

for the last 3 years shows no crashes or convictions for moving violations in a CMV.

*Barney J. Wade*

Mr. Wade, 42, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/50. Following an examination in 2005, his optometrist noted, "My opinion is that you have sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Wade reported that he has driven straight trucks for 18 years, accumulating 180,000 miles, tractor-trailer combinations for 18 years, accumulating 180,000 miles, and buses for 6 years accumulating 600 miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

*Kenneth E. Walker*

Mr. Walker, 43, has optic neuropathy in his right eye due to a traumatic injury sustained as a child. The visual acuity in his right eye is count-finger-vision at 3 feet and in the left, 20/20. Following an examination in 2005, his ophthalmologist noted, "In my medical opinion, Mr. Walker has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Walker reported that he has driven straight trucks for 23 years, accumulating 690,000 miles and tractor-trailer combinations for 11 years, accumulating 880,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The agency will consider all comments received before the close of business April 21, 2006. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: March 15, 2006.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 06-2785 Filed 3-21-06; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### Buffalo Southern Railroad, Inc.

*(Waiver Petition Docket Number FRA-1999-6069)*

The Buffalo Southern Railroad, Inc. (BSOR), seeks a waiver extension for FRA-1999-6069, which grants relief from 49 CFR part 223.11 of the Safety Glazing Standards for locomotives: BSOR 5010, 93, 100 and 105.

The FRA's field investigation reveals the locomotives in question are equipped with safety plate glass. Some of the glazing is marked and some is unmarked. Generally, all the locomotives are in good condition.

The BSOR is a short line freight carrier which travels over 30 miles through rural countryside and several small communities. There are still no police records of damage to the locomotives or any reports of employee injuries to any railroad employee.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 1999-6069) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78). The Statement may also be found <http://dms.dot.gov>.

Issued in Washington, DC, on March 14, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E6-4091 Filed 3-21-06; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2006-23697]

#### Public-Private Partnership Pilot Program

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice; solicitation of comments and preliminary expressions of interest.

**SUMMARY:** Section 3011(c) of SAFETEA-LU authorizes the Secretary of Transportation to establish and implement a pilot program to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects. This notice solicits comments and preliminary expressions of interest with respect to the Secretary of Transportation's establishment and implementation of the pilot program.

**DATES:** Comments and/or preliminary expressions of interest must be received by June 1, 2006. Late-filed comments or preliminary expressions of interest will be considered to the extent practicable.

**ADDRESSES:** To ensure your comments and/or preliminary expressions of

interest are not entered more than once into the DOT Jacket, please identify your submissions by the following docket number: FTA-2006-23697. Please make your submissions by only one of the following means:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for making submissions.

- Web Site: <http://dms.dot.gov>.

Follow the instructions for making submission on the DOT electronic docket site:

- Fax: 1-202-493-2478.

- U.S. Post or Express Mail: Docket Management System, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**Instructions:** All submissions must make reference to the "Federal Transit Administration" and include the docket number for this notice set forth above. Due to security procedures in effect since October 2001 regarding mail deliveries, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posed without charge or alternative to <http://dms.dot.gov>.

**Docket:** For access to the DOT docket to read materials to this notice, please go to <http://dms.dot.gov> at any time or to the Docket Management System.

**FOR FURTHER INFORMATION CONTACT:**

David B. Horner, Esq., Chief Counsel, Federal Transit Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. E-mail:

[David.Horner@fla.dot.gov](mailto:David.Horner@fla.dot.gov). Telephone: (202) 366-4040. Office hours are from 8:30 a.m. to 6 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. Statutory Background**

Section 3011(c) of SAFETEA-LU authorizes the Secretary of Transportation (the "Secretary") to establish and implement a pilot program (the "Pilot Program") to demonstrate the advantages and disadvantages of public-private partnerships ("PPPs") for certain

new "fixed guideway capital projects," as defined by 49 U.S.C. 5302(a)(1) and (4) (each, a "Project"). Section 3011(c) sets forth generally the terms and conditions of the Pilot Program.

- Section 3011(c)(2) authorizes the Secretary to select up to three Projects participate in the Pilot Program.

- Section 3011(c)(3) provides that no Project is eligible to participate in the Pilot Program unless the sponsor of a Project submits an application that contains, at a minimum: (i) An identification of a Project that has not entered into a full funding grant agreement or project construction grant agreement with FTA; (ii) a schedule and finance plan for the construction and operation of the Project; and (iii) an analysis of the costs, benefits and efficiencies of the proposed public-private partnership agreement.

- Section 3011(c)(4) provides that the Secretary may approve the application of a Project to participate in the Pilot Program if the Secretary determines that: (i) Applicable State and local laws permit public-private agreements for all phases of development, construction and operation of the project; (ii) the recipient is unable to advance the Project due to fiscal constraints; and (iii) the plan implementing the public-private partnership is justified.

- Section 3011(c)(5) limits the term of the Pilot Program from fiscal year 2006 through fiscal year 2009.

Beyond the terms set forth above, section 3011(c) states no operative criteria for implementation of the Pilot Program and is notably silent on what benefits, if any, participation in the Pilot Program would confer on a Project. However, section 3011(c) affords the Secretary broad discretion to devise or approve arrangements between government and private enterprise setting forth incentives and obligations within the framework of section 3011(c) that would demonstrate the advantages or disadvantages of PPPs as applied to eligible Projects.

Accordingly, FTA invites interested parties to comment on the following questions: (i) What, if any, operative criteria beyond those set forth in the statute should the Secretary adopt to implement the Pilot Program, and (ii) what, if any, benefits should the Secretary confer on Projects that participate in the Pilot Program? In answering these questions, interested parties should explain how such criteria and/or benefits would realize savings for Federal, State and/or local governments and otherwise improve the delivery and operation of transit infrastructure or a particular Project. Interested parties should also comment

on whether it is significant that section 3011(c) provides no special funding for the Pilot Program. In addition, FTA invites comment generally on what, if any, changes in law or new financial incentives are appropriate or necessary to promote the participation of private enterprise in the delivery and operation of transit systems.

FTA also invites interested parties to respond to other questions set forth in this notice, including questions with respect to: (i) Appropriations for eligible Projects, (ii) the National Environmental Policy Act ("NEPA"), (iii) the Common Grant Rule, (iv) the seniority of the "Federal Interest" and (v) tax-exempt financing.

Finally, FTA solicits preliminary expressions of interest from project sponsors and others concerning participation in the Pilot Program.

**B. Objective of Pilot Program**

As a matter of public policy, PPPs are justified by the view that private enterprise, when appropriately compensated for performance and the assumption of risk, can deliver goods and services for less and on better terms than the public sector. The Pilot Program will evaluate this view as applied to the procurement and operation of eligible Projects.

1. **Procurement.** FTA invites comment on whether, and on what terms, the Pilot Program should stream-line FTA's discretionary grant-making process to promote PPPs that would realize significant savings in the procurement of eligible Projects. In particular, FTA seeks comment on how its New Starts application process—notably its due diligence and NEPA components—may be altered to accelerate project delivery (and thus reduce costs) without impairing FTA's duties as a steward of Federal funds and the environment.

**Due Diligence.** Throughout the New Starts application process, FTA performs detailed due diligence on all aspects of a proposed capital project, including reviewing ridership projections, cost estimates, forecasts of cash flows and financing capacity as well as evaluating State and local political commitments to provide the "local share" of funding for the project. Because in many cases FTA (and by implication, the Nation's taxpayers) bear substantial economic risk with respect to the New Starts share that the project will experience cost overruns or delays or fail to realize projected travel travel-time savings ("Taxpayer Risk"), FTA's exhaustive due diligence attempts to minimize Taxpayer Risk at the planning and development stages of the project. Other than FTA's own due diligence,

there are no devices currently contemplated by the New Starts process that may be substituted for FTA's due diligence to reduce Taxpayer Risk in a way that would shorten the application process and realize savings for project sponsors. FTA believes, however, that such benefits may be achieved through arrangements typical of PPPs, notably the agreement of private enterprise to assume certain project risks in exchange for the opportunity to earn financial returns commensurate with the risks assumed. In practice, these arrangements include "design-build" agreements, equity investments by private contractors and other risk-shifting or risk-reducing devices customary in private sector project development transactions. FTA invites comment on whether and to what extent the Pilot Program should take into account, for purposes of determining the level of FTA's due diligence, the quality of construction and service warranties, the amount and risk of equity investments, the availability of legal and other professional opinions and the use and terms of indemnities, escrows and other devices that might reduce or shift Taxpayer Risk.

*NEPA.* It is axiomatic that a Federal agency and project sponsor must conduct an objective evaluation of the alternatives under study in a NEPA document, including the "no-action" alternative. To reduce Taxpayer Risk of third-party challenge to projects under NEPA (and to comply with regulations of the Council on Environmental Quality set forth at 40 CFR 1506.1), FTA generally prohibits project sponsors from taking any action that would advance any particular "build" alternative under study prior to the issuance of a Record of Decision ("ROD"). In design-build contracting, however, there may be good reasons to allow a sponsor to engage a single firm to conduct preliminary engineering and final design prior to the issuance of a ROD, including time savings, economies-of-scale, continuity of expertise and avoidance of multiple contracting. FTA invites comment on whether, and the extent to which, the Pilot Program should permit acquisition of engineering and design services prior to the issuance of a ROD. FTA invites comment, in particular, on whether the Pilot Program should adopt procedures with the same or similar effects as those described in 23 U.S.C. 112(b)(3)(D), as amended by section 1503 of SAFETEA-LU, concerning design-build contracts. If so, pursuant to what statutory authority would the Pilot Program adopt such procedures?

Likewise, to reduce their costs as far possible, project sponsors located in inflationary real estate markets may seek to acquire rights-of-way and parcels of land prior to the issuance of a ROD for reasons of "hardship" or "protective purposes," as permitted by the Categorical Exclusion set forth at 23 CFR 771.117(d)(12). FTA invites comment on how the Pilot Program should construe the Categorical Exclusion to realize savings for project sponsors in connection with the acquisition of rights-of-way and parcels of land. In responding to the question, interested parties who propose an expansive construction of the Categorical Exclusion should explain why, if adopted by FTA, it would not materially increase Taxpayer Risk of legal challenge to an eligible Project.

Occasionally, a change in project scope after the issuance of a ROD may trigger the requirement for supplemental NEPA study, which could delay or even thwart a project under a public-private partnership. FTA invites comment on whether and how the Pilot Program should address NEPA to anticipate changes in project scope.

*2. Operation.* FTA invites comment on whether, and on what terms, the Pilot Program should provide grants for eligible Projects contemplated by long-term operation or concession agreements with private enterprise.

In the United States, the operation of transit facilities currently depends on significant State and local subsidies. FTA invites comment on how the Pilot Program might encourage transit systems to enter into PPPs that would reduce the amount of subsidy needed to operate a transit system. In particular, where a concession to operate a transit system requires by its terms a capital improvement, should the Pilot Program make available a grant to support such capital improvement in the event that improvement qualifies as an eligible Project?

#### **C. Common Grant Rule**

FTA interprets 49 CFR 18.25 (the "Common Grant Rule") to require that income to a Federal grantee generated by a federally-funded asset ("Program Income") must be used by the grantee to reduce program costs, unless an alternative use of Program Income contemplated by the Common Grant Rule is authorized by regulation or agreement with the grantee. FTA invites comment on the extent to which the Pilot Program should authorize the use of Program Income to support a PPP that sponsors an eligible Project.

#### **D. Seniority of the Federal Interest**

FTA generally requires that any Federal funds used by a recipient to acquire an asset—the so-called "Federal Interest"—be repaid in priority to all other claims with respect to that asset upon disposition. However, FTA has permitted the subordination of the Federal Interest and waived the requirement of repayment upon disposition, so long as such subordination or disposition was for an eligible transit purpose and the asset remained under the recipient's "effective continuing control." FTA invites comment on the degree to which this flexibility would be useful in structuring a PPP.

In addition, 49 CFR part 640 refers expressly to the Transportation Infrastructure Financing and Innovation Act ("TIFIA"), which permits the subordination of the Federal Interest under certain conditions. FTA seeks comment on the extent to which loans, loan guarantees and other credit enhancing devices available under TIFIA might be used to facilitate the financing of an eligible Project.

#### **E. Tax-Exempt Financing**

Under section 142 of the Internal Revenue Code, certain public transportation projects are eligible for tax-exempt financing using private activity bonds ("PABs"). Additionally, under section 11143 of SAFETEA-LU, public transportation projects may be eligible to use private activity bonds not subject to State population-based bond issuance limits ("new PABs"). FTA seeks comment on the extent to which PABs or new PABs might assist in financing an eligible Project.

#### **F. Preliminary Expressions of Interest**

FTA is interested in receiving preliminary expressions of interest from project sponsors and others concerning participation in the Pilot Program. Preliminary expressions of interest should address the criteria set forth in sections 3011(c)(3) and (4) of SAFETEA-LU, and should be submitted to FTA on or before June 1, 2006. FTA intends to respond by July 15, 2006 to submissions that are timely filed. Depending on the response to the issues raised above and the number and nature of project proposals received, FTA may ask for additional detail from those submitting preliminary expressions of interest. Following FTA's establishment of the Pilot Program, FTA expects to issue a separate notice requesting formal proposals for participation in the Pilot Program.

Issued on March 16, 2006.  
**Sandra K. Bushue,**  
*Deputy Administrator.*  
 [FR Doc. 06-2744 Filed 3-21-06; 8:45 am]  
**BILLING CODE 4910-57-M**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration, DOT.

**ACTION:** List of applications for modification of special permit.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart

B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. There applications have been separated from the new applications for special permits to facilitate processing.

**DATES:** Comments must be received on or before April 6, 1006.

**ADDRESSES:** *Address Comments to:* Record Center, Pipeline and Hazardous Materials Safety Administration, U.S.

Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FUTHER INFORMATION CONTACT:**

Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington DC, or at <http://dms.dot.gov>.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 16, 2006.

**R. Ryan Posten,**

*Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.*

**MODIFICATION SPECIAL PERMITS**

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of special permit	Nature of special permit thereof
7605-M .....	.....	Lockheed Martin Aeronautics Company, Fort Worth, TX.	49 CFR 173.62; 175.3; 176.83; 177.848.	7605	To modify the special permit to authorize additional Division 1.4S materials, and to authorize additional non-DOT specification packaging.
10481-M .....	.....	M-1 Engineering Limited, Bradford, West Yorkshire.	49 CFR 172.203; 173.318; 173.320; 178.338; 176.30; 176.76(h).	10481	To modify the special permit to authorize additional Division 2.2 materials and different design pressures.
10677-M .....	.....	Primus AB SE-171 26 Solna.	49 CFR 173.304(d)(3)(ii).	10677	To modify the special permit to authorize additional non-DOT specification packaging.
11691-M .....	.....	Coca-Cola Company, The, Atlanta, GA.	49 CFR 176.83(d); 176.331; 176.800(a).	11691	To modify the special permit to provide segregation relief for certain Class 8 corrosive materials in combination with other readily combustible materials as defined in § 176.2 of the Hazardous Materials Regulations.
11911-M .....	.....	Transfer Flow, Inc., Chico, CA.	49 CFR 177.834 .....	11911	To modify the special permit to remove the requirement that hoses are not allowed to be attached to discharge outlets during transportation.
14205-M .....	.....	The Clorox Company, Pleasanton, CA.	49 CFR 173.306(a)(1) and 173.306(a)(3)(v).	14205	To modify the special permit to authorize alternative testing requirements, increase lot size, eliminate the requirement to carry a copy of the permit on motor vehicles and to change the proper shipping name to Consumer Commodity, ORM-D.
14292-M .....	.....	Honeywell International Inc., Morristown, NJ.	49 CFR 173.301(d)(2); 173.302(a)(3).	14292	To reissue the special permit originally issued on an emergency basis to authorize the transport of boron trifluoride in DOT Specification 3AAX and 3AA manifolded cylinders.