

**CHAPTER 53C****RAIL FREIGHT PROGRAM****Authority**

N.J.S.A. 27:1A-5, 27:1A-5.1 and 27:1A-6.

**Source and Effective Date**

R.2003 d.379, effective September 2, 2003.  
See: 35 N.J.R. 1846(a), 35 N.J.R. 4731(a).

**Chapter Expiration Date**

Chapter 53C, Rail Freight Program, expires on September 2, 2008.

**Chapter Historical Note**

Chapter 53C, Rail Freight Program, was adopted as R.1983 d.601, effective January 3, 1984. See: 15 N.J.R. 1563(a), 16 N.J.R. 52(b). Pursuant to Executive Order No. 66(1978), Chapter 53C, Rail Freight Program, was readopted as R.1988 d.317, effective June 16, 1988. See: 20 N.J.R. 966(a), 20 N.J.R. 1730(c).

Pursuant to Executive Order No. 66(1978), Chapter 53C, Rail Freight Program, was readopted as R.1993 d.277, effective May 13, 1993. See: 25 N.J.R. 1481(a), 25 N.J.R. 2503(a).

Pursuant to Executive Order No. 66(1978), Chapter 53C, Rail Freight Program, was readopted as R.1998 d.196, effective March 26, 1998. See: 30 N.J.R. 535(a), 30 N.J.R. 1424(a).

Chapter 53C, Rail Freight Program, was readopted as R.2003 d.379, effective September 2, 2003. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. INTRODUCTION****16:53C-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Acquisition assistance” means funds the Rail Freight Assistance Program uses to cover the cost of acquiring, by purchase, or in such other manner the Department considers appropriate, a railroad line or other rail property for existing or future rail freight service.

“Cash” means the outlay of funds.

“Commissioner” means the Commissioner of the New Jersey Department of Transportation.

“Common carrier” means that entity providing railroad transportation for compensation and which is subject to the jurisdiction of the Interstate Commerce Commission.

“Demonstration project” means a project that uses either methods or materials that are considered non-standard or experimental. The use of non-standard or experimental methods and materials may require a more substantial initial capital investment than a project using traditional methods or materials, but has the potential to offer long-term cost savings over the life of the material or facility.

“Facilities” means track, ties, roadbed, and related structures used or usable for rail freight operations.

“Rail facility construction assistance” means funds provided to cover the cost of constructing rail related facilities for the purpose of improving the quality and efficiency of existing rail freight service, or providing the benefits of rail

service to industries not located on existing rail lines. This includes new connections between two or more existing lines, relocation of lines or sidings, modernization of existing facilities, construction of rail related freight facilities (for example, team track, intermodal transfer, etc.), and construction of minor sections of new track (for example, passing tracks, crossovers, etc.).

"Rehabilitation or improvement assistance" means a one-time investment of funds to cover the cost of reconstruction, improvement or rehabilitation of rail properties.

"Routine maintenance" means inspection and light repairs and the planned program of periodic maintenance necessary to keep a line at its existing condition but not below specified Federal Railroad Administration (FRA) safety standards.

"State Rail Plan" means the current edition, including all updates, revisions and amendments, documenting the methodology and analysis applied to the rail freight network and describing a specific recommendation for funding assistance.

Amended by R.1993 d.277, effective June 7, 1993.

See: 25 N.J.R. 1481(a), 25 N.J.R. 2503(a).

Amended by R.1998 d.196, effective April 20, 1998.

See: 30 N.J.R. 535(a), 30 N.J.R. 1424(a).

Deleted "Maintenance"; and inserted "Routine maintenance".

Amended by R.2003 d.379, effective October 6, 2003.

See: 35 N.J.R. 1846(a), 35 N.J.R. 4731(a).

Deleted "Core Rail Freight System" and "Substitute service assistance"; added "Demonstration project".

## SUBCHAPTER 2. RAIL FREIGHT ASSISTANCE PROGRAM

### 16:53C-2.1 General provisions

(a) Scope of the program includes:

1. Acquisition;
2. Rehabilitation or improvement assistance;
3. Rail facility construction assistance;
4. Rail bridge rehabilitation or reconstruction assistance; and
5. Demonstration projects.

Amended by R.1998 d.196, effective April 20, 1998.

See: 30 N.J.R. 535(a), 30 N.J.R. 1424(a).

In (a)1, deleted "assistance" at the end.

Amended by R.2003 d.379, effective October 6, 2003.

See: 35 N.J.R. 1846(a), 35 N.J.R. 4731(a).

In (a)4, substituted "Rail bridge rehabilitation or reconstruction assistance; and" for "Substitute service assistance."; added (a)5.

### 16:53C-2.2 Form of financial assistance

Financial assistance shall be in the form of a grant to the owner of the rail properties, the operator of rail freight service on the properties, or the responsible public agency/authority. The Commissioner shall determine all financial terms and conditions of the grant.

Amended by R.1993 d.277, effective June 7, 1993.

See: 25 N.J.R. 1481(a), 25 N.J.R. 2503(a).

Amended by R.2003 d.379, effective October 6, 2003.

See: 35 N.J.R. 1846(a), 35 N.J.R. 4731(a).

Substituted "shall" for "may" following "Financial assistance".

### 16:53C-2.3 Duration of assistance

Financial assistance is limited in duration to a period not to exceed three years from the date of project approval. Should circumstances dictate that a project extend beyond three years, the sponsor shall request such an extension of the Department in writing, including a detailed justification for the request. Circumstances to be considered eligible for an extension shall include, but not be limited to: unanticipated additional work directly associated with the project; inability to accomplish the project within the specified time-frame due to circumstances beyond the sponsor's control; forced staging of financing over a period greater than three years; or a project scope which is physically impossible to accomplish within three years.

Amended by R.1993 d.277, effective June 7, 1993.

See: 25 N.J.R. 1481(a), 25 N.J.R. 2503(a).

## SUBCHAPTER 3. PROJECT ELIGIBILITY

### 16:53C-3.1 General requirements

(a) General eligibility requirements under the Rail Freight Assistance Program are as follows:

1. An analysis of a rail service related to the project must be included in the State Rail Plan (except when the project is of an emergency nature, in which case the State Rail Plan requirement may be waived, at the discretion of the Commissioner).
2. The cost/benefit ratio of any project must be greater than 1.0 as defined in the State Rail Plan.

Amended by R.2003 d.379, effective October 6, 2003.

See: 35 N.J.R. 1846(a), 35 N.J.R. 4731(a).

In (a), substituted "Rail Freight Assistance Program" for "State Rail Assistance Program" in the introductory paragraph.

### 16:53C-3.2 Acquisition

(a) The rail freight properties which are eligible for acquisition are those properties in the State identified by the Department as essential components of a rail freight system vital to the economic well-being of the State. In no case will the State acquire rail properties where continued rail operations can be maintained through ownership within the private sector. These properties may include inactive rail lines which have value for future use as rail freight facilities or as components of an intermodal system.