Proposed charge expiration date: April 1, 1999.

Total estimated net PFC revenue: $470.000.

Brief description of proposed project(s): New airport terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Carrier/Commercial Operators who conduct operations in air commerce carrying persons for compensation or hire in aircraft with a seating capacity of 10 passengers or less. Part 135 Air Carrier/Commercial Operators who conduct operations in air commerce for the purpose of emergency and medical airlift, air ambulance and ''Lifeguard'' flights.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Grant County International Airport.

Issued in Renton, Washington on October 1, 1998.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 98–27250 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA 98–4262]

Transportation Equity Act for the 21st Century; Implementation Procedures for the Approval and Administration of Projects To Reduce the Evasion of Motor Fuel and Other Highway Use Taxes

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: Over the years, funds have been authorized by the Congress for use by the States and the Internal Revenue Service (IRS) to reduce the evasion of motor fuel and highway use taxes. This document sets forth revised procedures, pursuant to sections 1101 and 1114 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107), for allocating these funds to the States and the IRS and provides implementation guidance for the approval and administration of such projects under 23 U.S.C. 143. The FHWA seeks public comment from all interested parties regarding the revised funding allocation and administrative procedures described in this notice. The procedures described in this notice may be modified based on the comments received.

DATES: Comments must be received on or before November 23, 1998.

ADDRESSES: Your signed, written comments must refer to the docket number appearing at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. Baluch, Office of Policy Development, 202–366–0570; or Mr. Wilbert Baccus, Office of the Chief Counsel, 202–366–0780; Federal Highway Administration, 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:

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 communications software from the Government Printing Office's 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.

Background

Sections 1101 and 1114 of the TEA–21 authorize funding for highway use tax evasion projects under 23 U.S.C 143. This notice sets forth certain procedures for allocating those funds to the States and provides guidance for the approval and administration of projects to reduce the evasion of motor fuel and other highway use taxes. Funding authorized for highway use tax evasion projects includes $10 million for fiscal year (FY) 1998 and $5 million per year for FY 1999 through 2003, and up to one-fourth of 1 percent of funds apportioned to the States for the Surface Transportation Program (STP) for ''initiatives to halt the evasion of payment of motor fuel taxes'' (23 U.S.C. 143(b)(8)).

In accordance with 23 U.S.C. 143(c), the major part of the funding authorized in section 1101(a)(14) of TEA–21 for highway use tax evasion projects will be provided to the IRS for the development and maintenance of an automated fuel reporting system. The Federal Highway Administrator, as delegated by the Secretary of Transportation (Secretary), and the Commissioner of the IRS have approved a Memorandum of Understanding (MOU) for the purposes of implementing this system. A copy of the MOU is provided as an attachment to this notice. The MOU establishes the funding to be provided to the IRS. As long as the IRS has met the funding needs to establish and operate the automated fuel reporting system, pursuant to the Secretary's authority under 23 U.S.C. 143(b)(2), the IRS may use a portion of the funds for continuation of the IRS examination and criminal investigation activities of the Joint Federal/State Motor Fuel Tax Compliance Project (or Joint Compliance Project), previously funded under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, or for any other activity specified in 23 U.S.C. 143(b).

All funds not provided to the IRS will be allocated to the States for efforts to reduce the evasion of highway use taxes, including continued participation in regional motor fuel tax enforcement task forces. Nine such task forces have been organized since 1991 covering all States, under the coordination and leadership of the IRS district offices and State revenue agencies in the nine lead States (California, Florida, Indiana, Massachusetts, North Carolina, Nebraska, New Jersey, Oregon, and Texas).

The FHWA intends to distribute the available funds so as to provide, if possible, at least half of the annual funding allocation that was provided under the ISTEA, that is, $50,000 for lead States and $25,000 for all other States and the District of Columbia. In each fiscal year, allocations would be made only to States that have expended and billed the FHWA for all but 1 year's

amount of obligated funds. In order for sufficient funds to be available to meet this target allocation, the following actions are recommended:

1. State revenue agencies are encouraged to extend the completion date for current projects utilizing unexpended funds (the FHWA will grant reasonable extensions of time up to December 2003 for current projects);
2. States should submit timely reimbursement vouchers so the FHWA can track the balance of unexpended funds for use in making annual allocations; and
3. Funds not obligated by June 30 would not be restored in future years.

The reduced allocations to the States will not be sufficient to fully fund some of the expenditure items previously budgeted, such as, auditor and investigator salaries, equipment purchases, and computerization initiatives. Funding for such items would have to be provided from the one-fourth percent allowable use of STP funds by mutual agreement between the State transportation and revenue agencies. But in any event, the $5 million total available for distribution to the States for FYs 1999–2003 should, by judicious use of remaining unexpended funds and careful allocation to meet State needs, provide sufficient minimum funding for all States to continue participation in the activities of the Joint Compliance Project.

Steering Committee

At the outset of the Joint Compliance Project in 1990, a Steering Committee was formed to lend guidance to the regional task forces, serve as a clearinghouse for exchanging information among the task forces, recommend strategies for expanding the project, review progress, and resolve differences among project participants. The FHWA plans to continue using the Steering Committee, with at least one meeting each year, to assist the States, the IRS, and the task forces in adapting to the changing funding situation under TEA–21. Lead States should continue to designate a representative and alternate to serve on the Steering Committee. In addition, under the MOU to be signed between the IRS and the FHWA, the IRS has proposed forming a work group comprised of State, industry, and Federal agency participants that will develop and monitor an implementation plan for the automated fuel reporting system.

Project Requirements

The following requirements apply to highway use tax evasion projects funded from allocated funds under section 1101(b)(14) or from STP funds:

1. Obligation authority—
a. Allocated funds—Obligation authority will be provided when funds are allocated by an FHWA Notice. The funds allocated to a State shall remain available to the State revenue agency responsible for motor fuel tax enforcement for obligation until June 30 of each fiscal year, at which time any unobligated funds will be withdrawn.
b. STP funds—Funds are available for obligation at the request of the State highway agency for the period specified in the law, i.e., for a period of up to 3 years following the year authorized. Funds obligated shall be included within the obligation limitation distributed to the State by the FHWA.
2. Federal share (allocated funds and STP funds)—
As provided in 23 U.S.C. 143(b)(6), funds are available at 100 percent Federal share.
3. Maintenance of effort certification—
a. Allocated funds—As specified in 23 U.S.C. 143(b), States wishing to receive allocations for tax evasion projects must certify that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditures for its last 2 fiscal years.
b. STP funds—Maintenance of effort certification is not required.
4. Task force participation—
a. Allocated funds—To receive allocations under this program, the State revenue agency responsible for enforcement of State motor fuel taxes shall sign the Memorandum of Understanding agreeing to participate in at least one of the regional task forces. States may join one or more task forces to best meet their needs for coordinated fuel tax enforcement.
b. STP funds—Signing the Memorandum of Understanding for participation in a regional task force is not required.
5. Project agreement—
a. Allocated funds—The State revenue agency shall sign two copies of the Project Agreement (FHWA–1548 as amended after July 1, 1998).
b. STP funds—The State highway agency shall sign the Project Agreement (PR–2). (A copy of the Project Agreement forms (FHWA–1548 and PR–2) may be obtained from the contacts listed in this notice.)
6. Project eligibility—
a. Allocated funds—Funds are available for projects to reduce evasion of motor fuel and other highway use taxes.
b. STP funds—Funds are available for ''initiatives to halt the evasion of payment of motor fuel taxes'' (emphasis added) as specified in 23 U.S.C. 143(b)(8).
7. Allowable costs (allocated funds and STP funds)—An estimate of costs by category of expenditure shall be attached to the Project Agreement. Allowable costs shall be determined in accordance with the Office of Management and Budget Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' With respect to travel costs, the FHWA project funds may be used:
a. To reimburse State travel costs for motor fuel tax examination and criminal investigation training;
b. For participation at regional task force meetings and other task force activities, such as, joint audits and investigations;
c. For participation in International Fuel Tax Agreement audit and enforcement committee activities;
d. For participation at meetings of the work group for the automated fuel reporting system;
e. For other cooperative State efforts to foster motor fuel tax compliance, such as, the meetings of the Uniformity Committee and the annual and regional Federation of Tax Administrators motor fuel conferences;
f. For participation of lead State representatives at Steering Committee meetings; and
g. For participation of representatives from other States at Steering Committee meetings when requested by the Steering Committee or to participate in other special activities arranged by the Steering Committee.
8. Intergovernmental review (allocated funds and STP funds)—The State shall comply with the intergovernmental review requirements of 49 CFR part 17 according to the procedures established by the State.
9. Environmental impacts (allocated funds and STP funds)—With respect to environmental impact and related procedures (23 CFR 771), projects are considered to be a categorical exclusion under 23 CFR 771.117(c)(1).
10. Compliance with planning requirements—Highway use tax evasion projects are deemed to be part of the long range plans discussed in 23 U.S.C. 134 and 135 with respect to enforcement of any highway user taxes the revenues from which are used to finance the implementation of projects in the plan. Projects should be included in the Transportation Improvement Program (TIP) as follows:
a. Allocated funds—Since funds are allocated to State revenue agencies only for the purpose of fuel tax evasion project activities, projects are not

required to be listed in the TIP discussed in 23 U.S.C. 134 and 135.

b. STP funds—Highway use tax evasion projects carried out by State agencies shall be included in the transportation improvement program (TIP) described in 23 U.S.C. 135. Highway use tax evasion projects carried out by local government agencies within the boundaries of metropolitan areas shall be included in the metropolitan TIP described in 23 U.S.C. 134.

11. Project approval (allocated funds and STP funds)—The State shall request FHWA approval for projects by submitting a letter to the FHWA Division Administrator in the State requesting funds for the project along with the following items:

a. Evidence of completion of the intergovernmental review requirements;

b. The cost estimate by expenditure category; and

c. A signed original copy of the Project Agreement.

12. Project modifications (allocated funds and STP funds)—The State shall request in writing the FHWA's approval of the following items as necessary:

a. Revised budget whenever the estimate for a single cost category changes by more than 10 percent of the total agreement amount, i.e., $5,000 for a $50,000 project;

b. Proposal for procurement of professional services, including identification of the contractor and estimated cost, when the estimated cost exceeds $10,000;

c. Extension of project completion date and reasons for the extension; and

d. Additional funding if required to complete the project.

13. Progress reports (allocated funds and STP funds)—Annual narrative and expenditure reports are required to document progress. The report forms covering motor fuel tax examinations/audits, criminal investigations, and roadside fuel checks are optional.

14. Audits (allocated funds and STP funds)—The State shall arrange for audits when required by 49 CFR part 90.

15. Reimbursement—

a. Allocated funds—State revenue agencies may continue to submit vouchers (PR–20) to the Division Administrator for payment.

b. STP funds—The State transportation agency would submit vouchers for payment as part of the current billing process, and the State transportation agency would make interagency fund transfers to other State (or local) agencies carrying out project activities.

Effective Date

The procedures described in this notice are effective on the date of publication, and may be modified by a subsequent notice based on the comments received.

Request for Comments

The FHWA is requesting public comment from all interested parties concerning the funding allocation, the administrative procedures described in this notice, or on any suggestions to enhance motor fuel tax compliance under this program.

Comments should be submitted to the docket by the deadline indicated in the **DATES** caption. All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Authority: 23 U.S.C. 315; secs. 1101 and 1114, Pub. L. 105–178, 112 Stat. 107(1998); and 49 CFR 1.48)

Issued on: October 2, 1998.

Kenneth R. Wykle,

Federal Highway Administration, Administrator.

Memorandum of Understanding Between the U.S. Department of Transportation (DOT) and the Internal Revenue Service (IRS)

Purpose: The purpose of this Memorandum of Understanding (MOU) is to implement the provisions of 23 United States Code (U.S.C.)143, relating to highway use tax evasion projects, in particular the requirement for the development and maintenance for an excise fuel reporting system.

Background: On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, authorizing highway, highway safety, transit, and other surface transportation programs for the next 6 years. TEA–21, as amended, builds on the initiatives established in the Intermodal Surface Transportation Efficiency Act of 1991, and combines the continuation and improvement of current programs with new initiatives to meet America's needs through efficient and flexible transportation. A key part of funding these highway improvements is the collection of Federal and State revenues used for this purpose.

Recognizing the need to ensure compliance for revenue collection, section 1114 of TEA–21, amended 23 U.S.C. 143 to require that the Secretary of Transportation (hereinafter referred to as the ''Secretary'') shall carry out highway use tax evasion projects in accordance with the provisions therein. Section 143 provides that the funds made available to carry out highway use tax evasion projects may be allocated to the IRS and the States, and that the Secretary shall not impose any condition on the use of funds allocated to the IRS under this subsection.

Title 23, U.S.C. Section 143, further limits the use of funds, provides for the establishment and operation of an automated fuel reporting system, provides for a funding priority, and a MOU between the Secretary and IRS for the purposes of the development and maintenance by the IRS of an excise fuel reporting system.

Wherefore, the DOT and the IRS agree that:

I. Automated Excise Fuel Reporting System (the System) a.k.a. Excise Fuel Information Reporting System (EXFIRS)

(A) The IRS shall develop and maintain the system through contracts.

(1) The IRS believes that a participative process with all stakeholders is the best method to use in the design and development of ExFIRS. By October 1, 1998, the IRS will form a workgroup with participants representing industry, States, the Federal Highway Administration (FHWA), and the IRS. The workgroup will be headed by the IRS Director, Excise Taxes, and will develop an implementation plan to provide for a basic automated excise fuel reporting system, and for enhancements that will best serve the stakeholders, including industry, the States, the FHWA, other government agencies, the IRS, etc.

(2) Workgroup members will determine the system needs and assist the IRS in assembling an implementation plan for use in contracting.

(3) The IRS will use the most expeditious method to obtain qualified contractors to complete the project.

(4) The implementation plan will be a living document. The plan will be monitored by the workgroup on an ongoing basis with revisions to the content, scope, timing, as needed.

(B) The system shall be under the control of the IRS.

(C) To allow for a transition of funding for the States, the IRS projects that the following funding can be made available to the States for motor fuel compliance projects:

FY99	$1,500,000
FY00	1,250,000
FY01	1,000,000
FY02	750,000
FY03	500,000
Total	5,000,000

(D) The system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

II. Limitation on Use of Funds

Funds made available to carry out highway use tax evasion projects shall be used only:

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional IRS staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

III. Funding Availability and Priority

(A) The Secretary shall, by Reimbursable Agreement, provide available funding to the IRS for the automated fuel reporting system and for highway use tax evasion projects as described in 23 U.S.C. 143.

(B) The Secretary shall make available sufficient funds for each of fiscal years 1998 through 2003 to the IRS to establish and operate an automated fuel reporting system as its first priority.

IV. Oversight

The FHWA Director, Office of Policy Development, and the IRS Director, Specialty Taxes, will review the development and implementation of highway use tax evasion project activity.

Dated: September 3, 1998

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Dated: September 10, 1998.

Charles O. Rossotti,

Commissioner, Internal Revenue Service.

[FR Doc. 98–27231 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–3637]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FHWA announces its decision to exempt 12 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: This decision is effective on November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thomas, Office of Motor Carrier Research and Standards, (202) 366–8786, or Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's 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.

Background

Twelve individuals petitioned the FHWA for a waiver of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Larry A. Dahleen, Earl D. Edland, Dale Hellmann, Dan E. Hillier, Robert J. Johnson, Bruce T. Loughary, Michael L. Manning, Leo L. McMurray, Gerald Rietmann, Jimmy E. Settle, Robert A. Wagner, and Hubert Whittenburg. The FHWA evaluated the petitions on their merits, as required by the decision in *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and made a preliminary determination that the waivers should be granted. On June 3, 1998, the agency published notice of its preliminary determination and requested comments from the public. (63 FR 30285). The comment period closed on July 6, 1998. Three comments were received, and their contents have been carefully considered by the FHWA in reaching its final decision to grant the petitions.

When its notice of preliminary determination was published on June 3, 1998, the FHWA was authorized by 49 U.S.C. 31136(e) to waive application of the vision standard if the agency determined the waiver was consistent with the public interest and the safe operation of CMVs. Because the statute did not limit the effective period of a waiver, the agency had discretion to issue waivers for any period warranted by the circumstances of a request.

On June 9, 1998, the FHWA's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat.107. Section 4007 of TEA–21 amended the waiver provisions of 49 U.S.C. 31315 and 31136(e) to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised section 31136(e), the FHWA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period. The 12 applications in this proceeding fall within the scope of an exemption request under the revised statute.

The amendments to 49 U.S.C. 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe operation of CMVs. Now the FHWA may grant an exemption if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The new standard provides the FHWA greater discretion to deal with exemptions than the previous standard because it allows an exemption to be based on a reasonable expectation of equivalent safety, rather than requiring an absolute determination that safety will not be diminished. (*See* H.R. Conf. Rep. No. 105–550, at 489 (1998)).

Although the 12 petitions in this proceeding were filed before enactment of TEA-21, the FHWA is required to apply the law in effect at the time of its decision unless (1) its application will result in a manifest injustice or (2) the statute or legislative history directs otherwise. *Bradley* v. *School Board of the City of Richmond,* 416 U.S. 696 (1974). As the FHWA preliminarily determined the 12 applicants in this proceeding qualified for waivers under the previous stricter standard, they are not prejudiced by our application of the new, more flexible standard at this stage of the proceeding. As nothing in the statute or its history directs otherwise, we have applied the new exemption standard in 49 U.S.C. 31136(e) in our final evaluation of their petitions and determined that exempting these 12 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Although applying TEA–21's new exemption standard does not adversely affect the applicants, subjecting their applications to the new procedural requirements would adversely affect them. Section 4007 requires the Secretary of Transportation to promulgate regulations specifying the procedures by which a person may request an exemption. The statute lists four items of information an applicant must submit with an exemption petition and gives the Secretary 180 days to get the new procedural regulations in place.