Dated: August 15, 2014.

**Kelly Keiderling,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2014–20169 Filed 8–22–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice: 8846]**

### Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Wednesday, October 1st, 2014, in Coast Guard Headquarters, Room 6i10–01–c, Washington, DC. The primary purpose of the meeting is to prepare for the sixty-seventh Session of the International Maritime Organization's (IMO) Marine Environment Protection Committee to be held at the IMO Headquarters, United Kingdom, October 13–17, 2014.

The agenda items to be considered include:

- Adoption of the agenda
- Harmful aquatic organisms in ballast water
- Recycling of ships
- Air pollution and energy efficiency
- Further technical and operational measures for enhancing energy efficiency of international shipping
- Reduction of GHG emissions from ships
- Consideration and adoption of amendments to mandatory instruments
- Review of nitrogen and phosphorous removal standards in the 2012 Guidelines on the implementation of effluent standards and performance tests for sewage treatment plants
- Mandatory Code for ships operating in polar waters
- Identification and protection of Special Areas and PSSAs
- Inadequacy of reception facilities
- Reports of sub-committees
- Work of other bodies
- Promotion of implementation and enforcement of MARPOL and related instruments
- Technical cooperation activities for the protection of the marine environment
- Work programme of the Committee and subsidiary bodies
- Application of the Committees' Guidelines
- Election of the Chairman and Vice-Chairman for 2015
- Any other business
- Consideration of the report of the Committee

Members of the public may attend this meeting up to the seating capacity of the room. Upon request, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. The access number for this teleconference line will be posted online at *http://www.uscg.mil/imo/mepc/default.asp* at least 2 working days in advance. Physical access to the meeting, or participation via the teleconference line, requires that all attendees respond to the meeting coordinator not later than September 17, 2014, 10 working days prior to the meeting. The meeting coordinator, Mr. John Morris, may be contacted by email at *John.C.Morris@uscg.mil* or by phone at 202–372–1433. Responses made after September 23, 2014, might result in the requester not being able to participate in the meeting. A request for reasonable accommodation should be made to Mr. Morris, at the same email address, prior to September 23. Requests made after that date might not be possible to fulfill.

Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters building. The Coast Guard Headquarters building is accessible by public transportation or taxi. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

In case of severe weather or other emergency in the Washington, DC area, attendees should check with the Office of Personnel Management at *http://www.opm.gov* or (202) 606–1900 for the operating status of federal agencies. If federal agencies are closed, this meeting will not be rescheduled, but the Shipping Coordinating Committee will publish a separate **Federal Register** notice to announce an electronic docket to receive public comments.

Dated: August 12, 2014.

**Marc Zlomek,**

*Executive Secretary, Shipping Coordinating Committee, Department of State*

[FR Doc. 2014–20174 Filed 8–22–14; 8:45 am]

**BILLING CODE 4710–09–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[Docket No. FTA–2013–0013]**

### Notice of Issuance of Final Circular: Guidance on Joint Development

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

**ACTION:** Notice—Issuance of Joint Development Circular.

**SUMMARY:** The Federal Transit Administration (FTA) has issued and placed in the docket and on its Web site final Agency guidance, in the form of a circular, on joint development. This circular provides guidance to recipients of FTA financial assistance on how to use FTA funds or FTA-funded real property, for joint development. This circular: (1) Defines the term ''joint development''; (2) explains how a joint development project can qualify for FTA assistance; (3) describes the legal requirements applicable to the acquisition, use, and disposition of real property acquired with FTA assistance; (4) outlines the most common crosscutting requirements applicable to FTA-assisted joint developments; and (5) describes FTA's process for reviewing a joint development project proposal. This circular incorporates provisions of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (2012), advances the goals of 49 U.S.C. 5315 by informing FTA recipients of opportunities for private sector participation in public transportation projects, and includes the most current guidance for the Federal public transportation program. This final circular is the result of the notice issued by FTA that appeared in the **Federal Register** on March 6, 2013, entitled ''Joint Development: Proposed Circular''.

**DATES:** The effective date of the circular is October 1, 2014. Projects for which sponsors have executed joint development agreements with third parties before October 1, 2014 will be considered according to FTA's existing guidance and statements of policy.

**FOR FURTHER INFORMATION CONTACT:** For legal questions, contact Christopher T. Hall, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Avenue Southeast, Room E54–413, Washington, DC 20590–0001. For policy questions, contact Sharon Pugh, Office of Budget and Policy, Federal Transit Administration, 1200 New Jersey Avenue Southeast, Room E52–322, Washington, DC 20590–0001. For program questions, contact the appropriate FTA Regional Office.

**SUPPLEMENTARY INFORMATION:** This notice does not contain a copy of the final circular. A copy of the final circular and comments and material received from the public, as well as any documents indicated in the preamble as being available in the docket, are part of docket number FTA–2013–0013. For

access to the DOT docket, please go to *www.regulations.gov* at any time or to Docket Operations, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue Southeast, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The final circular is also available on the FTA Web site at *http://www.fta.dot.gov/about/13716.html.*

This Notice is organized in the following sections:

I. Introduction
II. Chapter Summary
III. Response to Comments Received

## I. Introduction

It is FTA's policy to maximize the utility of FTA-assisted projects and to encourage recipients to generate program income through joint development. One of the primary benefits of joint development is revenue generation for the transit system, such as income derived from rental or lease payments, as well as private-sector contributions to public infrastructure. Other benefits include shared costs, efficient land use, reduced distance between transportation and other activities, economic development, increased transit ridership, and improved transit connectivity. The revenue a recipient receives from an FTA-assisted joint development project is treated as program income and may be used towards eligible capital and operating expenses of providing transit services.

This final circular is intended to guide interested parties through the FTA program and policy requirements that must be considered when pursuing a joint development project that is FTA-assisted or that will make use of real property that was previously acquired with FTA assistance. In the past, FTA has appended its guidance on joint development to its circulars 5010.1D, 9030.1D, and 9300.1B, guidance for Grant Management Requirements, Urbanized Area Formula Program, and Capital Investment Program (New/Small Starts), respectively, and has published **Federal Register** Notices of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law (72 FR 5788, Feb. 7, 2007) and Policy on Transit Joint Development (62 FR 12266, Mar. 14, 1997). FTA has decided to consolidate these references into a single circular to provide guidance to its grantees on how to use FTA assistance or FTA-assisted real property for joint development.

A summary of the final circular follows. The final circular itself is not included in this notice; an electronic version may be found on FTA's Web site at *www.fta.dot.gov/* or on the Docket at *www.regulations.gov* as part of docket number FTA–2013–0013. Paper copies of the final circular may be obtained by contacting FTA's Administrative Services Help Desk at (202) 366–4865.

## II. Chapter Summary

### *A. Chapter I—Introduction and Background*

Chapter I is an introductory chapter. It defines terms used throughout the circular, provides a brief background of FTA's authorizing legislation, the effect of the circular, and instructions for how to contact FTA.

### *B. Chapter II—Circular Overview*

Chapter II introduces the substance of the circular. It describes joint development as a concept and distinguishes between it and the related concepts of transit-oriented development (TOD), pedestrian and bicycle projects, and public private partnerships (PPP or P3). It also lists several elements of a joint development capital project, including the funding sources, project eligibility criteria, crosscutting Federal requirements, and restrictions on the use of real property acquired with Federal assistance.

### *C. Chapter III—FTA Assistance for Planning and Capital Projects*

Chapter III describes the eligibility requirements for an FTA-assisted joint development capital project or planning activity.

FTA planning grants are available to assist States, metropolitan planning organizations, local governments, transit agencies, and others to plan public transportation projects, including joint development.

FTA program funds may be used to support capital projects. MAP–21 provides the most recent authorization for FTA programs. MAP–21 explicitly includes joint development within the definition of capital project. This circular describes the MAP–21 provisions on joint development, and explains each element of the statutory eligibility criteria, all of which must be satisfied. Chapter III is largely based on previously published guidance on the eligibility of joint development activities for FTA funding (72 FR 5788, Feb. 7, 2007).

### *D. Chapter IV—Real Property Considerations*

Chapter IV reviews the requirements applicable to the acquisition, use, and disposition of real property acquired with FTA assistance. Chapter IV gives special attention to the circumstances that are most likely to be part of an FTA-assisted joint development project, including conveyance of real property for joint development purposes, protection of the Federal government's interest in how the real property is used, the maintenance of satisfactory continuing control of real property in the context of a joint development project, and the incidental use of real property for non-transit purposes. Chapter IV also discusses considerations for the adaptation and/or reuse of FTA-assisted parking facilities for joint development purposes.

### *E. Chapter V—Cross-Cutting Federal Requirements*

Chapter V reviews Federal cross-cutting requirements that are not unique to joint development projects, but which have application to all FTA-assisted projects, including joint development projects funded by FTA or using real property acquired with FTA assistance.

### *F. Chapter VI—Joint Development Project Review Process*

Chapter VI describes FTA's process for reviewing a joint development project proposal. This chapter documents and discusses the framework FTA uses for analyzing a proposed joint development project, including how it assesses the four eligibility criteria. The chapter also discusses how and what the grantee should submit as a proposal to FTA for review.

This chapter was not included in the proposed circular. Rather, FTA stated its intent to include in the final circular a chapter on FTA's review process and sought stakeholder input on the same in the notice of availability of the proposed circular. FTA has considered that stakeholder input in composing the final Chapter VI.

## III. Response to Comments Received

On March 6, 2013, FTA published in the **Federal Register** a Notice of Availability of Proposed Circular and Request for Comments (notice of proposed joint development circular) (78 FR 14020). In its notice of proposed joint development circular, FTA stated its intent to guide interested parties through the FTA program and policy requirements that must be considered when pursuing a joint development project using FTA assistance or FTA-assisted real property. The notice itself included a chapter summary of the proposed circular, as the proposed circular itself was not included in the notice; instead, information on

obtaining an electronic version of the proposed circular was provided.

Twenty-four parties submitted comments in response to FTA's March 6, 2013, notice of proposed joint development circular. FTA hereby responds to these comments by topic and in the following order: (a) Notice of Proposed Circular Generally; (b) Fair Share of Revenue; and (c) FTA Review Process.

(a) Notice of Proposed Circular Generally

The intended purpose of FTA's notice of proposed joint development circular was to provide guidance to recipients of FTA financial assistance on how to use FTA funds or FTA-assisted real property for joint development. The circular: (1) defined the term ''joint development''; (2) explained how a joint development project can qualify for FTA funding; (3) described the legal requirements applicable to the acquisition, use, and disposition of FTA-assisted real property; and (4) outlined the most common crosscutting Federal requirements.

FTA received twenty-one general comments covering a wide range of subjects, including affordable housing, applicability, car sharing, eligibility criteria, FTA policy, program income, real property, TOD, and value capture. Several commenters addressed multiple and overlapping subjects within the general category. Most commenters requested clarification of subjects discussed or specific terminology used in the circular. Across the board, commenters were receptive to FTA providing consolidated and comprehensive guidance concerning joint development.

Seventeen commenters addressed concerns regarding real property, including disposition, incidental use, mandatory contractual provisions, parking, satisfactory continuing control, shared use, subordination, and transfers. Thirteen commenters sought clarification on application of the eligibility criteria, and distinguishing between activities eligible for FTA assistance as joint development and other capital transit projects. Ten commenters asked FTA to clarify application of the guidance concerning non-FTA-assisted property, joint development application to all modes of public transportation rather than just to rail, and application of the ''originally authorized purpose''. Six commenters questioned the focus of FTA's stated joint development policy. Six commenters addressed FTA's stated position on the concept of value capture. Five commenters asked FTA to explicitly designate affordable housing development as a type of joint development, commensurate to the recognition given in the Capital Investment Program (New/Small Starts). Three commenters sought clarification on program income. Two commenters addressed distinguishing between FTA's usage of the terms *joint development* and *TOD* and the usage employed by the transit industry. One commenter requested FTA to provide specific categorical exclusions for joint development under the National Environmental Policy Act (NEPA). Another commenter requested FTA to consider car-sharing as a transit mode eligible for joint development. One commenter requested requiring more safety training for commercial drivers.

*FTA Response:* FTA is pleased by the positive and supportive responses provided by the majority of commenters to its proposed circular. The questions and comments received identified several topics for which FTA has provided additional clarification in the final circular. Some comments, however, addressed subjects that are beyond the scope of this circular, but will be useful in development of FTA programs and guidance in the future. This circular consolidates all of the existing FTA guidance on joint development, and supersedes any FTA guidance on joint development contained in other sources. Thus, this circular supersedes, in their entirety, discrete previously issued guidance on joint development, including FTA's 2007 guidance and 1997 policy described above. This circular does not supersede in entirety any existing FTA circulars that include guidance on joint development, but rather only supersedes the specific joint development guidance contained therein. Affected circulars will be amended according to their regular update cycles.

Joint development may be undertaken in conjunction with any mode of public transportation, e.g., bus, bus rapid transit, transit malls, light rail, heavy rail, commuter rail, or ferry. Federal transit law explicitly includes stations and terminals used by intercity bus and intercity passenger rail systems, except that provided by Amtrak, for joint development eligibility. Car sharing services, even if located in close proximity to a transit facility, are not considered to be public transportation as they are not open to the general public or a segment of the general public defined by age, disability, or low income.

Joint development is an eligible capital transit project by statute, and is considered to be within the scope of all capital grants unless expressly prohibited by a specific term or condition of the grant. Under the terms of FTA's Master Agreement, joint development is considered an ''originally authorized purpose'' of prior grants made for real property acquisition.

The terms ''joint development'' and ''transit-oriented development'' (TOD) are often used interchangeably within the transit industry. Whereas FTA distinguishes between them, FTA recognizes that some recipients consider TOD as joint development and vice versa. FTA considers a transit operator to be a direct partner or participant in joint development projects. While a transit operator may be a stakeholder in TOD, FTA considers TOD to have a broader, community-sized scope. This circular is not applicable to all joint development projects undertaken by FTA grantees. This circular applies only to joint development projects that use either FTA-assisted real property or FTA funds in the joint development project itself, and, therefore, have a Federal interest. FTA realizes that its grantees may undertake transit-oriented development or joint development without any Federal interest. This final circular does not apply to such projects. FTA reserves further discussion on TOD for a future document.

FTA's policy is to maximize the utility of FTA-assisted projects and to encourage the generation of program income through joint development. Benefits of joint development primarily include revenue generation for transit, as well as efficient land use, economic development, increased transit ridership, shared project costs, and improved transit connectivity. The siting and development of transit service adds to property values near transit stations, and that colocation of residential, commercial, and retail establishments with the transit system enhances social and economic returns for the community. FTA's treatment of joint development revenues as program income enables a grantee to apply such revenues to the operating or capital costs of the transit system. Therefore, joint development projects should be planned and undertaken to generate revenue for the transit system from the added value it creates, and project sponsors should negotiate project benefits, whenever possible, on the basis of the value added to the property by the joint development. Joint development is among the value capture strategies most commonly used to fund and/or finance transit, although other value capture strategies are also utilized.

Although joint development is intended to realize value capture from transit, FTA acknowledges that many transit agencies have incorporated affordable housing goals into their joint development policies. FTA does not wish to interfere with local policy goals relative to joint development. Accordingly, FTA does not designate the types of joint development projects that a grantee may undertake or give preference to any particular types of joint development projects.

Section 5302(3)(G) of title 49, United States Code, establishes the following criteria for determining whether a joint development improvement is eligible as an FTA-assisted project under Federal transit law. An eligible joint development project must: (1) Either enhance economic development or incorporate private investments, such as commercial and residential development; (2) either enhance the effectiveness of public transportation and be related physically or functionally to public transportation, or establish new or enhanced coordination between public transportation and other transportation; (3) provide a fair share of revenue that will be used for public transportation; and (4) provide that a person occupying space in a joint development facility shall pay a fair share of the costs of the facility through rental payments or other means. No new criteria have been established, although this final circular imposes constraints on the fair share of revenue criterion. All four criteria must be satisfied for a joint development project to be eligible for FTA assistance. The final circular provides additional information concerning satisfying these criteria.

Grantees often undertake joint development, not as an FTA-assisted activity, but as an incidental use of property that was previously acquired using FTA assistance. FTA-assisted real property may be used for joint development provided that the joint development is compatible with the approved purposes of the property and the recipient will retain satisfactory continuing control of the property to ensure that the Federal interest is protected and the property continues to serve its transit purpose. FTA must concur in any incidental uses of FTA-assisted property.

Interests in real property that was acquired with FTA assistance may be conveyed or encumbered for the purpose of joint development. The final circular provides additional discussion of satisfactory continuing control and mechanisms for preserving the use of FTA-assisted real property for its transit purpose. The final circular also clarifies the mandatory contractual provisions necessary to protect the Federal interest when FTA-assisted real property is conveyed to a third party for the purpose of joint development.

The final circular provides additional information to clearly distinguish between a conveyance of real property for the purpose of joint development and the disposition of excess real property no longer needed for transit purposes. Once FTA-assisted real property is disposed of, the Federal interest in the property is extinguished, and that property may not be used in an FTA-assisted joint development project. In contrast, FTA retains an interest in the use of real property that has been conveyed for the purpose of joint development. Additionally, the final circular clarifies the distinction between incidental use and shared use, and considerations for the modification of FTA-assisted parking facilities for joint development purposes.

FTA does not provide a specific funding program for joint development. Rather, joint development is considered a kind of capital project and may be funded by most FTA capital programs. Because the joint development project may take a variety of forms and be funded by multiple programs, the applicable Federal requirements will vary. Requirements of the specific FTA funding program used must be adhered to for FTA-assisted joint development.

NEPA categorical exclusions are a category of actions that, based on past experience with similar actions, do not individually or cumulatively have a significant effect on the environment. FTA's categorical exclusions are set out at 23 CFR 771.118(c). The exclusion at 23 CFR 771.118(c)(10) is often referred to as the joint development exclusion and most FTA-assisted joint development projects should qualify under this exclusion. However, even actions that would normally be classified as categorically excluded may require environmental review under certain circumstances, and a project sponsor should work with its FTA regional office to determine what level of environmental review is required for a project.

The comment regarding commercial driver's licenses is beyond the scope of this circular.

(b) Fair Share of Revenue

In the notice of availability of the proposed joint development circular, FTA invited comments specifically concerning the ''fair share of revenue'' criterion. FTA did not expressly define the term ''fair share of revenue'' or set a monetary threshold for the same. Instead, FTA proposed to reserve the right to decline funding for a joint development project if the project would not generate a meaningful amount of revenue. FTA sought comment on how it should assess whether a project will generate a ''fair share of revenue,'' including any measures or criteria FTA should use.

FTA received sixteen comments, most of which were opposed to FTA's proposal. Of particular concern was the change in policy regarding FTA's deference to grantee decisions concerning the fair share of revenue determination and FTA's right to decline funding for the joint development if a meaningful amount of revenue is not generated, expressed by ten commenters. Another major concern, raised by ten commenters, was the lack of consideration for all benefits that accrue to transit from a joint development project, beyond solely the revenue generated by the joint development. Additional concerns raised regarded FTA's proposal not to treat increased fare box receipts attributable to the joint development as ''revenue'' for purposes of the ''fair share of revenue'' criterion. Further, FTA's refusal to include fare box receipts as ''revenue'' for this criterion was considered as a barrier to partnerships in joint development and other transit infrastructure development given the constrained financial environment in which local match requirements are made.

A few commenters suggested that FTA should adopt standards, provide financial criteria, and establish parameters and required documentation for fair share of revenue determinations. Some commenters recommended use of a cost-benefit analysis or a ratio of transit share relative to project revenues, including careful examination of market conditions, in determining a fair share of revenue. While no comments proffered definitions for either ''fair share of revenue'' or ''meaningful,'' several commenters requested that FTA define these terms. One commenter endorsed FTA's proposal, noting that FTA should consider maximizing competition and ensuring a high return-on-investment in capturing the value of transit improvements, and should actually determine the fair share of revenue for projects at the Federal level.

*FTA Response:* The fair share of revenue criterion is not new for joint development. Historically, FTA has taken the position that questions, such as what is a fair share, and what form it should take, would be negotiated between the parties involved in the joint development. FTA's 2007 guidance on

joint development emphasized deference to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties, to determine what constitutes a fair share of revenue. However, constraints on the availability of transit funding at all levels of government mandate that transit systems take advantage of innovative funding strategies, including value capture. Accordingly, FTA seeks to ensure that recipients are fairly remunerated for the use of FTA assistance for joint development projects. The final circular establishes as a minimum threshold for the amount of revenue that a recipient cumulatively receives from a joint development project the amount of the original Federal investment in the joint development project. This is a minimum threshold for revenues received from an FTA-assisted joint development project; it is anticipated that grantees will generally negotiate at a higher level the amount of revenue they will receive from the joint development.

There is no ''one-size-fits-all'' fair share of revenue determination, just as there is no ''one-size-fits all'' joint development project. Inherent to the negotiating process are considerations for the type of project to be undertaken and priorities that the transit agency and local government seek to advance through the joint development project. Beyond the minimum threshold described above, the fair share of revenue should reflect the respective goals and priorities of the parties involved in the joint development. While it is possible to project the potential revenue production from a joint development project, it is difficult, from an economic perspective, for FTA to determine the precise share any party should receive. This is due to many factors that are difficult to quantify, such as market power, local development priorities (social, economic, or a mix of both), agglomeration effects, and other influences.

In determining the fair share of revenue it should receive, the project sponsor must rely on market analyses and other due diligence examinations. Although it is reasonable to presume that these types of efforts are standard practice on the part of grantees, the final circular makes conduct of such analyses a requirement. Appended to the final circular are documentation to be completed by the grantee in identifying pertinent project financial information and certifying conduct of the required due diligence.

Some commenters proposed that FTA should consider a joint development project's non-revenue benefits to transit in addition to the potential for revenue generation. FTA does consider such benefits to transit under the second criterion. The second criterion concerns overall benefits to transit provided by the joint development, including enhanced effectiveness and enhanced intermodal transportation. FTA also gives consideration for increased fare box receipts generated as a result of the joint development under this transit benefit criterion rather than under the fair share of revenue criterion. To be eligible for FTA's participation, a joint development must satisfy each of the statutory criteria, and while non-revenue benefits to transit are considered, they cannot satisfy the statutory requirement for a fair share of revenue.

(c) FTA Review Process

The proposed circular did not include a chapter on the process FTA will follow to review and approve a proposed joint development project. FTA sought comments for consideration in preparing the chapter for inclusion in the final circular.

Eleven commenters submitted to the docket on the FTA review process. Six commenters requested FTA to modify the current checklist approach to grant automatic approval if there is indication that the criteria will be satisfied. Five commenters recommended that FTA establish a mechanism to modify joint development agreements throughout the grantee's negotiations with developers to reflect changes. Five commenters raised concerns of the timeliness and consistency of FTA reviews across its regions, and requested that the process be clear, simple and flexible, and include graphics. One commenter requested FTA to coordinate its review with the U.S. Department of Housing and Urban Development for projects incorporating affordable housing. Another commenter asked that FTA provide examples of approved projects and their associated financial information. One commenter requested that FTA make the new chapter available for public comment.

*FTA Response:* The majority of commenters acknowledge the ease of using the current Joint Development Checklist for submitting joint development proposals for FTA review. As a checklist, it is a rote exercise by the grantee to indicate that statutory criteria have been met. It is, therefore, understandable that FTA should be asked to provide automatic approval when the grantee has indicated meeting all of the criteria, with the grantee retaining supporting documentation should FTA request it. Because it is merely a checklist, however, it provides limited information to FTA on the substance and design of the project. Therefore, FTA has broadened the checklist, including some parameters, to identify pertinent information about the proposed joint development project. The new document, Joint Development Project Request Form, is intended to facilitate discussion between the grantee and FTA concerning the joint development proposal by reflecting those considerations that the grantee and its partners may find most useful during the project development process. Additionally, this form requires the grantee to identify documentation used to justify its submission.

FTA recognizes that joint development negotiations require considerable exchanges and deliberations between parties, and that development of the joint development agreement undergoes a rigorous process. Adding to this difficulty is the imposition of certain Federal requirements on the grantee's joint development partners. To account for changing circumstances over the course of the project's development, FTA has established a tiered approach to reviewing joint development proposals. Project sponsors may, and are strongly encouraged to, submit a preliminary proposal for FTA review to frame how eligibility criteria may be satisfied relative to specific elements of the proposed joint development, and to identify explicit terms and conditions to which the joint development partners must agree.

The final circular provides additional guidance to all stakeholders to consider for a joint development proposal. A primary objective of the circular is to clarify FTA joint development requirements and their compliance. Accordingly, it is FTA's expectation that the circular will improve the efficiency of the grantee's submission and of FTA's review.

Joint development is frequently used to provide or retain affordable housing in local communities. As such, it promotes community livability and sustainability by providing transportation options for those served by the transit system. FTA has been an active participant in the Administration's Partnership for Sustainable Communities, and continues to strive to overcome barriers imposed by Federal requirements. To the extent appropriate, FTA will coordinate joint development with

Federal housing programs to achieve procedural efficiencies.

FTA sought examples of joint development projects that illustrate the many issues that are encountered; none were received. While FTA cannot include actual projects in its guidance, it does provide illustrative examples of specific elements of joint development projects in the final circular.

**Therese W. McMillan,**

*Acting Administrator.*

[FR Doc. 2014–20097 Filed 8–22–14; 8:45 am]

BILLING CODE 4910–57–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2012–0166; Notice 2]**

### Mercedes-Benz USA, LLC and Daimler AG, Denial of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of petition denial.

**SUMMARY:** Mercedes-Benz USA, LLC (MBUSA) on behalf of itself and its parent company Daimler AG (DAG), has determined that certain model year (MY) 2013 Mercedes-Benz GLK-Class (X204 platform) multipurpose passenger vehicles (MPVs), do not fully comply with paragraph S5.1.1.6 [1] of Federal Motor Vehicle Safety Standards (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* MBUSA filed an appropriate report dated October 9, 2012 pursuant to 49 CFR Part 573 *Defect and Noncompliance Responsibility and Reports.* MBUSA then filed a petition for exemption from the notification and remedy requirements of 49 U.S.C. 30118 on the basis that the defect is inconsequential to motor vehicle safety. We are denying this petition because we believe that the noncompliant parking lamp is not inconsequential to motor vehicles safety.

**ADDRESSES:** For further information on this decision contact Mike Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:**

I. MBUSA's petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MBUSA has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on August 9, 2013, in the **Federal Register** (78 FR 448769). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2012–0166.''

II. Vehicles involved: Affected are approximately 2,951 MY 2013 Mercedes-Benz GLK-Class (X204 platform) MPVs manufactured from January 1, 2012 through August 15, 2012.

III. Noncompliance: MBUSA explains that the subject vehicles contain parking lamps that exceed the maximum designated candlepower output level provided in FMVSS No. 108 paragraph S5.1.1.6; id. Figure 1b (listing maximum candlepower value of 125 cd for parking lamps). Due to a programming issue in the electronic control unit, the voltage in the parking lamp circuit is 12.8 volts which is higher than the design voltage specification of 7 volts in the affected vehicles. This higher voltage causes the lamps to exceed the maximum value listed in FMVSS No. 108.

IV. Rule Text: Paragraph S5.1.1.6 of FMVSS No. 108 requires in pertinent part:

S5.1.1.6 Instead of the photometric values specified in Table 1 of SAE Standards J222 December 1970, or J585e September 1977, a parking lamp or tail lamp, respectively, shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of a parking lamp shall not exceed that prescribed in Figure 1b, or of a taillamp, that prescribed in Figure 1b at H or above. If the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c, a parking lamp or taillamp is not required to meet the minimum photometric value at each test point specified in SAE Standards J222 or J585e respectively.

V. Summary of MBUSA's Analyses: MBUSA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Although the parking lamps in the subject vehicles exceed the candlepower limits of FMVSS No. 108, the level of brightness of the lamps is very low. As explained below, to evaluate the impact on motor vehicle safety in actual use, MBUSA analyzed the brightness of the lamps in use and has confirmed that the potential exceedance is minimal, and below the level perceptible to the human eye during night-time driving operations which would be pertinent to determining potential safety relevance.

MBUSA claims that the agency should consider how the non-compliance affects how drivers perceive the lower beam headlamp and the parking lamp together at night because FMVSS No. 108 requires both lamps to be illuminated at the same time. As noted above, the output limit for parking lamps is 125 cd. The maximum output value for lower beam headlamps is 1,000 cd at 0.5U—1.5L to L test points (0.5 degrees up from the H-point and from 1.5 degrees left of the vertical centerline to the end of the leftward measurements) and 700 cd for 1 U—1.5L to L test points (1 degree up from the H-point and from 1.5 degrees left of the vertical centerline to the end of the leftward measurements). See FMVSS No. 108 paragraph S7.7; id. Figure 17–2 (photometric test point values for lower beams). Thus, the maximum output for the combined parking lamp and lower beam headlamp is 1,125 cd (125 cd + 1,000 cd) for the 0.5U test points and 825 cd (125 cd + 700 cd) for the 1U test points.

MBUSA measured the output of the combined parking lamp and lower beam headlamp on the subject vehicles using two different headlamp samples. Two samples were used to evaluate the impact of normal part to part production variations on light output. In order to provide a complete overview of the brightness of the lights, measurements were done every 10 cm on the two horizontal lines at 0.5U and 1U, from 20 to 100 cm from the vertical centerline to the left, measured at a distance of 25 meters. (This is the same method used for certification testing for lower beam headlamps.)

With the first sample headlamp, all candlepower measurements were below 1,125 cd (for the 0.5U test points) and below 825 cd (for the 1U test points). Thus, for this headlamp, there were no exceedances of the combined brightness standard. For the second headlamp, the candlepower measurements were below 1,125 cd at all measurements for the 0.5U test points, and below 825 cd for half of the 1U test point measurements. The candlepower measurement was slightly above 825 cd (840–920 cd) for five of the 1U test point measurements with the second headlight. Thus, even the maximum measurement of 920 cd for the worst-case measurement location is only 11% above the reference value

[1] As published in the 2011 version of 49 CFR 571.108.