

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

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

Source and Effective Date

R.2009 d.54, effective January 13, 2009.
See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 53C, Rail Freight Assistance Program, expires on January 13, 2016. See: 43 N.J.R. 1203(a).

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

Chapter 53C, Rail Freight Program, was readopted as R.2009 d.54, effective January 13, 2009. As a part of R.2009 d.54, Chapter 53C, Rail Freight Program, was renamed Rail Freight Assistance Program; Subchapter 1, Purpose and Scope, was adopted as new rules; former Subchapter 1, Introduction, was recodified as Subchapter 2 and renamed Definitions; former Subchapter 2, Rail Freight Assistance Program, was recodified to Subchapter 4 and renamed Financial Assistance; former Subchapter 4, State/Local Share, was repealed; former Subchapter 3, Project Eligibility, was repealed and former Subchapter 5, Requirements for the State Rail Plan, was recodified as Subchapter 3; former Subchapter 6, Applications, was recodified to Subchapter 5 and renamed Project Application, Selection and Agreement; Subchapter 6, Audit, was adopted as new rules; and Subchapters 7, Environmental Impact, 8, Grant Agreement and Disbursement, and 9, Record, Audit and Examination, were repealed, effective February 17, 2009. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PURPOSE AND SCOPE**16:53C-1.1 Purpose**

These rules are designed to govern the administration of the State's Rail Freight Assistance Program. The purpose of the program is to support an efficient and effective rail freight system in the State of New Jersey through the provision of financial assistance to improve rail freight facilities.

16:53C-1.2 Scope

Financial assistance may be made to owners of rail properties, operators of rail freight service, or responsible public agencies or authorities for projects included in the annual update to the State Rail Plan.

SUBCHAPTER 2. DEFINITIONS**16:53C-2.1 Definitions**

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

“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.

“Department” means the New Jersey Department of Transportation.

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

“Rail line” means a section of track certificated by the United States Surface Transportation Board.

“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 safety standards.

“Sponsor” means an applicant that has been awarded and has accepted financial assistance pursuant to this chapter.

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”.

Recodified from N.J.A.C. 16:53C-1.1 and amended by R.2009 d.54, effective February 17, 2009.

See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Deleted definitions “Acquisition assistance”, “Cash”, “Demonstration project”, “Rail facility construction assistance”, “Rehabilitation or improvement assistance” and “State Rail Plan”; added definitions “Department”, “Rail line” and “Sponsor”; and in definition “Routine maintenance”, deleted “(FRA)” following “Administration”. Former N.J.A.C. 16:53C-2.1, General provisions, recodified to N.J.A.C. 16:53C-4.1.

16:53C-2.2 (Reserved)

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”.

Repealed by R.2009 d.54, effective February 17, 2009.

See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Section was “Form of financial assistance”.

16:53C-2.3 (Reserved)

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

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

Recodified to N.J.A.C. 16:53C-4.3 by R.2009 d.54, effective February 17, 2009.

See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Section was “Duration of assistance”.

SUBCHAPTER 3. REQUIREMENTS FOR THE STATE RAIL PLAN

16:53C-3.1 General provisions

(a) The State Rail Plan was established in 1976 and has been updated annually since October 1978. The State Rail Plan and the updates are based on a comprehensive, coordinated and continuing planning process and are developed with an opportunity for participation by all interested parties.

(b) Annually, the Department shall present the Plan and current update at a public meeting. Public notice shall be provided at least 15 days in advance by publication in newspapers of general circulation throughout the State, the Depart-

ment’s web site at <http://www.state.nj.us/transportation/>, and letters sent to elected officials representing affected communities.

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.

Recodified in part from N.J.A.C. 16:53C-5.1 and amended by R.2009 d.54, effective February 17, 2009.

See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Recodified former N.J.A.C. 16:53C-5.1(a) as (a) and (b); and rewrote (a) and (b). Former N.J.A.C. 16:53C-3.1, General requirements, repealed.

16:53C-3.2 Contents of the State Rail Plan and annual updates

(a) The State Rail Plan shall:

1. Specify the objectives, policies, and long-range expectations for the State’s rail freight network;

2. Describe the relevant data sources, assumptions and analytical methodology used in developing the State Rail Plan; and

3. Describe the planning process including the participation of local governmental entities, railroads, rail service users and the public.

(b) Annual updates shall:

1. Contain a description, analysis and recommended action for rail lines in the State for which applications for abandonment are pending before the United States Surface Transportation Board; and

2. Contain a description and estimated cost for projects for which an application has been submitted in accordance with the requirements of N.J.A.C. 16:53C-5, and has been deemed eligible in accordance with N.J.A.C. 16:53C-5.1.

(c) The current update to the State Rail Plan is available through the Department’s web site at <http://www.state.nj.us/transportation/freight/rail/>. Requests for copies may be addressed to: Manager, Bureau of Rail Services, New Jersey Department of Transportation, P.O. Box 600, Trenton, NJ 08625.

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).

In (a), deleted “assistance” following “acquisition” and added “in the State Rail Plan” at the end of the first sentence.

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), rewrote the first sentence; in (b), substituted “essential components of the State’s” for “elements of the core”.

Recodified in part from N.J.A.C. 16:53C-5.1 and amended by R.2009 d.54, effective February 17, 2009.

See: 40 N.J.R. 5533(a), 41 N.J.R. 888(a).

Recodified former N.J.A.C. 16:53C-5.1(b) as (a) and (b); rewrote (a) and (b); and added (c). Former N.J.A.C. 16:53C-3.2, Acquisition, repealed.