

Public Law 91-458

AN ACT

To provide for Federal railroad safety, hazardous materials control and for other purposes.

October 16, 1970
[S. 1933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal railroad safety and hazardous materials control.

TITLE I—PURPOSE

SEC. 101. DECLARATION OF PURPOSE.

The Congress declares that the purpose of this Act is to promote safety in all areas of railroad operations and to reduce railroad-related accidents, and to reduce deaths and injuries to persons and to reduce damage to property caused by accidents involving any carrier of hazardous materials.

TITLE II—RAILROAD SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Railroad Safety Act of 1970".

Citation of title.

SEC. 202. RAIL SAFETY REGULATIONS.

(a) The Secretary of Transportation (hereafter in this title referred to as the "Secretary") shall (1) prescribe, as necessary, appropriate rules, regulations, orders, and standards for all areas of railroad safety supplementing provisions of law and regulations in effect on the date of enactment of this title, and (2) conduct, as necessary, research, development, testing, evaluation, and training for all areas of railroad safety. However, nothing in this title shall prohibit the bargaining representatives of common carriers and their employees from entering into collective bargaining agreements under the Railway Labor Act, including agreements relating to qualifications of employees, which are not inconsistent with rules, regulations, orders, or standards prescribed by the Secretary under this title. Nothing in this title shall be construed to give the Secretary authority to issue rules, regulations, orders, and standards relating to qualifications of employees, except such qualifications as are specifically related to safety.

44 Stat. 577;
48 Stat. 1185;
49 Stat. 1189.
45 USC 151-188.

(b) Hearings shall be conducted in accordance with the provisions of section 553 of title 5 of the United States Code for all rules, regulations, orders, or standards issued by the Secretary including those establishing, amending, revoking, or waiving compliance with a railroad safety rule, regulation, order, or standard under this title, and an opportunity shall be provided for oral presentations.

Hearings.
80 Stat. 383.

(c) The Secretary may, after hearing in accordance with subsection (b) of this section, waive in whole or in part compliance with any rule, regulation, order, or standard established under this title, if he determines that such waiver of compliance is in the public interest and is consistent with railroad safety. The Secretary shall make public his reasons for granting any such waiver.

Waiver.

(d) In prescribing rules, regulations, orders, and standards under this section the Secretary shall consider relevant existing safety data and standards.

(e) The Secretary shall issue initial railroad safety rules, regulations, orders, and standards under this title based upon existing safety data and standards, not later than one year after the date of enactment of this title. The Secretary shall review and, after hearing in accordance with subsection (b) of this section, revise such rules, regulations, orders, and standards as necessary.

Safety rules and regulations, issuance and review.

Judicial
review.

(f) Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5 of the United States Code.

80 Stat. 392.

SEC. 203. EMERGENCY POWERS.

If through testing, inspection, investigation, or research carried out pursuant to this title, the Secretary determines that any facility or piece of equipment is in unsafe condition and thereby creates an emergency situation involving a hazard of death or injury to persons affected by it, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, prohibiting the further use of such facility or equipment until the unsafe condition is corrected. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5 of the United States Code.

80 Stat. 384.

SEC. 204. GRADE CROSSINGS AND RAILROAD RIGHTS-OF-WAY.

Study.

(a) The Secretary shall submit to the President for transmittal to the Congress, within one year after the date of enactment of this title, a comprehensive study of the problem of eliminating and protecting railroad grade crossings, including a study of measures to protect pedestrians in densely populated areas along railroad rights-of-way, together with his recommendations for appropriate action including, if relevant, a recommendation for equitable allocation of the economic costs of any program proposed as a result of such study.

(b) In addition the Secretary shall, insofar as practicable, under the authority provided by this title and pursuant to his authority over highway, traffic, and motor vehicle safety, and highway construction, undertake a coordinated effort toward the objective of developing and implementing solutions to the grade crossing problem, as well as measures to protect pedestrians in densely populated areas along railroad rights-of-way.

SEC. 205. STATE REGULATION.

Railroad safety
laws, regulations,
etc., uniformity.

The Congress declares that laws, rules, regulations, orders, and standards relating to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force any law, rule, regulation, order, or standard relating to railroad safety until such time as the Secretary has adopted a rule, regulation, order, or standard covering the subject matter of such State requirement. A State may adopt or continue in force an additional or more stringent law, rule, regulation, order, or standard relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard, and when not incompatible with any Federal law, rule, regulation, order, or standard, and when not creating an undue burden on interstate commerce.

SEC. 206. STATE PARTICIPATION.

Investigative
and surveillance
activities.

(a) A State may participate in carrying out investigative and surveillance activities in connection with any rule, regulation, order, or standard prescribed by the Secretary under this title if the safety practices applicable to railroad facilities, equipment, rolling stock, and operations within such State are regulated by a State agency and such State agency submits to the Secretary an annual certification that such State agency—

Annual cer-
tification.

(1) has regulatory jurisdiction over the safety practices applicable to railroad facilities, equipment, rolling stock, and operations within the State concerned;

(2) has been furnished a copy of each Federal safety rule, regulation, order, and standard, applicable to any such railroad

facility, equipment, rolling stock, or operation, established under this title as of the date of the certification;

(3) is conducting the investigative and surveillance activities prescribed by the Secretary as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary.

The Secretary shall retain the exclusive authority to assess and compromise penalties and (except as otherwise provided by section 207 of this title) to request injunctive relief for the violation of rules, regulations, orders, and standards prescribed by the Secretary under section 202(a) of this title and to recommend appropriate action as provided by sections 209 and 210 of this title.

(b) Each annual certification shall include a report, in such form as the Secretary may by regulation provide, showing—

(1) the name and address of each railroad subject to the safety jurisdiction of the State agency;

(2) all accidents or incidents reported during the preceding twelve months by each such railroad involving personal injury requiring hospitalization, fatality, or property damage exceeding \$750 or such other higher amount as the Secretary may prescribe, together with a summary of the State agency's investigation as to the cause and circumstances surrounding each such accident or incident;

(3) the record maintenance, reporting, and inspection practices conducted by the State agency to aid the Secretary in his enforcement of rules, regulations, orders, and standards prescribed by him under section 202(a) of this title, including a detail of the number of inspections made of rail facilities, equipment, rolling stock, and operations by the State agency during the preceding twelve months; and

(4) such other information as the Secretary may require.

The report included with the first annual certification need not show information unavailable at that time. If after receipt of annual certification the Secretary determines that the State agency is not satisfactorily complying with the investigative and surveillance activities prescribed by him with respect to such safety rules, regulations, orders, and standards, he may, on reasonable notice and after opportunity for hearing, reject the certification, in whole or in part, or take such other action as he deems appropriate to achieve adequate enforcement. When such notice is given by the Secretary, the burden of proof shall be upon the State agency to show that it is satisfactorily complying with the investigative and surveillance activities prescribed by the Secretary with respect to such safety rules, regulations, orders, and standards.

(c) With respect to any railroad facility, equipment, rolling stock, or operation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may enter into an agreement with a State agency to authorize such agency to provide all or any part of the investigative and surveillance activities prescribed by the Secretary as necessary to obtain compliance with any Federal safety rule, regulation, order, or standard applicable to any such railroad facility, equipment, rolling stock, or operation. An agreement entered into under this subsection, or any provision thereof, may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to provide all or any part of the investigative and surveillance activities to which the agreement relates. Such finding and termination shall be published in

Penalties;
injunctive relief.

Report,
contents.

Noncompliance,
notice to State
agency.

Hearing.

Agreements
with noncertifying
States.

Termination
provision.

Publication in
Federal Register.

the Federal Register, and shall become effective no sooner than fifteen days after the date of publication.

State programs,
Federal-State
expenditures.

(d) Upon application by any State agency which has submitted a certification under subsection (a) of this section, or entered into an agreement under subsection (c) of this section, the Secretary shall pay, out of funds appropriated pursuant to this title or otherwise made available, up to 50 per centum of the cost of the personnel, equipment, and activities of such State agency reasonably required, during the ensuing fiscal year, to carry out a safety program under such certification or agreement. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for the safety program will be maintained at a level which does not fall below the average level of such expenditures for the last two fiscal years preceding the date of enactment of this title.

State investi-
gative prac-
tices, monitoring.

(e) The Secretary is authorized to conduct such monitoring of State investigative and surveillance practices and such other inspection and investigation as may be necessary to aid in the enforcement of the provisions of this title.

(f) The certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety rule, regulation, order, or standard for railroads established under this title after the date of such certification until the State agency has submitted an appropriate certification in accordance with the provisions of subsection (a) of this section to provide the necessary inspection and surveillance activities in accordance with the provisions of such subsection.

SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS, AND STANDARDS.

In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title, or no civil action has been commenced to obtain injunctive relief under section 210 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title, within 90 days after the date on which such violation occurred, a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title within the State where the violation occurred, may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard. The court shall have jurisdiction to enforce compliance with such rule, regulation, order, or standard by injunction or other proper process to restrain further violation thereof, or to enjoin compliance therewith, or to assess and collect the civil penalty included in or made applicable to such rule, regulation, order, or standard. The provisions of this section shall not apply in any case in which the Secretary has affirmatively determined, in writing, that no violation has occurred.

SEC. 208. GENERAL POWERS.

(a) In carrying out his functions under this title, the Secretary is authorized to perform such acts including, but not limited to, conducting investigations, making reports, issuing subpoenas, requiring production of documents, taking depositions, prescribing recordkeeping and reporting requirements, carrying out and contracting for research, development, testing, evaluation, and training (particularly with respect to those aspects of railroad safety which he finds to be in need

of prompt attention), and delegating to any public bodies or qualified persons, functions respecting examination, inspecting, and testing of railroad facilities, equipment, rolling stock, operations, or persons, as he deems necessary to carry out the provisions of this title.

(b) The National Transportation Safety Board shall have the authority to determine the cause or probable cause and report the facts, conditions and circumstances relating to accidents investigated under subsection (a) of this section, but may delegate such authority to any office or official of the Board or to any office or official of the Department of Transportation with the approval of the Secretary, as it may determine appropriate.

National Transportation Safety Board, investigative authority.

(c) To carry out the Secretary's and the Board's responsibilities under this title, officers, employees, or agents of the Secretary or the Board, as the case may be, are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested.

Rail equipment, etc., inspection.

(d) All orders, rules, regulations, standards, and requirements in force, or prescribed or issued by the Secretary under this title, or by any State agency which is participating in investigative and surveillance activities pursuant to section 206 of this title, shall have the same force and effect as a statute for purposes of the application of sections 3 and 4 of the Act of April 22, 1908 (45 U.S.C. 53 and 54), relating to the liability of common carriers by railroad for injuries to their employees.

35 Stat. 66;
53 Stat. 1404.

SEC. 209. PENALTIES.

(a) It shall be unlawful for any railroad to disobey, disregard, or fail to adhere to any rule, regulation, order, or standard prescribed by the Secretary under this title.

(b) The Secretary shall include in, or make applicable to, any railroad safety rule, regulation, order, or standard issued under this title a civil penalty for violation thereof in such amount, not less than \$250 nor more than \$2,500, as he deems reasonable.

(c) Any railroad violating any rule, regulation, order, or standard referred to in subsection (b) of this section shall be assessed by the Secretary the civil penalty applicable to the standard violated. Each day of such violation shall constitute a separate offense. Such civil penalty is to be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the district court of the United States having jurisdiction in the locality where such violation occurred. Civil penalties may, however, be compromised by the Secretary for any amount, but in no event for an amount less than the minimum provided in subsection (b) of this section, prior to referral to the Attorney General. The amount of any such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged. All penalties collected under this title, including penalties collected pursuant to section 207 of this title, shall be covered into the Treasury as miscellaneous receipts.

(d) In any action brought under this title, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

SEC. 210. INJUNCTIVE RELIEF.

(a) The United States district court shall, at the request of the Secretary and upon petition by the Attorney General on behalf of the United States, or upon application by a State agency pursuant to sec-

U.S. district court, jurisdiction.

28 USC app.

tion 207 of this title, have jurisdiction, subject to the provisions of rules 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title or to enforce rules, regulations, orders, or standards established under this title.

Criminal contempt proceedings.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section or under section 207 of this title, which violation also constitutes a violation of this title, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

18 USC app.

SEC. 211. ANNUAL REPORT.

Report to President for transmittal to Congress. Contents.

(a) The Secretary shall prepare and submit to the President for transmittal to Congress on or before May 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include, but not be restricted to—

(1) a thorough statistical compilation of the accidents and casualties by cause occurring in such year;

(2) a list of Federal railroad safety rules, regulations, orders, and standards issued under this title in effect or established in such year;

(3) a summary of the reasons for each waiver granted under section 202(c) of this title during such year;

(4) an evaluation of the degree of observance of applicable railroad safety rules, regulations, orders, and standards issued under this title;

(5) a summary of outstanding problems confronting the administration of Federal railroad safety rules, regulations, orders, and standards issued under this title in order of priority;

(6) an analysis and evaluation of research and related activities completed (including the policy implications thereof) and technological progress achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions for the enforcement of any Federal railroad safety rule, regulation, order, or standard issued under this title;

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public;

(9) a compilation of—

(A) certifications filed by State agencies under section 206(a) of this title which were in effect during the preceding calendar year, and

(B) certifications filed under section 206(a) of this title which were rejected, in whole or in part, by the Secretary during the preceding calendar year, together with a summary of the reasons for each such rejection; and

(10) a compilation of—

(A) agreements entered into with State agencies under section 206(c) of this title which were in effect during the preceding calendar year, and

(B) agreements entered into under section 206(c) of this title which were terminated by the Secretary, in whole or in part, during the preceding calendar year, together with a summary of the reasons for each such termination.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to strengthen the national railroad safety program.

Recommendations for additional legislation.

SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

There is authorized to be appropriated to carry out the provisions of this title not to exceed \$21,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

TITLE III—HAZARDOUS MATERIALS CONTROL

SEC. 301. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Control Act of 1970".

Citation of title.

SEC. 302. GENERAL AUTHORITY.

(a) The Secretary of Transportation (hereafter in this title referred to as the "Secretary") shall, within six months after the date of enactment of this title—

(1) establish facilities and technical staff to maintain within the Federal Government the capability to evaluate the hazards connected with and surrounding the various hazardous materials being shipped;

Facilities and staff.

(2) establish a central reporting system for hazardous materials accidents to provide technical and other information and advice to the law-enforcement and firefighting personnel of communities and to carriers and shippers for meeting emergencies connected with the transportation of hazardous materials; and

Central reporting system.

(3) conduct a review of all aspects of hazardous materials transportation to determine and recommend appropriate steps which can be taken immediately to provide greater control over the safe movement of such materials.

Review and recommendations.

(b) The authority granted the Secretary by this title shall be in addition to the authority granted by sections 831 to 835, inclusive, of title 18 of the United States Code.

74 Stat. 808.

(c) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before May 1 of each year a comprehensive report on the transportation of hazardous materials during the preceding calendar year. Such report shall include, but not be restricted to—

Report to President for transmittal to Congress. Contents.

(1) a thorough statistical compilation of the accidents and casualties occurring in such year which involved the transportation of hazardous materials;

(2) a list of relevant Federal standards in effect or established in such year;

(3) a summary of the reason for each waiver or exemption granted pursuant to sections 831 to 835, inclusive, of title 18 of the United States Code;

(4) an evaluation of the degree of observance of safety standards for the transportation of hazardous materials; and

(5) a summary of outstanding problems created by the transportation of hazardous materials.

(d) The report required by subsection (c) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary.

Recommendations for additional legislation.

SEC. 303. AUTHORIZATION FOR APPROPRIATIONS.

There is authorized to be appropriated to carry out the provisions of this title not to exceed \$1,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

TITLE IV—MISCELLANEOUS

SEC. 401. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved October 16, 1970.

Public Law 91-459

AN ACT

October 16, 1970
[H. R. 10837]

To provide for the conveyance to Pima and Maricopa Counties, Arizona, and to the city of Albuquerque, New Mexico, of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926.

Pima and
Maricopa Counties,
Ariz., and
Albuquerque,
N. Mex.
Land convey-
ance.
73 Stat. 571;
74 Stat. 899.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the acreage limitation in section 1(b) of the Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869(b)), the Secretary of the Interior may convey to Pima County or Maricopa County, Arizona, or to the city of Albuquerque, New Mexico, for recreational purposes in accordance with the other provisions of that Act, all or any part of the lands that were under lease to such county or city on January 1, 1969.

Lake Carl
Pleasant Regional
Park.
68 Stat. 174;
80 Stat. 210.
43 USC 869-1.

SEC. 2. Notwithstanding the limitation in section 2 of the said Act of June 14, 1926, as amended (43 U.S.C. 689-1), with respect to the location of the land, the Secretary of the Interior may convey to Maricopa County for the purpose of establishing and maintaining the Lake Carl Pleasant Regional Park, in accordance with the other provisions of that Act, the following described lands in Yavapai County:

Township 7 north, range 1 west, section 25, southeast quarter, 160 acres.

Township 6 north, range 1 east, section 5, north half southwest quarter, southeast quarter southwest quarter, and southwest quarter southeast quarter; 160 acres; section 8, those portions of the east half northwest quarter and the west half northeast quarter which lie in Yavapai County, about 24.60 acres.

Approved October 16, 1970.

Public Law 91-460

AN ACT

October 16, 1970
[S. 2314]

To amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age.

Virgin Islands,
voting age.
48 USC 1542.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Revised Organic Act of the Virgin Islands (68 Stat. 497) is amended (1) by inserting "(a)" immediately after "Sec. 4."; and (2) by adding at the end thereof the following new subsection:

"(b) The legislature shall have authority to enact legislation establishing the voting age for residents of the Virgin Islands at an age not lower than eighteen years of age, if a majority of the qualified voters in the Virgin Islands approve in a referendum election held for that purpose."

Approved October 16, 1970.