

**§ 266.25 Waivers and modifications.**

The Administrator may, with respect to individual requests, upon good cause shown, waive or modify any requirement of this part not required by law or make any additional requirements the Administrator deems necessary. Procedures for submission and consideration of petitions for waiver or modification are governed by 49 CFR part 211.

**PART 268—MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM**

**Subpart A—Overview**

Sec.

- 268.1 Definitions.
- 268.3 Different phases of the Maglev Deployment Program.
- 268.5 Federal funding sources for the Maglev Deployment Program.
- 268.7 Federal/State share and restrictions on the uses of Federal Maglev Funds.

**Subpart B—Procedures For Financial Assistance**

- 268.9 Eligible participants.
- 268.11 Project eligibility standards.
- 268.13 Deadline for submission of applications for preconstruction planning assistance.
- 268.15 Form and contents of applications for preconstruction planning assistance.
- 268.17 Project selection criteria.
- 268.19 Evaluation of applications for preconstruction planning assistance.
- 268.21 Down-selection of one or more Maglev projects for further study and selection of one project for final design, engineering, and construction funding.

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**Subpart A—Overview**

**§ 268.1 Definitions.**

As used in this part—

*CMAQ* means Congestion Mitigation and Air Quality Improvement Program (23 U.S.C. 149).

*Environmental assessment* (“EA”) means the environmental assessment in support of the project description and containing the information listed in § 268.11(b)(6)(i).

*Environmental impact statement* (“EIS”) means the environmental impact statement which is required pursuant to §§ 268.3.

*Eligible project costs* means the costs of preconstruction planning activities and the capital cost of the fixed guideway infrastructure of a Maglev project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but eligible project costs do not include the cost of stations, vehicles, and equipment.

*Federal Maglev funds* means such funds as are provided under the authority of 23 U.S.C. 322 to pay for Eligible Project Costs.

*Full project costs* means the total capital costs of a Maglev project, including Eligible Project Costs and the costs of stations, vehicles, and equipment.

*Phase* means one of the five different phases of the Maglev Deployment Program; these phases are described in § 268.3.

*Maglev* means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

*Maglev Deployment Program* means the program authorized by 23 U.S.C. 322.

*Partnership potential* means the usage of the term in the commercial feasibility study of high-speed ground transportation (*High Speed Ground Transportation for America*) mandated under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978). Under that usage any corridor exhibiting Partnership Potential must at least meet the following two conditions:

(1) Private enterprise must be able to run on the corridor—once built and paid for—as a completely self-sustaining entity; and

(2) The total benefits of a Maglev corridor must equal or exceed its total costs.

*STP* means the Surface Transportation Program (23 U.S.C. 133).

*TEA 21* means the Transportation Equity Act for the 21st Century (Public Law No. 105-178, 112 Stat. 107).

**§ 268.3 Different phases of the Maglev Deployment Program.**

(a) The Maglev Deployment Program includes five phases, as described in paragraphs (b) through (f) of this section. The current projected timing for implementing these phases is indicated to assist applicants in planning their projects. All dates beyond the first date (the deadline for the submission of preconstruction planning applications) are for planning purposes only and are subject to change—including possible acceleration of deadlines—based on the progress of the Maglev Deployment Program; grantees will be notified accordingly.

(b) *Phase I—Competition for Planning Grants (Early October 1998—September 15, 1999)*. (1) *Description*. In Phase I, States will apply for funds for preconstruction planning activities. As required by § 268.13, applications must be filed with FRA by February 15, 1999. FRA will select one or more projects to receive preconstruction planning financial assistance awarded under this part to perform Phase II of the Maglev Deployment Program.

(2) *Timing of Major Milestones*.

(i) February 15, 1999—Planning grant applications due.

(ii) May 24, 1999—FRA announces grantees for planning grants.

(iii) August 31, 1999—FRA awards planning grants for the conduct of activities listed in Phase II.

(c) *Phase II—Project Description Development (July 1, 1999—June 30, 2000)*.

(1) *Description*. In Phase II, each grant recipient will prepare and submit to FRA a project description, supporting preconstruction planning reports, and an EA. Supporting reports may include demand and revenue analyses, project specification, cost estimates, scheduling, financial studies, a system safety plan (including supporting analysis), and other information in support of the project description. FRA will use this information in reaching a decision on which projects to down-select for completion of site-specific environmental studies, investment grade revenue forecasts, and

other studies and analyses necessary prior to initiation of construction. FRA will initiate documentation of environmental factors considered in the project selection process.

(2) *Timing of Major Milestones*.

(i) February 29, 2000—Deadline for submission of appropriate EA's needed by FRA for the down-selection of one or more projects under Phase III.

(ii) June 30, 2000—Deadline for submission of project descriptions and any related supporting reports needed by FRA for down-selection of one or more projects.

(d) *Phase III—Project Selection Process (July 1, 2000—September 30, 2000)*. (1) *Description*. FRA will evaluate the information provided by the grant recipients under Phase II and will down-select one or more projects for completion of additional environmental studies, investment grade revenue forecasts, and other studies and analyses necessary prior to initiation of construction.

(2) *Timing of Major Milestones*. September 30, 2000—FRA down-selects one or more project(s).

(e) *Phase IV—Project Development and Completion of Site-specific EIS October 1, 2000—November 30, 2001*.

(1) *Description*. The financial assistance recipient(s) down-selected in Phase III will complete additional environmental studies, investment grade revenue forecasts, and other studies and analyses necessary prior to initiation of construction, and address issues raised by FRA's review of system safety plans (including supporting analysis). They will also initiate final design and engineering work for the down-selected project(s). If more than one project is down-selected in Phase III, FRA will select one of them for final design, engineering, and construction funding. Detailed agreements for the construction and operation of the selected project will be negotiated.

(2) *Timing of Major Milestones*. (i) March 31, 2001—If more than one project is down-selected in Phase III, FRA will select one project.

(ii) December 31, 2001—FRA will issue a Final Record of Decision on the site-specific EIS for the one selected project, confirming the project design.