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 the Mahlon Sweet Field.

Issued in Renton, Washington on January 11, 2001.

David A. Field,

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

[FR Doc. 01–1674 Filed 1–19–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

TSO–C77b, Gas Turbine Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of technical standard order.

SUMMARY: This notice announces the availability of Technical Standard Order (TSO) C77b. This TSO prescribes the minimum performance standards that gas turbine auxiliary power units (APUs), commonly used in commercial aircraft, must meet in order to be identified with the TSO marking.

EFFECTIVE DATE: January 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Mark A. Rumizen, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299, telephone (781) 238–7113, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Background

The standards of this TSO will apply to all APUs used for any new application submitted after the effective date of this TSO. APUs currently approved under TSO–C77 or TSO–C77a authorization may continue to be manufactured under the provisions of their original approval. However, under § 21.611(b) of the Federal Aviation Regulations, any major design change to an APU previously approved under TSO–C77 or TSO–C77a would require a new authorization under this TSO. The general layout of this document complies with the updated TSO format.

How To Obtain Copies

A copy of the TSO–C77b may be obtained via Internet (http://www.faa.gov/avr/air/air100/100home.htm) or by request from the office listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts on December 20, 2000.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate Aircraft Certification Service.

[FR Doc. 01–1858 Filed 1–19–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Guidance on Longitudinal Telecommunications Installations on Limited Access Highway Right-of-Way

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This document publishes guidance on the installation of telecommunications on limited access highway right-of-way. This guidance was distributed to the FHWA Resource Centers and Division offices on December 22, 2000. These materials are the result of consultations with the Federal Communications Commission with regard to the potential impact of the Telecommunications Act of 1996 on such installations.

FOR FURTHER INFORMATION CONTACT: Mr. William S. Jones, Intelligent Transportation Systems (ITS) Joint Program Office, (202) 366–4651 or Ms. Beverly Russell, Office of the Chief Counsel, (202) 366–1355; Federal Highway Administration, 400 Seventh Street, SW., Washington, DC. 20590–0001. Office hours are from 7:30 a.m. to 5 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 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.* In addition this document is available on the ITS web sit at: *http://www.its.dot.gov.*

Background

Guidance published in this **Federal Register** notice is provided for information purposes. Specific questions on any of the material published in this notice should be directed to the appropriate contact person named in the caption, **FOR FURTHER INFORMATION CONTACT.**

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: January 11, 2001.

Kenneth R. Wykle,

Federal Highway Administrator.

The text of the FHWA guidance memorandum dated December 22, 2000 follows:

Information: Guidance on Longitudinal Telecommunications Installations on Limited Access Highway Right-of-Way

Anthony R. Kane, Executive Director, HOIT–1.

Directors of Field Services

Resource Center Managers

Division Administrators

A number of States have altered their utility accommodations policies to allow longitudinal access to their limited access highway Right-of-Way (ROW) for telecommunications installations; usually fiber optic cable. Several of these installations to date have been public-private partnerships with the telecommunications industry generally referred to as ''Shared Resource'' agreements. In December 1999, the Federal Communications Commission (FCC) issued an opinion in the Minnesota Department of Transportation (DOT) case involving such a partnership that defined the FCC's interpretation of the Telecommunications Act of 1996 (TCA) and its application to the Minnesota agreement, which has potentially broad implications for transportation agencies.

As a result of the FCC's opinion, the Federal Highway Administration (FHWA) engaged in a discussion with the FCC to clarify how these partnerships and other similar telecommunications installations should be conducted to avoid conflict with the TCA and be consistent with FHWA's requirements for highway safety and ROW management. These discussions have culminated in an approach that considers both the requirements of the transportation industry and its concern for highway safety, and the FCC's concern with the implementation of the TCA. This approach is documented in two letters. A letter from the FHWA Administrator to the FCC defines the elements of the guidance pertaining to access to freeway ROW, and a letter to the FHWA Administrator from the Chief of the Common Carrier Bureau of the FCC defines the competitive elements of the

guidance based upon the access restrictions defined by the FHWA.

This is only guidance to assist States in the execution of Shared Resource agreements. Agreements can deviate from these guidelines and still be in conformance with the TCA. However, this guidance is intended to clarify some of the important requirements of the TCA with regard to competition in the telecommunications industry.

Background

Over the past decade, a number of States have implemented Shared Resource agreements with private telecommunications companies. ''Shared Resource'' is a term identifying public-private arrangements involving the sharing of the public resource of roadway ROW and the private resource of telecommunications expertise and capacity.[1] Most commonly, private telecommunications providers are granted access to limited access highway ROW for their own telecommunications infrastructure (principally fiber optics conduits and cable) in exchange for providing telecommunications infrastructure to public agencies.

Shared Resource agreements can be a beneficial, cost-effective means for State DOT's to obtain the telecommunications infrastructure necessary for Intelligent Transportation Systems (ITS). For example, telecommunications capacity is essential for the integration of both equipment and data components required for State and metropolitan traffic operations systems. Such systems may include traffic control devices (*e.g.* traffic signals), closed circuit television, radar detectors, pavement sensors, etc.

The United States Department of Transportation (U.S. DOT) and the FHWA are responsible for highway safety (23 U.S.C. 401), the management of ROW on the interstate system (23 U.S.C. 109(1) and 111(a)), and implementation of the national ITS program. The FHWA's implementing regulations for utility accommodation are applicable to shared resource agreements and other telecommunications installations. 23 CFR part 645, subpart B. The regulations, in part, require that States accommodate utilities in a manner which does not impair the highway or adversely affect highway traffic safety. 23 CFR 645.211(a). The regulations explicitly require that States examine the effect of utility installation on ''safety, aesthetic quality, and the cost or difficulty of highway and utility construction and maintenance.'' 23 CFR 645.211(b). Though, pursuant to regulations, ROW management responsibilities have largely been devolved to the States, implementation of these responsibilities must remain consistent with FHWA regulations, not only those at 23 CFR part 645, but also those at 23 CFR part 710 governing the interstate ROW.

The FHWA also recognized that the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996) (codified as amended in scattered sections of title 47 of the United States Code (U.S.C.)), had the potential to impact the installation of telecommunications on freeways. Specifically, the Act prohibits State and local governments from implementing any statute, regulation, or legal requirements which have the effect of prohibiting any entity from providing telecommunications service. 47 U.S.C. 253 (a). However, the section containing this prohibition has two exemptions. First, the prohibition does not affect the ability of the States to impose, on a competitively neutral basis, requirements necessary to preserve and advance universal telecommunications service, protect public safety and welfare, ensure quality of telecommunications service, and safeguard the rights of consumers. 47 U.S.C. 253 (b). Second, the prohibition also does not affect ''the authority of a State or local government to manage the public ROW or to require fair and reasonable compensation from telecommunication providers, on a competitively neutral and nondiscriminatory basis, for use of public right-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.'' 47 U.S.C. 253 (c).

In October 1996, the FHWA issued guidelines on the anticipated effects of the TCA on utility accommodations.[2] In these guidelines, the FHWA recommended that the State highway departments desiring to allow one or more telecommunications companies on interstate ROW make their intentions publicly known and give all telecommunications companies the opportunity to compete.

Guidance on Access to Freeway Right-of-Way

State transportation departments are obviously very knowledgeable about FHWA regulations on safety, utility accommodations, and ROW management. However, the FCC's decision on the Minnesota Shared Resource agreement created concerns and uncertainties, notably with regard to dealing with the competitive effects of such agreements on the telecommunications industry and their relationship to the management of ROW and public safety. To alleviate this concern, the U.S. DOT has worked closely with the FCC to develop guidance for States that wish to engage in shared resource and other telecommunications projects.

When States allow telecommunications companies onto the freeway ROW, they are potentially invoking the TCA. The objective of the TCA is to foster competition in the industry. Thus, the TCA contains significant measures to allow new potential competitors an opportunity to compete with the large incumbent ''Baby Bells'' that have dominated the industry for nearly 100 years. These new competitive measures of the TCA should be considered by States when they choose to allow telecommunications companies onto their freeway rights-of-way.

This guidance identifies points for negotiating, reaching/implementing Shared Resource agreements and other telecommunications installations that involve entering limited access highways (freeways) for the safe installation of fiber optic facilities. In addition, this guidance provides potential criteria for implementing these agreements in a manner that the FCC Common Carrier Bureau has already indicated would be acceptable and likely to maintain a competitively neutral environment in the telecommunications industry in accordance with the TCA.

It should be noted that the telecommunications competitive environment varies across the country. Thus, the circumstances concerning what is fair and equitable can vary from region to region. Therefore, it is reasonably foreseeable that States will develop agreements for telecommunications longitudinal access to freeway ROW that differ from the suggested guidelines, and that those agreements would still be in compliance with the TCA requirements for competitive neutrality in the contractual actions of States.

[1] United States Department of Transportation, Shared Resources: ''Sharing Right-of-Way or Telecommunications,'' Final Report, Publication No. FHWA–PO–96–0015 (April 15, 1996), This document is available online at the web site: *http://www.itsdocs.fhwa.dot.gov* as item no. 1863, 90 pages.

[2] Memorandum from Gerald L. Eller, Director, FHWA's Office of Engineering to Regional Federal Highway Administrators on the Effects of the Telecommunications Act on Utility Accommodation, October 25, 1996.

While these guidelines will not prevent a State's actions from being challenged, the U.S. DOT and the FCC Common Carrier Bureau agree that these guidelines will help States satisfy their obligation under the applicable laws and provide a reasonable level of assurance that a State's actions will not be preempted.

The attachment, ''Background Discussion on Guidance: Telecommunications Installations, Limited Access Highway Right-of-Way,'' (available at: *www.its.dot.gov*) presents a detailed discussion of the FCC's ruling on the Minnesota case, and the rationale for these guidelines which have been developed in cooperation with the FCC.

If a State chooses to allow longitudinal access for fiber optic facilities installation on its freeway ROW pursuant to its Utility Accommodations Policy, it is recommended that the following guidelines apply to that installation.[3] Other provisions factoring in regional characteristics should be considered in agreements with the contractor that specifies details as to how particular issues necessary to protect the public safety are being handled on a project by project basis (*e.g.* topographical and other obstructions encountered, special working conditions and limitations, etc.).

1. In these guidelines, it is understood that the State retains the right and responsibility to manage its freeway ROW. Reasonable, nondiscriminatory time, place, and manner restrictions, including but not limited to traditional permitting conditions, may be placed on the design, installation, operation, and maintenance of fiber optic facilities.

2. All construction should be done in that portion of the ROW that is located furthest from the traveled roadway to the degree feasible, and should be accomplished in accordance with the Manual on Uniform Traffic Control Devices, per 23 CFR part 655.603.

3. If all construction vehicles, equipment, and personnel can be located outside the clear zone on the freeway, as defined in the AASHTO Roadside Design Guide and adopted by FHWA in Federal Aid Policy Guide, Par. 16(a)(3) NS 23 CFR part 625, except for ingress and egress, the State may use the freeway ROW for fiber optic facilities installation as frequently as reasonably necessary to satisfy the requirements of the State, and the needs of the telecommunications providers.[4] A State may limit construction so that there is no more than one installation project underway at any given time on any major segment of the freeway.

4. If construction vehicles, equipment, and personnel cannot be located out of the freeway clear zone, then the State may restrict fiber optic facilities installation to only one time on that area of the freeway where construction would occur within the clear zone. No further installation needs to be allowed on that segment until such time as required by the end of the useful life of the fiber optic facilities, or if the existing capacity is exhausted or existing conduit is full. Existing fiber and conduit capacity will be deemed exhausted whenever the State and the contractor mutually determine that a bona-fide request for dark fiber, conduit space, or a bona-fide request for any other transmission facilities or service cannot be granted. Additional installation at this time will be subject to reasonable nondiscriminatory State requirements, *e.g.*, per #1 above.

5. A State may restrict the location of all the above ground equipment to the edge, or off of the ROW to allow access to that equipment for maintenance from service roads or other non-freeway access if feasible, as determined by the State. Such restrictions should be nondiscriminatory.

Guidance on Competitive Issues

To assist States in meeting the intent of the TCA with regard to maintaining a competitively neutral position in the process of developing and implementing a Shared Resource or other telecommunications installations project, the FCC Common Carrier Bureau suggests the following principles in the development of these projects. These principles should be considered whenever a State decides to limit further installations of fiber optic facilities on its ROW, whether in or out of the clear zone.

1. The contractor should be selected through an open, fair, nondiscriminatory, competitive process.

2. Having selected a contractor, other interested third-party telecommunications companies should be allowed the opportunity to have their fiber optic facilities installed in conjunction with any installation of fiber optic facilities by the contractor. The State may make the contractor the sole party responsible for all installation work done at such times, and require that other third party telecommunications companies contract with that contractor for installation of their fiber optic facilities when their facilities are installed in conjunction with those of the contractor. In such cases, the contractor's charges, terms and conditions for installation should be fair, reasonable, and nondiscriminatory and may include a reasonable profit. The State should give potentially interested third parties reasonable notice of the anticipated or planned opening of the right-of-way. The notice period should reflect the time reasonably required by third parties to develop business plans and obtain financing. Notice can be accomplished through publication and dissemination of a construction schedule for the project. Such publication and dissemination should be reasonably calculated to provide potentially interested third parties with actual notice of the schedule.

3. The contractor should install spare fiber and empty conduit, adequate to accommodate reasonably anticipated future demand, whenever fiber optic facilities cannot be installed outside the clear zone. Each section of fiber/conduit within the clear zone should have connection points (manhole or cabinets) at each end outside the clear zone where third parties can access the conduit or interconnect with facilities in the conduit at their option. All rates, terms and conditions for interconnection and/or use of space in the conduit should be fair, reasonable, and nondiscriminatory and may include a reasonable profit.

4. The contractor should be required to sell fiber on an ''Irrevocable Right of Use'' (IRU)[5] basis at rates and subject to terms and conditions that are just, reasonable, and nondiscriminatory. The contractor's charges for such facilities may include a reasonable profit.

[3] Pursuant to 23 C.F.R. 645.211, states are required to submit utility accommodations plans for approval.

[4] There is no intention for this guidance to cause States to determine the exact location of the clear zone in any particular area. In most instances, whether a contractor can locate the construction outside the clear zone should be discernable for most portions of the freeway by inspection of a State's existing data on its ROW. The theoretical width of the clear zone, as defined in the roadside Design Guide, can vary substantially depending on the topography of the land involved. Therefore, occasional instances of construction within the clear zone for short distances because of topographical features of the terrain or other factors, can be treated as if the construction were taking place outside the clear zone at the discretion of the State. In such cases the competitive safeguards defined in 3 below should not be necessary.

[5] The commission has defined an IRU interest in a communication facility as ''a form of acquired capital in which the holder possesses an exclusive and irrevocable right to use the facility and to include its capital contribution in its rate base, but not the right to control the facility or, depending on the particular IRU contract, any right to salvage''. Reevaluation of the Depreciated-Original-Cost Standard in Setting Prices For Conveyances of Capital Interests in Overseas Communication Facilities Between or Among U.S. Carriers, CC Docket No. 87–45, Report and Order, 7 FCC Rcd 4561 at 4564, n.1 (1992).

5. The contractor should be required to offer facilities and services for resale at rates and subject to terms and conditions that are just, reasonable, and nondiscriminatory and may include a reasonable profit.

6. The agreement with the contractor should require that the contractor comply with the terms defined above, and give third parties the right to challenge the contractor's compliance with the appropriate elements of these terms dealing with third party access before an independent entity which does not benefit directly from the arrangement with the contractor. The independent entity should have the authority to order the contractor to comply with these terms. A State public utilities commission, or independent arbitrator, might serve in this capacity. In this regard, prompt resolution of such issues can be critically important to the development of competition.

7. It is substantially preferable that the contractor be a wholesaler of telecommunication in order to minimize competitive concerns, as opposed to being a retail telecommunications service and facilities provider either directly or through an affiliated entity. This reduces the potential for anti-competitive pricing that could violate section 253 of the TCA. However, if the contractor does provide retail telecommunications service directly or through an affiliated entity, all rates, terms and conditions for its retail service should be fair, reasonable, and nondiscriminatory.

(The provision of retail service by a contractor creates the potential for a ''price squeeze'' with the contractor overcharging competitors, and its retail arm, for wholesale services and facilities, while competing vigorously on price for retail services. Thus, if the contractor provides retail services, the contractor's charges for services and facilities used by potential retail competitors may require careful scrutiny to avoid potential violations of the TCA.)

Conclusion

These guidelines shall not be used as evidence of any alleged or asserted legal rights with regard to access to freeway ROW, but are being provided to assist States in developing their agreements for telecommunications installations on freeway ROW, particularly dealing with the nondiscriminatory, pro-competitive requirements of the TCA.

The information provided in this discussion of longitudinal access to freeway ROW and the impact of the TCA is provided for guidance purposes only. Local conditions in the telecommunications competitive environment may well dictate other approaches to satisfying the competitive neutrality provisions of the TCA. There is no ''right answer'' that will serve every situation. However, the points discussed above provide some insight into the thinking of the FCC Common Carrier Bureau on these issues, and can be used to assist States in formulating their approach to the subject of longitudinal access to freeway ROW for telecommunications.

The FHWA anticipates revising these guidelines periodically as information is obtained on the practicality and reasonableness of these recommendations.

Any questions on the guidelines should be addressed to William S. Jones, Intelligent Transportation System Joint Program Office, telephone number (202) 366–2128, Washington, DC 20590, e-mail: *WilliamS.Jones@fhwa.dot.gov.*

[FR Doc. 01–1644 Filed 1–19–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–8611]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before March 23, 2001.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh St. SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 10:00 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of the request for collection of information may be obtained at no charge from Dr. William J.J. Liu, NHTSA, 400 Seventh Street, SW., Room 5313, Washington, DC 20590.

Dr. Liu's telephone number is (202) 366–4923. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

49 CFR 571.218, Motorcycle Helmets

Type of Request—Reinstatement of clearance.

OMB Clearance Number—2127–0518.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years from date of approval.

Summary of the Collection of Information—NHTSA has issued