

§ 260.35

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 Environmental 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 sup-

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port 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 long as any portion of the principal or interest of such obligation remains unpaid, maintain such facilities in at least the highest track class, as defined by FRA Track Safety Standards in part 213 of this chapter, specified in the Application at which the rehabilitated,

improved, acquired, or constructed track is to be operated upon completion of the project.

(b) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used for equipment or facilities, the Borrower shall, during the period in which any portion of the principal or interest in such obligation remains unpaid, maintain such equipment or facilities in a manner consistent with sound engineering and maintenance practices and in a condition that will permit the level of use that existed upon completion of the acquisition, rehabilitation, improvement or construction of such equipment or facilities.

§ 260.41 Inspection and reporting.

(a) Equipment or facilities subject to the provisions of this subpart may be inspected at such times as the Administrator deems necessary to assure compliance with the standards set forth in § 260.39. Each Borrower shall permit representatives of the FRA to enter upon its property to inspect and examine such facilities at reasonable times and in a reasonable manner. Such representatives shall be permitted to use such testing devices as the Administrator deems necessary to insure that the maintenance standards imposed by this subpart are being followed.

(b) Each Borrower shall submit annually to the Administrator financial records and other documents detailing the maintenance and inspections performed which demonstrate that the Borrower has complied with the standards in § 260.39.

§ 260.43 Impact on other laws.

Standards issued under this subpart shall not be construed to relieve the Borrower of any obligation to comply with any other Federal, State, or local law or regulation.

Subpart E—Procedures To Be Followed in the Event of Default

§ 260.45 Events of default for guaranteed loans.

(a) If the Borrower is more than 30 days past due on a payment or is in violation of any covenant or condition

of the loan documents and such violation constitutes a default under the provisions of the loan documents, Lender must notify the Administrator in writing and must continue to submit this information to the Administrator each month until such time as the loan is no longer in default; and the Administrator will pay the Lender of the obligation, or the Lenders' agent, an amount equal to the past due interest on the guaranteed portion of the defaulted loan. This payment will in no way reduce the Borrower's obligation to the Lender to make all payments of principal and interest in accordance with the note. If the loan is brought current, the Lender will repay to the Agency any interest payments made by the Agency, plus accrued interest at the note rate.

(b) If the default has continued for more than 90 days, the Administrator will pay to the Lender, or the Lender's agent, 90 percent of the unpaid guaranteed principal. If, subsequent to this payment being made, the default is cured and liquidation is no longer appropriate, the Lender will repay such funds to the Administrator, plus interest at the note rate.

(c) After the default has continued for more than 90 days, the Lender shall expeditiously submit to the Administrator, in writing, its proposed detailed plan to resolve the default by liquidating the collateral or by any other means. If the resolution will require the liquidation of the collateral, then the Lender's plan shall include:

(1) Proof adequate to establish that the Lender is legally in possession of the obligation, or is the agent for a Holder who is legally in possession of the obligation, and a statement of the current loan balance and accrued interest to date and the method of computing the interest;

(2) A full and complete list of all collateral, including any personal and corporate guarantees;

(3) The recommended liquidation methods for making the maximum collection possible and the justification for such methods, including recommended action for acquiring and disposing of all collateral and collecting from any guarantors;