

1 “(c) REGULATIONS.—Not later than April 1, 2010,
2 the Secretary of Transportation, in coordination with the
3 Secretary of Labor, shall prescribe regulations to imple-
4 ment subsection (a)(1) to protect the safety and health
5 of any employees and individuals employed to maintain the
6 right of way of a railroad carrier that uses camp cars,
7 which shall require that all camp cars comply with those
8 regulations by December 31, 2010. In prescribing the reg-
9 ulations, the Secretary shall assess the action taken by any
10 railroad carrier to fully retrofit or replace its camp cars
11 pursuant to this section.

12 “(d) COMPLIANCE AND ENFORCEMENT.—The Sec-
13 retary shall determine whether a railroad carrier has fully
14 retrofitted or replaced a camp car pursuant to subsection
15 (b) and shall prohibit the use of any non-compliant camp
16 car. The Secretary may assess civil penalties pursuant to
17 chapter 213 for violations of this section.”.

18 **TITLE V—RAIL PASSENGER**
19 **DISASTER FAMILY ASSISTANCE**
20 **SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION**
21 **SAFETY BOARD TO FAMILIES OF PAS-**
22 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
23 **CIDENTS.**

24 (a) IN GENERAL.—Chapter 11 is amended by adding
25 at the end of subchapter III the following:

1 **“§ 1139. Assistance to families of passengers involved**
2 **in rail passenger accidents**

3 “(a) IN GENERAL.—As soon as practicable after
4 being notified of a rail passenger accident within the
5 United States involving a rail passenger carrier and result-
6 ing in a major loss of life, the Chairman of the National
7 Transportation Safety Board shall—

8 “(1) designate and publicize the name and
9 phone number of a director of family support serv-
10 ices who shall be an employee of the Board and shall
11 be responsible for acting as a point of contact within
12 the Federal Government for the families of pas-
13 sengers involved in the accident and a liaison be-
14 tween the rail passenger carrier and the families;
15 and

16 “(2) designate an independent nonprofit organi-
17 zation, with experience in disasters and post trauma
18 communication with families, which shall have pri-
19 mary responsibility for coordinating the emotional
20 care and support of the families of passengers in-
21 volved in the accident.

22 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
23 shall have primary Federal responsibility for—

24 “(1) facilitating the recovery and identification
25 of fatally injured passengers involved in an accident
26 described in subsection (a); and

1 “(2) communicating with the families of pas-
2 sengers involved in the accident as to the roles, with
3 respect to the accident and the post-accident activi-
4 ties, of—

5 “(A) the organization designated for an ac-
6 cident under subsection (a)(2);

7 “(B) Government agencies; and

8 “(C) the rail passenger carrier involved.

9 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
10 TION.—The organization designated for an accident under
11 subsection (a)(2) shall have the following responsibilities
12 with respect to the families of passengers involved in the
13 accident:

14 “(1) To provide mental health and counseling
15 services, in coordination with the disaster response
16 team of the rail passenger carrier involved.

17 “(2) To take such actions as may be necessary
18 to provide an environment in which the families may
19 grieve in private.

20 “(3) To meet with the families who have trav-
21 eled to the location of the accident, to contact the
22 families unable to travel to such location, and to
23 contact all affected families periodically thereafter
24 until such time as the organization, in consultation
25 with the director of family support services des-

1 ignated for the accident under subsection (a)(1), de-
2 termines that further assistance is no longer needed.

3 “(4) To arrange a suitable memorial service, in
4 consultation with the families.

5 “(d) PASSENGER LISTS.—

6 “(1) REQUESTS FOR PASSENGER LISTS.—

7 “(A) REQUESTS BY DIRECTOR OF FAMILY
8 SUPPORT SERVICES.—It shall be the responsi-
9 bility of the director of family support services
10 designated for an accident under subsection
11 (a)(1) to request, as soon as practicable, from
12 the rail passenger carrier involved in the acci-
13 dent a list, which is based on the best available
14 information at the time of the request, of the
15 names of the passengers that were aboard the
16 rail passenger carrier’s train involved in the ac-
17 cident. A rail passenger carrier shall use rea-
18 sonable efforts, with respect to its unreserved
19 trains, and passengers not holding reservations
20 on its other trains, to ascertain the names of
21 passengers aboard a train involved in an acci-
22 dent.

23 “(B) REQUESTS BY DESIGNATED ORGANI-
24 ZATION.—The organization designated for an
25 accident under subsection (a)(2) may request

1 from the rail passenger carrier involved in the
2 accident a list described in subparagraph (A).

3 “(2) USE OF INFORMATION.—Except as pro-
4 vided in subsection (k), the director of family sup-
5 port services and the organization may not release to
6 any person information on a list obtained under
7 paragraph (1) but may provide information on the
8 list about a passenger to the family of the passenger
9 to the extent that the director of family support
10 services or the organization considers appropriate.

11 “(e) CONTINUING RESPONSIBILITIES OF THE
12 BOARD.—In the course of its investigation of an accident
13 described in subsection (a), the Board shall, to the max-
14 imum extent practicable, ensure that the families of pas-
15 sengers involved in the accident—

16 “(1) are briefed, prior to any public briefing,
17 about the accident and any other findings from the
18 investigation; and

19 “(2) are individually informed of and allowed to
20 attend any public hearings and meetings of the
21 Board about the accident.

22 “(f) USE OF RAIL PASSENGER CARRIER RE-
23 SOURCES.—To the extent practicable, the organization
24 designated for an accident under subsection (a)(2) shall
25 coordinate its activities with the rail passenger carrier in-

1 volved in the accident to facilitate the reasonable use of
2 the resources of the carrier.

3 “(g) PROHIBITED ACTIONS.—

4 “(1) ACTIONS TO IMPEDE THE BOARD.—No
5 person (including a State or political subdivision
6 thereof) may impede the ability of the Board (in-
7 cluding the director of family support services des-
8 ignated for an accident under subsection (a)(1)), or
9 an organization designated for an accident under
10 subsection (a)(2), to carry out its responsibilities
11 under this section or the ability of the families of
12 passengers involved in the accident to have contact
13 with one another.

14 “(2) UNSOLICITED COMMUNICATIONS.—No un-
15 solicited communication concerning a potential ac-
16 tion or settlement offer for personal injury or wrong-
17 ful death may be made by an attorney (including
18 any associate, agent, employee, or other representa-
19 tive of an attorney) or any potential party to the liti-
20 gation, including the railroad carrier or rail pas-
21 senger carrier, to an individual (other than an em-
22 ployee of the rail passenger carrier) injured in the
23 accident, or to a relative of an individual involved in
24 the accident, before the 45th day following the date
25 of the accident.

1 “(3) PROHIBITION ON ACTIONS TO PREVENT
2 MENTAL HEALTH AND COUNSELING SERVICES.—No
3 State or political subdivision thereof may prevent the
4 employees, agents, or volunteers of an organization
5 designated for an accident under subsection (a)(2)
6 from providing mental health and counseling services
7 under subsection (c)(1) in the 30-day period begin-
8 ning on the date of the accident. The director of
9 family support services designated for the accident
10 under subsection (a)(1) may extend such period for
11 not to exceed an additional 30 days if the director
12 determines that the extension is necessary to meet
13 the needs of the families and if State and local au-
14 thorities are notified of the determination.

15 “(h) DEFINITIONS.—In this section:

16 “(1) RAIL PASSENGER ACCIDENT.—The term
17 ‘rail passenger accident’ means any rail passenger
18 disaster resulting in a major loss of life occurring in
19 the provision of—

20 “(A) interstate intercity rail passenger
21 transportation (as such term is defined in sec-
22 tion 24102); or

23 “(B) interstate or intrastate high-speed
24 rail (as such term is defined in section 26105)
25 transportation,

1 regardless of its cause or suspected cause.

2 “(2) RAIL PASSENGER CARRIER.—The term
3 ‘rail passenger carrier’ means a rail carrier pro-
4 viding—

5 “(A) interstate intercity rail passenger
6 transportation (as such term is defined in sec-
7 tion 24102); or

8 “(B) interstate or intrastate high-speed
9 rail (as such term is defined in section 26105)
10 transportation,

11 except that such term does not include a tourist, his-
12 toric, scenic, or excursion rail carrier.

13 “(3) PASSENGER.—The term ‘passenger’ in-
14 cludes—

15 “(A) an employee of a rail passenger car-
16 rier aboard a train;

17 “(B) any other person aboard the train
18 without regard to whether the person paid for
19 the transportation, occupied a seat, or held a
20 reservation for the rail transportation; and

21 “(C) any other person injured or killed in
22 a rail passenger accident, as determined appro-
23 priate by the Board.

24 “(i) LIMITATION ON STATUTORY CONSTRUCTION.—

25 Nothing in this section may be construed as limiting the

1 actions that a rail passenger carrier may take, or the obli-
2 gations that a rail passenger carrier may have, in pro-
3 viding assistance to the families of passengers involved in
4 a rail passenger accident.

5 “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-
6 ORITY.—

7 “(1) GENERAL RULE.—This section (other than
8 subsection (g)) shall not apply to a railroad pas-
9 senger accident if the Board has relinquished inves-
10 tigative priority under section 1131(a)(2)(B) and the
11 Federal agency to which the Board relinquished in-
12 vestigative priority is willing and able to provide as-
13 sistance to the victims and families of the pas-
14 sengers involved in the accident.

15 “(2) BOARD ASSISTANCE.—If this section does
16 not apply to a railroad passenger accident because
17 the Board has relinquished investigative priority
18 with respect to the accident, the Board shall assist,
19 to the maximum extent possible, the agency to which
20 the Board has relinquished investigative priority in
21 assisting families with respect to the accident.

22 “(k) SAVINGS CLAUSE.—Nothing in this section shall
23 be construed to abridge the authority of the Board or the
24 Secretary of Transportation to investigate the causes or
25 circumstances of any rail accident, including development

1 of information regarding the nature of injuries sustained
2 and the manner in which they were sustained for the pur-
3 poses of determining compliance with existing laws and
4 regulations or for identifying means of preventing similar
5 injuries in the future, or both.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
7 ysis for chapter 11 is amended by inserting after the item
8 relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger acci-
dents.”.

9 **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAM-**
10 **ILIES OF PASSENGERS INVOLVED IN RAIL**
11 **PASSENGER ACCIDENTS.**

12 (a) IN GENERAL.—Chapter 243 is amended by add-
13 ing at the end the following:

14 **“§ 24316. Plans to address needs of families of pas-**
15 **sengers involved in rail passenger acci-**
16 **dents**

17 “(a) SUBMISSION OF PLAN.—Not later than 6
18 months after the date of the enactment of the Rail Safety
19 Improvement Act of 2008, a rail passenger carrier shall
20 submit to the Chairman of the National Transportation
21 Safety Board, the Secretary of Transportation, and the
22 Secretary of Homeland Security a plan for addressing the
23 needs of the families of passengers involved in any rail

1 passenger accident involving a rail passenger carrier inter-
2 city train and resulting in a major loss of life.

3 “(b) CONTENTS OF PLANS.—A plan to be submitted
4 by a rail passenger carrier under subsection (a) shall in-
5 clude, at a minimum, the following:

6 “(1) A process by which a rail passenger carrier
7 will maintain and provide to the National Transpor-
8 tation Safety Board, the Secretary of Transpor-
9 tation, and the Secretary of Homeland Security im-
10 mediately upon request, a list (which is based on the
11 best available information at the time of the request)
12 of the names of the passengers aboard the train
13 (whether or not such names have been verified), and
14 will periodically update the list. The plan shall in-
15 clude a procedure, with respect to unreserved trains
16 and passengers not holding reservations on other
17 trains, for the rail passenger carrier to use reason-
18 able efforts to ascertain the names of passengers
19 aboard a train involved in an accident.

20 “(2) A process for notifying the families of the
21 passengers, before providing any public notice of the
22 names of the passengers, either by utilizing the serv-
23 ices of the organization designated for the accident
24 under section 1139(a)(2) of this title or the services
25 of other suitably trained individuals.

1 “(3) A plan for creating and publicizing a reli-
2 able, toll-free telephone number within 4 hours after
3 such an accident occurs, and for providing staff, to
4 handle calls from the families of the passengers.

5 “(4) A process for providing the notice de-
6 scribed in paragraph (2) to the family of a pas-
7 senger as soon as the rail passenger carrier has
8 verified that the passenger was aboard the train
9 (whether or not the names of all of the passengers
10 have been verified).

11 “(5) An assurance that, upon request of the
12 family of a passenger, the rail passenger carrier will
13 inform the family of whether the passenger’s name
14 appeared on any preliminary passenger manifest for
15 the train involved in the accident.

16 “(6) A process by which the family of each pas-
17 senger will be consulted about the disposition of all
18 remains and personal effects of the passenger within
19 the control of the rail passenger carrier and by
20 which any possession of the passenger within the
21 control of the rail passenger carrier (regardless of its
22 condition)—

23 “(A) will be retained by the rail passenger
24 carrier for at least 18 months; and

1 “(B) will be returned to the family unless
2 the possession is needed for the accident inves-
3 tigation or any criminal investigation.

4 “(7) A process by which the treatment of the
5 families of nonrevenue passengers will be the same
6 as the treatment of the families of revenue pas-
7 sengers.

8 “(8) An assurance that the rail passenger car-
9 rier will provide adequate training to the employees
10 and agents of the carrier to meet the needs of sur-
11 vivors and family members following an accident.

12 “(9) An assurance that the family of each pas-
13 senger or other person killed in the accident will be
14 consulted about construction by the rail passenger
15 carrier of any monument to the passengers, includ-
16 ing any inscription on the monument.

17 “(10) An assurance that the rail passenger car-
18 rier will work with any organization designated
19 under section 1139(a)(2) of this title on an ongoing
20 basis to ensure that families of passengers receive an
21 appropriate level of services and assistance following
22 each accident.

23 “(11) An assurance that the rail passenger car-
24 rier will provide reasonable compensation to any or-

1 organization designated under section 1139(a)(2) of
2 this title for services provided by the organization.

3 “(c) USE OF INFORMATION.—Neither the National
4 Transportation Safety Board, the Secretary of Transpor-
5 tation, the Secretary of Homeland Security, nor a rail pas-
6 senger carrier may release to the public any personal in-
7 formation on a list obtained under subsection (b)(1), but
8 may provide information on the list about a passenger to
9 the passenger’s family members to the extent that the
10 Board or a rail passenger carrier considers appropriate.

11 “(d) LIMITATION ON STATUTORY CONSTRUCTION.—

12 “(1) RAIL PASSENGER CARRIERS.—Nothing in
13 this section may be construed as limiting the actions
14 that a rail passenger carrier may take, or the obliga-
15 tions that a rail passenger carrier may have, in pro-
16 viding assistance to the families of passengers in-
17 volved in a rail passenger accident.

18 “(2) INVESTIGATIONAL AUTHORITY OF BOARD
19 AND SECRETARY.—Nothing in this section shall be
20 construed to abridge the authority of the Board or
21 the Secretary of Transportation to investigate the
22 causes or circumstances of any rail accident, includ-
23 ing the development of information regarding the
24 nature of injuries sustained and the manner in
25 which they were sustained, for the purpose of deter-

1 mining compliance with existing laws and regula-
2 tions or identifying means of preventing similar inju-
3 ries in the future.

4 “(e) LIMITATION ON LIABILITY.—A rail passenger
5 carrier shall not be liable for damages in any action
6 brought in a Federal or State court arising out of the per-
7 formance of the rail passenger carrier in preparing or pro-
8 viding a passenger list, or in providing information con-
9 cerning a train reservation, pursuant to a plan submitted
10 by the rail passenger carrier under subsection (b), unless
11 such liability was caused by conduct of the rail passenger
12 carrier which was grossly negligent or which constituted
13 intentional misconduct.

14 “(f) DEFINITIONS.—In this section, the terms ‘pas-
15 senger’ and ‘rail passenger accident’ have the meaning
16 given those terms by section 1139 of this title.

17 “(g) FUNDING.—Out of funds appropriated pursuant
18 to section 20117(a)(1)(A), there shall be made available
19 to the Secretary of Transportation \$500,000 for fiscal
20 year 2010 to carry out this section. Amounts made avail-
21 able pursuant to this subsection shall remain available
22 until expended.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 243 is amended by inserting after the item
25 relating to section 24315 the following:

“24316.Plan to assist families of passengers involved in rail passenger accidents.”.

1 **SEC. 503. ESTABLISHMENT OF TASK FORCE.**

2 (a) ESTABLISHMENT.—The Secretary, in cooperation
3 with the National Transportation Safety Board, organiza-
4 tions potentially designated under section 1139(a)(2) of
5 title 49, United States Code, rail passenger carriers (as
6 defined in section 1139(h)(2) of title 49, United States
7 Code), and families which have been involved in rail acci-
8 dents, shall establish a task force consisting of representa-
9 tives of such entities and families, representatives of rail
10 passenger carrier employees, and representatives of such
11 other entities as the Secretary considers appropriate.

12 (b) MODEL PLAN AND RECOMMENDATIONS.—The
13 task force established pursuant to subsection (a) shall de-
14 velop—

15 (1) a model plan to assist rail passenger car-
16 riers in responding to passenger rail accidents;

17 (2) recommendations on methods to improve
18 the timeliness of the notification provided by pas-
19 senger rail carriers to the families of passengers in-
20 volved in a passenger rail accident;

21 (3) recommendations on methods to ensure that
22 the families of passengers involved in a passenger
23 rail accident who are not citizens of the United
24 States receive appropriate assistance; and

1 (4) recommendations on methods to ensure that
2 emergency services personnel have as immediate and
3 accurate a count of the number of passengers on-
4 board the train as possible.

5 (c) REPORT.—Not later than 1 year after the date
6 of the enactment of this Act, the Secretary shall transmit
7 a report to the House of Representatives Committee on
8 Transportation and Infrastructure and the Senate Com-
9 mittee on Commerce, Science, and Transportation con-
10 taining the model plan and recommendations developed by
11 the task force under subsection (b).

12 **TITLE VI—CLARIFICATION OF**
13 **FEDERAL JURISDICTION**
14 **OVER SOLID WASTE FACILI-**
15 **TIES**

16 **SEC. 601. SHORT TITLE.**

17 This title may be cited as the “Clean Railroads Act
18 of 2008”.

19 **SEC. 602. CLARIFICATION OF GENERAL JURISDICTION**
20 **OVER SOLID WASTE TRANSFER FACILITIES.**

21 Section 10501(c)(2) is amended to read as follows:

22 “(2) Except as provided in paragraph (3), the Board
23 does not have jurisdiction under this part over—

24 “(A) mass transportation provided by a local
25 government authority; or