

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;

(8) that would provide other non-transportation benefits;

(9) that would enhance connectivity and geographic coverage of the existing national network of intercity rail passenger service; and

(10) for routes selected under the Corridor Identification and Development Program and operated by Amtrak.

(e) LIMITATIONS.—

(1) DURATION.—Federal operating grants authorized under this section for any individual intercity rail passenger transportation route may not provide funding for more than 6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021) and may not be renewed.

(2) LIMITATION.—Not more than 6 of the operating assistance grants awarded pursuant to subsection (b) may be simultaneously active.

(3) MAXIMUM FUNDING.—Grants described in paragraph (1) may not exceed—

(A) 90 percent of the projected net operating costs for the first year of service;

(B) 80 percent of the projected net operating costs for the second year of service;

(C) 70 percent of the projected net operating costs for the third year of service;

(D) 60 percent of the projected net operating costs for the fourth year of service;

(E) 50 percent of the projected net operating costs for the fifth year of service; and

(F) 30 percent of the projected net operating costs for the sixth year of service.

(f) USE WITH CAPITAL GRANTS AND OTHER FEDERAL FUNDING.—A recipient of an operating assistance grant under subsection (b) may use that grant in combination with other Federal grants awarded that would benefit the applicable service.

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

(h) COORDINATION WITH AMTRAK.—If the Secretary awards a grant under this section to a rail carrier other than Amtrak, Amtrak may be required consistent with section 24711(c)(1) of this title to provide access to its reservation system, stations, and facilities that are directly related to operations to such carrier, to the extent necessary to carry out the purposes of this section. The Secretary may award an appropriate portion of the grant to Amtrak as compensation for this access.

(i) CONDITIONS.—

(1) GRANT AGREEMENT.—The Secretary shall require a grant recipient under this section to enter into a grant agreement that requires such recipient to provide similar information regarding the route performance, financial, and ridership projections, and capital and business plans that Amtrak is required to provide, and such other data and information as the Secretary considers necessary.

(2) INSTALLMENTS; TERMINATION.—The Secretary may—

(A) award grants under this section in installments, as the Secretary considers appropriate; and

(B) terminate any grant agreement upon—

(i) the cessation of service; or

(ii) the violation of any other term of the grant agreement.

(3) GRANT CONDITIONS.—The Secretary shall require each recipient of a grant under this section to comply with the grant requirements of section 22905.

(j) REPORT.—Not later than 4 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary, after consultation with grant recipients under this section, shall submit to Congress a report that describes—

(1) the implementation of this section;

(2) the status of the investments and operations funded by such grants;

(3) the performance of the routes funded by such grants;

(4) the plans of grant recipients for continued operation and funding of such routes; and

(5) any legislative recommendations.

(Added Pub. L. 114-94, div. A, title XI, §11303(a), Dec. 4, 2015, 129 Stat. 1651, §24408; renumbered §22908 and amended Pub. L. 115-420, §7(a)(1), (b)(2)(E), Jan. 3, 2019, 132 Stat. 5445, 5446; Pub. L. 117-58, div. B, title II, §22304, Nov. 15, 2021, 135 Stat. 719.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 209 of the Passenger Rail Investment and Improvement Act of 2008, referred to in subsec. (a)(2), is section 209 of title II of div. B of Pub. L. 110-432, which is set out as a note under section 24101 of this title.

Section 11304 of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (d)(2), is section 11304 of title IX of div. A of Pub. L. 114-94, 129 Stat. 1655, which is not classified to the Code.

The date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, referred to in subsec. (e)(1), is the date of enactment of title II of div. B of Pub. L. 117-58, which was approved Nov. 15, 2021.

The date of enactment of the Passenger Rail Reform and Investment Act of 2015, referred to in subsec. (j), is the date of enactment of title XI of div. A of Pub. L. 114-94, which was approved Dec. 4, 2015.

##### AMENDMENTS

2021—Subsec. (a). Pub. L. 117-58, §22304(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) defined applicant.

Subsec. (c)(3). Pub. L. 117-58, §22304(2), substituted “6 years” for “3 years” in pars. (A) and (C).

Subsec. (d)(10). Pub. L. 117-58, §22304(3), added par. (10).

Subsec. (e)(1). Pub. L. 117-58, §22304(4)(A), struck out “assistance” before “grants” and substituted “6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021)” for “3 years”.

Subsec. (e)(3)(A) to (F). Pub. L. 117-58, §22304(4)(B), added subpars. (A) to (F) and struck out former subpars. (A) to (C) which read as follows:

“(A) 80 percent of the projected net operating costs for the first year of service;

“(B) 60 percent of the projected net operating costs for the second year of service; and

“(C) 40 percent of the projected net operating costs for the third year of service.”

2019—Pub. L. 115-420, §7(a)(1), renumbered section 24408 of this title as this section.

Subsec. (a). Pub. L. 115-420, §7(b)(2)(E)(i), substituted “22901(1)” for “24401(1)” in introductory provisions.

Subsec. (i)(3). Pub. L. 115-420, §7(b)(2)(E)(ii), substituted “22905” for “24405”.

### Statutory Notes and Related Subsidiaries

#### 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.

### § 22909. Railroad Crossing Elimination Program

(a) **IN GENERAL.**—The Secretary of Transportation, in cooperation with the Administrator of the Federal Railroad Administration, shall establish a competitive grant program (referred to in this section as the “Program”) under which the Secretary shall award grants to eligible recipients described in subsection (c) for highway-rail or pathway-rail grade crossing improvement projects that focus on improving the safety and mobility of people and goods.

(b) **GOALS.**—The goals of the Program are—

- (1) to eliminate highway-rail grade crossings that are frequently blocked by trains;
- (2) to improve the health and safety of communities;
- (3) to reduce the impacts that freight movement and railroad operations may have on underserved communities; and
- (4) to improve the mobility of people and goods.

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

- (1) A State, including the District of Columbia, Puerto Rico, and other United States territories and possessions.
- (2) A political subdivision of a State.
- (3) A federally recognized Indian Tribe.
- (4) A unit of local government or a group of local governments.
- (5) A public port authority.
- (6) A metropolitan planning organization.
- (7) A group of entities described in any of paragraphs (1) through (6).

(d) **ELIGIBLE PROJECTS.**—The Secretary may award a grant under the Program for a highway-rail or pathway-rail grade crossing improvement project (including acquiring real property interests) involving—

- (1) grade separation or closure, including through the use of a bridge, embankment, tunnel, or combination thereof;
- (2) track relocation;
- (3) the improvement or installation of protective devices, signals, signs, or other measures to improve safety, provided that such activities are related to a separation or relocation project described in paragraph (1) or (2);
- (4) other means to improve the safety and mobility of people and goods at highway-rail grade crossings (including technological solutions);
- (5) a group of related projects described in paragraphs (1) through (4) that would collectively improve the mobility of people and goods; or
- (6) the planning, environmental review, and design of an eligible project described in paragraphs (1) through (5).

(e) **APPLICATION PROCESS.**—

(1) **IN GENERAL.**—An eligible entity seeking a grant under the Program shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) **RAILROAD APPROVALS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall require applicants to obtain the necessary approvals from any impacted rail carriers or real property owners before proceeding with the construction of a project funded by a grant under the Program.

(B) **EXCEPTION.**—The requirement under subparagraph (A) shall not apply to planning projects described in subsection (d)(6) if the applicant agrees to work collaboratively with rail carriers and right-of-way owners.

(f) **PROJECT SELECTION CRITERIA.**—

(1) **IN GENERAL.**—In awarding grants under the Program, the Secretary shall evaluate the extent to which proposed projects would—

- (A) improve safety at highway-rail or pathway-rail grade crossings;
- (B) grade separate, eliminate, or close highway-rail or pathway-rail grade crossings;
- (C) improve the mobility of people and goods;
- (D) reduce emissions, protect the environment, and provide community benefits, including noise reduction;
- (E) improve access to emergency services;
- (F) provide economic benefits; and
- (G) improve access to communities separated by rail crossings.

(2) **ADDITIONAL CONSIDERATIONS.**—In awarding grants under the Program, the Secretary shall consider—

- (A) the degree to which the proposed project will use—
  - (i) innovative technologies;
  - (ii) innovative design and construction techniques; or
  - (iii) construction materials that reduce greenhouse gas emissions;
- (B) the applicant’s planned use of contracting incentives to employ local labor, to the extent permissible under Federal law;
- (C) whether the proposed project will improve the mobility of—
  - (i) multiple modes of transportation, including ingress and egress from freight facilities; or
  - (ii) users of nonvehicular modes of transportation, such as pedestrians, bicyclists, and public transportation;
- (D) whether the proposed project is identified in—
  - (i) the freight investment plan component of a State freight plan, as required under section 70202(b)(9);
  - (ii) a State rail plan prepared in accordance with chapter 227; or
  - (iii) a State highway-rail grade crossing action plan, as required under section 11401(b) of the Passenger Rail Reform and Investment Act of 2015 (title XI of Public Law 114-94); and