§ 260.9 Loan terms.

The maximum repayment period for direct loans and guaranteed loans under this part is 25 years from the date of execution. The interest rate on direct loans will be equal to the rate on Treasury securities of a similar term. In general, the financial assistance provided will be required to be repaid prior to the end of the useful life of the project it is used to fund.

§ 260.11 Investigation charge.

(a) Applicants for financial assistance under this part may be required to pay an investigation charge of up to one-half of one percent of the principal amount of the direct loan or portion of the loan to be guaranteed.

(b) When an investigation charge is assessed, one-half of the investigation charge shall be paid by Applicant at the time a formal application is submitted to FRA.

(c) Within 60 days after the date of filing of the application, Applicant shall pay to the Administrator the balance of the investigation charge.

§ 260.13 Credit reform.

The Federal Credit Reform Act of 1990, 2 U.S.C. 661, requires Federal agencies to set aside the subsidy cost of new credit assistance provided in the form of direct loans or loan guarantees. The subsidy cost will be the estimated long term cost to the Government of the loan or loan guarantee. The subsidy cost associated with each direct loan or loan guarantee, which the Administrator must set aside, may be funded by Federal appropriations, direct payment of a Credit Risk Premium by the Applicant or a non-Federal infrastructure partner on behalf of the Applicant, or any combination thereof.

§ 260.15 Credit risk premium.

(a) Where available Federal appropriations are inadequate to cover the subsidy cost, a non-Federal infrastructure partner may pay to the Administrator a Credit Risk Premium adequate to cover that portion of the subsidy cost not covered by Federal appropriations. Where there is no Federal appropriation, the Credit Risk Premium must cover the entire subsidy cost.

(b) The amount of the Credit Risk Premium required for each direct loan or loan guarantee, if any, shall be established by the Administrator. The Credit Risk Premium shall be determined based on the credit risk and anticipated recovery in the event of default, including the recovery of collateral.

(c) The Credit Risk Premium must be paid before the disbursement of a direct or guaranteed loan. Where the borrower draws down the direct or guaranteed loan in several increments, the borrower may pay a portion of the total Credit Risk Premium for each increment equal to the proportion of that increment to the total amount of the direct or guaranteed loan.

(d) Each direct loan and loan guarantee made by the Administrator will be included in one cohort of direct loans or one cohort of loan guarantees, respectively, made during that same fiscal year, or longer period, as may be determined by the Administrator. When all obligations in a cohort have been satisfied or liquidated, the amount of Credit Risk Premiums, paid by applicants or infrastructure partners, remaining in the cohort, after deductions made to mitigate losses from any loan or loan guarantee in the cohort, together with interest accrued thereon, will be repaid on a pro rata basis to each original payor of a Credit Risk Premium for any obligation which was fully satisfied. If the Administrator's estimate of the default risk cost of each loan is accurate, the aggregate of Credit Risk Premiums associated with each cohort of loans will fully offset all losses in the cohort and none will remain to be returned to the payees.

Subpart B—FRA Policies and Procedures for Evaluating Applications for Financial Assistance

§ 260.17 Credit risk premium analysis.

(a) When Federal appropriations are not available to cover the total subsidy cost, the Administrator will determine the Credit Risk Premium necessary for each direct loan or loan guarantee by estimating the credit risk and the potential recovery in the event of a default of each project evaluating the factors described in paragraphs (b) and (c) of this section.

(b) Establishing the credit risk.

(1) Where an Applicant has received a recent credit rating from one or more nationally recognized rating agencies, that rating will be used to estimate the credit risk.

(2) Where an Applicant has not received a credit rating from a credit rating agency, the Administrator will determine the credit risk based on an evaluation of the following factors:

(i) Business risk, based on Applicant's:

(A) Industry outlook;

(B) Market position;

(C) Management and financial policies;

(D) Capital expenditures; and

(E) Operating efficiency.

(ii) Financial risk, based on Applicant?s past and projected:

(A) Profitability;

(B) Liquidity;

(C) Financial strength;

(D) Size; and

(E) Level of capital expenditures; and

(iii) Project risk, based on the proposed project's:

(A) Potential for improving revenues, profitability and cash flow from operations; and

(B) Reliance on third parties for success.

(c) The potential recovery in the event of a default will be based on:

(1) The nature of the Applicant's assets; and

(2) Liquidation value of the collateral offered, including the terms and conditions of the lien securing the collateral.

§ 260.19 Preapplication meeting.

Potential Applicants may request a meeting with the FRA Associate Administrator for Railroad Development to discuss the nature of the project being considered. Applicants must be prepared to provide at least the following information:

(a) Applicant's name, address, and contact person;

(b) Name of the proposed infrastructure partner(s), if any, including the identification of potential amounts of funding from each;

(c) Amount of the direct loan or loan guarantee request, and a description of the technical aspects of the project including a map of the existing railroad lines with the location of the project indicated;

(d) Brief description and estimate of the economic impact, including future demand for service, improvements that can be achieved, the project's relation to the priorities listed in § 260.7, along with any feasibility, market or other studies that may have been done as attachments;

(e) Amount of Applicant's equity and a description of collateral offered, with estimated values, including the basis of such, to be offered as security for the loan;

(f) If applicable, the names and addresses of the Applicant's parent, affiliates, and subsidiary corporations, if any, and a description of the ownership relationship and the level of guarantee, if any, to be offered;

(g) For existing companies, a current balance sheet and an income statement not more than 90 days old and financial statements for the borrower and any parent, affiliates, and subsidiaries for at least the four most recent years; and

(h) Information relevant to the potential environmental impacts of the project in the context of applicable Federal law.

Subpart C—Applications for Financial Assistance

§ 260.21 Eligibility.

The Administrator may make a direct loan to an Applicant, or guarantee the payment of the principal balance and any interest of an obligation of an Applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such direct loan or obligation shall be, or have been, used by the Applicant for the eligible purposes listed in § 260.5(a)(1), (2), and (3).

§ 260.23 Form and content of application generally.

Each application shall include, in the order indicated and identified by applicable paragraph numbers and letters