

to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval by OMB. 44 U.S.C. § 3506(c)(2)(A); 5 CFR §§ 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A)(i)-(iv); 5 CFR § 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection

requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below is a brief summary of proposed new information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Trespasser Death Study.

OMB Control Number: 2130-New.

Abstract: Trespasser deaths on railroad rights-of-way and other railroad property are the leading cause of fatalities attributable to railroad operations in the United States. In order to address this serious issue, interest groups, the railroad industry, and governments (Federal, State, and Local) must know more about the individuals who trespass. With such knowledge, specific educational programs, materials, and messages regarding the hazards and consequences of trespassing on railroad property can be developed and effectively distributed. Since currently available data are lacking in demographic detail, FRA proposes to conduct a study (using a private contractor) to obtain demographic data from local County Medical Examiners so as to develop a general, regional profile of "typical" trespassers in order to target audiences with appropriate education and enforcement campaigns that will reduce the annual number of injuries and fatalities.

Form Number(s): FRA F 6180.117.

Affected Public: County (Regional) Medical Examiners/Coroners.

Respondent Universe: 100 County (Regional) Medical Examiners/Coroners.

Frequency of Submission: On occasion.

Estimated Annual Burden: 125 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC on May 12, 2004.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Implementation of Section 176 of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199, Division F)

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information and instructions to grantees on the implementation of section 176 of the Consolidated Appropriations Act, 2004, (Pub. L. 108-199, Division F). Section 176 amends section 3027(c)(3) of TEA-21 to allow for operating assistance under 49 U.S.C. 5307. This assistance is available to a transit provider of services exclusively for elderly persons and persons with disabilities and that operate 25 or fewer vehicles in an urbanized area with a population of at least 200,000.

DATES: A letter of intent to apply for operating assistance under section 176 must be received by the appropriate FTA Regional Office on or before June 16, 2004. FTA will make a determination of the amount eligible applicants may use for operating assistance on or before July 16, 2004.

ADDRESSES: Addresses of the ten FTA Regional Offices are listed at the end of this notice in Appendix A.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator or Mary Martha Churchman, Director, Office of Resource Management and State Programs, (202) 366-2053.

SUPPLEMENTARY INFORMATION: Generally, operating assistance is not an eligible cost for recipients of Urbanized Area Formula (49 U.S.C. 5307) funds in an urbanized area (UZA) with a population of 200,000 or more. Section 360 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105-277), amended section 3027(c) of TEA-21 by adding paragraph (3), which allows for an exception to this restriction on operating assistance and provides that FTA may allow certain recipients of section 5307 funds in such areas that provide service for elderly persons and persons with disabilities, with 20 or fewer vehicles, to use a portion of their section 5307 funds for operating assistance. Section 341 of the Fiscal Year (FY) 2001 DOT Appropriations Act (Pub. L. 106-346), subsequently amended section 3027(c)(3) of TEA-21 by increasing the amount of available funding under section 3027(c)(3) of TEA-21 from \$1,000,000 to \$1,444,000.

Section 176 of the Consolidated Appropriations Act, 2004, further amends section 3027(c)(3) of TEA-21, as amended, for FY 2004. The two principal changes set forth in the language of section 176 are: (1) The number of vehicles an eligible transit provider may operate is 25 or fewer; and (2) the total amount of funding available for assistance to all entities may not exceed \$10 million. Previously, only four Texas grantees were eligible; but we believe additional grantees may be eligible under this amendment. All grantees wishing to use section 176, including those previously identified as eligible, must meet the criteria listed below and are asked to send letters of intent to the appropriate FTA Regional Office.

Criteria

The criteria by which FTA will allow eligibility for Federal transit operating assistance under the provisions of section 176 of the Consolidated Appropriations Act, 2004, are as follows:

1. The only transit service the operator provides is demand-responsive service for elderly persons and/or persons with disabilities. Such service does not include service for the general public.
2. The number of demand-responsive vehicles, operated in maximum service, is 25 or fewer.
3. The operator provides the demand-responsive service in a UZA with a population of 200,000 or more.
4. The demand-responsive service provided is not ADA paratransit service complementary to fixed-route service.
5. Neither fixed-route nor ADA-related paratransit service complementary to fixed-route service is provided in the service areas served by the demand-responsive service for which Federal transit operating assistance will be requested.
6. The Metropolitan Planning Organization concurs in the use of operating assistance for a portion of the urbanized area's section 5307 apportionment.

Calculation

After determining a transit provider's eligibility to use section 5307 funds for operating assistance, and taking into account the total amounts of Federal transit operating assistance being requested, FTA will determine the amount for which the recipient is eligible. The grantee/transit operator may not apply for and will not receive more than 50 percent of its net cost for operating expenses for the local fiscal

year for which operating assistance is requested.

If the total amount requested by all eligible recipients under section 176 is greater than \$10 million, FTA will calculate the amount allowable to each eligible recipient on a pro-rated basis to all of the eligible recipients requesting assistance under section 176.

FTA Grant Application Requirements

All of the normal FTA grant requirements regarding Federal transit operating assistance apply, as described in Appendix D of FTA Circular 9030.1C, "Urbanized Area Formula Program: Grant Application Instructions," dated October 1, 1998. Understanding that amendments to Transportation Improvement Programs (TIP) and State Transportation Improvement Programs (STIP) will have to be made, FTA will not require that the funds be programmed in a TIP before the letter of intent is received. However, use of the funds under section 176 must be programmed in an approved TIP and an approved STIP before FTA can obligate funds.

Letter of Intent

The letter of intent, which must be received by the appropriate FTA Regional Office on or before June 16, 2004, should address the following:

1. Each criterion of eligibility listed.
2. The amount of FY 2004 funds requested for Federal transit operating assistance. Such amount may not be greater than 50 percent of the grant recipient's net cost for operating expenses for the local fiscal year for which operating assistance is requested. After eligibility and funding determinations have been made, FTA will notify all transit providers/grantees that submitted letters of intent of their eligibility status and the amount of funding they may apply for. Please contact the appropriate FTA Regional Office for additional information or guidance if you intend to make use of this provision.

Issued on: May 11, 2004.

Jennifer L. Dorn,
Administrator.

Appendix A—FTA Regional Offices

- Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142-1093, Tel. 617 494-2055
- Region 2—New York, One Bowling Green, Room 429, New York, NY 10004-1415, Tel. No. 212 668-2170
- Region 3—Philadelphia 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124, Tel. 215 656-7100
- Region 4—Atlanta, Atlanta Federal Center, Suite 17T50, 61 Forsyth Street SW, Atlanta, GA 30303, Tel. 404 562-3500

- Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312 353-2789
- Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817 978-0550
- Region 7—Kansas City, MO 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816 329-3920
- Region 8—Denver, Columbine Place, 216 16th Street, Suite 650, Denver, CO 80202-5120, Tel. 303 844-3242
- Region 9—San Francisco, 201 Mission Street, Room 2210, San Francisco, CA 94105-1926, Tel. 415 744-3133
- Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174-1002, Tel. 206 220-7954

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 282 (Sub-No. 20)]

Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights

AGENCY: Surface Transportation Board, DoT.

ACTION: Notice; amendment of final decision.

SUMMARY: By decision served on May 23, 2003, the Board amended its rules at 49 CFR part 1180 to adopt a new class exemption for trackage rights proposals that are limited to overhead operations and which expire on a date certain, not to exceed 1 year from the effective date of the exemption. The final rule was published in the **Federal Register** on May 23, 2003, 68 FR 28139-40. In the final decision, the Board stated that approval of temporary trackage rights agreements under 49 U.S.C. 11323 must include the employee protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), *aff'd sub nom. Railway Labor Executives' Ass'n v. United States*, 675 F.2d 1248 (D.C. Cir. 1982) (*Norfolk and Western* conditions). In accordance with a recent decision of the United States Court of Appeals for the District of Columbia in *United Transportation Union—General Committee of Adjustment (GO-386) v. Surface Transportation Board*, 363 F.3d 465 (D.C. Cir. 2004), the Board now amends its final decision to require not only the imposition of the *Norfolk and Western* conditions on the acquisition of temporary trackage rights under the new rule, but also the imposition of the