established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer in existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) LIMITATIONS ON AMOUNTS.—A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 894; Pub. L. 104–88, title III, § 308(f)(1), (2), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22101(a)	49 App.:1654(b).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(b), (c), (n)–(p); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1844, 1848.
	49 App.:1654(p).	
22101(b)	49 App.:1654(n).	
22101(c)	49 App.:1654(c).	
22101(d)	49 App.:1654(*o*).	

In this chapter, the word ''transportation'' is substituted for ''service'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''when a rail carrier . . . maintains a rail line in the State'' are substituted for ''As used in this section, the term 'State' means any State in which a rail carrier providing transportation . . . maintains any line of railroad'' because of the restatement. The words ''the jurisdiction of the Interstate Commerce Commission'' are omitted as unnecessary because of 49:ch. 105. In clause (1), the words ''by purchase, lease'' are omitted as being included in ''in any way the State considers appropriate'' to eliminate unnecessary words.

In subsection (b), the words ''no later than July 1, 1990'' are omitted as executed.

In subsection (c)(1), before clause (A), the words ''Assistance for a project shall be provided under this chapter only if'' are substituted for ''No project shall be provided rail freight assistance under this section unless'' because of the restatement.

In subsection (c)(2), the words ''If the rail carrier that provided the transportation on the rail line'' are substituted for ''In a case where the railroad'', and the words ''information required by the certification under paragraph (1)(A) of this subsection'' are substituted for ''such information'', for clarity.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–88 substituted ''part A of subtitle IV'' for ''subchapter I of chapter 105'' in introductory provisions and ''Surface Transportation Board'' for ''Interstate Commerce Commission'' in par. (1).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

§ 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

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

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 895.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22102	49 App.:1654(a).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(a); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1844.

In this section, before clause (1), the words ''and the Secretary decides that'' are substituted for ''and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection'' to eliminate unnecessary words. In clauses (2) and (3), the word ''authority'' is substituted for

''agency'' for consistency in the revised title. In clause (2), the word ''fair'' is substituted for ''equitable'' for consistency in the revised title. In clause (3)(A), the words ''is authorized'' are substituted for ''has authority and administrative jurisdiction'' to eliminate unnecessary words. In clause (3)(B), the words ''directly or indirectly'' are omitted as surplus. In clause (4), the word ''adopt'' is omitted as being included in ''maintain''.

§ 22103. Applications

(a) FILING.—A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) CONSIDERATIONS.—In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Surface Transportation Board for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 896; Pub. L. 104–88, title III, § 308(f)(3), Dec. 29, 1995, 109 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22103(a)	49 App.:1654(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(f); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1846.
22103(b)	49 App.:1654(f) (last sentence).	

In subsection (a), the words ''under this chapter'' are added for clarity. The words ''a law'' are substituted for ''legislation'' for consistency in the revised title.

In subsection (b)(3), the words ''established by the Secretary'' are omitted as surplus.

In subsection (b)(5), the words ''applying for assistance'' are omitted as unnecessary because of the restatement.

AMENDMENTS

1995—Subsec. (b)(1). Pub. L. 104–88 substituted ''Surface Transportation Board'' for ''Interstate Commerce Commission''.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

§ 22104. State rail plan financing

(a) ENTITLEMENT AND USES.—On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish, update, revise, and modify the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) APPLICATIONS.—Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) AVAILABILITY OF AMOUNTS.—Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 896.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
22104(a)	49 App.:1654(g) (1st sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(g); added Feb. 5, 1976, Pub. L. 94–210, § 803, 90 Stat. 130; Nov. 8, 1978, Pub. L. 95–607, §§ 102–106(a), 107–109(a), 92 Stat. 3059, 3062; Oct. 12, 1979, Pub. L. 96–86, § 115(b), 93 Stat. 662; Aug. 13, 1981, Pub. L. 97–35, §§ 1191, 1192, 95 Stat. 699; Jan. 14, 1983, Pub. L. 97–468, § 501, 96 Stat. 2551; Apr. 7, 1986, Pub. L. 99–272, § 4018, 100 Stat. 111; restated Dec. 11, 1989, Pub. L. 101–213, § 2(a), (c), 103 Stat. 1843, 1846.
22104(b)	49 App.:1654(g) (2d, 3d sentences).	
22104(c)	49 App.:1654(g) (4th, last sentences).	