

- A note of any special services offered for those systems with higher costs per passenger but more amenities.

Federal land management agencies should send this information as part of their fourth quarter report. Examples can be found on the program Web site at <http://www.fta.dot.gov/Transit> in Parks Program.

All planning documents that result from Transit in Parks Program funding must be submitted to FTA within thirty days. These should also be submitted to Vanessa Williams.

#### D. Technical Assistance

FTA has established a technical assistance program to assist participants in planning, implementing, and evaluating alternative transportation projects. As part of FTA's technical assistance efforts, FTA is in the process of establishing a National Alternative Transportation Technical Assistance Center which will carry out multiple planning, research and technical assistance initiatives. FTA anticipates that the Center will be operational by March 2009. For more information regarding the Technical Assistance Center, contact Julie Atkins, Office of Planning and Environment, at 202-366-4491, e-mail: [Julie.atkins@dot.gov](mailto:Julie.atkins@dot.gov).

In addition, a limited number of technical assistance visits are available to assist potential project sponsors in the initial stages of planning. Project sponsors or potential project sponsors may contact the relevant Federal land management agency headquarters contact (see **ADDRESSES** section) to request technical assistance.

Issued in Washington, DC, this 14th day of January, 2009.

**Sherry E. Little,**

*Acting Administrator.*

[FR Doc. E9-1258 Filed 1-22-09; 8:45 am]

**BILLING CODE 4910-57-P**

---

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket FTA-2009-0003]

#### Notice of Proposed Policy Statement for Eligible New Freedom Projects

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Transit Administration (FTA) is proposing to expand the type of projects it considers to be "beyond the ADA" and thus increase the types of projects eligible for funding under the New Freedom program. Under the proposed

interpretation, new and expanded fixed route and demand responsive transit service designed to meet the needs of individuals with disabilities would be eligible projects.

**DATES:** FTA must receive all comments by February 23, 2009. FTA will consider late-filed comments to the extent practicable.

**ADDRESSES:** To ensure your comments are not entered more than once into the Docket, please identify your submissions with the following Docket No. FTA-2009-0003. Please make your submissions by only one of the following means:

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

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

*U.S. Post or Express Mail:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., Washington, DC 20590.

*Hand Delivery:* The West Building of the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* You must include the agency name (Federal Transit Administration) and the Docket number (FTA-2009-0003) at the beginning of your comment. You should include two copies of your comment if you submit it by mail. If you wish to receive confirmation that FTA received your comment, you must include a self-addressed stamped postcard. Note that FTA will post all comments that it receives, including any personal information provided therein, without change to <http://www.regulations.gov>.

Due to security procedures in effect since October 2001 regarding mail deliveries, mail received through the U.S. Postal Service may be subject to delays. Anyone submitting a comment responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand.

**FOR FURTHER INFORMATION CONTACT:** Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., Washington, DC 20590, phone: (202) 366-4011, fax: (202) 366-3809, or e-mail, [Bonnie.Graves@dot.gov](mailto:Bonnie.Graves@dot.gov); or David Schneider, same address, (202) 493-0175, or e-mail, [David.Schneider@dot.gov](mailto:David.Schneider@dot.gov).

**SUPPLEMENTARY INFORMATION:**

## Background

The New Freedom Program (49 U.S.C 5317) was established to fund capital and operating expenses that support new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA), in order to assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

When developing guidance for the New Freedom program, FTA initially proposed that "new public transportation services" and "public transportation alternatives beyond those required by the ADA" be considered separate categories of service. (See 71 FR 13456, Mar. 15, 2006). Subsequent to this notice, FTA received feedback from the Congressional authors of the New Freedom program that projects that do not meet both criteria—new and beyond the ADA—are not eligible for funding.

FTA also determined that projects are "beyond the ADA" only if they allow a recipient to exceed its obligations under the ADA. For example, because the ADA and its implementing regulations at 49 CFR parts 37 and 38 provide very specific minimum requirements for complementary paratransit service when an agency provides fixed route service, New Freedom funds can be used to expand the scope of ADA complementary paratransit service beyond the minimum requirements stipulated in the ADA regulations at 49 CFR part 37. On the other hand, the ADA does not require that a minimum level of public transit service be provided in any given area. Once service is provided, however, it must be ADA compliant, so FTA determined that projects to establish or expand fixed route or demand responsive service would not result in an agency exceeding its obligations under the ADA, and therefore would not be eligible for New Freedom funding. This interpretation was conveyed in subsequent **Federal Register** notices on the New Freedom program (71 FR 52610, Sept. 6, 2006, and 72 FR 14851, Mar. 29, 2007) and in the Frequently Asked Questions document on FTA's website: [http://www.fta.dot.gov/funding/grants/grants\\_financing\\_3549.html](http://www.fta.dot.gov/funding/grants/grants_financing_3549.html).

Over the past several months, grant recipients have expressed concerns that FTA's interpretation of which projects go "beyond the ADA" prevents agencies in rural and small urbanized areas with limited public transportation service from using New Freedom funds to provide new fixed route or demand response service targeted to meet the

needs of people with disabilities. Stakeholders argue that these types of projects do go “beyond the ADA” because they represent transportation services that are not required under the Act or under the U.S. DOT ADA implementing regulations.

Although stakeholders in areas with limited public transportation service can use New Freedom funds to implement new alternatives to public transportation, such as accessible taxis, travel training, and mobility management, many potential recipients have informed FTA that their greatest need is for new fixed route or demand responsive transportation services for people with disabilities.

**Proposed FTA Policy**

FTA proposes that new or expanded fixed route service and new or expanded demand response service would be eligible for New Freedom funding provided that:

- (1) The service is identified in the locally developed, coordinated public transit-human services transportation plan;
- (2) The service is designed to meet the needs of individuals with disabilities;
- (3) The service removes barriers to transportation and assists persons with disabilities with transportation;
- (4) The service was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP); and
- (5) The service is not designed to allow an agency to meet its obligations under the ADA or the DOT ADA implementing regulations at 49 CFR parts 37 and 38.

This policy change retains the existing requirement that services under the program be “new” services and adopts the interpretation voiced by transportation providers that transit services other than those that are required to be implemented under the

ADA go “beyond the ADA.” Examples of newly eligible projects would be fixed route service extended to serve a congregate living facility or a workplace serving large numbers of individuals with disabilities; new or expanded demand responsive service, including new hours or days of operation, or increased geographic coverage, to meet the needs of individuals with disabilities. FTA encourages transit providers to include the general public in any service that is added, that is, that providers not create new “silo” transportation that is limited to individuals with disabilities. FTA also notes that expanded fixed route service may result in expanded ADA complementary paratransit service; since the ADA complementary paratransit service is required under the ADA, it would not be eligible for New Freedom funding. All new or expanded fixed route and demand responsive services funded under the New Freedom program will be subject to the requirements of the ADA and DOT ADA implementing regulations.

Issued in Washington, DC, this 15th day of January 2009.

**Severn E.S. Miller,**  
Acting Deputy Administrator.  
[FR Doc. E9-1412 Filed 1-22-09; 8:45 am]  
**BILLING CODE 4910-57-P**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** List of Applications for Modification of Special Permit.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special

permits from the Department of Transportation’s Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix “M” demote a modification request. There applications have been separated from the new application for special permits to facilitate processing.

**DATES:** Comments must be received on or before February 9, 2009.

*Address Comments to:* Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue, Southeast, Washington, DC or at <http://dms.dot.gov>.

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 14, 2009.

**Delmer F. Billings,**  
Director, Office of Hazardous Materials, Special Permits and Approvals.

**MODIFICATION SPECIAL PERMIT**

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
10869-M .....	Norris Cylinder Company, Longview, TX.	49 CFR 173.301(b); 173.302(a)(5); 173.304(a); 175.3.	To modify the special permit to authorize an increase of 2 inches to the length of the cylinder.	
11646-M .....	Bioclean System & Supply, Inc., Moundsview, MN.	49 CFR 173.28(b)(2); 173.150(f)(3)(vii).	To modify the special permit to authorize an additional Class 8 hazardous material and an alternative method of product transfer.	