

tions issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

- (1) Private highway-rail grade crossings.
- (2) Pedestrian crossings.
- (3) Crossings utilized primarily by non-motorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following November 2, 1994. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following November 2, 1994.

(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).

(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

- (1) shall take into account the interest of communities that—
 - (A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or
 - (B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;
- (2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time

for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.

(Added Pub. L. 103-440, title III, §302(a), Nov. 2, 1994, 108 Stat. 4626; amended Pub. L. 104-264, title XII, §1218(a), Oct. 9, 1996, 110 Stat. 3285; Pub. L. 104-287, §5(51), Oct. 11, 1996, 110 Stat. 3393.)

AMENDMENTS

1996—Subsec. (g). Pub. L. 104-287 substituted “November 2, 1994” for “the date of enactment of this section” in two places.

Subsecs. (i), (j). Pub. L. 104-264 added subsecs. (i) and (j).

EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

§ 20154. Capital grants for rail line relocation projects

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation and improvement projects.

(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line that either—

- (1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or
- (2) involves a lateral or vertical relocation of any portion of the rail line.

(c) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

- (1) The capability of the State to fund the rail line relocation project without Federal grant funding.
- (2) The requirement and limitation relating to allocation of grant funds provided in subsection (d).
- (3) Equitable treatment of the various regions of the United States.
- (4) The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.
- (5) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

(d) **ALLOCATION REQUIREMENTS.**—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than \$20,000,000 each. The \$20,000,000 amount shall be adjusted by the Secretary to reflect inflation for fiscal years beginning after fiscal year 2006.

(e) **NON-FEDERAL SHARE.**—

(1) **PERCENTAGE.**—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

(2) **FORMS OF CONTRIBUTIONS.**—The share required by paragraph (1) may be paid in cash or in kind.

(3) **IN-KIND CONTRIBUTIONS.**—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

(4) **FINANCIAL CONTRIBUTION FROM PRIVATE ENTITIES.**—

(A) The Secretary shall require a State to submit a description of the anticipated public and private benefits associated with each rail line relocation or improvement project described in subsection (a). The determination of such benefits shall be developed in consultation with the owner and user of the rail line being relocated or improved or other private entity involved in the project.

(B) The Secretary shall consider the feasibility of seeking financial contributions or commitments from private entities involved with the project in proportion to the expected benefits determined under subparagraph (A) that accrue to such entities from the project.

(f) **AGREEMENTS TO COMBINE AMOUNTS.**—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

(1) the project will benefit each of the States entering into the agreement; and

(2) the agreement is not a violation of a law of any such State.

(g) **REGULATIONS.**—The Secretary shall prescribe regulations for carrying out this section.

(h) **DEFINITIONS.**—In this section:

(1) **CONSTRUCTION.**—The term “construction” means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) of this section, including bond costs and other costs relating to the issuance of bonds or other debt financing instruments and costs incurred by the State in performing project related audits, and includes—

(A) locating, surveying, and mapping;

(B) track installation, restoration, and rehabilitation;

(C) acquisition of rights-of-way;

(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) elimination of obstacles and relocation of utilities; and

(F) other activities defined by the Secretary.

(2) **QUALITY OF LIFE.**—The term “quality of life” includes first responders’ emergency response time, the environment, noise levels, and other factors as determined by the Secretary.

(3) **STATE.**—The term “State” includes, except as otherwise specifically provided, a political subdivision of a State, and the District of Columbia.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for use in carrying out this section \$350,000,000 for each of the fiscal years 2006 through 2009.

(Added Pub. L. 109-59, title IX, §9002(a)(1), Aug. 10, 2005, 119 Stat. 1919.)

REGULATIONS

Pub. L. 109-59, title IX, §9002(b), Aug. 10, 2005, 119 Stat. 1921, provided that:

“(1) **TEMPORARY REGULATIONS.**—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

“(2) **FINAL REGULATIONS.**—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.”

§ 20155. Tank cars

(a) **STANDARDS.**—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this section.

(b) **OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.**—Within 1 year after the date of enactment of this section the Federal