

used to provide access to rolling stock for non-motorized transportation, including bicycles, and recreational equipment, and to provide storage capacity in trains for such transportation, equipment, and other luggage, to ensure passenger safety.

(Added Pub. L. 110-432, div. B, title III, § 301(a), Oct. 16, 2008, 122 Stat. 4936; amended Pub. L. 114-94, div. A, title XI, §§ 11303(b)(1)(C), 11309, Dec. 4, 2015, 129 Stat. 1654, 1669.)

REFERENCES IN TEXT

The date of enactment of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsections (a)(2) and (d), is the date of enactment of div. B of Pub. L. 110-432, which was approved Oct. 16, 2008.

Section 211 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsections (b)(1) and (c)(1)(A), is section 211 of Pub. L. 110-432, which was set out as a note under section 24902 of this title, prior to repeal by Pub. L. 114-94, div. A, title XI, § 11306(b)(3), Dec. 4, 2015, 129 Stat. 1660.

Section 207 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsection (c)(2)(A)(i), is section 207 of Pub. L. 110-432, which is set out in a note under section 24101 of this title.

Section 5302 of this title, referred to in subsection (c)(3)(A)(vii), was amended generally by Pub. L. 112-141, div. B, § 20004, July 6, 2012, 126 Stat. 623, and, as so amended, no longer contains a subsection (a)(1)(G), which described a type of capital project. However, capital project is defined elsewhere in that section.

Section 22506 of this title, referred to in subsection (d), probably should be a reference to section 22706 of this title, which requires the Secretary to prescribe procedures for submitting State rail plans for review. No section 22506 of this title has been enacted.

Section 22504(a)(5) of this title, referred to in subsection (e), probably should be a reference to section 22705(a)(5) of this title, which requires each State rail plan to contain a long-range rail investment program that includes a list of any rail capital projects expected to be undertaken or supported in whole or in part by the State. Section 22504(a) of this title did not contain a par. (5), prior to repeal by Pub. L. 114-94, div. A, title XI, § 11301(c)(3), Dec. 4, 2015, 129 Stat. 1648.

Section 101 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsections (e) and (k), is section 101 of title I of div. B of Pub. L. 110-432, Oct. 16, 2008, 122 Stat. 4908, which is not classified to the Code.

Section 209(d) of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsection (k), is section 209(d) of Pub. L. 110-432, which was redesignated as section 209(c) of the Act by Pub. L. 114-94 and is set out in a note under section 24101 of this title.

AMENDMENTS

2015—Subsec. (j). Pub. L. 114-94, § 11309, added subsec. (j).

Pub. L. 114-94, § 11303(b)(1)(C), struck out subsec. (j) which related to special transportation circumstances.

EFFECTIVE DATE OF 2015 AMENDMENT

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

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

§ 24403. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive Federal financial assistance for a major capital project under this chapter, an applicant must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and record-keeping system;

(5) a change order procedure that includes a documented, systematic approach to handling the construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, and ridership estimates; and

(12) the recipient's commitment to submit periodically a project budget and project schedule to the Secretary.

[(b) Repealed. Pub. L. 114-94, div. A, title XI, § 11316(p), Dec. 4, 2015, 129 Stat. 1679]

(c) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter shall provide the Secretary and a contractor the Secretary chooses under subsection (b) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(Added Pub. L. 110-432, div. B, title III, § 301(a), Oct. 16, 2008, 122 Stat. 4941; amended Pub. L. 114-94, div. A, title XI, § 11316(p), Dec. 4, 2015, 129 Stat. 1679.)

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-94 struck out subsec. (b) which related to secretarial oversight.

EFFECTIVE DATE OF 2015 AMENDMENT

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

§ 24404. Use of capital grants to finance first-dollar liability of grant project

Notwithstanding the requirements of section 24402 of this chapter, the Secretary of Transpor-

tation may approve the use of a capital assistance grant under this chapter to fund self-insured retention of risk for the first tier of liability insurance coverage for rail passenger service associated with the grant, but the coverage may not exceed \$20,000,000 per occurrence or \$20,000,000 in aggregate per year.

(Added Pub. L. 110-432, div. B, title III, §301(a), Oct. 16, 2008, 122 Stat. 4942.)

§ 24405. Grant conditions

(a) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) For purposes of this subsection, in calculating the components' costs, labor costs involved in final assembly shall not be included in the calculation.

(4) If the Secretary determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the Secretary shall, before the date on which such finding takes effect—

(A) publish in the Federal Register a detailed written justification as to why the waiver is needed; and

(B) provide notice of such finding and an opportunity for public comment on such finding for a reasonable period of time not to exceed 15 days.

(5) Not later than December 31, 2012, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on any waivers granted under paragraph (2).

(6) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(7) A person is ineligible to receive a contract or subcontract made with amounts authorized

under this chapter if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a “Made in America” label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(8) The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(9) The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(10) A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(11) The requirements of this subsection shall only apply to projects for which the costs exceed \$100,000.

(b) OPERATORS DEEMED RAIL CARRIERS AND EMPLOYERS FOR CERTAIN PURPOSES.—A person that conducts rail operations over rail infrastructure constructed or improved with funding provided in whole or in part in a grant made under this chapter shall be considered a rail carrier as defined in section 10102(5) of this title for purposes of this title and any other statute that adopts that definition or in which that definition applies, including—

(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(2) the Railway Labor Act (45 U.S.C. 151 et seq.); and

(3) the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(c) GRANT CONDITIONS.—The Secretary shall require as a condition of making any grant under this chapter for a project that uses rights-of-way owned by a railroad that—

(1) a written agreement exist between the applicant and the railroad regarding such use and ownership, including—

(A) any compensation for such use;

(B) assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations;

(C) an assurance by the railroad that collective bargaining agreements with the rail-