

any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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. Repealed. Pub. L. 114-94, div. A, title XI, § 11301(c)(1), Dec. 4, 2015, 129 Stat. 1648]

Section, Pub. L. 109-59, title IX, § 9002(a)(1), Aug. 10, 2005, 119 Stat. 1919, related to capital grants for rail line relocation projects.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 114-94 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.

REGULATIONS

Pub. L. 109-59, title IX, § 9002(b), Aug. 10, 2005, 119 Stat. 1921, required Secretary of Transportation to issue temporary regulations to implement grant program under this section by April 1, 2006, and to issue final regulations by October 1, 2006.

§ 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 Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Added Pub. L. 109-59, title IX, §9005(b)(1), Aug. 10, 2005, 119 Stat. 1924.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

Statutory Notes and Related Subsidiaries

PHASE-OUT OF ALL TANK CARS USED TO TRANSPORT CLASS 3 FLAMMABLE LIQUIDS

Pub. L. 114-94, div. A, title VII, §7304, Dec. 4, 2015, 129 Stat. 1596, provided that:

“(a) **IN GENERAL.**—Except as provided for in subsection (b), beginning on the date of enactment of this Act [Dec. 4, 2015], all DOT-111 specification railroad tank cars used to transport Class 3 flammable liquids shall meet the DOT-117, DOT-117P, or DOT-117R specifications in part 179 of title 49, Code of Federal Regulations, regardless of train composition.

“(b) **PHASE-OUT SCHEDULE.**—Certain tank cars not meeting DOT-117, DOT-117P, or DOT-117R specifications on the date of enactment of this Act may be used, regardless of train composition, until the following end-dates:

“(1) For transport of unrefined petroleum products in Class 3 flammable service, including crude oil—

“(A) January 1, 2018, for non-jacketed DOT-111 tank cars;

“(B) March 1, 2018, for jacketed DOT-111 tank cars;

“(C) April 1, 2020, for non-jacketed CPC-1232 tank cars; and

“(D) May 1, 2025, for jacketed CPC-1232 tank cars.

“(2) For transport of ethanol—

“(A) May 1, 2023, for non-jacketed and jacketed DOT-111 tank cars;

“(B) July 1, 2023, for non-jacketed CPC-1232 tank cars; and

“(C) May 1, 2025, for jacketed CPC-1232 tank cars.

“(3) For transport of Class 3 flammable liquids in Packing Group I, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2025.

“(4) For transport of Class 3 flammable liquids in Packing Groups II and III, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2029.

“(c) **RETROFITTING SHOP CAPACITY.**—The Secretary [of Transportation] may extend the deadlines established

under paragraphs (3) and (4) of subsection (b) for a period not to exceed 2 years if the Secretary determines that insufficient retrofitting shop capacity will prevent the phase-out of tank cars not meeting the DOT-117, DOT-117P, or DOT-117R specifications by the deadlines set forth in such paragraphs.

“(d) **CONFORMING REGULATORY AMENDMENTS.**—

“(1) **IN GENERAL.**—Immediately after the date of enactment of this section [Dec. 4, 2015], the Secretary—

“(A) shall remove or revise the date-specific deadlines in any applicable regulations or orders to the extent necessary to conform with the requirements of this section; and

“(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the requirements of this section.

“(2) **IMPLEMENTATION.**—Nothing in this section shall be construed to require the Secretary to issue regulations, except as required under paragraph (1), to implement this section.

“(e) **SAVINGS CLAUSE.**—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule issued on May 08, 2015, entitled ‘Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains’ (80 Fed. Reg. 26643), other than the provisions of the final rule that are inconsistent with this section.

“(f) **CLASS 3 FLAMMABLE LIQUID DEFINED.**—In this section, the term ‘Class 3 flammable liquid’ has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.”

THERMAL BLANKETS

Pub. L. 114-94, div. A, title VII, §7305, Dec. 4, 2015, 129 Stat. 1597, provided that:

“(a) **REQUIREMENTS.**—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall issue such regulations as are necessary to require that each tank car built to meet the DOT-117 specification and each non-jacketed tank car modified to meet the DOT-117R specification be equipped with an insulating blanket with at least ½-inch-thick material that has been approved by the Secretary pursuant to section 179.18(c) of title 49, Code of Federal Regulations.

“(b) **SAVINGS CLAUSE.**—Nothing in this section shall prohibit the Secretary from approving new or alternative technologies or materials as they become available that provide a level of safety at least equivalent to the level of safety provided for under subsection (a).”

MODIFICATION REPORTING

Pub. L. 114-94, div. A, title VII, §7308, Dec. 4, 2015, 129 Stat. 1599, as amended by Pub. L. 115-435, title III, §302(c)(5), Jan. 14, 2019, 132 Stat. 5553, provided that:

“(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Secretary [of Transportation] shall implement a reporting requirement to monitor industry-wide progress toward modifying rail tank cars used to transport Class 3 flammable liquids by the applicable deadlines established in section 7304 [set out as a note above].

“(b) **TANK CAR DATA.**—The Secretary shall collect data from shippers and rail tank car owners—

“(1) the total number of tank cars modified to meet the DOT-117R specification, or equivalent, specifying—

“(A) the type or specification of each tank car before it was modified, including non-jacketed DOT-111, jacketed DOT-111, non-jacketed DOT-111 meeting the CPC-1232 standard, or jacketed DOT-111 meeting the CPC-1232 standard; and

“(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year;

“(2) the total number of tank cars built to meet the DOT-117 specification, or equivalent; and

“(3) the total number of tank cars used or likely to be used to transport Class 3 flammable liquids that have not been modified, specifying—

“(A) the type or specification of each tank car not modified, including the non-jacketed DOT-111, jacketed DOT-111, non-jacketed DOT-111 meeting the CPC-1232 standard, or jacketed DOT-111 meeting the CPC-1232 standard; and

“(B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year.

“(c) TANK CAR SHOP DATA.—The Secretary shall conduct a survey of tank car facilities modifying tank cars to the DOT-117R specification, or equivalent, or building new tank cars to the DOT-117 specification, or equivalent, to generate statistically-valid estimates of the anticipated number of tank cars those facilities expect to modify to DOT-117R specification, or equivalent, or build to the DOT-117 specification, or equivalent.

“(d) FREQUENCY.—The Secretary shall collect the data under subsection (b) and conduct the survey under subsection (c) annually until May 1, 2029.

“(e) INFORMATION PROTECTIONS.—

“(1) IN GENERAL.—The Secretary shall only report data in industry-wide totals and shall treat company-specific information as confidential business information.

“(2) LEVEL OF CONFIDENTIALITY.—The Secretary shall ensure the data collected under subsection (b) and the survey data under subsection (c) have the same level of confidentiality as required by section 3572 of title 44, United States Code, as administered by the Bureau of Transportation Statistics.

“(3) DESIGNEE.—The Secretary may—

“(A) designate the Director of the Bureau of Transportation Statistics to collect data under subsection (b) and the survey data under subsection (c); and

“(B) direct the Director to ensure the confidentiality of company-specific information to the maximum extent permitted by law.

“(f) REPORT.—Each year, not later than 60 days after the date that both the collection of the data under subsection (b) and the survey under subsection (c) are complete, the Secretary shall submit a written report on the aggregate results, without company-specific information, to—

“(1) the Committee on Commerce, Science, and Transportation of the Senate; and

“(2) the Committee on Transportation and Infrastructure of the House of Representatives.

“(g) DEFINITION OF CLASS 3 FLAMMABLE LIQUID.—In this section, the term ‘Class 3 flammable liquid’ has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations.”

§ 20156. Railroad safety risk reduction program

(a) IN GENERAL.—

(1) PROGRAM REQUIREMENT.—Not later than 4 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation, by regulation, shall require each railroad carrier that is a Class I railroad, a railroad carrier that has inadequate safety performance (as determined by the Secretary), or a railroad carrier that provides intercity rail passenger or commuter rail passenger transportation—

(A) to develop a railroad safety risk reduction program under subsection (d) that systematically evaluates railroad safety risks on its system and manages those risks in order to reduce the numbers and rates of railroad accidents, incidents, injuries, and fatalities;

(B) to submit its program, including any required plans, to the Secretary for review and approval; and

(C) to implement the program and plans approved by the Secretary.

(2) RELIANCE ON PILOT PROGRAM.—The Secretary may conduct behavior-based safety and other research, including pilot programs, before promulgating regulations under this subsection and thereafter. The Secretary shall use any information and experience gathered through such research and pilot programs under this subsection in developing regulations under this section.

(3) REVIEW AND APPROVAL.—The Secretary shall review and approve or disapprove railroad safety risk reduction program plans within a reasonable period of time. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific areas in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within a reasonable period of time following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

(4) VOLUNTARY COMPLIANCE.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Secretary. The Secretary shall approve or disapprove any program submitted under this paragraph.

(b) CERTIFICATION.—The chief official responsible for safety of each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall certify that the contents of the program are accurate and that the railroad carrier will implement the contents of the program as approved by the Secretary.

(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program, each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

(d) PROGRAM ELEMENTS.—

(1) IN GENERAL.—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall develop a comprehensive safety risk reduction program to improve safety by reducing the number and rates of accidents, incidents, injuries, and fatalities that is based on the risk analysis required by subsection (c) through—

(A) the mitigation of aspects that increase risks to railroad safety; and

(B) the enhancement of aspects that decrease risks to railroad safety.

(2) REQUIRED COMPONENTS.—Each railroad carrier’s safety risk reduction program shall include a risk mitigation plan in accordance with this section, a technology implementation plan that meets the requirements of subsection (e), and a fatigue management plan that meets the requirements of subsection (f).

(e) TECHNOLOGY IMPLEMENTATION PLAN.—

(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad carrier