

of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: May 7, 2009.

Marilena Amoni,

Associate Administrator, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0106]

Petition for Declaratory Order by Fullington Trailways, LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of petition for declaratory order; request for comments.

SUMMARY: FMCSA invites all interested persons to comment on a petition submitted by Fullington Trailways, LLC (Fullington) for a declaratory order requesting that FMCSA find that certain regularly scheduled passenger bus service provided by Fullington is in interstate commerce and not subject to the jurisdiction of the Pennsylvania Public Utilities Commission.

DATES: *Initial comments* are due on or before August 3, 2009. In order to allow adequate time and notice for commenters to prepare reply comments, initial comments received after the deadline will not be considered.

Reply comments are due on or before September 2, 2009. The Agency will only consider reply comments responding directly to issues raised in the initial round of comments. Commenters may not use reply comments to raise new issues.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2009-0106, by any of the following methods. Do not submit the same comments by more than one method. However, to allow effective public participation before the comment period deadline, the Agency encourages use of the FDMS Web site that is listed first. It will provide the most efficient

and timely method of receiving and processing your comments.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Fax:** 1-202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations (M-30), Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- **Courier or in person:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this regulatory action. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Refer to the Privacy Act heading on <http://www.regulations.gov> for further information.

Public Participation: The FDMS is available 24 hours each day, 365 days each year. You can find electronic submission and retrieval help and guidelines under the "help" section of the Web site. For confirmation that FMCSA received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on-line. Copies or abstracts of all documents referenced in this notice are in the Docket No. FMCSA-2009-0106. To read background documents or comments received in the docket, go to <http://www.regulations.gov> at any time, or visit Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. All comments received before the close of business on the comment closing dates indicated above will be considered and will be available for examination in the docket at the above address. Initial comments received after the initial comment closing date will not be considered.

FOR FURTHER INFORMATION CONTACT:

Genevieve D. Sapir, (202) 366-7056, Office of the Chief Counsel (MC-CCR), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Fullington Trailways, LLC currently provides passenger bus service along various routes in Pennsylvania. Along two such routes, Lewistown to Harrisburg and

State College to Harrisburg, Fullington held intrastate authority from the Pennsylvania Public Utilities Commission (PPUC) and then subsequently obtained interstate authority along these same routes from the FMCSA. Fullington seeks to discontinue early morning service on the State College/Harrisburg route and raise rates for early morning service on the Lewistown/Harrisburg route. A regular passenger on Fullington's routes filed a complaint with the PPUC opposing these changes.

The PPUC concluded that, to the extent the State College/Harrisburg and Lewistown/Harrisburg routes were properly characterized as operations in interstate commerce under Federal law, it did not have jurisdiction over the complaint. However, the PPUC further concluded that it lacked jurisdiction to make this determination and that FMCSA had primary jurisdiction to determine whether the routes at issue were in fact interstate.

The PPUC instructed Fullington to seek a determination from FMCSA on the following three issues with respect to its State College/Harrisburg and Lewistown/Harrisburg routes: (1) Whether its operations are within the scope of its Federal operating authority; (2) whether PPUC regulation as to rates and schedules is preempted; and (3) whether Fullington's operations qualify as a "special operation" or "intrastate commuter bus operation" under 49 U.S.C. 13902.

On September 17, 2008, Fullington submitted a Petition for Declaratory Order to FMCSA seeking a determination on these issues. This Petition is available for review in the docket for this proceeding. Before making its determination on the matters raised in the Petition, the Agency invites public comment on these issues.

Issued on May 28, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9-13043 Filed 6-3-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement in Seattle, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this Notice to advise the public, Tribes, and agencies that it intends to prepare a

Second Supplemental Draft Environmental Impact Statement (SSDEIS) for a proposed highway project to replace the Alaskan Way Viaduct (SR 99) in Seattle, King County, Washington. This Notice revises a Notice of Intent for the Alaskan Way Viaduct and Seawall Replacement Project, which was published on August 3, 2005 (70 FR 44716). Furthermore, this Notice rescinds the Notice of Intent published on July 16, 2008 (73 FR 40908). The 2008 Notice of Intent anticipated the preparation of an Environmental Impact Statement that would evaluate various transportation modes and systems between the south Seattle city limits and N. 85th Street and Elliott Bay and Lake Washington, in addition to replacing the Alaskan Way Viaduct and Seawall. Rather than pursuing this more broad, multi-agency proposal, this Notice re-establishes FHWA's intent to continue the process begun with the publication of a Notice of Intent on June 22, 2001 (66 FR 33602), as revised on September 26, 2003 (68 FR 55712), and again in 2005. That process has resulted in the issuance of a Draft Environmental Impact Statement in March 2004, and a Supplemental Draft Environmental Impact Statement in July 2006. The planned SSDEIS will build on these earlier documents and the alternatives evaluated therein. However, there are some important changes to the earlier proposal. The major change is that this proposal will now consider one or more alternatives that no longer include the seawall along the Elliott Bay shoreline, known as the Alaskan Way Seawall. The Seawall was the subject of a Notice of Intent issued by the U.S. Army Corps of Engineers on March 31, 2006 (71 FR 16293). The SSDEIS will also set forth a revised Purpose and Need for the proposed project, re-evaluate previous Viaduct replacement alternatives in light of the revised Purpose and Need, and introduce and evaluate at least one new build alternative—a bored tunnel.

FOR FURTHER INFORMATION CONTACT:

Randy Everett, Major Projects Oversight Manager, Federal Highway Administration, Jackson Federal Building, 915 2nd Avenue, Room 3142, Seattle, WA 98174; telephone: (206) 220-7538; and e-mail: Randolph.Everett@dot.gov. The FHWA Washington Division's Oversight Manager's regular office hours are between 8 a.m. and 4:30 p.m. (Pacific Time).

SUPPLEMENTARY INFORMATION: FHWA, Washington State Department of Transportation (WSDOT), and the City of Seattle (City) will prepare a SSDEIS

to document the environmental consequences of alternatives for the proposed replacement of the Alaskan Way Viaduct located in downtown Seattle, King County, Washington. The intent of the proposed project is to improve public safety by replacing the existing Alaskan Way Viaduct with a transportation facility with improved earthquake resistance that provides for the efficient movement of people and goods through downtown Seattle. The Alaskan Way Viaduct is at the end of its useful life and must be replaced to protect public safety. Mobility through downtown Seattle is vital to maintaining local, regional, and statewide economic health.

In March 2004 a draft EIS was published evaluating five build alternatives; rebuild, aerial, cut and cover tunnel, bypass tunnel, and surface (<http://www.wsdot.wa.gov/Projects/Viaduct/library-environmental.htm#deis>). A supplemental draft EIS was published in July 2006 extending the project north of Battery Street Tunnel (<http://www.wsdot.wa.gov/Projects/Viaduct/library-environmental.htm#sdeis>). This document reduced the number of alternatives from five to two, a cut-and-cover tunnel and an elevated structure, based on information presented in the Draft EIS, public comments, and further study and design, and also evaluated different approaches to construction and their likely impacts.

In an advisory ballot measure in March 2007, Seattle voters rejected both a cut-and-cover tunnel and an elevated structure. The vote caused the agencies to reassess the problem of replacing the aging Viaduct, and in doing so, they hoped they would find a solution that had not yet emerged. Therefore, WSDOT, the City and King County Department of Transportation with support from FHWA took a fresh look at the transportation systems surrounding the Viaduct, and considered whether a systems-level solution could be found. Concurrently, FHWA determined the portion of the Viaduct south of King Street was an independent project. A Finding of No Significant Impact for improvements to this portion of SR 99 was published in February 2009. (<http://www.wsdot.wa.gov/Projects/Viaduct/library-environmental.htm>)

As part of the reassessment, the agencies considered improvements to SR 99, Interstate 5, Seattle streets, transit service, and transportation demand and systems management programs. An advisory group of stakeholders representing a wide range of interests was formed to provide input to the agencies. Public meetings were

also held periodically throughout the reassessment process. During the reassessment process a bored tunnel emerged as an alternative that merited further consideration.

This SSDEIS will focus on evaluating the bored tunnel alternative. In addition, other alternatives that emerged during the reassessment process will be reviewed. Further, the Purpose and Need for the project will be revised based on comments received on the previous environmental documents, and the issues that emerged during the reassessment process—providing through capacity for vehicles, avoiding extensive construction impacts, and reconnecting the waterfront with the downtown. In light of the revised Purpose and Need, previous alternatives considered will be re-evaluated. Finally, the southern terminus will be revised to connect to the Holgate to King Street project, which has completed its separate, independent environmental review, and is under construction.

DATES: Scoping meetings will be held on June 8, 2009, at Seattle City Hall, Bertha Knight Landes Room, 600 Fourth Avenue, Seattle, WA, from 5 to 7 p.m.; June 10, 2009, at Madison Middle School, 3429 45th Ave., SW., Seattle, WA from 6 to 8 p.m.; and June 11, 2009, at Leif Erikson Hall, 2245 NW. 57th St., Seattle, WA from 6 to 8 p.m. FHWA invites agencies, Tribes, and the public to comment on the process that has been conducted up to now, the revised Purpose and Need, the bored tunnel alternative, and any potentially reasonable alternatives not previously considered to replace the aging Viaduct structure.

In lieu of, or in addition to, providing comments at any of the scoping meetings, comments and questions concerning this action and the SSDEIS may be submitted to FHWA at the address provided above or provided via e-mail to SDEIS2scopingcomments@wsdot.wa.gov. FHWA requests that written comments be received by July 10, 2009.

Authority: 23 U.S.C. 771.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Randy Everett,

Major Projects Oversight Manager.

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