

§ 265.3

referred to as the "Act") to ensure that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any project, program or activity funded in whole or in part through financial assistance under the Act, or any provision of law amended by the Act. Nothing contained in these regulations is intended to diminish or supersede the obligations made applicable by either title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000d), or Executive Order No. 11246, (42 U.S.C. 2000e (note)). Subsection (d) of section 905 of the Act authorizes the Secretary to prescribe such regulations and take such actions as are necessary to monitor, enforce, and affirmatively carry out the purposes of that section. This authority coupled with the provisions of section 906 of the Act, which requires the establishment of a Minority Resource Center which is authorized to encourage, promote and assist in the participation by MBE enterprises in the restructuring, improvement, revitalization and maintenance of our Nation's railroads, provides the basis for requirements for the development of affirmative action programs by recipients of Federal financial assistance and certain of their contractors to insure that minorities and MBEs are afforded ample consideration with respect to employment and contractual opportunities produced as a result of the implementation of the Act and other provisions of law amended by the Act.

§ 265.3 Applicability.

This part applies to any project, program, or activity funded in whole or in part through financial assistance provided under the Act, and to any activity funded under any provision of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 701 *et seq.*) or the Rail Passenger Service Act, as amended (45 U.S.C. 501 *et seq.*) amended by the Act including the financial assistance programs listed in appendix A. It applies to contracts awarded to implement the Northeast Corridor Project and to financial assistance programs administered by the United States Railway Association.

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§ 265.5 Definitions.

As used in this part, unless the context indicates otherwise:

(a) *Act* means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. No. 94-210).

(b) *Administrator* means the Federal Railroad Administrator or his delegate.

(c) *Affirmative action program* means the program described in § 265.9 through § 265.15 of this part.

(d) *Agency* means the Federal Railroad Administration.

(e) *Applicant* means persons applying for financial assistance under any of the Rail Acts.

(f) *Contractor* means a prime contractor or a subcontractor who will be paid in whole or in part directly or indirectly from financial assistance provided under the Rail Acts.

(g) [Reserved]

(h) *Includes* means includes but not limited to.

(i) *Minority* means women, Blacks, Hispanic Americans, American Indians, American Eskimos, American Orientals and American Aleuts.

(j) *MBE* means a business concern which is owned and controlled by a minority. For the purpose of this part, *owned and controlled* means a business:

(1) Which is at least 51 per centum owned by one or more minority individuals; or, in the case of a publicly owned business, at least 51 per centum of the stock of which is owned by one or more minority individuals; and

(2) Whose management and daily operations are controlled by one or more such individuals.

(k) *MBE Resource Center* means the Minority Resource Center established in the Department of Transportation pursuant to section 906 of the Act.

(l) *Rail Acts* means the Railroad Revitalization and Regulatory Reform Act of 1976, the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 701 *et seq.*) and the Rail Passenger Service Act, as amended (45 U.S.C. 501 *et seq.*).

(m) *Recipient* means a person who receives financial assistance under any of the Rail Acts except under section 602 of the Rail Passenger Service Act, as amended (45 U.S.C. 501 *et seq.*).