

158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 28, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: \$3.00.

Proposed charge effective date: July 1, 2005.

Proposed charge expiration date: February 1, 2008.

Total estimated PFC revenue: \$36,622,175.

Brief description of proposed project(s):

- a. Construct Deicing Materials Storage Facility.
- b. Prepare NPDES (Storm Water) Permit.
- c. Construct Storm Water Control Basin.
- d. Construct Parallel Taxiway Access Stubs.
- e. Update Airport Master Plan.
- f. Update FAR Part 150 Noise Compatibility Plan.
- g. Construct Parallel Taxiway B.
- h. Extend Connecting Taxiway R.
- i. Rehabilitate and Extend Airport Service (Tug) Roads.
- j. Remove Abandoned Runway 5L/23R Pavement.
- k. Construct Parallel Taxiway N.
- l. Construct High Speed Taxiway Exit to Taxiway N.
- m. Update Environmental Assessment.
- n. Construct Hush House.
- o. Purchase Snow Removal Equipment.
- p. Construct International Arrivals Gate.
- q. Complete Airport Perimeter Road Connection.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Indianapolis International Airport, 5th Floor Administration Office.

Issued in Des Plaines, Illinois on September 24, 1996.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96-25130 Filed 10-1-96; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. MC-96-45]

Winter Home Heating Oil Delivery State Flexibility Program; Hours of Service

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; Request for comment.

SUMMARY: The FHWA is requesting comments on the development and implementation of a Winter Home Heating Oil Delivery State Flexibility Program (Heating Oil Program) for motor carriers making intrastate home heating oil deliveries within a 100 air-mile radius of a central terminal or distribution point. As mandated by the National Highway System Designation Act of 1995 (NHS Act), the FHWA must select up to 5 States to participate. These States would permit drivers of commercial motor vehicles (CMVs) making intrastate home heating oil deliveries to end any period of 7 or 8 consecutive days with the beginning of an off-duty period of 24 or more consecutive hours. The program will begin November 1, 1996, and end April 30, 1997.

DATES: Comments must be received on or before November 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Nathan C. Root, Office of Motor Carrier Research and Standards, (202) 366-8759, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, DOT, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

I. The NHS Act of 1995

Section 346 of the National Highway System Designation Act of 1995 (Pub. L. 104-59, 109 Stat. 568, 615, November 28, 1995, 49 U.S.C. 31136 note) requires the Secretary of Transportation to develop and implement a Winter Home Heating Oil Delivery State Flexibility Program (Heating Oil Program). The program would permit any period of 7 or 8 consecutive days to end for any driver who has been off-duty for a period of 24 or more consecutive hours for the purposes of determining maximum on-duty time under 49 CFR 395.3(b) for drivers of vehicles making intrastate home heating oil deliveries within 100 air-miles of a central terminal or distribution point of the delivery of such oil. The NHS Act allows the Secretary to approve up to 5

States to participate in the program during the winter heating season beginning November 1, 1996, without jeopardizing Motor Carrier Safety Assistance Program (MCSAP) funding to those States. The participating States would have to meet criteria set forth in the NHS Act. This includes having a substantial number of citizens relying upon home heating oil, indicating the current hours-of-service regulations may endanger the welfare of these citizens by impeding timely deliveries of home heating oil, and ensuring that participating motor carriers maintain a level of safety equal to or greater than that produced by compliance with the current regulations through proper monitoring of their safety performance and reporting their performance to the FHWA.

Under the Heating Oil Program, the States will limit participation to those motor carriers with CMVs that make intrastate home heating oil deliveries within a 100 air-mile radius of a central terminal or distribution point. The relief provided by the program will be effective for 15-day or 30-day increments during the period from November 1, 1996 to April 30, 1997. Participating States must submit a plan to the FHWA describing the conditions of eligibility for participating carriers and the means the State will employ to monitor performance, mitigate safety risks, and evaluate the merits of the program. Each State would accept responsibility for monitoring the performance of the motor carriers it determines to be eligible and for enforcing the conditions it imposes.

Participating States will allow drivers making intrastate home heating oil deliveries within 100 air-miles of a central terminal or distribution point to end any period of 7 or 8 consecutive days after having been off-duty for a period of 24 or more consecutive hours for the purposes of determining maximum on-duty time under 49 CFR 395.3(b), or the equivalent State requirement. This will effectively allow drivers and motor carriers to "restart" calculations for the 60-hour and 70-hour rules after an off-duty period of 24 or more consecutive hours. This concept is commonly referred to as a "24-hour restart."

The NHS Act directs the FHWA to initiate a rulemaking within 90 days after completion of the program to determine, based in part on the results of the program, whether granting waivers of the hours-of-service regulations to motor carriers of home heating oil within the borders of a State, or to amend the hours-of-service regulations to provide flexibility to

motor carriers delivering home heating oil during winter periods of peak demand, would be consistent with safety.

II. Hours of Service Regulations

The hours-of-service regulations are intended to provide motor carriers and drivers with a framework for ensuring driver alertness. The first hours-of-service regulations for the motor carrier industry were promulgated in the late 1930's by the Interstate Commerce Commission. The last substantive changes to the hours-of-service regulations as we know them today (the 10-hour, 15-hour, and 60/70-hour rules) occurred in the early 1960's. These rules were adopted by the FHWA in 1966 when the Congress created the Department of Transportation. Currently, drivers may not drive more than 10 hours following 8 consecutive hours off-duty, nor may drivers drive for any period after having been on-duty 15 hours following 8 consecutive hours off-duty. These are the 10-hour and 15-hour rules. For motor carriers that *do not* operate CMVs every day of the week, drivers may not drive after having been on-duty 60 hours in any 7 consecutive days. For motor carriers that *do* operate CMVs every day of the week, their drivers may not drive after having been on-duty 70 hours in any period of 8 consecutive days. The 70-hour motor carriers may, at their option, designate drivers that do not operate every day of the week to utilize the 60-hour rule instead. These are the 60/70-hour rules.

The Federal Motor Carrier Safety Regulations (FMCSRs) generally serve to increase the safety of all classes of motor carriers and CMV operators. However, during the winter months, home heating oil deliverers find it difficult to deliver an essential product in a timely manner under the current hours-of-service regulations. During the winter months, home supplies of heating oil typically run low and home heating oil deliverers are more likely to run into conflicts with the hours-of-service regulations. The same severe weather also hinders deliveries of heating oil by slowing the rate of travel for traffic in general, thereby extending the time required to make deliveries of home heating oil and aggravating hours-of-service conflicts.

III. State Flexibility

Motor Carrier Safety Assistance Program

The FMCSRs, including the hours-of-service restrictions, generally apply to interstate transportation. The Motor Carrier Safety Assistance Program (MCSAP) was established by the Congress in 1982 to encourage States to

adopt and enforce these regulations by providing grants to participating States. The intended effect is to expand the enforcement of Federal safety standards for interstate transportation and to make similar standards applicable to intrastate CMVs and drivers through compatible State regulations. The States must agree to adopt and enforce generally uniform safety regulations as a condition for the receipt of funds. The MCSAP funds are used to support salaries, equipment, and training of State enforcement officers. The data collected by the States are shared on a national basis and used by the FHWA as the basis for its safety rating, review, and enforcement programs. Through the MCSAP, the FHWA and its State partners have developed a uniform program of safety compliance and enforcement for drivers and CMVs that has brought about substantial decreases in CMV-related crashes since the program's inception.

Great strides have been made in achieving motor carrier regulation uniformity in all States. The Heating Oil Program will allow a limited number of States that depend heavily on fuel oil for residential heating to grant limited relief from the 60-hour and 70-hour rules during the winter months without jeopardizing their MCSAP funding. This relief would only apply to the intrastate delivery operations of participating motor carriers. Drivers operating in interstate commerce would not be able to participate. Some flexibility in the application of the FMCSRs to intrastate transportation is currently provided in the Tolerance Guidelines (49 CFR Part 350, Appendix C). The data gathered during this program will be used to determine whether a limited exception to the hours-of-service rules for the heating oil industry during the winter months has a significant adverse impact upon public safety.

Initiation and Termination of Heating Oil Program

The NHS Act directs the Secretary to select up to 5 States to participate in the program for an initial period of 15 days during the winter heating season. If the Secretary finds that a State's continued participation in the program has not resulted in a significant adverse impact upon public safety and is in the public interest, the Secretary shall extend the State's participation in the program for 30-day periods. Accordingly, the FHWA will require each participating State to submit a preliminary report of its evaluation of carrier performance after the initial 15 days. A State's participation in the program may be suspended at any time if: (1) The State

has not complied with any criteria established for participation in the program; (2) The motor carriers found eligible by the State are causing a significant adverse impact upon public safety; or (3) The State elects to end its participation in the program on its own initiative.

Participating States must monitor the safety performance of participating motor carriers and periodically report this information to the FHWA. The FHWA may suspend the program in any individual State where the motor carriers in the program are causing a significant adverse impact upon public safety. Such a determination may be made at any time during the program. Each participating State would similarly suspend program involvement of motor carriers that fail to continue to meet certain safety levels *at any time* during the program. Each State will need to determine what safety levels motor carriers must maintain to continue operating under this program.

Given the fact that program participation may be suspended at any time during the program for individual carriers or for an entire State, the FHWA requests comment on the requirement that extensions be granted to the States every 30 days. How burdensome would this process be? Is there any value added to the program or to public safety by requiring extensions be granted every 30 days for States to continue administering regulatory relief to program carriers?

Safety Performance Monitoring Activities

Participating States must monitor and evaluate the performance of motor carriers involved in this program. Each State should be able to present data indicating any changes in safety levels of participating motor carriers at the end of the initial 15-day period, at the end of each 30-day period, and at the completion of the program. These evaluations may be accomplished by comparing safety performance levels of the motor carrier during the program to past performance in the previous winter(s), safety performance of other similar industries during the same period, or by using a study control group among the participating motor carriers. Any other method of producing a reliable and accurate evaluation of performance during the waived period may be used. Each participating State must indicate the method(s) that will be used to monitor and evaluate safety performance when they apply to the FHWA to participate in the program.

IV. State Participation

The NHS Act directs the Secretary to approve a State for participation in the Heating Oil Program only if the State's application demonstrates the following:

1. A substantial number of the citizens of the State must rely on home heating oil for heat during winter months;

2. The current maximum on-duty time regulations may endanger the welfare of the State's citizens by impeding timely delivery of home heating oil;

3. The level of safety with respect to home heating oil deliveries will be equal to or greater than the level of safety resulting from compliance with the current hours-of-service regulations under 49 CFR 395.3(b);

4. The State agrees to monitor the safety of home heating oil deliveries while participating in the program and issue program status reports to the FHWA on a periodic basis to be defined in an agreement with the FHWA;

5. The home heating oil carriers covered by the program will agree to make all safety data required as a condition of participation available to the State and the FHWA;

6. The participating motor carriers must meet the eligibility criteria indicated below in Section VI (Motor Carrier Eligibility).

Pilot programs of this nature are ideally comprised of States

representative of the various regions of the U.S. However, the single most limiting criteria from the NHS Act is the first: a substantial number of the citizens of the State must rely on home heating oil for heat during winter months. For the purposes of the Heating Oil Program, the FHWA proposes to define "a substantial number of citizens relying on home heating oil" to be at least 20% of the households in a State relying on home heating oil. The FHWA believes less than 20%, or one out of every five households in a State relying on home heating oil, would not qualify as substantial. The FHWA welcomes comments upon this level being used to define a "substantial number of citizens relying on home heating oil."

The Energy Information Administration of the U.S. Department of Commerce published a document entitled *Fuel Oil and Kerosene Sales 1994*, which reports the number of gallons sold to residential consumers in each State. The U.S. Census Bureau has documented numbers of persons and households for each State. The Consumer Energy Council of America Research Foundation (the Council) also published a technical support document for a consumer decision-making guide on fuel switching and home energy conservation (revised January 31, 1994). In this document, the Council estimated

that an average low efficiency house consumes approximately 857 gallons of heating oil per year (120 million BTU). The Council also estimated an average high efficiency house consumes approximately 607 gallons per year (85 million BTU). Sales data for 1994 showing total gallons of fuel oil sold for residential consumption by State, divided by these two heating oil consumption figures, provides upper and lower boundaries for the estimated number of households per State that rely upon heating oil. An approximate percentage of homes that depend upon heating oil may be derived by comparing this data with 1990 U.S. Census data reporting the total number of households per State.

The table below shows calculations for the States with the highest volume of fuel oil sales to residential consumers. A copy of the documents referred to above will be placed in the public docket MC-96-45 for review. A copy of the document *Fuel Oil and Kerosene Sales 1994* (September 1995; GPO Stock No.: 061-003-00928-0) may also be obtained from the Government Printing Office at (202) 512-1800. Data from the U.S. Census may be obtained from the U.S. Census Bureau's *1990 Census Lookup*, accessible via the internet at <http://venus.census.gov/cdrom/lookup> on the World Wide Web.

State	1,000s gallons sold to residential consumers 1994 data	1990 Census: # Households	Estimated households depending on heating oil, 1994 (to nearest 100)	Estimated households depending on heating oil (percent)
ME	236,631	465,729	276,000-390,000	59-84
CT	526,930	1,203,243	615,000-868,000	51-72
VT	90,930	210,633	106,000-150,000	50-71
RI	147,504	377,080	172,000-243,000	46-64
NH	159,963	411,387	187,000-264,000	45-64
MA	828,893	2,244,406	967,000-1,366,000	43-61
NJ	517,534	2,794,316	604,000-852,000	22-31
PA	830,250	4,492,958	969,000-1,368,000	22-30
NY	1,122,298	6,634,434	1,310,000-1,849,000	20-28
WI	201,247	1,824,252	235,000-332,000	13-18
VA	206,078	2,294,722	241,000-340,000	11-15
MN	141,937	1,648,825	166,000-234,000	10-14
NC	136,622	2,517,098	159,000-225,000	6-9
OH	205,280	4,089,312	240,000-338,000	6-8
MI	169,100	3,424,122	197,000-279,000	6-8

Based upon this data, the FHWA estimates that less than 20% of the households of any State outside the Northeast region depend on home heating oil. Participating States would therefore be limited to the Northeast region. The FHWA has already received letters of interest from New Jersey, New York, and Pennsylvania in advance of this notice. The FHWA invites these

States and others to comment upon the criteria proposed for State participation.

V. State Application

States that meet the eligibility criteria and wish to participate must submit an application to the FHWA that includes an implementation plan describing the conditions of eligibility for a motor carrier to participate. Applications should be sent during the comment

period, or as soon as possible after the comment period has closed, to the USDOT/FHWA, Office of Motor Carrier Research and Standards, 400 Seventh Street, SW., Washington D.C. 20590, Attention: HCS-10. The minimum conditions stated in Section VI (Motor Carrier Eligibility) must be met and may be expanded upon. The plan must also include the means a State will employ to monitor performance of participating

carriers, mitigate safety risks, and evaluate the merits of the program in their State. As part of the implementation plan, each State would accept responsibility for monitoring the performance of the motor carriers it determines to be eligible and for enforcing the conditions it imposes.

The proposed implementation plan requirements meet the conditions imposed by the NHS Act, in that States would be required to ensure a level of safety for home heating oil deliveries equal to or greater than the level of safety resulting from compliance with the current 60-hour and 70-hour rules. The States would also be required to monitor the safety of home heating oil deliveries while participating in the program. The FHWA welcomes any comments on the appropriateness, suitability, or burden of these requirements.

VI. Motor Carrier Eligibility

To be eligible for participation, a motor carrier would have to be actively engaged in making intrastate deliveries of home heating oil within a 100 air-mile radius of a central terminal or distribution point. Additionally, a motor carrier could not have a current safety rating of "Unsatisfactory" assigned by the FHWA, or a State-assigned equivalent rating. Participating States would be allowed to establish any additional criteria for participation.

VII. Final Evaluation of the Program

The NHS Act requires the FHWA to conduct an evaluation at the conclusion of the program. The principal objective of the evaluation is to provide input to a zero-based review of the need for, and the cost and benefits of, the hours-of-service regulations as they apply to home heating oil delivery operations during the winter months. The NHS Act requires the FHWA to initiate rulemaking to determine, based in part upon the results of the program, whether to continue State-granted waivers of the hours-of-service regulations to motor carriers transporting home heating oil during the winter months, or to amend the hours-of-service regulations to provide flexibility to motor carriers delivering home heating oil during winter periods of peak demand.

VIII. Conclusion

After the FHWA reviews the timely comments to this Notice, it will publish a Notice of Final Determination finalizing all aspects of this Project. (23 U.S.C. 315; 49 CFR 1.48)

Issued on: September 25, 1996.
Rodney E. Slater,
Federal Highway Administrator.
[FR Doc. 96-25183 Filed 10-1-96; 8:45 am]
BILLING CODE 4910-22-P

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with 49 CFR Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Florida East Coast Railway
FRA Docket Number RSRM-96-1

The Florida East Coast Railway (FEC) seeks a waiver of compliance from 49 CFR Part 221—Rear End Marking Device—Passenger, Commuter and Freight Trains. The FEC is requesting a waiver of compliance to continue to operate trains if the rear end marking device becomes defective enroute, past West Palm Beach and Ft. Lauderdale, Florida. The stopping of trains at West Palm Beach blocks several public road crossings and is considered a dangerous area. FEC feels that time sensitive southbound trains that have an inoperative rear end marking device approaching Ft. Lauderdale should continue to Ft. Pierce, Florida. Ft. Lauderdale is a busy intermodal facility with road crossings at each end which prohibit a train movement, requiring the crew member to walk the entire length of the train.

All defective rear end marking devices would be changed at Ft. Pierce, Florida which is 57 miles north of West Palm Beach and 12½ miles south of Ft. Lauderdale.

Title 49 CFR 221.17 "Movement of Defective Equipment" states in part: (a) Whenever the marking device prescribed in this part becomes inoperative enroute, the train may be moved to the next forward location at where repairs can be made or replaced.

FEC operates 360.7 miles of freight railroad between Jacksonville and Miami, Florida. FEC maintains an Automatic Train Control (ATC) signal system that reduces the possibility for train collisions.

Interested parties are invited to participate in these proceedings by submitting written reviews, 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—RSRM-96-1, and must be submitted in triplicate to the Docket Clerk, Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 30 days from the publication 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 FRA's temporary relocation at 1120 Vermont Avenue NW., room 7051, Washington, DC 20005.

Issued in Washington, DC on September 27, 1996.

Phil Olekszyk,
Acting Associate Administrator for Safety.
[FR Doc. 96-25239 Filed 10-1-96; 8:45 am]
BILLING CODE 4910-06-P

Surface Transportation Board¹

[STB No. MC-F-20900]

Antelope Valley Bus, Inc.—Control—Desert Stage Lines, Inc.

AGENCY: Surface Transportation Board.
ACTION: Notice tentatively approving finance transaction.

SUMMARY: Antelope Valley Bus, Inc. (Antelope), has filed an application under 49 U.S.C. 14303 to acquire control of Desert Stage Lines, Inc. (Desert). Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart B. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 14303.