

accommodate petitioner's desired transmitter site. The coordinates for Channel 263C3 at Baird, Texas, are 32-23-45 North Latitude and 99-23-44 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective November 16, 1998.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97-242, adopted September 23, 1998, and released October 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 236A at Eastland and adding Channel 236C3 at Baird.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98-27354 Filed 10-9-98; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-255; RM-8960 and RM-9044]

Radio Broadcasting Services; Laramie and Rock River, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to the *Notice of Proposed Rule Making* in this

proceeding, 61 FR 67765 (December 24, 1996), this document allots Channel 254A at Laramie, Wyoming, (at reference coordinates 41-18-42 and 105-35-06) to provide an additional local radio service and as a means of resolving the mutual exclusivity between two applicants for Channel 244A at Laramie. This document also allots Channel 240A at Rock River, Wyoming (at reference coordinates 41-44-24 and 105-58-24), as its first local aural transmission service. The window period for filing applications for Channel 240A at Rock River, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this allotment will be addressed by the Commission in a subsequent order. This document terminates the proceeding.

EFFECTIVE DATE: November 16, 1998.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-255, adopted September 23, 1998, and released October 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming is amended by adding Channel 254A at Laramie, Wyoming, and Channel 240A at Rock River, Wyoming.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98-27353 Filed 10-9-98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 268

[FRA Docket No. FRA-98-4545]

RIN 2130-AB29

Magnetic Levitation Transportation Technology Deployment Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Interim final rule with request for comments.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA 21) adds a new section 322 to title 23 of the United States Code. Section 322 provides a total of \$55 million for Fiscal Years 1999 through 2001 for transportation systems employing magnetic levitation ("Maglev"). Section 322 requires FRA to establish project selection criteria, to solicit applications for funding, to select one or more projects to receive financial assistance for preconstruction planning activities and, after completion of such activities, to select one of the projects to receive financial assistance for final design, engineering, and construction activities. Section 322 authorizes—but does not appropriate—additional Federal funds of \$950 million for final design and construction of the most promising project. Section 322 provides that the portion of the project not covered by the funds provided under section 322 may be covered by any non-Federal funding sources—including private (debt and/or equity), State, local, regional, and other public or public/private entities—as well as by Federally-provided Surface Transportation Program, and Congestion Mitigation and Air Quality Improvement Program funds, and from other forms of financial assistance under TEA 21, such as loans and loan guarantees.

This Interim Final Rule creates a new part to title 49 of the Code of Federal Regulations which establishes the regulations governing financial assistance under section 322, including the project selection criteria, and solicits applications for Maglev planning grants. **DATES:** (1) This Interim Final Rule is effective October 13, 1998.

(2) Written comments concerning this rule must be filed on or before November 12, 1998.

(3) Applications for financial assistance for preconstruction planning must be received by December 31, 1998.

ADDRESSES: Written comments should refer to the docket number of this notice

and be submitted in duplicate to: DOT Central Docket Management Facility located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. All docket material will be available for inspection at this address and on the Internet at <http://dms.dot.gov>. Docket hours at the Nassif Building are Monday–Friday, 10 a.m. to 5 p.m., excluding Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

Applications for preconstruction planning financial assistance must be submitted to FRA in accordance with the provisions of this Interim Final Rule.

FOR FURTHER INFORMATION CONTACT: Neil E. Moyer, Chief—Program Development Division, FRA, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–493–6365; E-mail address: Neil.Moyer@fra.dot.gov), or Gareth Rosenau, Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mailstop 10, Washington, D.C. 20590 (telephone 202–493–6054; E-mail address: Gareth.Rosenau@fra.dot.gov).

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communication software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

What Is Maglev?

This background information covers high-speed Maglev (240 mph) and does not necessarily apply to the low-speed variations on this technology, which are covered by a separate program under 23 U.S.C. 322(i).

Maglev is an advanced transport technology in which magnetic forces lift, propel, and guide a vehicle over a specially designed guideway. Utilizing state-of-the-art electric power and control systems, this configuration reduces the need for many mechanical parts, thereby minimizing resistance

and permitting excellent acceleration, with cruising speeds on the order of 240 mph or more. This high performance would enable Maglev to provide air-competitive trip times at longer trip distances than other high-speed ground transportation (HSGT) options. Germany has a Maglev technology ready for commercial use and planned for application in the Berlin-Hamburg corridor; Japan has a technologically different system under test. In the more than three decades since passage of the HSGT Act of 1965, a number of Maglev system concepts have undergone varying degrees of research and development in the United States, under private or governmental auspices. There are no Maglev systems currently operating in commercial transportation service.

Maglev Deployment Program Under 23 U.S.C. 322

Multi-Stage Competition

Section 1218(a) of TEA 21, Pub. L. 105–178, adds a new section 322 to title 23 of the United States Code. Section 322 authorizes the funding for the design, construction, and deployment of one full-scale revenue-service Maglev system, to be sponsored by a State or group of States in a private/public partnership. Section 322 bases the selection of the system to be deployed on a multi-stage competition. Initially FRA is to establish selection criteria and to solicit applications, within 180 days after the enactment of TEA 21 (which would be by December 6, 1998), for financial assistance for preconstruction planning activities. FRA may select one or more projects of those submitted to receive funding for such activities. After the completion of the preconstruction planning activities, FRA will select one of the projects to receive financial assistance for final design, engineering, and construction activities. Any decision to proceed with possible construction of the project selected after the preconstruction planning phase of the program will be contingent upon the receipt of appropriations, and upon completion of appropriate environmental documentation. The section 322 program, which is described in greater detail below, will be referred to as the “Maglev Deployment Program.”

This Interim Final Rule establishes the regulations governing financial assistance under the Maglev Deployment Program, including the project selection criteria, and solicits applications for Maglev planning grants.

Federal Funding of the Maglev Deployment Program

Section 322 provides two types of funding from the Highway Trust Fund for the Maglev Deployment Program; for purposes of this Interim Final Rule, these funds are referred to as “Federal Maglev Funds.” First, \$55 million has been made available as contract authority for Fiscal Years 1999 through 2001; this would be used to fund the competition in all its phases and could also be used for final design, engineering, and construction activities of the selected project. Of the \$55 million, the Congress has made available up to \$15 million for Fiscal Year 1999, up to \$15 million for Fiscal Year 2000, and \$25 million for Fiscal Year 2001. Second, \$950 million has been authorized to be appropriated for Fiscal Years 2000 through 2003. No guarantee exists that the Executive Branch will request, or that Congress will appropriate, the \$950 million (or any portion of that amount) to build a Maglev project. Of the \$950 million, \$200 million is authorized to be appropriated for each of Fiscal Years 2000 and 2001, \$250 million for Fiscal Year 2002, and \$300 million for Fiscal Year 2003.

Section 322 also provides that the portion of the project not covered by Federal Maglev Funds may be supported by any non-Federal funding sources—including private (debt and/or equity), State, local, regional, and other public or public/private entities—as well as by Federally-provided Surface Transportation Program (“STP”) (23 U.S.C. 133), and Congestion Mitigation and Air Quality Improvement Program (“CMAQ”) (23 U.S.C. 149) funds, and by other forms of financial assistance provided under title 23, or under TEA 21, such as loans and loan guarantees.

Standards a Maglev Project Must Meet To Be Eligible for Financial Assistance

Section 322 provides that in order to be eligible to receive financial assistance, a Maglev project shall:

- (1) Involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;
- (2) Require an amount of Federal funds for project financing that will not exceed the sum of Federal Maglev Funds, and the amounts made available by States under STP and CMAQ;
- (3) Result in an operating transportation facility that provides a revenue producing service;
- (4) Be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-

Federal funds—funds provided under STP and CMAQ qualify as non-Federal fund for purposes of the 1/3 match requirement;

(5) Satisfy applicable statewide and metropolitan planning requirements;

(6) Be approved by FRA based on an application submitted by a State or authority designated by 1 or more States;

(7) To the extent that non-United States Maglev technology is used within the United States, be carried out as a technology transfer project; and

(8) Be carried out using materials at least 70 percent of which are manufactured in the United States.

The Interim Final Rule explains these requirements in more detail.

FRA recognizes that applicants for preconstruction planning assistance will not have detailed information with respect to these requirements, and that the purpose of the preconstruction planning assistance is to develop much of this information with respect to a particular Maglev project. The preconstruction planning application requirements of the Interim Final Rule are designed to elicit whatever information an applicant may have pertaining to these requirements and to secure a commitment from the applicant that the applicant fully intends to comply with these requirements if the project is selected as the project to receive financing for final design, engineering, and construction activities.

Maglev Project Selection Criteria

Section 322 requires the agency to establish criteria for selecting which eligible projects will receive financial assistance. The criteria are required to include the extent to which—

(1) A project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of Maglev technology throughout the United States;

(2) Timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

(3) States, regions, and localities financially contribute to the project; implementation of the project will create new jobs in traditional and emerging industries;

(4) The project will augment Maglev networks identified as having partnership potential;

(5) Financial assistance will foster public and private partnerships for infrastructure development and attract private debt or equity investment;

(6) Financial assistance would foster the timely implementation of a project; and

(7) Life-cycle costs in design and engineering are considered and enhanced.

The Interim Final Rule establishes the criteria FRA will use in selecting projects to receive funding; these criteria are an elaboration of the list of requirements contained in section 322.

FRA recognizes that applicants for preconstruction planning assistance may not have detailed information with respect to each of these criteria, and that the purpose of the preconstruction planning assistance is to develop much of this information with respect to a particular Maglev project. The preconstruction planning application requirements of the Interim Final Rule are designed to elicit whatever information an applicant may have pertaining to these criteria. As previously noted, FRA will select one of the various Maglev projects that receives preconstruction planning grants to receive financing for final design, engineering, and construction activities. The project selected must meet all of the project eligibility standards contained in this Interim Final Rule. If more than one project meets these standards, FRA will evaluate and compare the eligible projects according to the project selection criteria.

Eligible Project Costs

Section 322 provides that the following project costs are eligible to be paid with Federal Maglev Funds made available under section 322: preconstruction planning activities and the capital cost of the fixed guideway infrastructure of a Maglev project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair and maintenance facilities. The costs of stations, vehicles, and equipment are not eligible project costs.

Preconstruction planning activities that are eligible to be funded under section 322 include:

(1) Preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

(2) Pricing of the final design, engineering, and construction activities proposed to be assisted; and

(3) Such other activities as are necessary to provide FRA with sufficient information to evaluate

whether a project should receive financial assistance for final design, engineering, and construction activities.

Construction Contracts Must Comply With the Davis Bacon Act

Section 322 requires that the "Prevailing Wages" requirement of the Davis Bacon Act (40 U.S.C. 276a–5) applies to construction contracts under the Maglev Deployment Program.

FRA's Outreach Efforts Regarding the Maglev Deployment Program

FRA is conducting an extensive outreach program to inform the public of the availability of funding of new and expanded programs under TEA 21, including the Maglev Deployment Program. Based on discussions to date, FRA believes that fewer than 10 States are likely to apply for financial assistance under the Maglev Deployment Program.

Initial Outreach Session

On July 23, 1998, FRA, in cooperation with the High Speed Ground Transportation Association and Amtrak, held an all day meeting to explain the TEA 21 rail-related programs to representatives of constituent interest groups at Union Station, Washington D.C. Included was a session on the Maglev Deployment Program. In conjunction with this meeting FRA made available to all participants a loose leaf notebook with information regarding each of the new programs. The Maglev information included an earlier draft of the substance of this rule, in the form of guidelines for applicants for planning grants, a "fact sheet" on the program, and the statutory language behind it. The guidelines were also published on FRA's internet web page. Part of the Maglev session included a question and answer period involving a number of interested persons attending the meeting. Attendance was about 65.

"Piggybacking" on Other DOT Outreach Meetings

Other DOT components are having similar outreach meetings on parts of TEA 21 of particular interest to them; examples are an early Federal Highway Administration-sponsored meeting with representatives of most State DOTs in Dallas, and a recent Federal Transit Administration-sponsored meeting in Harrisburg. FRA has been represented at these meetings and has briefly described the Maglev Deployment Program.

Three Other Outreach Sessions

FRA has scheduled two other meetings similar to the Union Station meeting described above. They will

each have similar Maglev components, including publication of the Interim Final Rule. The first will be held in Los Angeles on October 23. Another session is planned to be held in New Orleans. In October, 1998, FRA also plans to schedule at least one meeting specifically addressing the Maglev Deployment Program and inviting the general public as well as States known to have a particular interest and which are likely to apply for financial assistance. This session will include a focused question and answer period intended to clarify for all concerned any issues associated with the Interim Final Rule.

Why FRA Is Issuing an Interim Final Rule

This document is published as an Interim Final Rule, without prior notice and opportunity for comment. Because this regulation relates to a grant program, the requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are not applicable. Moreover, even if the notice and comment provisions of the APA did apply, the agency believes that there is good cause for finding that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and contrary to the public interest.

FRA's decision to proceed with an Interim Final Rule in this proceeding rather than a notice of proposed rulemaking was guided by several considerations. First, the enabling legislation requires the Secretary to solicit applications from States or authorities designated by one or more States within 180 days after the date of enactment of TEA 21 (June 9, 1998). This time constraint simply did not provide sufficient time for FRA to frame an approach to implementing the program, develop proposed implementing regulations, consult with interested groups, and publish draft and final regulations by December 6, 1998 (180 days after enactment). The development of appropriate implementing procedures was further complicated by Congressional consideration of TEA 21 technical corrections legislation that was ultimately adopted on July 22, 1998 (Pub. L. 105-206). The technical corrections legislation contained modifications to a number of TEA 21 programs, including the Maglev Deployment Program. FRA's decision to proceed with an Interim Final Rule was also bolstered by an extensive outreach conducted with the interested Maglev and state transportation communities. States officials and others with an

interest in Maglev development had an opportunity to receive briefings from agency officials and to review and comment on FRA's proposed approach to the application and award processes before FRA completed this Interim Final Rule.

In addition, States need the information contained in this Interim Final Rule immediately in order to determine what type of Maglev projects qualify for preconstruction planning assistance, to gather supporting information, and to begin to prepare applications immediately upon this Interim Final Rule's publication in the **Federal Register**. For all of these reasons, pursuant to 5 U.S.C. 808 (Pub. L. 104-121) (The Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act), the agency also, for good cause, finds that notice and public procedure are impracticable, unnecessary, and contrary to the public interest, and, therefore, this Interim Final Rule can be made effective upon publication.

As an Interim Final Rule, this regulation is fully in effect and binding upon its effective date. No further regulatory action by the agency is necessary to make the rule effective. However, in order to benefit from comments which interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this rule. All comments submitted in response to this Interim Final Rule, will be considered by the agency. Following the close of the comment period, the agency will publish a document responding to the comments and, if appropriate, the agency will amend the provisions of this Interim Final Rule.

Section-by-Section Analysis

Subpart A—Overview

Section 268.1 Definitions

The terms used in this part are defined; many of these definitions are taken from 23 U.S.C. 322.

Section 268.3 Different Phases of the Maglev Deployment Program

This section identifies the five different phases of this program, and FRA's projected timetable for implementing these phases. In Phase I, States will submit applications, and FRA will select projects for preconstruction planning assistance. In Phase II, financial assistance recipients will prepare and submit to FRA project descriptions and supporting preconstruction planning reports and environmental documentation (environmental assessment (EA)). After

completion of the EA, each financial assistance recipient will initiate activities aimed at preparing a site-specific draft environmental impact statement ("EIS"). In Phase III, FRA will select the one project which could ultimately be constructed, subject to appropriation of funds to cover such construction. Each recipient of financial assistance will be expected to continue to work on the site-specific draft EIS in Phase III. In Phase IV, the financial assistance recipient selected in Phase III will undertake final design and engineering work for the selected project together with completing the site-specific final EIS. Detailed agreements for the construction and operation of the project would be negotiated. The other planning grant recipients may also elect to continue their work on preparing a site-specific draft EIS and bring it to completion. In Phase V, the sponsoring State or State designated authority would oversee the efforts of the public/private partnership formed to progress the selected project, to complete the detailed engineering designs, finance, construct, equip, and operate the project in revenue service.

Section 268.5 Funding Sources for the Maglev Deployment Program

This section identifies the amounts of funding available under 23 U.S.C. 322 (referred to as "Federal Maglev Funds") to support the program. It also identifies other potential Federal funding sources. These various funding sources were outlined earlier in this document.

Section 268.7 Federal/State Share and Restrictions on the Uses of Federal Maglev Funds

This section contains the various restrictions imposed on the use of Federal Maglev Funds. First, Federal Maglev Funds may only be used for "eligible project cost." Eligible project costs include preconstruction planning activities and the capital costs of fixed guideway infrastructure of a Maglev project. Eligible project costs do not include costs incurred for Maglev stations, vehicles, and equipment; these non-eligible project costs would be part of the full project cost.

Second, the Federal share of full project costs shall be not more than $\frac{2}{3}$, with the remaining $\frac{1}{3}$ paid by the applicant using non-Federal funds. For purposes of this cost sharing arrangement, funds made available to the applicant under STP and CMAQ count as non-Federal funds. Federal funds made available to the applicant under title 23 and TEA 21 can be used to pay full project cost. To ensure that the cost sharing requirements are met,

all preconstruction planning grants will require States or designated authorities to provide a match of at least $\frac{1}{3}$ from non-Federal funds.

Third, Federal Maglev funds provided under a preconstruction planning grant may be used only for Phase II activities, and for completion of a site-specific draft EIS; see § 268.3;

Finally, the "prevailing wages" requirement of the Davis Bacon Act (40 U.S.C. 276a—276a-5) applies to any construction contracts under the Maglev Deployment Program.

Subpart B—Procedures For Financial Assistance

Section 268.9 Eligible Participants

Any State, or any authority designated by one or more State(s) to carry out the preconstruction planning activities under the Maglev Deployment Program, is eligible to participate in the Maglev Deployment Program.

Section 268.11 Project Eligibility Standards

This section identifies the standards which projects must meet to be eligible for funding under the Maglev Deployment Program. See the earlier discussion of project eligibility standards; there FRA set out the eight project eligibility standards contained in 23 U.S.C. 322. FRA recognizes that applicants for preconstruction planning assistance will not have detailed information with respect to the eight standards, and that the purpose of the preconstruction planning assistance is to develop much of this information with respect to a particular Maglev project. The preconstruction planning application requirements of the Interim Final Rule are designed to elicit whatever information an applicant may have pertaining to these requirements and to secure a commitment from the applicant that the applicant fully intends to comply with these requirements if the project is selected as the project to receive financing for final design, engineering, and construction activities.

FRA has described section 322 standards in more detail for purposes of eligibility for final design, engineering, and construction financing. These standards, and the reference to corresponding citation in section 322, are as follows:

Purpose and Significance of the Project. (1) The project description shall point to a Maglev facility and daily operation the primary purpose of which is the conduct of a revenue-producing passenger transportation service between distinct points, rather than a

service solely for the passengers' riding pleasure. (*subsection 322(d)(3), "result in an operating transportation facility that provides a revenue producing service."*)

(2) The project description shall incorporate scheduled operation at a top speed of not less than 240 mph. (*subsection 322(a)(3), definition of Maglev as "capable of safe use by the public at a speed in excess of 240 mph."*)

Benefits for the American Economy. The project description shall include a certification as to (1) and (2) below and, as appropriate, a technology acquisition/transfer plan which describes the strategy for their accomplishment.

(1) Processes will be established that will enable an American-owned and -sited firm (or firms) to gain, in the course of the project, the capability to participate in the design, manufacture, and installation of the facilities and vehicles needed for a Maglev operation, if the owner of the selected version of Maglev technology is not an American owned and -sited firm (thus meeting the technology transfer requirement of Section 322). (*subsection 322(d)(7)*)

(2) The 70 percent U.S. content provision of Section 322 (*subsection 322(d)(8)*) will be carried out.

Partnership Potential. The project shall exhibit partnership potential by satisfying all three items (1), (2), and (3) below.

(1) A private/public partnership must be in place that is ready, willing, and able to finance, construct, operate, and maintain the project; and

(2) The private/public partnership either owns the version of Maglev technology proposed to be implemented in the project, or has an agreement with the owner which affords full cooperation to the partnership in progressing the project, including implementation of the technology acquisition/transfer plan if applicable; and

(3) The recipient of a preconstruction planning grant or the FRA has developed and endorsed a projection of system capital costs, demand, revenues, operating expenses, and total costs and benefits, that—

(A) Covers either the entire corridor in which the Maglev project is involved ("Corridor"), or the project considered independently;

(B) Demonstrates that private enterprise would be able to run the Corridor or the project—once built and paid for—as a completely self-sustaining entity, in which revenues will cover operating expenses and continuing investment needs; and

(C) Shows total benefits equal to or exceeding total costs.

(*subsection 322(d)(1), "involve a segment or segments of a high-speed * * * transportation corridor that exhibit partnership potential." Under subsection 322(a)(4), Definitions, "partnership potential" is given the definition it received in the FRA report, High-Speed Ground Transportation for America, September 1997. This portion of the Interim Final Rule applies FRA's definition of "partnership potential" to the availability of funds for planning a Maglev program.*)

Funding Limits and Sources. The project description shall include a financing plan that demonstrates project completion with Federal Maglev Funds not in excess of the remaining funds from the total of \$1,005 million authorized in Section 322, and funds made available to the recipient under STP and CMAQ. At least $\frac{1}{3}$ of Full Project Costs must come from non-Federal funds; funds made available to the recipient under STP and CMAQ qualify as non-Federal funds for purposes of this cost-sharing requirement. Federal funds made available under title 23 and TEA 21 may be used to pay for full project costs. (*subsections 322(b), (d)(2) and (4), and (h)(3) and (4)*)

Project Management. The State, the technology owner, and all other relevant project partners must include in the Project Description an agreed upon—

(1) **Management plan** that defines the partnership, responsibilities, and procedures for accomplishing the project;

(2) **Project schedule** that shows how timely implementation of the project will be accomplished, including, to the extent possible, a construction plan and schedule; and

(3) **Financial plan** that shows how funds will flow, in accordance with the other project eligibility standards. (*FRA considers effective project management, making use of the minimal tools specified in this provision, as essential to the fulfillment of, and therefore implicit in, the other project eligibility standards as called for in section 322.*)

Planning/Environmental Process. (1) **Assessment of environmental consequences of the proposed project.** Recipients of preconstruction planning grants shall prepare EAs and site-specific draft EISs.

EAs shall include information to support the grantee's decision to pursue the proposed project. The grantee shall develop the information and discuss the environmental consequences of the proposed technology and route in

sufficient detail for the preparation of appropriate documentation by FRA to support selection of one project. This shall include the identification of potential positive and negative environmental effects resulting from the technology (e.g. energy consumption compared to other transportation options), generic noise emissions at various distances from the centerline of the guideway, changes in electromagnetic field levels at various distances from the centerline of the guideway, as well as environmental screening of the proposed route (e.g., identification of land use; identification of endangered species possibly present and location of their critical habitat; identification of navigable waterways, wetlands and other sensitive water resources; and identification of the location of parks, wildlife refuges, historic and archaeological sites of National, State or local significance and other sites protected by Section 4(f) of the Department of Transportation Act.). The latter information and analysis shall be submitted four months in advance of the remainder of the project description.

Site-specific draft EISs will consist of all work necessary to support selection of a preferred alignment within the proposed corridor discussed in the EA. (subsection 322(d)(5))

(2) The project description must also include letters of endorsement of project implementation from all the State departments of transportation involved, and from all Metropolitan Planning Organizations for metropolitan areas that would be served by the project.

Section 268.13 Deadline for Submission of Applications for Preconstruction Planning Assistance

Applications for preconstruction planning assistance shall be submitted to the FRA Administrator by December 31, 1998. The section identifies the address to which the applications must be sent.

Section 268.15 Form and Contents of Applications for Preconstruction Planning Assistance

This section identifies the information that must be contained in each application.

Section 268.17 Project Selection Criteria

This section identifies the project selection criteria that FRA will apply in selecting projects for financing under the Maglev Deployment Program. These criteria are based on the seven factors contained in 23 U.S.C. 322, and discussed earlier in this document. These criteria, and the reference to

corresponding citation in section 322, are as follows.

Purpose and Significance of the Project. (1) The degree to which the project description demonstrates attractiveness to travelers, as measured in passengers and passenger-miles. (subsection 322(e)(1))

(2) The extent to which implementation of the project will reduce congestion, and attendant delay costs, in other modes of transportation; will reduce emissions and/or energy consumption; or will reduce the rate of growth in needs for additional highway or airport construction. Measures for this criterion will include but not be limited to the present value of congestion reduction, pollution reduction, and/or facility cost-avoidance benefits. (subsection 322(e)(2))

(3) The degree to which the project will demonstrate the variety of operating conditions which are to be expected in the United States. (subsection 322(e)(1))

(4) The degree to which the project will augment a Maglev corridor or network that has been identified, by any State, group of States, or the FRA, as having partnership potential. (subsection 322(e)(5))

Timely Implementation. The speed with which the project can realistically be brought into full revenue service, based on the project description and on the current and projected development status of the Maglev technology selected by the applicant for the project. (The text of section 322 twice explicitly assumes "timely implementation of the project" (in subsections 322(e)(2) and (7)), and the stringent deadlines established in subsections 322(c) and (f)(1), together with the five-year authorization schedule in subsection 322(h)(1), reinforce the clear Congressional intent that the project shall be implemented in a timely manner.)

Benefits for the American Economy. The extent to which the project is expected to create new jobs in traditional and emerging industries in the United States. (subsection 322(e)(4))

Partnership Potential. The degree to which the project description demonstrates partnership potential for the corridor in which it is involved, and/or for the project independently. (subsection 322(e)(2), (3), (5), (6), and (8))

Funding Limits and Sources. (1) The extent and proportion to which States, regions, and localities commit to financially contributing to the project, both in terms of their own locally-raised, entirely non-Federal funds, and

in terms of commitments of scarce Federal resources from non-Federal Maglev funds (subsection 322(e)(3)); and

(2) The extent and proportion to which the private sector contributes financially to the project. (subsection 322(e)(6))

FRA did not set forth criteria dealing with project management and planning dealing with the environmental process. Commenters are requested to address whether criteria in these two or additional areas are needed and, if so, to provide detailed suggestions as to how such criteria should be worded.

Section 268.19 Evaluation of Applications for Preconstruction Planning Assistance

This section identifies the criteria to be used by FRA in evaluating the applications. FRA will evaluate the applications for their completeness and responsiveness to the requirements listed in § 268.15 (form and content of application). The project eligibility standards (§ 268.11) and project evaluation criteria (§ 268.17) will guide the FRA's review of the project descriptions produced under the planning grants. Although subject to revision, the information in § 268.11 and § 268.17 should assist the States in completing their applications in the competition for planning grants, since the project descriptions will need to respond to the standards and criteria. In evaluating the applications for planning grants FRA will consider how consistent the applicant's project is to the standards and criteria and the application's likelihood of leading to a project that meets all the standards and criteria.

Section 268.21 Selection of one Maglev Project for Final Design, Engineering and Construction Funding

This section is a brief description of the process FRA will follow in selecting the one successful applicant for a construction assistance from among the recipients of planning grants. That one project must meet each and every project eligibility standard contained in § 268.11(b). If more than one project meets all these standards, then the FRA will evaluate and compare the eligible projects according to the set of project selection criteria contained in § 268.17. In reviewing competing projects under the project eligibility standards and project selection criteria, the FRA will exercise particular vigilance regarding the following elements of the preconstruction planning process, although not to the exclusion of others:

(1) The credibility of the demand and revenue forecasts, cost estimates, and benefit/cost comparisons; and

(2) The credibility of the financial plan.

Regulatory Analyses and Notices

E.O. 12866 and DOT Regulatory Policies and Procedures

The agency has evaluated this Interim Final Rule in accordance with existing regulatory policies and procedures and has concluded that it is a nonsignificant regulatory action under E.O. 12866, and a nonsignificant rule under section 5(a)(4) of the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The Interim Final Rule is not a significant regulatory action under E.O. 12866 because it will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; will not create a serious inconsistency with an action planned or underway by another Federal agency; will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; and will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of the Executive Order. The Interim Final Rule implements the preconstruction planning portion of a Congressionally mandated program to provide financial assistance to state and local governments in developing and implementing a transportation project involving magnetic levitation. At this time, the sum of \$55 million dollars is available to implement the program and an authorization for future appropriations totaling \$950 million is in place. However, as noted earlier, the availability of these additional funds is contingent on an appropriation by the Congress.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA certifies that this rule will not have a significant impact on a substantial number of small entities. Eligible applicants for the Maglev Deployment Program are limited by the enabling statute (23 U.S.C. 322(d)) to States or authorities designated by one or more States. The program implemented by the Interim Final Rule has the potential to benefit some small entities who may be able to participate

as consultants to States or designated authorities in the preconstruction planning activities, final design, engineering and construction activities for Maglev deployment.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) addresses the collection of information by the Federal government from individuals, small businesses and State and local government and seeks to minimize the burdens such information collection requirements might impose. A collection of information includes requiring answers to identical questions posed to, or identical reporting or record-keeping requirements imposed on, ten or more persons, other than agencies, instrumentalities or employees of the United States. This Interim Final Rule contains information and reporting requirements that would apply to States, groups of States or designated authorities that file applications for Federal funding for preconstruction planning activities, and to grant recipients who would conduct final design, engineering and construction activities in support of Maglev deployment. Based on FRA's long experience in Maglev development in the United States extending back to the early 1970's, including preparation and issuance of the 1997 report "High Speed Ground Transportation for America," the statutory limit on the types of entities that may apply for funding (States, groups of States, and State designated authorities), the rigorous requirements for developing a viable project, and the substantial financial and resource commitment that will be required of applicants, and the information FRA has received through its outreach efforts, the FRA has concluded that fewer than 10 applications for preconstruction planning funds are likely to be received by the FRA from qualified applicants. However, if, as a result of this Interim Final Rule, FRA becomes aware that there are information collection requirements, FRA will submit an information collection package to OMB for approval at that time.

Environmental Impact

FRA has evaluated these regulations in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related directives. FRA has concluded that the issuance of this Interim Final Rule, which establishes a process for receiving applications for

planning activities associated with the Maglev Deployment Program, does not have a potential impact on the environment and does not constitute a major Federal action requiring an environmental assessment or environmental impact statement. The Interim Final Rule includes requirements for the preparation of environmental assessments of proposed Maglev projects by successful applicants during the preconstruction planning stage and additional environmental reviews will be undertaken under the auspices of the FRA before one Maglev project is selected for final design and construction funding.

Federalism Implications

This Interim Final Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and FRA has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The Maglev Deployment Program provides states with the opportunity to explore the development of a new transportation technology in a working partnership with the Federal Government.

List of Subjects in 49 CFR Part 268

Grant programs-transportation, High speed ground transportation, Maglev, Magnetic levitation.

The Rule

In consideration of the foregoing, FRA adds new part 268 to Title 49 of the Code of Federal Regulations as set forth below:

PART 268—MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM

Subpart A—Overview

Sec.

268.1 Definitions.

Sec 268.3 Different phases of the Maglev Deployment Program.

Sec 268.5 Federal funding sources for the Maglev Deployment Program.

268.7 Federal/State share and restrictions on the uses of Federal Maglev Funds.

Subpart B—Procedures For Financial Assistance

268.9 Eligible participants.

268.11 Project eligibility standards.

268.13 Deadline for submission of applications for preconstruction planning assistance.

268.15 Form and contents of applications for preconstruction planning assistance.

268.17 Project selection criteria.

268.19 Evaluation of applications for preconstruction planning assistance.

268.21 Selection of one Maglev project for final design, engineering, and construction funding.

Authority: 49 U.S.C. 322, 23 U.S.C. 322; 49 CFR 1.49.

Subpart A—Overview

§ 268.1 Definitions.

As used in this part—

CMAQ means Congestion Mitigation and Air Quality Improvement Program (23 U.S.C. 149).

Environmental assessment (“EA”) means the environmental assessment in support of the project description and containing the information listed in § 268.11(b)(6)(i).

Environmental impact statement (“EIS”) means the environmental impact statement which is required pursuant to §§ 268.3 and § 268.11(b)(6)(i).

Eligible project costs means the costs of preconstruction planning activities and the capital cost of the fixed guideway infrastructure of a Maglev project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but eligible project costs do not include the cost of stations, vehicles, and equipment.

Federal Maglev Funds means such funds as are provided under the authority of 23 U.S.C. 322 to pay for Eligible Project Costs.

Full project costs means the total capital costs of a Maglev project, including Eligible Project Costs and the costs of stations, vehicles, and equipment.

Phase means one of the five different phases of the Maglev Deployment Program; these phases are described in § 268.3.

Maglev means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

Maglev deployment program means the program authorized by 23 U.S.C. 322.

Partnership potential means the usage of the term in the commercial feasibility study of high-speed ground transportation (*High Speed Ground Transportation for America*) mandated under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978). Under that usage any corridor exhibiting *Partnership Potential* must at least meet the following two conditions:

(1) Private enterprise must be able to run on the corridor—once built and paid for—as a completely self-sustaining entity; and

(2) The total benefits of a Maglev corridor must equal or exceed its total costs.

STP means the Surface Transportation Program (23 U.S.C. 133).

TEA 21 means the Transportation Equity Act for the 21st Century (Pub. L. 105–178).

§ 268.3 Different phases of the Maglev Deployment Program.

(a) The Maglev Deployment Program includes five phases, as described in paragraphs (b) through (f) of this section. The current projected timing for implementing these phases is indicated to assist applicants in planning their projects. All dates beyond the first date (the deadline for the submission of preconstruction planning applications) are for planning purposes only and are subject to change—including possible acceleration of deadlines—based on the progress of the Maglev Deployment Program; grantees will be notified accordingly.

(b) **Phase I—Competition for Planning Grants (Early October 1998–March 31, 1999)**—(1) **Description.** In Phase I, States will apply for funds for preconstruction planning activities. As required by § 268.13, applications must be filed with FRA by December 31, 1998. FRA will select one or more projects to receive preconstruction planning financial assistance awarded under this part to perform Phase II of the Maglev Deployment Program.

(2) **Timing of Major Milestones.**

(i) December 31, 1998—Planning grant applications due.

(ii) February 28, 1999—FRA selects grantees for planning grants.

(iii) March 31, 1999—FRA awards planning grants for the conduct of activities listed in Phase II.

(c) **Phase II—Project Description Development (April 1, 1999–March 31, 2000)**—(1) **Description.** In Phase II, each grant recipients will prepare and submit to FRA a project description and supporting preconstruction planning reports and an EA. Supporting reports may include demand and revenue analyses, project specification, cost estimates, scheduling, financial studies, and other information in support of the project description. FRA will use this information in reaching a decision on which project to select for final engineering and construction financing. In addition, after completion of the EA, each grant recipient will initiate activities aimed at preparing a site-specific draft EIS. FRA will initiate

documentation of environmental factors considered in the project selection process.

(2) **Timing of Major Milestones.**

(i) November 30, 1999—Deadline for submission of appropriate EA needed by FRA for the selection of one project under Phase III.

(ii) March 30, 2000—Deadline for submission of project descriptions and any related supporting reports needed by FRA for project selection.

(d) **Phase III—Project Selection Process (April 1, 2000–July 31, 2000)**—

(1) **Description.** FRA will evaluate the information provided by the grant recipients under Phase II and will select one project for final design, engineering, and construction funding. Recipients of assistance will progress work on site-specific EISs.

(2) **Timing of Major Milestones.** July 31, 2000—FRA selects the project.

(e) **Phase IV—Project Development and Completion of Site-specific EIS (August 1, 2000–July 31, 2001)**—(1) **Description.** The financial assistance recipient selected in Phase III will undertake final design and engineering work for the selected project together with completing the site-specific final EIS. Detailed agreements for the construction and operation of the project would be negotiated. The other grant recipients may also elect to complete the site-specific draft EISs initiated during Phase II.

(2) **Timing of Major Milestones.** July 31, 2001—Final Record of Decision on site-specific EIS, confirming the project design.

(f) **Phase V—Completion of Detailed Engineering & Construction (August 1, 2001 and beyond).**—(1) **Description.** In Phase V, the sponsoring State or State designated authority would oversee the efforts of the public/private partnership formed to progress the selected project, to complete the detailed engineering designs, finance, construct, equip, and operate the project in revenue service. Construction would likely be contingent on the appropriation of federal funds.

§ 268.5 Federal funding sources for the Maglev Deployment Program.

(a) **Federal Maglev Funds.** Section 322 of Title 23 provides for the following funds for the Maglev Deployment Program:

(1) **Contract authority.** Fifty-five million has been made available for the Maglev Deployment Program as contract authority from the Highway Trust Fund for Fiscal Years 1999 through 2001; this would be used to fund the competition in all its phases and could also be used for final design, engineering, and construction activities of the selected

project. Of the \$55 million, the Congress has made available up to \$15 million for Fiscal Year 1999, up to \$15 million for Fiscal Year 2000, and \$25 million for Fiscal Year 2001.

(2) *Authorization for appropriations.* Nine hundred fifty million, also from the Highway Trust Fund, has been authorized to be appropriated for the Maglev Deployment Program for Fiscal Years 2000 through 2003. Of the \$950 million, \$200 million is authorized to be appropriated for each of Fiscal Years 2000 and 2001, \$250 million for Fiscal Year 2002, and \$300 million for Fiscal Year 2003. Any decision to proceed with possible Federal funding of the construction of a Maglev system will be contingent upon the receipt of appropriations, and upon completion of appropriate environmental documentation.

(b) *Other Federal funds.* Section 322 of Title 23 provides that the portion of the Maglev project not covered by Federal Maglev Funds may be covered by any non-Federal funding sources—including private (debt and/or equity), State, local, regional, and other public or public/private entities—as well as by Federally-provided STP and CMAQ funds, and by other forms of financial assistance made available under title 23 and TEA 21, such as loans and loan guarantees.

§ 268.7 Federal/State share and restrictions on the uses of Federal Maglev Funds.

(a) *Federal share.* The Federal share of Full Projects Costs shall be not more than $\frac{2}{3}$, with the remaining $\frac{1}{3}$ paid by the grant recipient using non-Federal funds. Funds made available under STP and CMAQ are considered non-Federal funds for purposes of the matching requirement.

(b) *Restrictions on the uses of Federal Maglev Funds.* (1) Federal Maglev Funds may be applied only to Eligible Project Costs;

(2) Federal Maglev funds provided under a preconstruction planning grant may be used only for Phase II activities, and for completion of site-specific draft EIS; see § 268.3;

(3) Federal Maglev Funds may be used to pay for only $\frac{2}{3}$ of preconstruction planning costs; grant recipients are required to pay the remaining $\frac{1}{3}$ of the costs with non-Federal funds; and

(4) The “prevailing wages” requirement of the Davis Bacon Act (40 U.S.C. 276a–276a–5) applies to any construction contracts under the Maglev Deployment Program.

Subpart B—Procedures for Financial Assistance

§ 268.9 Eligible participants.

Any State, or any authority designated by one or more State(s) to carry out the preconstruction planning activities under the Maglev Deployment Program is eligible to participate in the Maglev Deployment Program.

§ 268.11 Project eligibility standards.

(a) *Project eligibility standards for preconstruction planning financing.* (1) As required by 23 U.S.C. 322(d)(4), in order to be eligible to receive financial assistance, a Maglev project shall:

(i) Involve a segment or segments of a high-speed ground transportation corridor that exhibit Partnership Potential;

(ii) Require an amount of Federal funds for project financing that will not exceed the sum of Federal Maglev Funds, and the amounts made available by States under STP and CMAQ;

(iii) Result in an operating transportation facility that provides a revenue producing service;

(iv) Be undertaken through a public and private partnership, with at least $\frac{1}{3}$ of Full Project Costs paid using non-Federal funds;

(v) Satisfy applicable statewide and metropolitan planning requirements;

(vi) Be approved by FRA based on an application submitted by a State or authority designated by 1 or more States;

(vii) To the extent that non-United States Maglev technology is used within the United States, be carried out as a technology transfer project; and

(viii) Be carried out using materials at least 70 percent of which are manufactured in the United States.

(2) FRA recognizes that applicants for preconstruction planning grants will not have detailed information with respect to some of the requirements of paragraph (a)(1) of this section, and that the purpose of a preconstruction planning grant is to develop much of this information with respect to a particular Maglev project. As required by § 268.15, an applicant will need to provide whatever information it has with respect to each of the requirements of paragraph (a)(1) of this section together with a certification that the applicant fully intends to comply with the requirements of paragraph (a) of this section should its project be selected by FRA for final design, engineering and construction financing.

(b) *Project eligibility standards for final design, engineering, and construction financing.* FRA will select the most promising Maglev project for

final design, engineering, and construction financing. To be eligible to be considered, the project must meet each of the following requirements; these requirements restate the requirements in paragraph (a)(1) of this section, but with more detail and in a different order:

(1) *Purpose and Significance of the Project.* (i) The project description shall point to a Maglev facility and daily operation the primary purpose of which is the conduct of a revenue-producing passenger transportation service between distinct points, rather than a service solely for the passengers' riding pleasure.

(ii) The project description shall incorporate scheduled operation at a top speed of not less than 240 mph.

(2) *Benefits for the American Economy.* The project description shall include a certification as to paragraph (b)(2)(i) and (ii) of this section and, as appropriate, a technology acquisition/transfer plan which describes the strategy for their accomplishment.

(i) Processes will be established that will enable an American-owned and -sited firm (or firms) to gain, in the course of the project, the capability to participate in the design, manufacture, and installation of the facilities and vehicles needed for a Maglev operation, if the owner of the selected version of Maglev technology is not an American-owned and—sited firm (thus meeting the technology transfer requirement of 23 U.S.C. 322).

(ii) The 70 percent U.S. content requirement content of 23 U.S.C. 322 will be carried out.

(3) *Partnership Potential.* The project shall exhibit Partnership Potential by satisfying the following:

(i) A private/public partnership must be in place that is ready, willing, and able to finance, construct, operate, and maintain the project;

(ii) The private/public partnership either owns the version of Maglev technology proposed to be implemented in the project, or has an agreement with the owner which affords full cooperation to the partnership in progressing the project, including implementation of the technology acquisition/transfer plan if applicable; and

(iii) The recipient of a preconstruction planning grant or the FRA has developed and endorsed a projection of system capital costs, demand, revenues, operating expenses, and total costs and benefits, that:

(A) Covers either the entire corridor in which the Maglev project is involved (“Corridor”), or the project considered independently;

(B) Demonstrates that private enterprise would be able to run the Corridor or the project—once built and paid for—as a completely self-sustaining entity, in which revenues will cover operating expenses and continuing investment needs; and

(C) Shows total benefits equal to or exceeding total costs.

(4) *Funding Limits and Sources.* The project description shall include a financing plan that demonstrates project completion with the \$950 million in Federal Maglev Funds, funds remaining unobligated from the \$55 million in contract authority, and the funds made available under STP and CMAQ. The project that is selected will be eligible for other forms of financial assistance provided under title 23 and TEA 21, including loans, loan guarantees, and lines of credit. However, at least $\frac{1}{3}$ of Full Project Costs must come from non-Federal Funds.

(5) *Project Management.* The State, the technology owner, and all other relevant project partners must include in the project description, an agreed upon—

(i) *Management plan* that defines the partnership, responsibilities, and procedures for accomplishing the project;

(ii) *Project schedule* that shows how timely implementation of the project will be accomplished, including, to the extent possible, a construction plan and schedule; and

(iii) *Financial plan* that shows how funds will flow, in accordance with the other requirements of this subsection.

(6) *Planning/Environmental Process.*

(i) *Assessment of environmental consequences of the proposed project.* Recipients of preconstruction planning grants shall conduct an EA in support of the project description; and will prepare a site-specific EIS for the project. The EA shall include information to support the grantee's decision to pursue the proposed project. The grantee shall develop the information and discuss the environmental consequences of the proposed technology and route in sufficient detail for the preparation of appropriate documentation by FRA to support selection of one project. This shall include: the identification of potential positive and negative environmental effects resulting from the technology (e.g. energy consumption compared to other transportation options); generic noise emissions at various distances from the centerline of the guideway; changes in electromagnetic field levels at various distances from the centerline of the guideway; and environmental screening

of the proposed route (e.g., identification of land use; identification of endangered species possibly present and location of their critical habitat; identification of navigable waterways, wetlands and other sensitive water resources; and identification of the location of parks, wildlife refuges, historic and archaeological sites of National, State or local significance and other sites protected by Section 4(f) of the Department of Transportation Act.). The latter information and analysis shall be submitted four months in advance of the remainder of the project description. The above list is illustrative only. Grantees will be expected to review proposed work statements with FRA at pre-application meetings or through some other means to develop the final scope of this environmental review.

(ii) The project description must also include letters of endorsement of project implementation from all the State departments of transportation involved, and from all Metropolitan Planning Organizations for metropolitan areas that would be served by the project.

§ 268.13 Deadline for submission of applications for preconstruction planning assistance.

Completed application packages shall be returned to FRA by December 31, 1998. Applications shall be submitted to: Honorable Jolene M. Molitoris, Administrator, Federal Railroad Administration, ATTN: Maglev Project, RDV-11, 400 Seventh Street, SW, Stop 20, Washington, DC 20590.

§ 268.15 Form and contents of applications for preconstruction planning assistance.

States, groups of States, or designated authorities that have Maglev projects are invited to submit applications in Phase I of the Maglev Deployment Program, the competition for preconstruction planning grants. The applications shall contain:

(a) (1) If submitted by a State: Name, address, responsible party, telephone, fax number, and e-mail address of the State agency submitting the application; or

(2) If submitted by a designated authority: Name, address, responsible party, telephone, fax number, and e-mail address of the designated authority and of the State agency or agencies on whose behalf the designated authority is submitting the application, together with letters from the State(s) evidencing all such designations;

(b) A description of the project concept, identifying its likely location, market area, length, and the transportation service that it would

perform, and a preliminary estimate of the time that would be required—if funds are made available—to bring the project to the start of construction and then to the initiation of full revenue service. At its option, the Applicant may include any reports already completed on the project as well as any additional descriptive material that would assist the FRA in evaluating the application;

(c) Whatever information the Applicant has to demonstrate that the project meets the project eligibility standards in § 268.11(a), and the project selection criteria in § 268.17, together with a certification that the Applicant fully intends to comply with the requirements in § 268.11 should its project be selected by FRA for final design, engineering and construction financing.

(d) A statement of work for the preconstruction planning activities to be accomplished under the planning grant. The statement shall describe the work to be performed, including but not necessarily limited to:

(1) Preconstruction planning work as is needed to develop a Maglev project, and project description that will satisfy the project eligibility standards in § 268.11(b), and the project selection criteria in § 268.17; and

(2) Preparation of EAs, as described in § 268.11(b)(6)(i);

(e) Management plan, schedule, and financial plan for accomplishing the preconstruction planning work under the planning grant;

(f) Letters supporting the application from the heads of all State departments of transportation involved, as well as from responsible officials of the Metropolitan Planning Organizations of all metropolitan areas to be served by the proposed project;

(g) A certification from the State, or from the authority designated by one or more States, that the $\frac{1}{3}$ matching funds required for work under the planning grant are, or will be, available by the time the grants are announced. The source(s) of the matching must be shown in the financial plan under paragraph (e) of this section; and

(h) If the applicant has made a definitive choice of the particular Maglev technology proposed to be included, a description of that technology and the degree to which it has been produced and tested should be submitted. Further, if the applicant has identified organizations that would form members of the team that would implement the project, the names of those organizations and the persons representing them should also be submitted.

§ 268.17 Project selection criteria.

Except as qualified by § 268.19, the following criteria will govern FRA's selection of projects to receive funding under the Maglev Deployment Program.

(a) *Purpose and Significance of the Project.* (1) The degree to which the project description demonstrates attractiveness to travelers, as measured in passengers and passenger-miles.

(2) The extent to which implementation of the project will reduce congestion, and attendant delay costs, in other modes of transportation; will reduce emissions and/or energy consumption; or will reduce the rate of growth in needs for additional highway or airport construction. Measures for this criterion will include but not be limited to the present value of congestion reduction, pollution reduction, and/or facility cost-avoidance benefits.

(3) The degree to which the project will demonstrate the variety of operating conditions which are to be expected in the United States.

(4) The degree to which the project will augment a Maglev corridor or network that has been identified, by any State, group of States, or the FRA, as having Partnership Potential.

(b) *Timely Implementation.* The speed with which the project can realistically be brought into full revenue service, based on the project description and on the current and projected development status of the Maglev technology selected by the applicant for the project.

(c) *Benefits for the American Economy.* The extent to which the project is expected to create new jobs in traditional and emerging industries in the United States.

(d) *Partnership Potential.* The degree to which the project description demonstrates Partnership Potential for the corridor in which it is involved, and/or for the project independently.

(e) *Funding Limits and Sources.* FRA recognizes that applicants for preconstruction planning assistance may not have detailed information with respect to each of these criteria, and that the purpose of the preconstruction planning assistance is to develop much of this information with respect to a particular Maglev project. The preconstruction planning application requirements of the Interim Final Rule are designed to elicit whatever information an applicant may have pertaining to these criteria.

(1) The extent and proportion to which States, regions, and localities commit to financially contributing to the project, both in terms of their own locally-raised, entirely non-Federal funds, and in terms of commitments of

scarce Federal resources from non-Maglev funds; and

(2) The extent and proportion to which the private sector contributes financially to the project.

268.19 Evaluation of applications for preconstruction planning assistance.

The FRA will evaluate the applications for their completeness and responsiveness to the requirements listed in § 268.15. In addition, applicants are advised that the Maglev Deployment Program contains a number of project eligibility standards (minimum threshold standards) and project evaluation criteria that will guide the FRA's review of the project descriptions produced under the Planning Grants. The FRA's implementation of these standards and criteria appears in § 268.11 and § 268.17, respectively. Although subject to revision, the information in § 268.11 and § 268.17 should assist the States in completing their applications in the competition for planning grants, since the project descriptions will need to respond to the standards and criteria. In evaluating the applications for planning grants, FRA will consider how consistent the applicant's project is to the standards and criteria, and the application's likelihood of leading to a project that meets all the standards and criteria.

§ 268.21 Selection of one Maglev project for final design, engineering and construction funding.

(a) Only one project will be selected in Phase III of the Maglev Deployment Program and be eligible for any Federal construction funds that the Congress chooses to make available. That one project must meet each and every project eligibility standard contained in § 268.11(b). If more than one project meets all these standards, then the FRA will evaluate and compare the eligible projects according to the set of project selection criteria contained in § 268.17.

(b) In reviewing competing projects under the project eligibility standards and project selection criteria, the FRA will exercise particular vigilance regarding the following elements of the preconstruction planning process, although not to the exclusion of others:

(1) The credibility of the demand and revenue forecasts, cost estimates, and benefit/cost comparisons; and

(2) The credibility of the financial plan.

(c) FRA intends to make periodic reviews of the processes and products of grant recipients. Such reviews may include, at the FRA's option, reviews at key milestones in the preparation of project descriptions.

Issued in Washington, DC on October 2, 1998.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 98-27245 Filed 10-9-98; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 980112009-8196-02; I.D. 110697B]

RIN 0648-AK36

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule pertaining to recordkeeping and reporting requirements published in the **Federal Register** on September 4, 1998.

DATES: This action becomes effective October 5, 1998.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7228.

SUPPLEMENTARY INFORMATION:**Background**

A final rule was published in the **Federal Register** on September 4, 1998, implementing revisions to recordkeeping and reporting requirements for the Alaska groundfish fisheries (63 FR 47348). As published, errors are present in the September 4, 1998, edition of the **Federal Register**. NMFS is correcting these errors and is making no substantive change to the document in this action. The corrections are as follows:

Corrections

1. On page 47355, in the first column, last paragraph, in the seventh line, "§ 679.5(l)(2)(v):" is corrected to read "§ 679.5(l)(2)(vi):".

§ 679.20 [Corrected]

2. On page 47367, in the second column, § 679.20(g)(3), in the last line, "paragraph (g):" is corrected to read "paragraph (g)."

3. On page 47368, in the second column, amendatory instruction 12 is corrected to read as follows: "In