

§7320. Application for financial assistance

1. Annual application and approval required. Any person, corporation, partnership or other business entity which provides railroad transportation for compensation in the State, or seeks to acquire or construct additional rail lines in the State, shall apply to the Department of Transportation for the privilege of receiving financial assistance from the State, for the year in question. Financial assistance from the State is defined as grants, loans, subsidies, tax exemptions, cost reimbursement for maintenance of railroad crossings or payments from other sources. The applicant may not receive the financial assistance unless the application is approved.

[PL 1989, c. 398, §9 (NEW).]

2. Criteria. In determining approval for an application under this section, the department shall consider, among other matters:

A. The need for this rail service; [PL 1989, c. 398, §9 (NEW).]

B. The effect of the rail service on the health, safety and general welfare of the people of the State; and [PL 1989, c. 398, §9 (NEW).]

C. For any entity which already provides railroad transportation for compensation within the State, the record of that railroad in investing within the State, maintaining track and rights-of-way within the State, use of funds from previous financial assistance from the State and the safety, reliability and efficiency of the service actually provided by that railroad within the State. [PL 1989, c. 398, §9 (NEW).]

[PL 1989, c. 398, §9 (NEW).]

3. Procedure for entities seeking to acquire or construct additional rail lines. An entity seeking to acquire or construct an additional rail line or lines shall proceed in accordance with this subsection.

A. The applicant shall provide notice by:

(1) Publishing an accurate and understandable summary of the application in a newspaper of general circulation in each area affected by the rail service;

(2) Mailing a copy of its application to all shippers which used the rail line during any of the 12 months prior to the date the application was filed, as well as those shippers who may reasonably be expected to use that line within one year from the date of application;

(3) Mailing a copy of its application to the employee representatives of the employees of the railroad or who may be affected by a proposed rail service; and

(4) Mailing a copy of its application to any municipality served by the rail line or in which that service may be affected. [PL 1989, c. 398, §9 (NEW).]

B. After receipt of a substantially complete application and compliance by the applicant with the notice requirements of this subsection, the department shall hold a public hearing on any application covered by this subsection, in accordance with its rules. [PL 1989, c. 398, §9 (NEW).]

C. Any party affected by the application has the right to intervene in a proceeding under this section. Intervention of other parties shall be granted liberally in order that a complete record may be developed. [PL 1989, c. 398, §9 (NEW).]

[PL 1989, c. 398, §9 (NEW).]

4. Procedure for existing operations. An entity which intends only to continue existing operations shall proceed in accordance with this subsection.

A. After receipt of a substantially complete application, the department shall provide notice of the application and opportunity for hearing on any application covered by this subsection by sending an accurate and understandable summary of the application to a newspaper of general circulation

in each area affected by the rail service for publication at the applicant's expense. [PL 1989, c. 398, §9 (NEW).]

B. The department may hold a public hearing on the application and shall hold a hearing when a request for a hearing shows a substantial likelihood that the application may be denied or granted with qualifications under the criteria of subsection 2 and the hearing is requested by:

- (1) A shipper or shippers whose traffic on the railroad line totaled 500 tons in the year preceding the application;
- (2) Any municipality having a siding, terminal, station or agency station of the railroad line within its bounds; or
- (3) A petition of 25 individuals who state that they are affected by the operation of the railroad.

The hearing shall be subject to the rules of the department. [PL 1989, c. 398, §9 (NEW).]
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5. Approval. At the conclusion of the proceedings and within 30 days of the conclusion of the public hearing, if any, the department shall:

- A. Approve the application as filed; [PL 1989, c. 398, §9 (NEW).]
- B. Approve the application with conditions as the department determines necessary to assure that the investment of state funds in providing assistance for the rail service will be consistent with the public interest; or [PL 1989, c. 398, §9 (NEW).]
- C. Deny the application. [PL 1989, c. 398, §9 (NEW).]

Approval shall be valid for a year. In the case of denial, reapplication shall be in accordance with the rules of the department. Approval may be revoked in case of noncompliance with any conditions.
[PL 1989, c. 398, §9 (NEW).]

6. Temporary approval. When the commissioner determines that the public interest requires immediate financial assistance from the State to a railroad, the department may issue temporary approval for a period not to exceed 90 days without notice or hearing.
[PL 1989, c. 398, §9 (NEW).]

7. Appeal. Any applicant or intervenor aggrieved by the decision of the department under subsection 5 has a right to judicial review in accordance with the Maine Administrative Procedure Act, Title 5 chapter 375, subchapter VII.
[PL 1989, c. 398, §9 (NEW).]

8. Rules. The department shall promulgate rules concerning the implementation and enforcement of this section.
[PL 1989, c. 398, §9 (NEW).]

9. Existing operations; temporary approval. Any operation ongoing as of the effective date of this section, as long as the ownership or management of that operation is not transferred to another entity, shall be deemed approved until March 1, 1990.
[PL 1989, c. 398, §9 (NEW).]

10. Consolidation of hearings. The Department may consolidate any hearing under this section with another hearing concerning railroad service by the same entity in the same area.
[PL 1989, c. 398, §9 (NEW).]

SECTION HISTORY

PL 1989, c. 398, §9 (NEW).

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