

§ 265.25

49 CFR Ch. II (10-1-02 Edition)

after receipt request an informal hearing in lieu of filing a written response as specified in paragraph (b) of this section. The Administrator may, in his discretion, grant a request for an informal hearing for the purpose of inquiring into the status of compliance of such person. The Administrator will advise persons subject to his directive in writing as to the time and place of the informal hearings and may direct such persons to bring specific documents and records, or furnish other relevant information concerning their compliance status. When so requested, such person shall attend and bring the requested information. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. The failure of such person to request a hearing or to appear at a hearing for which a date has been set shall be deemed to be a consent to the applicability of the procedures set forth in paragraph (a) of this section.

(d) The hearing shall be conducted by a hearing officer appointed by the Administrator. Such hearings shall commence within twenty (20) days from the date the hearing is granted and shall be concluded no later than thirty (30) days from the commencement date. Parties to informal hearings may be represented by counsel or other authorized representative and shall have a fair opportunity to present any relevant material. Formal rules of evidence will not apply to such proceedings.

(e) *Decisions and notices.* (1) Within ten (10) days after the conclusion of such hearings, the hearing officer will advise the Administrator, in writing, of his views and recommendations as to compliance with this part and a copy of such decision shall be sent by registered mail, return receipt requested, to the recipient or contractor and participating labor organization. If the hearing officer in his decision determines that the recipient or contractor is in noncompliance with this part, he may, if he determines that it is unlikely that compliance will be obtained, or that a lack of good faith exists, or for other good cause, order that further financial assistance be suspended in whole or in part, pending a

decision by the Administrator in the matter.

(2) The recipient, contractor or labor organization may file exceptions to the hearing officer's decision, with his reasons therefor, with the Administrator within thirty (30) days of receipt of the initial decision. Within twenty (20) days, after the time for filing exceptions, the Administrator shall determine, in writing, whether or not the parties involved are in compliance with this part. A copy of the Administrator's decision will be given to the recipient, contractor, labor organization, if appropriate, and to the complainant, if any.

(3) If the Administrator determines that compliance can reasonably be attained, his decision shall provide that if such person fails or refuses to comply with the decision of the Administrator within thirty (30) days after receipt of the decision, the Administrator shall:

(i) Direct that no further Federal assistance be provided to such a person;

(ii) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(iii) Exercise the powers and functions provided by title VI of the Civil Rights Act of 1964; and/or

(iv) Take such other actions as may be provided by law or this part.

(4) A recipient or contractor adversely affected by a decision of the Administrator issued under paragraph (a) or (b) of this section shall be restored to full eligibility to receive Federal assistance or award of a federally assisted contract if the recipient or contractor takes complete curative action to eliminate the noncompliance with this part and if the recipient or contractor provides reasonable assurance that the recipient or contractor will fully comply with this part.

§ 265.25 Other information.

(a) Each person required to submit a written affirmative action program pursuant to this part shall include as an appendix thereto, the following information except to the extent such information is already provided as part of the application for financial assistance;

Federal Railroad Administration, DOT

§ 266.1

(1) A brief description of other pending applications to other federal agencies for financial assistance, and of federal assistance being provided at the time of submission of the affirmative action program;

(2) A statement of any civil rights compliance reviews regarding applicant or recipient conducted in the two year period before the application, or affirmative action program; the name of the agency or organization performing the review, and the findings of the review;

(3) Where the project, program or activity receiving financial assistance will require the relocation of persons and businesses, a description of the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, or national origin;

(4) Where the project, program or activity receiving financial assistance will result in the construction of new facilities or expansion of existing facilities, a description of the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color or national origin;

(5) Where paragraphs (a) (3) and (4) of this section are applicable, additional data such as demographic maps, racial composition of affected neighborhoods, or census data should be provided where necessary or appropriate to evaluate the impact of projects, programs and activities referred to in paragraphs (a) (3) and (4) of this section.

APPENDIX A TO PART 265

The following are the financial assistance programs to which this part applies:

(a) *Railroad Revitalization and Regulatory Reform Act of 1976*, (1) purchase of redeemable preference shares or trustee certificates pursuant to section 505;

(2) Guarantee of obligations, the proceeds of which will be used to acquire, or rehabilitate or improve rail facilities, or equipment, pursuant to section 511; and

(3) Grants and contracts made to implement the Northeast Corridor project under section 704.

(b) *Regional Rail Reorganization Act of 1973, as amended*, (1) loans made by the United States Railway Association (USRA) pursuant to section 211;

(2) Purchase of securities of the Consolidated Rail Corporation pursuant to section 216; and

(3) Grants to States, or local or regional authorities for rail continuation assistance under section 402.

(c) *Department of Transportation Act*, (1) grants to States for rail freight assistance programs under section 5 (sec. 803 of the Railroad Revitalization and Regulatory Reform Act of 1976); and

(2) Grants under section 4(i) for the planning, preservation and conversion of rail passenger terminals of historical or architectural significance.

(d) *Rail Passenger Service Act*, (1) grants to Amtrak under section 601.

PART 266—ASSISTANCE TO STATES FOR LOCAL RAIL SERVICE UNDER SECTION 5 OF THE DEPARTMENT OF TRANSPORTATION ACT

Sec.

266.1 Definitions.

266.3 Rail Service Assistance Program.

266.5 State eligibility.

266.7 Project eligibility.

266.9 Federal/State share.

266.11 Allowable costs.

266.13 Distribution of funds.

266.15 Requirements for State Rail Plan.

266.17 Applications.

266.19 Environmental impact.

266.21 Grant agreement and disbursement.

266.23 Record, audit, and examination.

266.25 Waivers and modifications.

AUTHORITY: Sec. 5 of the Department of Transportation Act (49 U.S.C. 1654), as amended by the Local Rail Service Assistance Act of 1978, Pub. L. 95-607, 92 Stat. 3059.

SOURCE: 44 FR 51129, Aug. 30, 1979, unless otherwise noted.

§ 266.1 Definitions.

As used in this part:

Acquisition assistance means funds granted to a State under section 5(f)(2) of the Department of Transportation Act (49 U.S.C. 1654(f)(2)) to cover the cost of acquiring by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein for existing or future rail freight service.

Act means the Department of Transportation Act (49 U.S.C. 1650 *et seq.*).

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.