

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary of Transportation**

[Docket No. OST-2005-23418]

**Applications for Authority for Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities****AGENCIES:** Office of the Secretary of Transportation (OST), DOT.**ACTION:** Notice of solicitation for requests for allocations of tax-exempt financing and request for comments.

**SUMMARY:** Section 11143 of Title XI of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users amends the Internal Revenue Code by creating a new class of tax-exempt facility bonds for qualified highway and surface freight transfer facilities. The law limits the total amount of such bonds to \$15 billion and directs the Secretary of Transportation to allocate this amount among qualified facilities. This notice solicits requests for such allocations from interested entities that meet the statutory requirements. The Department also requests comments from the public that it may consider in its application of the authority provided by Section 11143.

**DATES:** Comments may be submitted at any time and will be considered as appropriate whenever they are submitted.

**ADDRESSES:** *Comments:* To make sure your comments and related material are not entered more than once in the docket, please submit them identified by docket number OST-2005-23418 by only one of the following means:

(1) *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the electronic docket site.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Dockets Management Facility, U.S. Department of Transportation, M-30, Room PL-401, 400 Seventh Street SW., Washington, DC 20590.

(4) *Hand Delivery:* 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 include the agency name and docket number of this notice. Due to security procedures in effect since October 2001 on mail deliveries, mail received through the Postal Service may be subject to delays. Commenters should consider using an express mail firm to ensure the prompt filing of any

comments not submitted electronically or by hand. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Analysis and Notices.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to 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.

*Applications:* Mr. Jack Bennett, Office of the Assistant Secretary for Transportation Policy, Office of Economic and Strategic Analysis (P-20), Room 10305-E, 400 Seventh Street SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jack Bennett, U.S. Department of Transportation, Office of the Assistant Secretary for Transportation Policy, Office of Economic and Strategic Analysis (P-20), 400 Seventh Street SW., Washington, DC 20590; (202) 366-6222.

**SUPPLEMENTARY INFORMATION:****A. Statutory Background**

Section 11143 of Title XI of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law Number 109-59, 119 Stat. 1144 (Aug. 10, 2005) (the Act), amends § 142 of title 26, United States Code (hereinafter referred to as the Internal Revenue Code or the Code) by adding sections 142(a)(15) and 142(m). These amendments create a new class of tax-exempt financing for qualified highway or surface freight transfer facilities. The law limits the amount of tax-exempt financing available under this provision to \$15 billion nationally and charges the Secretary of Transportation with allocating this \$15 billion among qualified facilities. The relevant statutory provisions of the Code include:

- Section 103(a) of the Code provides that, except as provided in section 103(b), gross income does not include interest on any State or local bond.

- Section 103(b)(1) provides that the exclusion under section 103(a) does not apply to any private activity bond that is not a qualified bond (within the meaning of section 141).

- Section 141(e) provides that the term “qualified bond” includes an exempt facility bond that meets certain requirements.

- New section 142(a)(15) provides that the term “exempt facility bond”

includes qualified highway or surface freight transfer facilities.

- New section 142(m) defines the new class of exempt facility bonds for qualified highway or surface freight transfer facilities.

- Section 142(m)(1) defines “qualified highway or surface freight transfer facilities” as:

(A) Any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on August 10, 2005, the date of the enactment of section 142(m)),

(B) Any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under title 23, United States Code (as so in effect), or

(C) Any facility for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under title 23 or title 49, United States Code (as so in effect).

Examples of intermodal freight transfer facilities for the transfer of freight from truck to rail or rail to truck include cranes, loading docks, and computer-controlled equipment that are integral to such freight transfers. Examples of facilities that are not freight transfer facilities include lodging, retail, industrial, or manufacturing facilities, except to the extent that such facilities also include freight transfer activities.

- Section 142(m)(2)(A) provides a \$15,000,000,000 national limitation on the aggregate amount of tax-exempt financing for qualified highway or surface freight transfer facilities allocated by the Secretary.

- Section 142(m)(2)(B) provides that an issue shall not be treated as an issue described in section 142(a)(15) for a qualified highway or surface freight transfer facility if the aggregate face amount of bonds issued pursuant to such issue for any qualified highway or surface freight transfer facility (when added to the aggregate face amount of bonds previously so issued for such facility) exceeds the amount allocated to such facility by the Secretary of Transportation under section 142(m)(2)(C).

- Section 142(m)(2)(C) provides that the Secretary of Transportation shall allocate the \$15,000,000,000 national limitation among qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate.

- Section 142(m)(3) provides that an issue shall not be treated as an issue described in section 142(a)(15) for a

qualified highway or surface freight transfer facility unless at least 95 percent of the net proceeds of the issue is expended for qualified highway or surface freight transfer facilities within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended within such 5-year period, an issue shall be treated as continuing to meet the 5-year spending requirements of section 142(m)(3) if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary of the Treasury, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.

- Section 142(m)(4) provides an exception to the volume limit in section 142(m)(2) for any bond (or series of bonds) issued to refund a bond issued under section 142(a)(15) if:

(A) The average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue (for this purpose, "average maturity" is determined in accordance with section 147(b)(2)(A)),

(B) The amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) The refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

- Section 11143(c) of SAFETEA-LU provides that exempt facility bonds described in section 142(a)(15) for qualified highway and surface freight transfer facilities are exempt from general state volume caps on private activity bonds in section 146.

## B. Applications for Allocations

Parties who wish to take advantage of the tax-exempt financing provided by Section 11143 of SAFETEA-LU are invited to apply to DOT for an allocation of this authority. Upon receipt of such an application, the Department will, after due consideration, either accept or reject the application, or communicate further with the applicant if additional information is needed to fully consider the application. The Department is not specifying any form for an application, nor is it requiring all or any of the information listed below to be included in the initial application. Nevertheless, applicants may wish to include the following information to facilitate the Department's consideration of the application:

1. *Amount of Allocation Requested.*

2. *Proposed Date of Bond Issuance.*

Provide the approximate date when it is anticipated that the tax-exempt bonds would be issued should authority to do so be allocated by the Department.

3. *Date of Inducement by the Bond Issuer.* Provide a copy of a resolution adopted in accordance with state or local law authorizing the issuance of a specific issue of obligations. The resolution may state that issuance of obligations is contingent upon receipt of an allocation from the Secretary of Transportation of a portion of the \$15,000,000,000 national limitation.

4. *Draft Bond Counsel Opinion Letter.* Provide Form of Bond Counsel Opinion or date by which a draft letter will be provided.

5. *Financing/Development Team Information.* Provide the names of the issuer of the bonds, the borrower, and any other key participants in the financing, with complete contact information, including Federal taxpayer identification numbers.

6. *Borrower Information:* For each borrower, provide the official business name, ownership and legal structure (corporation, partnership, or sole proprietorship), Federal taxpayer identification number, and prior experience as it relates to carrying out projects similar to that proposed. For the purposes of this Notice, the term "borrower" includes any borrower of the bond proceeds or any other entity responsible for re-paying the bonds.

7. *Project Description.* Describe the project as a whole and the proposed organizational and legal structure of the project (ownership, franchise or lease arrangements, etc.). Describe the portion of the project and all capital assets to be funded with the proceeds of the exempt facility bonds. If the application is for an international bridge or tunnel under section 142(m)(1)(B), the project description should include a representation that the international entity that has responsibility for the project is authorized under Federal or state law.

8. *Project Schedule.* Provide a timeline showing the estimated start and completion dates for each major phase or milestone of project development. Indicate the current status of milestones on this timeline, including all necessary permits and environmental approvals.

9. *Financial Structure.* Provide a statement of anticipated sources and uses of funds for the project, including separate line items, as applicable, for proceeds of exempt facility bonds or other borrowing, federal grants, state and local grants, other credit assistance,

and private investment. Provide a projected drawdown schedule for the use of funds, project revenue and expenses, and sources of security and repayment for the bonds.

10. *Description of Title 23/49 U.S.C. funding received by the project.* Provide the date (or anticipated date) of receipt and types and amount of financial assistance.

11. *Project Readiness.* Describe the financing/development team's capacity to undertake this project. Discuss readiness to begin the project. List all major permits and approvals necessary for construction of the project and the date, or projected date, of the receipt of such permits or approvals. Include information on engineering work, and procurement of construction.

12. *Signatures.* Applications should be signed by a duly authorized representative of the proposed issuer and a duly authorized representative of each proposed borrower. Applications may be submitted by the proposed issuer or the proposed borrower.

13. *Declarations.* Each application, including any supporting reports or other document, should include the following declaration signed by an individual who has personal knowledge of the relevant facts and circumstances: "Under penalties of perjury, I declare that I have examined this document and, to the best of my knowledge and belief, the document contains all the relevant facts relating to the document, and such facts are true, correct, and complete."

14. *Addresses.* Applications should be submitted (with 10 copies) to: Mr. Jack Bennett, U.S. Department of Transportation, Office of the Assistant Secretary for Transportation Policy, P-20, Room 10305 E, 400 7th Street SW., Washington, DC 20590.

## C. Consideration of Applications

Upon receipt, the Department will consider the application in light of applicable statutory requirements and the availability of tax-exempt authority for the type and location of the project for which the allocation is requested. If the Department needs additional information from the applicant, the Department will contact the applicant to arrange for the submission the required information.

In making application to the Department, applicants should note that there are no specific standards, beyond those set forth in applicable laws or regulation, that apply to the consideration of the applications.

The Department is particularly concerned that once it makes an allocation, tax-exempt facility bonds are

issued in timely fashion. Hence, if the schedules agreed upon in the final allocation action are not met, the allocation may be withdrawn.

#### D. Compliance With Rules Governing Qualified Private Activity Bonds

The application process described in this Notice only goes to allocation of tax-exempt financing by the Department of Transportation. All representations made as part of this application process are subject to verification on examination. In addition, except as otherwise provided in this Notice, nothing in this Notice shall be construed as overriding any requirements or limitations applicable to exempt facility bonds found in sections 103 and 141 through 150 of the Code and the applicable regulations thereunder, or affecting the ability of the IRS to examine the bond issue for compliance with those requirements or limitations.

#### E. Request for Comments

Interested parties are invited to provide comment on how the Department should exercise the allocation authority provided by Section 11143 of SAFETEA-LU. Comments may address both the process described in this notice and any other matters that the commenter believes would be useful for the Department to consider in its administration of this provision of SAFETEA-LU. This is new authority for the DOT, and the Department will be continually examining its implementation of this provision to ensure that allocations are occurring in a fair and reasonable manner, that this tax-exempt bonding authority is fully utilized, and that this financing opportunity adds to the vitality of the Nation's transportation system.

**Jeffrey N. Shane,**

*Under Secretary of Transportation for Policy.*  
[FR Doc. E5-8306 Filed 1-4-06; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Air Traffic Procedures Advisory Committee

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present

air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

**DATES:** The meeting will be held Tuesday, January 24, 2006 through Thursday, January 26, 2006, from 8 a.m. to 4:30 p.m. each day.

**ADDRESSES:** The meeting will be held at the National Aeronautics and Space Administration Aviation Safety Reporting System, 385 Moffett Park Drive, Sunnyvale, California 94089.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Kalinowski, Executive Director, ATPAC, System Operations Airspace and AIM, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9205.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, January 24, 2006 through Thursday, January 26, 2006, from 8 a.m. to 4:30 p.m. each day.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify the person listed above not later than January 18, 2006. The next quarterly meeting of the FAA ATPAC is planned to be held from April 24-26, 2006, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on December 30, 2005.

**Nancy B. Kalinowski,**

*Executive Director, Air Traffic Procedures Advisory Committee.*

[FR Doc. E5-8313 Filed 1-4-06; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-99-5748, FMCSA-99-6156, FMCSA-2001-9258, FMCSA-2003-16241]

#### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemption; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective January 3, 2006. Comments must be received on or before February 6, 2006.

**ADDRESSES:** You may submit comments by any of the following methods. Please label your comments with DOT DMS Docket Numbers FMCSA-99-5748, FMCSA-99-6156, FMCSA-2001-9258, or FMCSA-2003-16241.

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

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: 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.

All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. To read background documents or comments received, go to <http://dms.dot.gov> or to 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.