

### § 266.3

### 49 CFR Ch. II (10–1–10 Edition)

U.S.C. 1654(f)(3)) to cover the cost of replacing or upgrading, to the extent necessary to permit adequate and efficient rail freight service, facilities needed to provide service on a line.

*Relocation costs* means actual expenses directly incurred in moving shippers from a line to a new location.

*State* means any State or the District of Columbia in which a common carrier maintains any line.

*State Rail Plan* means the current plan, including all updates, revisions, and amendments required by section 5(j)(1) of the Act (49 U.S.C. 1654(j)(1)).

*Substitute service assistance* means funds granted to a State under section 5(f)(4) of the Act (49 U.S.C. 1654(f)(4)) to cover the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service and includes (but is not limited to) the acquisition, construction, or improvement of facilities for the provision of substitute freight transportation services and relocation costs.

#### § 266.3 Rail Service Assistance Program.

(a) *Scope of the program.* The Rail Service Assistance Program includes:

- (1) Rail service continuation assistance;
- (2) Acquisition assistance;
- (3) Rehabilitation or improvement assistance;
- (4) Substitute service assistance;
- (5) Rail facility construction assistance;
- (6) Planning assistance; and
- (7) Program operations assistance.

(b) *Special limitations on planning assistance and program operation assistance.* (1) A State is eligible to receive up to \$100,000, or 5 percent of its entitlement, whichever is greater, as planning assistance; and

(2) A State is eligible to receive up to 5 percent of the total amount of funds granted to it each fiscal year under paragraphs (a)(1) to (5) of this section as program operation assistance.

#### § 266.5 State eligibility.

(a) *General eligibility requirements under the rail service assistance program.* A State is eligible for assistance if:

(1) The State has certified pursuant to section 5(j)(4) of the Act that it has

or will adopt and maintain adequate procedures for financial control, accounting and performance evaluation in order to assure proper use of Federal funds;

(2) For purpose of establishing a State Rail Plan, the State has submitted, in accordance with § 266.17(e) of this part, a planning application; and

(3) For any other assistance,

(i) The State has established an adequate plan for rail services in the State which:

(A) Meets the requirements of § 266.15 of this part;

(B) Is part of an overall planning process for all transportation services in the State;

(C) Includes a suitable procedure for updating, revising, and amending such plan; and

(D) As updated, revised, or amended has been approved by the Administrator;

(ii) Such State Rail Plan:

(A) Is administered or coordinated by a designated State agency;

(B) Provides for the equitable distribution of resources; and

(C) Includes a methodology for determining the ratio of benefits to costs of projects for which acquisition assistance, rehabilitation or improvement assistance, substitute service assistance, and rail facility construction assistance is sought;

(iii) The State agency:

(A) Has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services;

(B) Employs or will employ, directly or indirectly, sufficient trained and qualified personnel;

(C) Maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation; and

(D) Is designated and directed solely or in cooperation with other State agencies to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution; and

(iv) The State undertakes to immediately notify the Administrator of any changes in conditions which might affect its compliance with this section.