

tributing via email notices of waiver requests received pursuant to such subsection and soliciting public comments on the intent to issue a waiver. The Federal Railroad Administration's development of such a process does not relieve the Federal Railroad Administration of the requirements under paragraph (4) of such subsection."

#### § 22906. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Transportation for capital grants under this chapter the following amounts:

- (1) For fiscal year 2009, \$100,000,000.
- (2) For fiscal year 2010, \$300,000,000.
- (3) For fiscal year 2011, \$400,000,000.
- (4) For fiscal year 2012, \$500,000,000.
- (5) For fiscal year 2013, \$600,000,000.

(Added Pub. L. 110-432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4946, §24406; renumbered §22906, Pub. L. 115-420, §7(a)(1), Jan. 3, 2019, 132 Stat. 5445.)

#### Editorial Notes

##### AMENDMENTS

2019—Pub. L. 115-420 renumbered section 24406 of this title as this section.

#### § 22907. Consolidated rail infrastructure and safety improvements

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to an eligible recipient to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability.

(b) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under this section:

- (1) A State (including the District of Columbia).
- (2) A group of States.
- (3) An Interstate Compact.
- (4) A public agency or publicly chartered authority established by 1 or more States.
- (5) A political subdivision of a State.
- (6) Amtrak or another rail carrier that provides intercity rail passenger transportation (as rail carrier and intercity rail passenger transportation are defined in section 24102).
- (7) A Class II railroad or Class III railroad (as those terms are defined in section 20102).
- (8) An association representing 1 or more railroads described in paragraph (7).
- (9) A federally recognized Indian Tribe.
- (10) Any rail carrier or rail equipment manufacturer in partnership with at least 1 of the entities described in paragraphs (1) through (5).
- (11) The Transportation Research Board and any entity with which it contracts in the development of rail-related research, including cooperative research programs.
- (12) A University transportation center engaged in rail-related research.
- (13) A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

(c) ELIGIBLE PROJECTS.—The following projects are eligible to receive grants under this section:

(1) Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.

(2) A capital project as defined in section 22901(2), except that a project shall not be required to be in a State rail plan developed under chapter 227.

(3) A capital project identified by the Secretary as being necessary to address congestion or safety challenges affecting rail service.

(4) A capital project identified by the Secretary as being necessary to reduce congestion and facilitate ridership growth in intercity passenger rail transportation along heavily traveled rail corridors.

(5) A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies, highway traffic signalization, highway lighting and crossing approach signage, roadway improvements such as medians or other barriers, railroad crossing panels and surfaces, and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

(6) A rail line relocation or improvement project.

(7) A capital project to improve short-line or regional railroad infrastructure.

(8) The preparation of regional rail and corridor service development plans and corresponding environmental analyses.

(9) Any project that the Secretary considers necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity rail passenger transportation and intercity bus service or commercial air service.

(10) The development and implementation of a safety program or institute designed to improve rail safety.

(11) The development and implementation of measures to prevent trespassing and reduce associated injuries and fatalities.

(12) Any research that the Secretary considers necessary to advance any particular aspect of rail-related capital, operations, or safety improvements.

(13) Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

(14) Research, development, and testing to advance and facilitate innovative rail projects, including projects using electromagnetic guideways in an enclosure in a very low-pressure environment.

(15) The preparation of emergency plans for communities through which hazardous materials are transported by rail.

(16) Rehabilitating, remanufacturing, procuring, or overhauling locomotives, provided that such activities result in a significant reduction of emissions.

(d) APPLICATION PROCESS.—The Secretary shall prescribe the form and manner of filing an application under this section.

## (e) PROJECT SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting a recipient of a grant for an eligible project, the Secretary shall—

(A) give preference to a proposed project for which the proposed Federal share of total project costs does not exceed 50 percent; and

(B) after factoring in preference to projects under subparagraph (A), select projects that will maximize the net benefits of the funds appropriated for use under this section, considering the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project and factoring in the other considerations described in paragraph (2).

(2) OTHER CONSIDERATIONS.—The Secretary shall also consider the following:

(A) The degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the project.

(B) The recipient's past performance in developing and delivering similar projects, and previous financial contributions.

(C) Whether the recipient has or will have the legal, financial, and technical capacity to carry out the proposed project, satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

(D) If applicable, the consistency of the proposed project with planning guidance and documents set forth by the Secretary or required by law or State rail plans developed under chapter 227.

(E) If applicable, any technical evaluation ratings the proposed project received under previous competitive grant programs administered by the Secretary.

(F) Such other factors as the Secretary considers relevant to the successful delivery of the project.

(3) BENEFITS.—The benefits described in paragraph (1)(B) may include the effects on system and service performance, including measures such as improved safety, competitiveness, reliability, trip or transit time, resilience, efficiencies from improved integration with other modes, the ability to meet existing or anticipated demand, and any other benefits.

(f) PERFORMANCE MEASURES.—The Secretary shall establish performance measures for each grant recipient to assess progress in achieving strategic goals and objectives. The Secretary may require a grant recipient to periodically report information related to such performance measures.

## (g) RURAL AREAS.—

(1) IN GENERAL.—Of the amounts appropriated under this section, at least 25 percent shall be available for projects in rural areas. The Secretary shall consider a project to be in a rural area if all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a rural area.

(2) DEFINITION OF RURAL AREA.—In this subsection, the term “rural area” means any area not in an urbanized area, as defined by the Bureau of the Census.

## (h) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(1) TOTAL PROJECT COSTS.—The Secretary shall estimate the total costs of a project under this section based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(2) FEDERAL SHARE.—The Federal share of total project costs under this section shall not exceed 80 percent.

(3) TREATMENT OF PASSENGER RAIL REVENUE.—If Amtrak or another rail carrier is an applicant under this section, Amtrak or the other rail carrier, as applicable, may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements.

(4) GRADE CROSSING AND TRESPASSING PROJECTS.—Applicants may use costs incurred previously for preliminary engineering associated with highway-rail grade crossing improvement projects under subsection (c)(5) and trespassing prevention projects under subsection (c)(11) to satisfy the non-Federal share requirements.

(i) APPLICABILITY.—Except as specifically provided in this section, the use of any amounts appropriated for grants under this section shall be subject to the requirements of this chapter.

(j) AVAILABILITY.—Amounts appropriated for carrying out this section shall remain available until expended.

(k) LIMITATION.—The requirements under sections 22902, 22903, and 22904, and the definition contained in section 22901(1) shall not apply to this section.

## (l) SPECIAL TRANSPORTATION CIRCUMSTANCES.—

(1) IN GENERAL.—In carrying out this chapter, the Secretary shall allocate an appropriate portion of the amounts available to programs in this chapter to provide grants to States—

(A) in which there is no intercity passenger rail service, for the purpose of funding freight rail capital projects that are on a State rail plan developed under chapter 227, including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing, that provide public benefits (as defined in chapter 227), as determined by the Secretary; or

(B) in which the rail transportation system is not physically connected to rail systems in the continental United States or may not otherwise qualify for a grant under this section due to the unique characteristics of the geography of that State or other relevant considerations, for the purpose of funding transportation-related capital projects.

(2) DEFINITION.—For the purposes of this subsection, the term “appropriate portion” means a share, for each State subject to paragraph

(1), not less than the share of the total railroad route miles in such State of the total railroad route miles in the United States, excluding from all totals the route miles exclusively used for tourist, scenic, and excursion railroad operations.

(Added Pub. L. 114-94, div. A, title XI, § 11301(a), Dec. 4, 2015, 129 Stat. 1644, § 24407; renumbered § 22907 and amended Pub. L. 115-420, § 7(a)(1), (b)(2)(D), Jan. 3, 2019, 132 Stat. 5445, 5446; Pub. L. 117-58, div. B, title II, § 22303(a), (c)(1), Nov. 15, 2021, 135 Stat. 718.)

### Editorial Notes

#### AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 117-58, § 22303(a)(1)(A), inserted “(including the District of Columbia)” after “State”.

Subsec. (b)(6). Pub. L. 117-58, § 22303(a)(1)(B), inserted “rail carrier and intercity rail passenger transportation are” before “defined”.

Subsec. (b)(8) to (13). Pub. L. 117-58, § 22303(a)(1)(C), (D), added pars. (8) and (9) and redesignated formers pars. (8) to (11) as (10) to (13), respectively.

Subsec. (c)(3). Pub. L. 117-58, § 22303(a)(2)(A), inserted “or safety” after “congestion”.

Subsec. (c)(6). Pub. L. 117-58, § 22303(a)(2)(B), substituted “or” for “and”.

Subsec. (c)(11) to (13). Pub. L. 117-58, § 22303(a)(2)(C), (D), added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

Subsec. (c)(14) to (16). Pub. L. 117-58, § 22303(a)(2)(E), added pars. (14) to (16).

Subsec. (h)(4). Pub. L. 117-58, § 22303(a)(3), added par. (4).

Subsec. (l)(1)(A). Pub. L. 117-58, § 22303(c)(1), inserted “, including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing,” after “under chapter 227”.

2019—Pub. L. 115-420, § 7(a)(1), renumbered section 24407 of this title as this section.

Subsec. (c)(2). Pub. L. 115-420, § 7(b)(2)(D)(i), substituted “section 22901(2)” for “section 24401(2)”.

Subsec. (k). Pub. L. 115-420, § 7(b)(2)(D)(ii), substituted “under sections 22902, 22903, and 22904, and the definition contained in section 22901(1)” for “of sections 24402, 24403, and 24404 and the definition contained in 24401(1)”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-58, div. B, title II, § 22303(c)(2), Nov. 15, 2021, 135 Stat. 718, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to amounts remaining under section 22907(l) of title 49, United States Code, from appropriations for prior fiscal years.”

#### EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

#### RULE OF CONSTRUCTION

Pub. L. 117-58, div. B, title II, § 22303(b), Nov. 15, 2021, 135 Stat. 718, provided that: “The amendments made by subsection (a) [amending this section] may not be construed to affect any grant, including any application for a grant, made under section 22907 of title 49, United States Code, before the date of enactment of this Act [Nov. 15, 2021].”

#### GRADE CROSSING ACCIDENT PREDICTION MODEL

Pub. L. 117-58, div. B, title II, § 22402, Nov. 15, 2021, 135 Stat. 734, provided that: “Not later than 2 years after

the date of enactment of this Act [Nov. 15, 2021], the Administrator of the Federal Railroad Administration shall—

“(1) update the grade crossing accident prediction and severity model used by the Federal Railroad Administration to analyze accident risk at highway-rail grade crossings; and

“(2) provide training on the use of the updated grade crossing accident prediction and severity model.”

#### BLOCKED CROSSING PORTAL

Pub. L. 117-58, div. B, title II, § 22404, Nov. 15, 2021, 135 Stat. 736, provided that:

“(a) IN GENERAL.—The Administrator of the Federal Railroad Administration shall establish a 3-year blocked crossing portal, which shall include the maintenance of the portal and corresponding database to receive, store, and retrieve information regarding blocked highway-rail grade crossings.

“(b) BLOCKED CROSSING PORTAL.—The Administrator of the Federal Railroad Administration shall establish a blocked crossing portal that—

“(1) collects information from the public, including first responders, regarding blocked highway-rail grade crossing events;

“(2) solicits the apparent cause of the blocked crossing and provides examples of common causes of blocked crossings, such as idling trains or instances when lights or gates are activated when no train is present;

“(3) provides each complainant with the contact information for reporting a blocked crossing to the relevant railroad; and

“(4) encourages each complainant to report the blocked crossing to the relevant railroad.

“(c) COMPLAINTS.—The blocked crossing portal shall be programmed to receive complaints from the general public about blocked highway-rail grade crossings. Any complaint reported through the portal shall indicate whether the complainant also reported the blocked crossing to the relevant railroad.

“(d) INFORMATION RECEIVED.—In reviewing complaints received pursuant to subsection (c), the Federal Railroad Administration shall review, to the extent practicable, the information received from the complainant to account for duplicative or erroneous reporting.

“(e) USE OF INFORMATION.—The information received and maintained in the blocked crossing portal database shall be used by the Federal Railroad Administration—

“(1) to identify frequent and long-duration blocked highway-rail grade crossings;

“(2) as a basis for conducting outreach to communities, emergency responders, and railroads;

“(3) to support collaboration in the prevention of incidents at highway-rail grade crossings; and

“(4) to assess the impacts of blocked crossings.

“(f) SHARING INFORMATION RECEIVED.—

“(1) IN GENERAL.—The Administrator of the Federal Railroad Administration shall implement and make publicly available procedures for sharing any non-aggregated information received through the blocked crossing portal with the public.

“(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize the Federal Railroad Administration to make publicly available sensitive security information.

“(g) ADDITIONAL INFORMATION.—If the information submitted to the blocked crossing portal is insufficient to determine the locations and potential impacts of blocked highway-rail grade crossings, the Federal Railroad Administration may collect, from the general public, State and local law enforcement personnel, and others as appropriate, and on a voluntary basis, such additional information as may be necessary to make such determinations.

“(h) LIMITATIONS.—Complaints, data, and other information received through the blocked crossing portal may not be used—

“(1) to infer or extrapolate the rate or instances of crossings beyond the data received through the portal; or

“(2) for any regulatory or enforcement purposes except those specifically described in this section.

“(i) REPORTS.—

“(1) ANNUAL PUBLIC REPORT.—The Administrator of the Federal Railroad Administration shall publish an annual report on a public website regarding the blocked crossing program, including the underlying causes of blocked crossings, program challenges, and other findings.

“(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Nov. 15, 2021], the Administrator of the Federal Railroad Administration shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

“(A) based on the information received through the blocked crossing portal, frequent and long-duration blocked highway-rail grade crossings, including the locations, dates, durations, and impacts resulting from such occurrences;

“(B) the Federal Railroad Administration’s process for verifying the accuracy of the complaints submitted to the blocked crossing portal, including whether the portal continues to be effective in collecting such information and identifying blocked crossings;

“(C) the Federal Railroad Administration’s use of the data compiled by the blocked crossing portal to assess the underlying cause and overall impacts of blocked crossings;

“(D) the engagement of the Federal Railroad Administration with affected parties to identify and facilitate solutions to frequent and long-duration blocked highway-rail grade crossings identified by the blocked crossing portal; and

“(E) whether the blocked crossing portal continues to be an effective method to collect blocked crossing information and what changes could improve its effectiveness.

“(j) SUNSET.—This section (other than subsection (k)) shall have no force or effect beginning on the date that is 3 years after the date of enactment of this Act.

“(k) RULE OF CONSTRUCTION.—Nothing in this section may be construed to invalidate any authority of the Secretary [of Transportation] with respect to blocked highway-rail grade crossings. The Secretary may continue to use any such authority after the sunset date set forth in subsection (j).”

#### DATA AND ANALYSIS

Pub. L. 114-94, div. A, title XI, §11313, Dec. 4, 2015, 129 Stat. 1673, provided that:

“(a) DATA.—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation], in consultation with the Surface Transportation Board, Amtrak, freight railroads, State and local governments, and regional business, tourism, and economic development agencies shall conduct a data needs assessment to—

“(1) support the development of an efficient and effective intercity passenger rail network;

“(2) identify the data needed to conduct cost-effective modeling and analysis for intercity passenger rail development programs;

“(3) determine limitations to the data used for inputs;

“(4) develop a strategy to address such limitations;

“(5) identify barriers to accessing existing data;

“(6) develop recommendations regarding whether the authorization of additional data collection for intercity passenger rail travel is warranted; and

“(7) determine which entities should be responsible for generating or collecting needed data.

“(b) BENEFIT-COST ANALYSIS.—Not later than 180 days after the date of enactment of this Act, the Secretary

shall enhance the usefulness of assessments of benefits and costs for intercity passenger rail and freight rail projects by—

“(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

“(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

“(3) requiring applicants to clearly communicate the methodology used to calculate the project benefits and costs, including non-proprietary information on—

“(A) assumptions underlying calculations;

“(B) strengths and limitations of data used; and

“(C) the level of uncertainty in estimates of project benefits and costs; and

“(4) ensuring that applicants receive clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

“(c) CONFIDENTIAL DATA.—The Secretary shall protect all sensitive and confidential information to the greatest extent permitted by law. Nothing in this section shall require any entity to provide information to the Secretary in the absence of a voluntary agreement.”

#### HIGHWAY-RAIL GRADE CROSSING SAFETY

Pub. L. 114-94, div. A, title XI, §11401, Dec. 4, 2015, 129 Stat. 1679, as amended by Pub. L. 115-420, §7(b)(3)(C)(iv), Jan. 3, 2019, 132 Stat. 5448; Pub. L. 117-58, div. B, title II, §22403(a), Nov. 15, 2021, 135 Stat. 734, provided that:

“(a) MODEL STATE HIGHWAY-RAIL GRADE CROSSING ACTION PLAN.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Administrator of the Federal Railroad Administration shall develop a model of a State-specific highway-rail grade crossing action plan and distribute the plan to each State.

“(2) CONTENTS.—The plan developed under paragraph (1) shall include—

“(A) methodologies, tools, and data sources for identifying and evaluating highway-rail grade crossing safety risks, including the public safety risks posed by blocked highway-rail grade crossings due to idling trains;

“(B) best practices to reduce the risk of highway-rail grade crossing accidents or incidents and to alleviate the blockage of highway-rail grade crossings due to idling trains, including strategies for—

“(i) education, including model stakeholder engagement plans or tools;

“(ii) engineering, including the benefits and costs of different designs and technologies used to mitigate highway-rail grade crossing safety risks; and

“(iii) enforcement, including the strengths and weaknesses associated with different enforcement methods;

“(C) for each State, a customized list and data set of the highway-rail grade crossing accidents or incidents in that State over the past 3 years, including the location, number of deaths, and number of injuries for each accident or incident, and a list of highway-rail grade crossings in that State that have experienced multiple accidents or incidents over the past 3 years; and

“(D) contact information of a Department of Transportation safety official available to assist the State in adapting the model plan to satisfy the requirements under subsection (b).

“(b) STATE HIGHWAY-RAIL GRADE CROSSING ACTION PLANS.—

“(1) REQUIREMENTS.—Not later than 18 months after the Administrator develops and distributes the model plan under subsection (a), the Administrator shall promulgate a rule that requires—

“(A) each State, except the 10 States identified under section 202 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note), to develop and implement a State highway-rail grade crossing action plan; and

“(B) each State identified under section 202 of the Rail Safety Improvement Act of 2008 [div. A of Pub. L. 110-432] (49 U.S.C. 22501 note) to—

“(i) update the State action plan under such section; and

“(ii) submit to the Administrator—

“(I) the updated State action plan; and

“(II) a report describing what the State did to implement its previous State action plan under such section and how the State will continue to reduce highway-rail grade crossing safety risks.

“(2) CONTENTS.—Each State plan required under this subsection shall—

“(A) identify highway-rail grade crossings that have experienced recent highway-rail grade crossing accidents or incidents or multiple highway-rail grade crossing accidents or incidents, or are at high-risk for accidents or incidents;

“(B) identify specific strategies for improving safety at highway-rail grade crossings, including highway-rail grade crossing closures or grade separations; and

“(C) designate a State official responsible for managing implementation of the State action plan under subparagraph (A) or (B) of paragraph (1), as applicable.

“(3) ASSISTANCE.—The Administrator shall provide assistance to each State in developing and carrying out, as appropriate, the State action plan under this subsection.

“(4) PUBLIC AVAILABILITY.—Each State shall submit a final State plan under this subsection to the Administrator for publication. The Administrator shall make each approved State plan publicly available on an official Internet Web site.

“(5) CONDITIONS.—The Secretary [of Transportation] may condition the awarding of a grant to a State under chapter 229 of title 49, United States Code, on that State submitting an acceptable State action plan under this subsection.

“(6) REVIEW OF ACTION PLANS.—Not later than 60 days after the date of receipt of a State action plan under this subsection, the Administrator shall—

“(A) if the State action plan is approved, notify the State and publish the State action plan under paragraph (4); and

“(B) if the State action plan is incomplete or deficient, notify the State of the specific areas in which the plan is deficient and allow the State to complete the plan or correct the deficiencies and resubmit the plan under paragraph (1).

“(7) DEADLINE.—Not later than 60 days after the date of a notice under paragraph (6)(B), a State shall complete the plan or correct the deficiencies and resubmit the plan.

“(8) FAILURE TO COMPLETE OR CORRECT PLAN.—If a State fails to meet the deadline under paragraph (7), the Administrator shall post on the Web site under paragraph (4) a notice that the State has an incomplete or deficient highway-rail grade crossing action plan.

“(c) RAILWAY-HIGHWAY CROSSINGS FUNDS.—The Secretary may use funds made available to carry out section 130 of title 23, United States Code, to provide States with funds to develop a State highway-rail grade crossing action plan under subsection (b)(1)(A) or to update a State action plan under subsection (b)(1)(B).

“(d) DEFINITIONS.—In this section:

“(1) HIGHWAY-RAIL GRADE CROSSING.—The term ‘highway-rail grade crossing’ means a location within a State, other than a location where 1 or more railroad tracks cross 1 or more railroad tracks at grade, where—

“(A) a public highway, road, or street, or a private roadway, including associated sidewalks and

pathways, crosses 1 or more railroad tracks either at grade or grade-separated; or

“(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses 1 or more railroad tracks either at grade or grade-separated.

“(2) STATE.—The term ‘State’ means a State of the United States or the District of Columbia.”

#### STATE ACTION PLANS

Pub. L. 110-432, div. A, title II, §202, Oct. 16, 2008, 122 Stat. 4868, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall identify the 10 States that have had the most highway-rail grade crossing collisions, on average, over the past 3 years and require those States to develop a State grade crossing action plan within a reasonable period of time, as determined by the Secretary. The plan shall identify specific solutions for improving safety at crossings, including highway-rail grade crossing closures or grade separations, and shall focus on crossings that have experienced multiple accidents or are at high risk for such accidents. The Secretary shall provide assistance to the States in developing and carrying out, as appropriate, the plan. The plan may be coordinated with other State or Federal planning requirements and shall cover a period of time determined to be appropriate by the Secretary. The Secretary may condition the awarding of any grants under section 20158, 20167, or 22501 of title 49, United States Code, to a State identified under this section on the development of such State’s plan.

“(b) REVIEW AND APPROVAL.—Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is disapproved, the Secretary shall notify the affected State as to the specific areas in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary.”

[For definitions of “Secretary”, “State”, and “crossing”, as used in section 202 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

#### OPERATION LIFESAVER

Pub. L. 110-432, div. A, title II, §206, Oct. 16, 2008, 122 Stat. 4873, as amended by Pub. L. 114-94, div. A, title XI, §11316(j)(4), Dec. 4, 2015, 129 Stat. 1677, provided that:

“(a) GRANT.—The Federal Railroad Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. The program shall include, as appropriate, development, placement, and dissemination of public service announcements in newspaper, radio, television, and other media. The program shall also include, as appropriate, school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver’s member organizations. As part of an educational program funded by grants awarded under this section, Operation Lifesaver shall provide information to the public on how to identify and report to the appropriate authorities unsafe or malfunctioning highway-rail grade crossings.

“(b) PILOT PROGRAM.—The Secretary may allow funds provided under subsection (a) also to be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted and sustained community outreach on the subjects described

in subsection (a). Such a pilot program shall be established in 1 or more States identified under section 202 of this division [set out above]. In carrying out such a pilot program Operation Lifesaver shall work with the State, community leaders, school districts, and public and private partners to identify the communities at greatest risk, to develop appropriate measures to reduce such risks, and shall coordinate the pilot program with the State grade crossing action plan.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration for carrying out this section—

“(1) \$2,000,000 for each of fiscal years 2010 and 2011; and

“(2) \$1,500,000 for each of fiscal years 2012 and 2013.”

[For definitions of “railroad”, “crossing”, “Secretary”, and “State”, as used in section 206 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

### § 22908. Restoration and enhancement grants

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—Notwithstanding section 22901(1), the term “applicant” means—

(A) a State, including the District of Columbia;

(B) a group of States;

(C) an entity implementing an interstate compact;

(D) a public agency or publicly chartered authority established by 1 or more States;

(E) a political subdivision of a State;

(F) a federally recognized Indian Tribe;

(G) Amtrak or another rail carrier that provides intercity rail passenger transportation;

(H) any rail carrier in partnership with at least 1 of the entities described in subparagraphs (A) through (F); and

(I) any combination of the entities described in subparagraphs (A) through (F).

(2) OPERATING ASSISTANCE.—The term “operating assistance”, with respect to any route subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432), means any cost allocated, or that may be allocated, to a route pursuant to the cost methodology established under such section or under section 24712.

(b) GRANTS AUTHORIZED.—The Secretary of Transportation shall develop and implement a program for issuing operating assistance grants to applicants, on a competitive basis, for the purpose of initiating, restoring, or enhancing intercity rail passenger transportation.

(c) APPLICATION.—An applicant for a grant under this section shall submit to the Secretary—

(1) a capital and mobilization plan that—

(A) describes any capital investments, service planning actions (such as environmental reviews), and mobilization actions (such as qualification of train crews) required for initiation of intercity rail passenger transportation; and

(B) includes the timeline for undertaking and completing each of the investments and actions referred to in subparagraph (A);

(2) an operating plan that describes the planned operation of the service, including—

(A) the identity and qualifications of the train operator;

(B) the identity and qualifications of any other service providers;

(C) service frequency;

(D) the planned routes and schedules;

(E) the station facilities that will be utilized;

(F) projected ridership, revenues, and costs;

(G) descriptions of how the projections under subparagraph (F) were developed;

(H) the equipment that will be utilized, how such equipment will be acquired or refurbished, and where such equipment will be maintained; and

(I) a plan for ensuring safe operations and compliance with applicable safety regulations;

(3) a funding plan that—

(A) describes the funding of initial capital costs and operating costs for the first 6 years of operation;

(B) includes a commitment by the applicant to provide the funds described in subparagraph (A) to the extent not covered by Federal grants and revenues; and

(C) describes the funding of operating costs and capital costs, to the extent necessary, after the first 6 years of operation; and

(4) a description of the status of negotiations and agreements with—

(A) each of the railroads or regional transportation authorities whose tracks or facilities would be utilized by the service;

(B) the anticipated railroad carrier, if such entity is not part of the applicant group; and

(C) any other service providers or entities expected to provide services or facilities that will be used by the service, including any required access to Amtrak systems, stations, and facilities if Amtrak is not part of the applicant group.

(d) PRIORITIES.—In awarding grants under this section, the Secretary shall give priority to applications—

(1) for which planning, design, any environmental reviews, negotiation of agreements, acquisition of equipment, construction, and other actions necessary for initiation of service have been completed or nearly completed;

(2) that would restore service over routes formerly operated by Amtrak, including routes described in section 11304 of the Passenger Rail Reform and Investment Act of 2015;

(3) that would provide daily or daytime service over routes where such service did not previously exist;

(4) that include funding (including funding from railroads), or other significant participation by State, local, and regional governmental and private entities;

(5) that include a funding plan that demonstrates the intercity rail passenger service will be financially sustainable beyond the 3-year grant period;

(6) that would provide service to regions and communities that are underserved or not served by other intercity public transportation;

(7) that would foster economic development, particularly in rural communities and for disadvantaged populations;