

Federal Railroad Administration, DOT

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the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the Applicant, in order to make this application has been given; that he or she has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid (Name of Applicant); that he or she has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his or her knowledge, information, and belief; and that Applicant will pay the balance of the investigation charge in accordance with §260.11.

(Signature of official)
(Date)

(b) There shall be made a part of the original application the following certificate by the Chief Financial Officer or equivalent officer of the Applicant:

(Name of officer) certifies that he or she is (Title of officer) of (Name of Applicant); that he or she has supervision over the books of accounts and other financial records of the affected Applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting practices; that such accounts are adequate to assure that proceeds from the financing being requested will be used solely and specifically for the purposes authorized; that he or she has examined the financial statements and supporting schedules included in this application and to the best of his or her knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the Applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the Applicant.

(Signature of official)
(Date)

(c) The Applicant shall pay the investigation charge in accordance with §260.11.

(d) The application shall be accompanied by a transmittal letter in form as follows:

Federal Railroad Administrator, c/o Associate Administrator for Railroad Develop-

ment, Federal Railroad Administration, Washington, D.C. 20590

Re: Application for financial assistance under the Railroad Rehabilitation and Improvement Financing Program.

Dear Sir or Madam: Being duly authorized by (jointly and severally/if more than one) (the "Applicant") to convey the understandings hereinafter set forth, I respectfully submit this application and remit its investigation fee in the amount equal to one-half the total investigation fee established by the Administrator. By this filing, Applicant requests the Administrator to investigate the application and make the necessary findings upon which Applicant's eligibility for a direct loan or loan guarantee may be determined. Applicant understands that neither the acceptance of this filing, the deposit of the investigation charge, nor the commencement of an investigation acknowledges the sufficiency of the application's form, content or merit. Furthermore, Applicant understands that the Administrator will incur numerous expenses by this filing with respect to the investigation of the application, the appraisal of security being offered, and the making of the necessary determinations and findings, and promises to pay, within 60 days, the remainder of the investigation fee required by the Administrator. Applicant understands that the Administrator will establish the amount of Credit Risk Premium due from Applicant, if any, as provided in §260.15. Applicant agrees to pay such Credit Risk Premium prior to the disbursement of direct or guaranteed loan, as appropriate. Such Credit Risk Premium may be refunded as provided in §260.15.

Respectfully submitted.

Applicant(s)
Seal(s) by Its(Their).

(e) The original application and supporting papers, and two copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Railroad Development of the Federal Railroad Administration, 1200 New Jersey Avenue, SE., MailStop 20, Washington, DC 20590. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

[65 FR 41841, July 6, 2000, as amended at 74 FR 25176, May 27, 2009]

§ 260.33 Information requests.

If an Applicant desires that any information submitted in its application or any supplement thereto not be released by the Administrator upon request from a member of the public, the

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Applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential to the extent permitted by law.

§ 260.35 Environmental assessment.

(a) The provision of financial assistance by the Administrator under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including the National Environmental Policy Act (“NEPA”) (42 U.S.C. 4332 *et seq.*), Section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)), the National Historic Preservation Act (16 U.S.C. 470(f)), the Coastal Zone Management Act (16 U.S.C. 1451), and the Endangered Species Act (16 U.S.C. 1531). Appropriate environmental/historic preservation documentation must be completed and approved by the Administrator prior to a decision by the Administrator on the applicant’s financial assistance request. FRA’s “Procedures for Considering Environmental Impacts” (“FRA’s Environmental Procedures”) (65 FR 28545 (May 26, 1999)) or any replacement environmental review procedures that the FRA may later issue and the NEPA regulation of the Council on Environmental Quality (“CEQ Regulation”) (40 CFR Part 1500) will govern the FRA’s compliance with applicable environmental/historic preservation review requirements.

(b) The Administrator, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administrator in accordance with the CEQ Regulation and Environmental Procedures.

(c) Depending on the type, size and potential environmental impact of the project for which the applicant is seeking financial assistance, FRA will need to determine whether the project is categorically excluded from detailed environmental review under FRA’s Environmental Procedures and, if not, to prepare or have prepared an Environmental Assessment leading to an Envi-

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ronmental Impact Statement (EIS) or a Finding of No Significant Impact. At the discretion of the Administrator, Applicants may be required to prepare and submit an environmental assessment of the proposed project or to submit adequate documentation to support a finding that the project is categorically excluded from detailed environmental review. If the applicant is a public agency that has statewide jurisdiction or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may be requested to prepare the EIS and other environmental documents under the Administrator’s guidance.

(d) Applicants are strongly urged to consult with the Associate Administrator for Railroad Development at the earliest possible stage in project development in order to assure that the environmental/historic preservation review process can be completed in a timely manner.

(e) Applicants may not initiate any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives in advance of the completion of the environmental review process. This does not preclude development by applicants of plans or designs or performance of other work necessary to support the application for financial assistance.

Subpart D—Standards for Maintenance of Facilities Involved in the Project

§ 260.37 Applicability.

This subpart prescribes standards governing the maintenance of facilities that are being, or have been, acquired, rehabilitated, improved, or constructed with the proceeds of a direct loan or a guaranteed loan issued under this part for the period during which any portion of the principal or interest of such obligation remains unpaid.

§ 260.39 Maintenance standards.

(a) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used to acquire, rehabilitate, improve or construct track, roadbed, and related structures, Borrower shall, as