternatives that specify per-
11 formance objectives rather than identify or
12 require the specific manner of compliance
13 that regulated entities must adopt;

14 “(iii) any alternatives that involve the
15 deployment of innovative technology or
16 practices; and

17 “(iv) any alternatives that involve dif-
18 ferent requirements for different types or
19 sizes of businesses, if applicable;

20 “(D) describe how the proposed rule ad-
21 dresses the need described in subparagraph (A);

22 “(E) identify at least one achievable objec-
23 tive for the proposed rule, and the metrics by
24 which the Secretary expects to measure
25 progress toward that objective; and

1 “(F) solicit public comment, for at least 60
2 days, on the advance notice of proposed rule-
3 making, including specific solicitation for com-
4 ment on—

5 “(i) any supporting information that
6 informs the need for or effects of the avail-
7 able regulatory alternatives;

8 “(ii) whether any law identified in
9 subparagraph (A)(iii) should be modified
10 to achieve the intended goal of the pro-
11 posed rule more effectively or efficiently;

12 “(iii) any available alternatives that
13 specify performance objectives rather than
14 identify or require the specific manner of
15 compliance that regulated entities must
16 adopt;

17 “(iv) any available alternatives that
18 involve the deployment of innovative tech-
19 nology or practices;

20 “(v) any alternatives that involve dif-
21 ferent requirements for different types or
22 sizes of businesses, if applicable; and

23 “(vi) any available alternatives to di-
24 rect regulation, including providing eco-
25 nomic incentives to encourage the desired

1 behavior or providing information upon
 2 which choices can be made by the public.

3 “(2) REGULATORY DETERMINATION.—After
 4 considering the information described in paragraph
 5 (1), including comments under paragraph (1)(F),
 6 and except where otherwise required by statute, the
 7 Secretary may issue a notice of proposed rulemaking
 8 only upon a reasoned determination that—

9 “(A) a need exists;

10 “(B) the proposed rule addresses that
 11 need; and

12 “(C) the benefits of the proposed rule jus-
 13 tify its costs.

14 “(d) RULES OF CONSTRUCTION.—Nothing in this
 15 section may be construed to limit—

16 “(1) any requirement under other law to ana-
 17 lyze the impacts of a proposed rule; or

18 “(2) the use of an advance notice of proposed
 19 rulemaking in any regulatory action that is not like-
 20 ly to result in a significant rule.”.

21 (b) TABLE OF CONTENTS.—The table of contents for
 22 chapter 201, as amended by section 112, is further
 23 amended by inserting after the item relating to section
 24 20123 the following:

“20124. Public participation.”.

1 **SEC. 114. INNOVATIVE APPROACHES TO IMPROVE SAFETY.**

2 (a) IN GENERAL.—Subchapter I of chapter 201, as
3 amended by section 113, is further amended by adding
4 at the end the following:

5 **“§ 20125. Innovative approaches to improve safety**

6 “(a) PURPOSES.—The purposes of this section are—

7 “(1) to establish a regulatory improvement
8 waiver to facilitate innovative approaches to safety;
9 and

10 “(2) to expedite consideration of regulatory
11 changes based on the results of the waiver.

12 “(b) REGULATORY IMPROVEMENT WAIVERS.—Not-
13 withstanding any other provision of this subtitle, except
14 subsection (i) and section 20130, the Secretary of Trans-
15 portation may waive compliance with any part of a regula-
16 tion prescribed or order issued under this subtitle if the
17 waiver—

18 “(1) is in the public interest;

19 “(2) requires the recipient to adopt an alter-
20 native technology, practice, or system that could
21 achieve a level of safety that is equivalent to, or
22 greater than, the level of safety that would be ob-
23 tained in the absence of the waiver; and

24 “(3) includes an evaluation framework de-
25 scribed in subsection (c) that has been approved by
26 the Secretary.

1 “(c) EVALUATION FRAMEWORK.—An evaluation
2 framework described in this subsection shall include—

3 “(1) a clear statement of the objective of the
4 waiver;

5 “(2) a plan for assessing the effects of the
6 waiver, including metrics to best gauge the effects
7 on safety; and

8 “(3) a plan for gathering the data generated by
9 the assessment described in paragraph (2).

10 “(d) PETITIONS.—

11 “(1) IN GENERAL.—Not later than 60 days
12 after the date on which the Secretary receives a peti-
13 tion for approval of a waiver under this section, the
14 Secretary shall notify the petitioner in writing
15 whether the petition—

16 “(A) is complete or incomplete, including,
17 if incomplete, each reason the petition is incom-
18 plete; and

19 “(B) is unusually complex or not unusually
20 complex.

21 “(2) CORRECTIONS.—The Secretary shall pro-
22 vide each petitioner with a reasonable opportunity—

23 “(A)(i) to address each reason that the pe-
24 tition is incomplete; or

1 “(ii) to explain why the petition is not un-
2 usually complex; and

3 “(B) to resubmit the petition.

4 “(e) APPROVAL OR DENIAL OF PETITIONS.—

5 “(1) IN GENERAL.—Not later than 180 days
6 after the date on which a petition is complete under
7 subsection (d)(1) (or 270 days after such date for an
8 unusually complex petition), the Secretary shall no-
9 tify the petitioner in writing that the petition was
10 approved or denied, including, if denied—

11 “(A) a justification for the denial; and

12 “(B) a description of each deficiency, in-
13 cluding, if applicable, any deficiency in the pro-
14 posed evaluation framework.

15 “(2) DEFICIENCIES.—The Secretary shall pro-
16 vide each petitioner with a reasonable opportunity—

17 “(A) to correct each deficiency identified
18 under paragraph (1)(B); and

19 “(B) to resubmit a corrected petition for
20 reconsideration.

21 “(3) APPROVAL PERIOD.—

22 “(A) DEADLINE.—If the Secretary does
23 not notify the petitioner in writing before the
24 applicable deadline under paragraph (1), the
25 Secretary shall submit to Congress, until the

1 date of such notification, a monthly report on
2 the status of the petition, including—

3 “(i) the reason the deadline was not
4 met;

5 “(ii) a staffing plan to prioritize and
6 expedite a decision on the petition; and

7 “(iii) an estimate of when the Sec-
8 retary will notify the petitioner.

9 “(B) PERIOD.—A waiver under this sec-
10 tion may be issued for a period of not more
11 than 5 years.

12 “(C) RENEWAL.—A waiver shall be re-
13 newed for the same period as the initial waiver
14 unless the Secretary—

15 “(i)(I) determines that the alternative
16 technology, practice, or system does not
17 achieve a level of safety that is equivalent
18 to, or greater than, the level of safety that
19 would be obtained in the absence of the
20 waiver; and

21 “(II) not later than 90 days before
22 the expiration of the initial waiver, notifies
23 the recipient of the waiver, in writing, that
24 the waiver will not be renewed;

1 “(ii) incorporates the relevant terms
 2 of the waiver as an alternative compliance
 3 approach under subsection (h); or

4 “(iii) revokes the waiver for non-
 5 compliance with the terms of the waiver.

6 “(D) EVALUATION FRAMEWORK RE-
 7 SULTS.—The Secretary may request the results
 8 of the evaluation framework under subsection
 9 (c) and such other information related to the
 10 waiver as the Secretary considers necessary to
 11 make a determination under subparagraph
 12 (C)(i).

13 “(f) PUBLIC PARTICIPATION.—Subject to subsection
 14 (e), the Secretary shall maintain similar opportunities and
 15 procedures for public notice, hearing, and comment as
 16 under the standard waiver procedure authorized under
 17 section 20103.

18 “(g) PUBLIC AVAILABILITY.—

19 “(1) LIST.—The Secretary shall maintain, on a
 20 public website, a list of each complete petition for a
 21 waiver under this section, including—

22 “(A) the date on which a petition is com-
 23 plete under subsection (d)(1);

24 “(B) a link to the complete petition;

1 “(C) whether the petition was approved or
2 denied;

3 “(D) the date of such approval or denial;

4 “(E) if the petition was denied, a link to
5 the justification for the denial and the descrip-
6 tion of each deficiency; and

7 “(F) if the petition was approved, a link to
8 the approved waiver, including the evaluation
9 framework.

10 “(2) UPDATES.—The list described in para-
11 graph (1) shall be updated—

12 “(A) not later than 10 days after the date
13 on which a petition is complete under sub-
14 section (d)(1); and

15 “(B) not later than 10 days after the date
16 on which the Secretary notifies a petitioner that
17 a petition was approved or denied under sub-
18 section (e)(1).

19 “(h) INCORPORATION INTO REGULATION.—

20 “(1) IN GENERAL.—Upon written request by a
21 recipient of a waiver, the Secretary shall revise the
22 applicable regulation to incorporate the relevant
23 terms of the waiver as an alternative compliance ap-
24 proach, to the maximum extent practicable, if—

1 “(A) the waiver has been in effect for not
 2 less than 1 year, including any renewal of such
 3 waiver; and

4 “(B) using the evaluation framework under
 5 subsection (c) to assess the effects of the waiv-
 6 er, including the metrics to best gauge the ef-
 7 fects on safety, there is sufficient data and
 8 other information to support that the alter-
 9 native technology, practice, or system under the
 10 waiver achieves a level of safety that is equiva-
 11 lent to or greater than the level of safety under
 12 the applicable regulation.

13 “(2) ALTERNATIVE COMPLIANCE AP-
 14 PROACHES.—As part of the revised regulation de-
 15 scribed in paragraph (1), the Secretary may allow a
 16 person, at the person’s discretion, to comply with—

17 “(A) the regulation as in effect on the day
 18 before the date of the revision under paragraph
 19 (1); or

20 “(B) the alternative compliance approach
 21 demonstrated by the waiver.

22 “(3) TIMING.—

23 “(A) NOTIFICATIONS.—Not later than 60
 24 days after receiving a request under paragraph
 25 (1), the Secretary shall provide written notifica-

tion to the petitioner that describes whether the relevant terms of the waiver will be incorporated into regulation as an alternative compliance approach.

“(B) NOTICE OF PROPOSED RULE-
MAKING.—If the relevant terms of the waiver will be incorporated into regulation as an alternative compliance approach, not later than 270 days after the date of the written notification under subparagraph (A), the Secretary shall issue a notice of proposed rulemaking that incorporates the waiver with the least burdensome terms necessary to ensure flexibility among various operations while meeting the regulatory safety objective.

“(C) FINAL RULE.—Not later than 2 years after the date the notice of proposed rulemaking is issued under subparagraph (B), the Secretary shall issue the final rule under this subsection.

“(i) NONAPPLICABILITY.—This section does not apply to any petition that, if approved, would result in a reduction in the number of route miles that are required under section 20157 to have operations governed by a positive train control system.

1 “(j) RULES OF CONSTRUCTION.—

2 “(1) IN GENERAL.—Nothing in this section
3 may be construed—

4 “(A) to limit the authority of the Sec-
5 retary—

6 “(i) to grant a waiver under other
7 law, including the authority to grant any
8 waiver that is not a regulatory improve-
9 ment waiver; or

10 “(ii) to promulgate, rescind, or revise
11 such regulations as are necessary to carry
12 out the functions of the Secretary under
13 this subtitle;

14 “(B) to prohibit a person from requesting
15 a waiver under other law, including any waiver
16 that is not a regulatory improvement waiver; or

17 “(C) to require the release of security-sen-
18 sitive, proprietary, or confidential business in-
19 formation.

20 “(2) NET BENEFITS.—Nothing in this section
21 may be construed to limit the authority of the Sec-
22 retary to rescind or revise such regulations under
23 this subtitle based on the results of the evaluation
24 framework under subsection (c), or other supporting
25 information derived from the waiver, demonstrating

1 that the benefits of rescinding or revising such regu-
 2 lations would justify the costs.”.

3 (b) TABLE OF CONTENTS.—The table of contents for
 4 chapter 201, as amended by section 113, is further
 5 amended by inserting after the item relating to section
 6 20124 the following:

“20125. Innovative approaches to improve safety.”.

7 **SEC. 115. GUIDANCE.**

8 (a) IN GENERAL.—Subchapter I of chapter 201, as
 9 amended by section 114, is further amended by adding
 10 at the end the following:

11 **“§ 20126. Guidance**

12 “(a) IN GENERAL.—The Secretary of Transportation
 13 may not issue a guidance document under this subtitle—

14 “(1) to establish a standard, right, or obligation
 15 that is new or inconsistent with a regulation ad-
 16 dressing the same or a directly related issue;

17 “(2) as legal grounds for agency action; or

18 “(3) that will, as a practicable matter, operate
 19 with the force of law or have any other coercive ef-
 20 fect.

21 “(b) PUBLIC PARTICIPATION.—

22 “(1) REQUESTS.—The Secretary shall provide
 23 an opportunity for an interested person to submit a
 24 request for a guidance document—

25 “(A) to be issued, revised, or rescinded;

1 “(B) incorporated into regulation; and

2 “(C) if applicable, to be added to the list
3 maintained under subsection (d).

4 “(2) RESPONSES.—Not later than 90 days after
5 receiving a request under paragraph (1), the Sec-
6 retary shall provide a written response to the inter-
7 ested person that includes—

8 “(A) whether the Secretary plans for a
9 guidance document to be issued, revised, re-
10 scinded, incorporated into regulation, or added
11 to the list under subsection (d); and

12 “(B) a justification for such planned action
13 or inaction.

14 “(c) LEGAL STATEMENT.—Each guidance document
15 issued under this subtitle shall include a statement, in a
16 plain, prominent, and permanent manner, that it is not
17 legally binding.

18 “(d) LIST OF GUIDANCE DOCUMENTS.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish and maintain, on a public website, a list of all
21 guidance documents issued under this subtitle that
22 are in effect.

23 “(2) CONTENTS.—The Secretary shall include,
24 for each guidance document on the list—

25 “(A) a document identification number;

1 “(B) the title;

2 “(C) the date of issuance;

3 “(D) the date it was last revised, if appli-
4 cable;

5 “(E) a brief summary;

6 “(F) a link to the guidance document;

7 “(G) a note if it is a revision or replace-
8 ment to a previously issued guidance document
9 and, if so, identify the document that it revises
10 or replaces and the date of its original issuance;

11 “(H) the citation to the statutory provision
12 or regulation (in Code of Federal Regulations
13 format) which it applies to or interprets;

14 “(I) the name and contact information for
15 an official who can respond to relevant ques-
16 tions; and

17 “(J) a description of the person or group
18 of persons to whom the guidance document ap-
19 plies.

20 “(3) UPDATES.—The Secretary shall update
21 the list whenever a guidance document is issued, re-
22 vised, or rescinded, not later than 10 days after such
23 date of issuance, revision, or rescission, as applica-
24 ble.

25 “(e) PUBLICATION.—The Secretary shall—

1 “(1) not later than December 31, 2018, pub-
 2 licize on the Department of Transportation website
 3 the procedure for making a request under subsection
 4 (b)(1); and

5 “(2) not later than December 31, 2018, make
 6 the list under subsection (d) publicly available and
 7 accessible on the Department of Transportation
 8 website.

9 “(f) RULES OF CONSTRUCTION.—Nothing in this
 10 section may be construed—

11 “(1) to require the release of security-sensitive,
 12 proprietary, or confidential business information; or

13 “(2) to affect any request for the issuance, revi-
 14 sion, revocation, or incorporation into regulation of
 15 any guidance under this subtitle made before De-
 16 cember 31, 2018.”.

17 (b) TABLE OF CONTENTS.—The table of contents for
 18 chapter 201, as amended by section 114, is further
 19 amended by inserting after the item relating to section
 20 20125 the following:

“20126. Guidance.”.

21 **SEC. 116. REGULATORY IMPACT ANALYSES.**

22 (a) IN GENERAL.—Subchapter I of chapter 201, as
 23 amended by section 115, is further amended by adding
 24 at the end the following:

1 **“§ 20127. Regulatory impact analyses**

2 “(a) IN GENERAL.—Before issuing any proposed rule
3 or final rule under this subtitle, the Secretary of Trans-
4 portation shall conduct a regulatory impact analysis to
5 evaluate the proposed rule or final rule, as applicable.

6 “(b) REGULATORY IMPACT ANALYSES.—An analysis
7 under subsection (a) shall—

8 “(1) be based upon the best reasonably obtain-
9 able supporting information, consistent with section
10 20122;

11 “(2) describe the need to be addressed and how
12 the rule addresses that need;

13 “(3) analyze effects, including the benefits and
14 costs, of the rule;

15 “(4) to the maximum extent practicable, con-
16 sider the cumulative regulatory burden on the regu-
17 lated entity under subsection (d);

18 “(5) consider the effects on different types and
19 sizes of businesses, if applicable;

20 “(6) for a proposed rule that is likely to lead
21 to a significant rule, or a final rule that is a signifi-
22 cant rule—

23 “(A) describe the need to be addressed, in-
24 cluding—

25 “(i) the supporting information dem-
26 onstrating the need;

1 “(ii) the failures of private markets
2 that warrant new agency action, if applica-
3 ble; and

4 “(iii) whether existing law, including
5 regulations, has created or contributed to
6 the need;

7 “(B) define the baseline for the analysis;

8 “(C) set the timeframe of the analysis;

9 “(D) analyze any available regulatory al-
10 ternatives, including—

11 “(i) if rulemaking is not specifically
12 directed by statute, the alternative of not
13 regulating;

14 “(ii) any alternatives that specify per-
15 formance objectives rather than identify or
16 require the specific manner of compliance
17 that regulated entities must adopt;

18 “(iii) any alternatives that involve the
19 deployment of innovative technology or
20 practices; and

21 “(iv) any alternatives that involve dif-
22 ferent requirements for different types or
23 sizes of businesses, if applicable;

1 “(E) identify the effects of the available
2 regulatory alternatives described in subpara-
3 graph (D);

4 “(F) to the maximum extent practicable,
5 quantify and monetize the benefits and costs of
6 the selected regulatory alternative and the avail-
7 able alternatives under consideration;

8 “(G) discount future benefits and costs
9 quantified and monetized under subparagraph
10 (F);

11 “(H) to the maximum extent practicable,
12 evaluate non-quantified and non-monetized ben-
13 efits and costs of the selected regulatory alter-
14 native and the available alternatives under con-
15 sideration; and

16 “(I) characterize any uncertainty in bene-
17 fits, costs, and net benefits.

18 “(c) LESS BURDENSOME ALTERNATIVES.—If after
19 conducting an analysis under subsection (a) for a proposed
20 rule that is likely to lead to a significant rule, or a final
21 rule that is a significant rule, the Secretary selects a regu-
22 latory approach that is not the least burdensome com-
23 pared to an available regulatory alternative, the Secretary
24 shall include—

1 “(1) in the summary section of the preamble a
2 statement that the selected approach is more bur-
3 densome than an available regulatory alternative;
4 and

5 “(2) a justification, with supporting informa-
6 tion, for the selected approach.

7 “(d) CUMULATIVE REGULATORY BURDEN.—In con-
8 sidering the cumulative regulatory burden under sub-
9 section (b)(4), the Secretary shall—

10 “(1) identify other regulations that attempt to
11 achieve similar regulatory objectives;

12 “(2) evaluate whether the rule is inconsistent,
13 incompatible, or duplicative with other regulations
14 issued by the Secretary; and

15 “(3) consider whether the estimated benefits
16 and costs of the rule increase or decrease as a result
17 of other regulations, issued by the Secretary, that
18 are not yet fully implemented, compared to the bene-
19 fits and costs of the rule in the absence of such reg-
20 ulations.

21 “(e) CERTIFICATION.—Before the Secretary issues a
22 proposed rule or a final rule under this subtitle, the head
23 of the Office of Regulation in the Office of General Coun-
24 sel, in consultation with the Office of the Chief Economist
25 (or successor offices), shall—

1 “(1) certify compliance with subsections (b),
2 (c), and (d); and

3 “(2) include the certification in the docket of
4 the rule.

5 “(f) REGULATORY DETERMINATION.—Except where
6 otherwise required by statute, the Secretary may issue a
7 proposed rule or final rule only upon a reasoned deter-
8 mination that the benefits of the rule justify its costs.

9 “(g) PUBLICATION.—Not later than the date that the
10 proposed rule or final rule, as applicable, is published, the
11 Secretary shall make publicly available the regulatory im-
12 pact analysis for that regulation.

13 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion may be construed to affect the requirements under
15 chapter 6 of title 5.”.

16 (b) TABLE OF CONTENTS.—The table of contents for
17 chapter 201, as amended by section 115, is further
18 amended by inserting after the item relating to section
19 20126 the following:

“20127. Regulatory impact analyses.”.

20 **SEC. 117. PERIODIC REVIEW OF FEDERAL RAILROAD AD-**
21 **MINISTRATION ACTIONS.**

22 (a) IN GENERAL.—Subchapter I of chapter 201, as
23 amended by section 116, is further amended by adding
24 at the end the following:

1 **“§ 20128. Periodic comprehensive review of agency**
2 **actions**

3 “(a) IN GENERAL.—Except as provided under sub-
4 section (f), not later than June 1, 2019, and at least every
5 5 years thereafter, the Secretary of Transportation shall
6 complete, based on the public recommendations under sub-
7 section (b), a comprehensive review of the regulations, or-
8 ders, and guidance documents issued under this subtitle.

9 “(b) PUBLIC COMMENTS.—

10 “(1) IN GENERAL.—Before conducting a review
11 under subsection (a), the Secretary shall publish in
12 the Federal Register a request for public comment
13 on recommendations for regulations, orders, or guid-
14 ance documents to be revised or repealed.

15 “(2) RECOMMENDATIONS.—A request for public
16 comment under paragraph (1) shall solicit—

17 “(A) recommendations for regulations, or-
18 ders, or guidance documents to be revised or re-
19 pealed, including a reference to the applicable
20 citation (in Code of Federal Regulations for-
21 mat);

22 “(B) justifications, including any sup-
23 porting information, for revising or repealing a
24 regulation, order, or guidance document identi-
25 fied under subparagraph (A); and

1 “(C) if applicable, specific suggestions for
 2 improving a regulation, order, or guidance doc-
 3 ument identified under subparagraph (A).

4 “(3) PUBLIC COMMENT PERIOD.—The Sec-
 5 retary shall provide 90 days for public comment
 6 under this subsection.

7 “(c) CONTENTS.—A review under subsection (a) shall
 8 include for each regulation, order, or guidance document
 9 recommended for revision or repeal under subsection
 10 (b)(2)(A)—

11 “(1) consideration of each justification under
 12 subsection (b)(2)(B) and, if applicable, each sugges-
 13 tion under subsection (b)(2)(C);

14 “(2) an assessment of whether the regulation,
 15 order, or guidance document is—

16 “(A) outmoded or outdated in light of
 17 changed circumstances, including the avail-
 18 ability of new technologies;

19 “(B) excessively burdensome due to,
 20 among other things—

21 “(i) disproportionate costs on small
 22 businesses; or

23 “(ii) costs that exceed benefits;

24 “(C) ineffective or insufficient for achiev-
 25 ing its objective;

1 “(D) unclear;

2 “(E) inconsistent with other law; or

3 “(F) not uniformly or inconsistently en-
4 forced;

5 “(3) to the extent feasible, a comparison of the
6 actual regulatory cost or burden of the regulation,
7 order, or guidance document to the cost or burden
8 estimated in the analysis of—

9 “(A) the regulation during the rulemaking
10 process;

11 “(B) the order; or

12 “(C) the guidance document;

13 “(4) a determination, based on the information
14 compiled under paragraphs (1) through (3), whether
15 it is appropriate to revise or repeal the regulation,
16 order, or guidance document; and

17 “(5) a justification for each determination
18 under paragraph (4).

19 “(d) REGULATORY ACTIONS.—Not later than 1 year
20 after the date of completion of the review under subsection
21 (a), the Secretary shall—

22 “(1) initiate a rulemaking to revise or repeal, as
23 applicable, each regulation that the Secretary deter-
24 mines under subsection (c)(4) is necessary to revise
25 or repeal;

1 “(2) take action to revise or repeal, as applica-
2 ble, each order the Secretary determines under sub-
3 section (c)(4) is necessary to revise or repeal; and

4 “(3) take action to revise or repeal, as applica-
5 ble, each guidance document the Secretary deter-
6 mines under subsection (c)(4) is necessary to revise
7 or repeal.

8 “(e) REPORTS.—Not later than 180 days after the
9 completion of a review under subsection (a), the Secretary
10 shall submit a report to the Committee on Commerce,
11 Science, and Transportation of the Senate and the Com-
12 mittee on Transportation and Infrastructure of the House
13 of Representatives that includes—

14 “(1) the findings of the review under subsection
15 (a) and any review conducted under section
16 20129(c);

17 “(2) a list of each determination for the repeal
18 or revision of a regulation, order, or guidance docu-
19 ment under subsection (c)(4), including the justifica-
20 tion for the determination under subsection (c)(5);
21 and

22 “(3) the status and timeline of each action
23 under subsection (d).

1 “(f) EXCEPTION.—The review under subsection (a)
 2 shall not apply to any regulation that has a framework
 3 described under section 20129.”.

4 (b) TABLE OF CONTENTS.—The table of contents for
 5 chapter 201, as amended by section 116, is further
 6 amended by inserting after the item relating to section
 7 20127 the following:

“20128. Periodic comprehensive review of agency actions.”.

8 **SEC. 118. FRAMEWORK FOR REVIEWING FUTURE REGULA-**
 9 **TIONS.**

10 (a) IN GENERAL.—Subchapter I of chapter 201, as
 11 amended by section 117, is further amended by adding
 12 at the end the following:

13 **“§ 20129. Framework for reviewing future regulations**

14 “(a) IN GENERAL.—The Secretary shall include, in
 15 each significant rule prescribed under this subtitle on or
 16 after December 31, 2017, a framework for assessing the
 17 effects of the rule.

18 “(b) REQUIREMENTS.—The framework for assessing
 19 the effects of a rule required under subsection (a) shall
 20 include—

21 “(1) a clear statement of the objectives of the
 22 rule, including the need to be addressed and how the
 23 rule addresses that need;

24 “(2) a plan for assessing the effects of the rule,
 25 including—

1 “(A) metrics to best gauge the effects on
2 safety; and

3 “(B) costs associated with the rule; and

4 “(3) a plan for gathering the data generated by
5 the assessment required under paragraph (2).

6 “(c) REVIEW.—Using the framework described in
7 subsection (a), the Secretary shall conduct a review of the
8 rule, in a manner that is substantially similar to the review
9 described in section 20128, not later than 5 years after
10 the effective date of the regulation and every 5 years
11 thereafter.”.

12 (b) TABLE OF CONTENTS.—The table of contents for
13 chapter 201, as amended by section 117, is further
14 amended by inserting after the item relating to section
15 20128 the following:

 “20129. Framework for reviewing future regulations.”.

16 **SEC. 119. APPLICATION.**

17 (a) IN GENERAL.—Subchapter I of chapter 201, as
18 amended by section 118, is further amended by adding
19 at the end the following:

20 **“§ 20130. Nonapplicability**

21 “Sections 20122 through 20127 and section 20129
22 shall not apply to sections 20104 and 20109(j).”.

23 (b) TABLE OF CONTENTS.—The table of contents for
24 chapter 201, as amended by section 118, is further

1 amended by inserting after the item relating to section
2 20129 the following:

“20130. Nonapplicability.”.

3 (c) IN GENERAL.—Chapter 51 is amended by insert-
4 ing after section 5110 the following:

5 **“§ 5111. Regulatory process improvement**

6 “(a) IN GENERAL.—Except as provided in subsection
7 (b), sections 20122, 20123, 20124, 20127, and 20129
8 shall apply to a proposed rule and, if applicable, a final
9 rule issued under this chapter if a primary purpose or ma-
10 terial outcome of the rule is to affect the safe or secure
11 transportation by railroad of hazardous material in intra-
12 state, interstate, and foreign commerce.

13 “(b) SPECIAL PERMITS.—Nothing in section 20122,
14 20124, 20127, or 20129 shall be construed to apply to
15 any action taken pursuant to section 5117.”.

16 (d) TABLE OF CONTENTS.—The table of contents for
17 chapter 51 is amended by inserting after the item relating
18 to section 5110 the following:

“5111. Regulatory process improvement.”.

19 **SEC. 120. EFFECTIVE DATES.**

20 (a) IN GENERAL.—The amendments made by sec-
21 tions 111, 112, 115, and 116 shall apply with respect to
22 proposed rules, final rules, and guidance documents issued
23 on or after the date that is 30 days after the date of the
24 enactment of this Act.

(b) SECTION 113.—The amendment made by section 113 shall apply with respect to proposed rules issued on or after the date that is 18 months after the date of enactment of this Act.

(c) SECTION 114.—The amendment made by section 114 shall take effect on the date that is 30 days after the date of enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

Subtitle A—Reorganization of Subtitle V

SEC. 211. RAIL IMPROVEMENT GRANTS.

(a) REDESIGNATION.—Subtitle V is amended—

(1) by redesignating sections 24401 through 24408 as sections 22901 through 22908, respectively;

(2) by redesignating chapter 244 as chapter 229;

(3) by moving chapter 229, as redesignated, to appear at the end of part B;

(4) in the table of chapters—

(A) by striking the item relating to chapter 244; and

(B) by inserting after the item relating to chapter 227 the following:

“Chapter 229. Rail Improvement Grants 22901”;

1 and

2 (5) by amending the table of sections for chap-
3 ter 229, as redesignated, to read as follows:

4 **“CHAPTER 229—RAIL IMPROVEMENT**
5 **GRANTS**

“Sec.

“22901. Definitions.

“22902. Capital investment grants to support intercity passenger rail services.

“22903. Project management oversight.

“22904. Use of capital grants to finance first-dollar liability of grant project.

“22905. Grant conditions.

“22906. Authorization of appropriations.

“22907. Consolidated rail infrastructure and safety improvements.

“22908. Restoration and enhancement grants.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) TECHNICAL AMENDMENTS.—Chapter 229,
8 as redesignated, is amended—

9 (A) in section 22902, as redesignated—

10 (i) in subsection (c)(3)(A)—

11 (I) in the matter preceding clause

12 (i), by inserting “of” after “other
13 modes”; and

14 (II) in clause (vi) by striking

15 “environmentally” and inserting “en-
16 vironmental”; and

17 (ii) in subsection (k), by striking

18 “state rail plan” and inserting “State rail
19 plan”; and

20 (B) in section 22905(e)(1), as redesign-
21 nated—

1 (i) by striking “government author-
 2 ity” and inserting “governmental author-
 3 ity”; and

4 (ii) by striking “section 5302(11) and
 5 (6), respectively, of this title” and insert-
 6 ing “section 5302”.

7 (2) CONFORMING AMENDMENTS.—Chapter 229,
 8 as redesignated, is amended—

9 (A) in section 22901(2)(D), as redesign-
 10 nated, by striking “24404” and inserting
 11 “22904”;

12 (B) in section 22904, as redesignated, by
 13 striking “24402” and inserting “22902”;

14 (C) in section 22907, as redesignated—

15 (i) in subsection (c)(2), by striking
 16 “24401(2)” and inserting “22901(2)”; and

17 (ii) in subsection (k), by striking “of
 18 sections 24402, 24403, and 24404 and the
 19 definition contained in 24401(1)” and in-
 20 serting “under sections 22902, 22903, and
 21 22904, and the definition contained in sec-
 22 tion 22901(1)”; and

23 (D) in section 22908, as redesignated—

- 1 (i) in subsection (a), in the matter
 2 preceding paragraph (1), by striking
 3 “24401(1)” and inserting “22901(1)”; and
 4 (ii) in subsection (i)(3), by striking
 5 “24405” and inserting “22905”.

6 (3) ADDITIONAL CONFORMING AMENDMENTS.—

7 (A) SUBTITLE V.—Subtitle V is amend-
 8 ed—

9 (i) in part C—

10 (I) in section 24711(c)(3), by
 11 striking “24405” and inserting
 12 “22905”; and

13 (II) in section 24911(i), by strik-
 14 ing “24405” and inserting “22905”;
 15 and

16 (ii) in part D, in section 26106(e)(3),
 17 by striking “24405 of this title” and in-
 18 serting “22905”.

19 (B) RAILROAD SAFETY ENHANCEMENT
 20 ACT OF 2008.—The Passenger Rail Investment
 21 and Improvement Act of 2008 (division B of
 22 Public Law 110–432) is amended—

23 (i) in section 301(c) (49 U.S.C. 24405
 24 note), by striking “24405” and inserting
 25 “22905”; and

1 (ii) in section 502(a)(4)(I) (49 U.S.C.
 2 26106 note), by striking “24405” and in-
 3 serting “22905”.

4 (C) HIGH-SPEED RAIL CORRIDOR DEVEL-
 5 OPMENT.—Section 26106(e)(3) is amended by
 6 striking “24405” and inserting “22905”.

7 (D) FAST ACT.—Section 11308(a)(4)(I)
 8 of the Fixing America’s Surface Transportation
 9 Act (Public Law 114–94; 129 Stat. 1312) is
 10 amended by striking “24405” and inserting
 11 “22905”.

12 **SEC. 212. PROJECT DELIVERY.**

13 (a) REDESIGNATION.—Subtitle V is amended—

14 (1) by redesignating sections 24201 and 24202
 15 as sections 28701 and 28702, respectively;

16 (2) by redesignating chapter 242 as chapter
 17 287;

18 (3) by moving chapter 287, as redesignated, to
 19 appear at the end of part E;

20 (4) in the table of chapters—

21 (A) by striking the item relating to chapter
 22 242; and

23 (B) by inserting after the item relating to
 24 chapter 285 the following:

“Chapter 287. Project Delivery 28701”;

25 and

1 (5) by amending the table of sections for chap-
 2 ter 287, as redesignated, to read as follows:

3 **“CHAPTER 287—PROJECT DELIVERY**

“Sec.

“28701. Efficient environmental reviews.

“28702. Railroad rights-of-way.”.

4 (b) EFFICIENT ENVIRONMENTAL REVIEWS.—Section
 5 28701, as redesignated, is amended—

6 (1) by striking subsection (c);

7 (2) by redesignating subsections (d) and (e) as
 8 subsections (c) and (d), respectively; and

9 (3) by adding at the end the following:

10 “(e) SAVINGS CLAUSE.—Nothing in this section may
 11 be construed to limit the adoption of new categorical exclu-
 12 sions for railroad projects that require the approval of the
 13 Secretary under the National Environmental Policy Act
 14 of 1969 (42 U.S.C. 4321 et seq.), including categorical
 15 exclusions proposed as part or as a result of a notice of
 16 proposed rulemaking.”.

17 **Subtitle B—Miscellaneous**

18 **SEC. 221. RULEMAKING PROCESS.**

19 Section 20116 is amended in the heading by striking
 20 **“Rulemaking process”** and inserting **“Incorpora-**
 21 **tion by reference”**.

22 **SEC. 222. TRAINING.**

23 (a) MINIMUM TRAINING STANDARDS AND PLANS.—
 24 Section 20162 is amended—

1 (1) in subsection (a)—

2 (A) in the matter preceding paragraph (1),
 3 by striking “, not later than 1 year after the
 4 date of enactment of the Rail Safety Improve-
 5 ment Act of 2008,”;

6 (B) in paragraph (1), by striking the semi-
 7 colon at the end and inserting “; and”;

8 (C) by striking paragraph (2); and

9 (D) by redesignating paragraph (3) as
 10 paragraph (2);

11 (2) by striking subsection (b); and

12 (3) by amending subsection (c) to read as fol-
 13 lows:

14 “(c) EXEMPTIONS.—The Secretary shall exempt rail-
 15 road carriers and railroad carrier contractors and sub-
 16 contractors, or the employees thereof, from any training
 17 standard, curriculum, or ongoing criteria, testing, or skills
 18 evaluation measure, or any other requirement under this
 19 section if—

20 “(1) the Secretary makes a reasoned determina-
 21 tion that the benefits do not justify the costs of such
 22 requirement;

23 “(2) there is insufficient supporting information
 24 to support the need for such requirement; or

1 “(3) the Secretary has issued other training
2 regulations covering the same subject or designed to
3 achieve the same objective.”.

4 (b) REGULATIONS.—Not later than 3 years after the
5 date of enactment of this Act, the Secretary shall revise
6 the regulations under part 243 of title 49, Code of Federal
7 Regulations, to reduce the burden on railroad carriers,
8 railroad carrier contractors and subcontractors, and em-
9 ployees thereof in accordance with section 20162, as
10 amended by subsection (a) of this section.

11 (c) EFFECTIVE DATE.—The regulations under part
12 243 of title 49, Code of Federal Regulations, shall not be
13 in effect before the date that is 30 days after the date
14 of publication of the final rule required by subsection (b).

15 (d) SAVINGS CLAUSE.—Nothing in this section, or
16 the amendments made by this section, may be construed
17 to affect part 214 or 232 of title 49, Code of Federal Reg-
18 ulations, as revised by the final rule, “Training, Qualifica-
19 tion, and Oversight for Safety-Related Railroad Employ-
20 ees” (79 Fed. Reg. 66459).

21 **SEC. 223. ASSESSMENTS.**

22 Section 20156 is amended—

23 (1) in subsection (a)(1)—

24 (A) by striking “Not later than 4 years
25 after the date of enactment of the Rail Safety

1 Improvement Act of 2008, the” and inserting
2 “The”; and

3 (B) by inserting “Class II” before “rail-
4 road carrier that has inadequate safety per-
5 formance”; and

6 (2) by adding at the end the following:

7 “(i) CLASS III RAILROAD CARRIERS.—The Secretary
8 may require a railroad carrier that is a Class III railroad
9 and that has an inadequate safety performance (as deter-
10 mined by the Secretary) to conduct a safety assessment,
11 including a safety assessment conducted under a grant
12 made by the Secretary to a private or nonprofit organiza-
13 tion involved in or affiliated with transportation by a Class
14 II railroad or Class III railroad for research, development,
15 evaluation, and training efforts, to enhance rail safety
16 practices and safety culture.

17 “(j) NECESSARY IMPROVEMENTS.—

18 “(1) IN GENERAL.—For each railroad carrier
19 described in paragraph (2), the Secretary shall de-
20 fine the criteria the railroad carrier must meet in
21 order to demonstrate that it has adequate safety
22 performance.

23 “(2) RAILROAD CARRIERS DESCRIBED.—A rail-
24 road carrier described in this paragraph is—

1 “(A) a Class II railroad or a Class III rail-
2 road; and

3 “(B) has inadequate safety performance
4 (as determined by the Secretary).

5 “(k) RULE OF CONSTRUCTION.—Subsection (a), and
6 the components of the program required under that sub-
7 section, shall not apply to a railroad carrier that is a Class
8 III railroad.”.

9 **SEC. 224. MISCELLANEOUS AUTHORITY.**

10 Section 24305(c)(4) is amended by inserting “subject
11 to section 24321,” before “provide food”.

12 **SEC. 225. APPLICABILITY TO STATES.**

13 Not later than 180 days after the date of the enact-
14 ment of this Act, the Secretary shall revise part 270 of
15 title 49, Code of Federal Regulations, to exclude a State,
16 or a political subdivision of a State, that provides equip-
17 ment, track, right-of-way, or financial support for intercity
18 passenger service pursuant to section 209 of the Pas-
19 senger Rail Investment and Improvement Act of 2008 (di-
20 vision B of Public Law 110–432; 49 U.S.C. 24101 note)
21 if such State or political subdivision does not directly oper-
22 ate such service.

1 **SEC. 226. ELECTRONIC COMMUNICATIONS AND RECORD**
2 **KEEPING.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary shall—

5 (1) review part A of subtitle V of title 49,
6 United States Code, including all relevant regula-
7 tions, to—

8 (A) identify each requirement for a per-
9 son—

10 (i) to maintain a record;

11 (ii) to communicate with the Depart-
12 ment of Transportation; or

13 (iii) to file information with the De-
14 partment of Transportation; and

15 (B) determine whether current regulations
16 or other requirements allow for—

17 (i) an electronic record to be sub-
18 stituted for a paper record;

19 (ii) a digital transmission, or such
20 other electronic form of transmission as
21 the Secretary considers appropriate, to be
22 substituted for a paper or voice commu-
23 nication; and

24 (iii) an electronic filing of information
25 to be substituted for a paper filing of in-
26 formation; and

1 (2) submit to the Committee on Commerce,
2 Science, and Transportation of the Senate and the
3 Committee on Transportation and Infrastructure of
4 the House of Representatives a report of the find-
5 ings of the review, including any recommendations.

6 (b) PERMISSIBLE COMMUNICATIONS AND RECORD
7 KEEPING.—After conducting the review under subsection
8 (a), the Secretary may authorize a person to substitute
9 an electronic record, transmission, or filing for a paper
10 or voice record, transmission, or filing, as applicable, if
11 the Secretary makes a reasoned determination that the
12 benefits outweigh the costs.

13 (c) REGULATIONS.—Notwithstanding any other pro-
14 vision of law in part A of subtitle V of title 49, United
15 States Code, as amended by this Act, the Secretary may
16 revise any regulation as necessary to carry out subsection
17 (b) of this section.

18 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed as expanding any record keeping
20 or reporting requirement.

○