

(a) The ability to provide frequently updated information from a variety of sources including traffic management, transit management, roadway weather information services, construction and road closure information, parking management, and emergency services;

(b) How well the applicant demonstrates the capacity to provide sophisticated, innovative solutions in content creation, fusion, and dissemination;

(c) How well the applicant demonstrates the capacity to provide sophisticated, innovative solutions in designing and implementing the user interface;

(d) The design of an implementation strategy including a timeline for rollout of the enhanced 511 service;

(e) The application of ITS Standards for information exchange and delivery; and

(f) The demonstrated ability to bring together State, metropolitan, and local partners to create a seamless, regional traveler information system.

2. Management and Staffing Plan

The management and staffing plan must demonstrate a reasonable estimate that reflects the level of effort and skills needed to successfully complete the 511 model deployment, along with the identification of the organizations that will supply the staff needed, lines of reporting, and responsibilities. The management and staffing plan must include the names and qualifications of key staff.

The management and staffing plan will demonstrate a commitment to hire or assign a project manager and provide adequate full-time staff to ensure timely implementation of the 511 model deployment. Proposed staff should have demonstrated skills for effective operations and management, or the commitment to acquiring the necessary skills in relevant technical areas, such as systems engineering and integration; telecommunications; and information management.

The selection will be based on the adequacy, thoroughness, and appropriateness of the management and staffing plan, including organization of the project team, staffing allocation, and the schedule for completing the proposed work. Some of the specific items that will be evaluated in the management and staffing plan are:

(a) The availability of key personnel among the participating agencies to attend periodic 511 coordination meetings;

(b) The key personnel that are focused on the systems engineering aspects for incorporating the enhancements to the

existing, or soon-to-be-deployed, 511 service; and

(c) A staffing chart that demonstrates the relationships among the participating organizations, including the names of the key personnel from each of the organizations.

3. Financial Plan

The ITS JPO will evaluate the applications based on the total cost of the 511 model deployment, as well as the individual staffing costs. The financial plan must demonstrate that sufficient funding is available to successfully complete all aspects of the 511 model deployment as described in the technical plan. The financial plan must provide the financial information described previously under Instructions to Applicants. The financial plan must include a clear identification of the proposed funding for the 511 model deployment, including an identification of the required minimum 20% matching funds.

The financial plan must include a sound financial approach to ensure the timely deployment and the continued, long-term operations and management of the 511 system. The financial plan must include documented evidence of continuing fiscal capacity and commitment from anticipated public and private sources.

Authority: Sec. 5001(a)(5), sec. 5001(b), sec. 5207(d), Pub. L. 105-178, 112 Stat. 107, 420; 23 U.S.C. 315; 49 CFR 1.48; and 49 CFR 18.26.

Issued on: January 9, 2002.

Mary E. Peters,
Administrator, Federal Highway Administration.

Jennifer L. Dorn,
Administrator, Federal Transit Administration.

[FR Doc. 02-1163 Filed 1-15-02; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

[FHWA Docket No. FHWA-2000-6757]

High Speed Rail Projects for the Congestion Mitigation and Air Quality Improvement Program (CMAQ)

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice; final decision on CMAQ eligibility for high speed rail projects.

SUMMARY: This notice announces a decision regarding the eligibility of

Congestion Mitigation and Air Quality Improvement (CMAQ) funds for projects outside nonattainment or maintenance area boundaries. A request for comments on this issue was published at 65 FR 16997 on March 30, 2000. Eligibility under the CMAQ program has already been granted for high speed rail improvements located within air quality nonattainment and maintenance areas. The issue raised by several States was if, and under what conditions, State departments of transportation (DOT) should be permitted to use their CMAQ allocations to fund high speed rail improvements located outside of nonattainment or maintenance areas. This notice summarizes the comments to the docket and addresses the key issues and concerns raised by respondents. In this notice, the FHWA and the FTA reaffirm the current policy which allows CMAQ funding for projects in close proximity to nonattainment and maintenance areas where it is determined that the air quality benefits will be realized primarily within such areas. Intercity rail lines, including high speed rail projects, compete equally with other types of projects under these criteria and have been funded under CMAQ in some places.

FOR FURTHER INFORMATION CONTACT: For the FHWA program office: Mr. Daniel Wheeler, Office of Natural Environment, (202) 366-2204. For the FTA program office: Mr. Abbe Marner, Office of Planning, (202) 366-4317. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve comments online through the Document Management System (DMS) at <http://dmses.dot.gov/submit>. The DMS is available 24 hours each day, 365 days each year. Electronic retrieval help and guidelines are available under the help section of the web site.

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

Background

The CMAQ program was established by the Intermodal Surface

Transportation Efficiency Act of 1991 (Pub. L. 102-240, 105 Stat. 1914) and reauthorized with some changes by the Transportation Equity Act for the 21st Century (TEA-21) in 1998 (Pub. L. 105-178, 112 Stat. 107). The primary purpose of the CMAQ program is to fund transportation projects that reduce air pollution emissions in areas designated by the U.S. Environmental Protection Agency (EPA) as nonattainment or maintenance with respect to a National Ambient Air Quality Standard (NAAQS).¹ Program guidance was issued by the FHWA and the FTA on April 28, 1999. This guidance document was published at 65 FR 9040 on February 23, 2000.

The current CMAQ statutory language, which is codified in section 149 of title 23 of the United States Code, requires that projects and programs proposed for CMAQ funding be for a designated area.² The FHWA and the FTA have generally interpreted the statute to allow CMAQ funding for projects within nonattainment and maintenance areas, but the agencies' guidance allows funding for proposals that are in close proximity to designated areas where the air quality benefits are primarily realized in those areas. For example, a park-and-ride lot located at the edge of a metropolitan area may reduce the number of cars going into that area by the same amount whether it is located just inside the officially designated boundary or just outside of it. Another example is a commuter rail line with a segment located beyond the nonattainment area boundary.

The purpose of the current policy is to allow CMAQ eligibility for projects

which serve a designated area by being very close to the area and whose emission reductions primarily benefit such areas, so long as those projects meet all of the statutory eligibility criteria of 23 U.S.C. 149. The primary eligibility criterion is a reduction in transportation related emissions that will contribute to the attainment or maintenance of a NAAQS.

Eligibility for high speed rail projects has already been established under the above policy. Several States have explored the possibility of using CMAQ funds to support high speed rail projects outside of nonattainment or maintenance areas on the basis that they would have benefits within designated areas only if an entire corridor were funded, including portions outside of such areas.

The issue then is whether, and under what conditions, State DOTs should be permitted to use their States' CMAQ allocations to fund high speed rail improvements located outside of nonattainment or maintenance areas. To gather input from interested parties, the FHWA and the FTA published a request for comments at 65 FR 16997 on March 30, 2000.

Discussion of Comments

A total of 39 comments were received. Twenty-one commenters opposed expansion of eligibility and believed the existing policy should remain intact. There were 18 who supported it, either conditionally or fully. Those who supported changing the policy stated that emissions reductions are the most important part of CMAQ eligibility, and therefore projects that reduce emissions should proceed. Those who proposed conditional support for the expansion felt that such projects may be eligible, but should be held to a higher standard, or have funding limitations or a separate funding source.

A categorization of these comments is as follows: Seven metropolitan planning organizations (MPOs), five State DOTs, one State air agency, two cities, one private citizen and five associations opposed the expansion of existing policy. One State legislator, one MPO, three State DOTs, two railroads, one railroad development commission and five rail passenger associations supported changes. The five comments that expressed limited support, or support under certain conditions, were all from State DOTs.

The comments were generally thoughtful, and many raised excellent points. However, no comments were received that persuaded us that the current policy on eligibility was unsound. Several issues were raised,

however, that do merit further discussion and thereby provide an opportunity for further clarification and amplification of our current interpretation of the factors that serve as the basis for our position. The full set of comments can be reviewed by accessing: <http://dms.dot.gov>. The docket number is FHWA-2000-6757.

Those who did not support the expanded eligibility argued that it conflicts with legislative language and intent that they claim precludes funding for projects outside of nonattainment and maintenance areas. One group commented that "Congress * * * (in) * * * TEA-21 specifically directed CMAQ allocations to be used by States to fund projects that reduce transportation-related emissions in air quality nonattainment areas. * * * proposal(s) to fund projects outside of these areas are not in compliance with the law's intent * * *"

Other commenters took issue with the flexibility that currently exists in the guidance. Several of those opposed to expansion expressed concern that even allowing eligibility for projects in close proximity to the nonattainment or maintenance area does not go far enough in ensuring that air pollution will be reduced in the area. One stated, "The ability to demonstrate air quality benefits for high speed rail projects outside the nonattainment areas would be problematic at best."

Overall, supporters of expanded eligibility were of the opinion that this new high speed rail service would benefit air quality in both nonattainment/maintenance areas as well as attainment areas. Nine of the respondents commented that there would be positive emissions benefits in the nonattainment and maintenance areas regardless of whether the high speed rail service passed through attainment areas. Responses included statements such as "all projects that contribute to decreased pollution and congestion should be considered * * *" and "[T]he critical factor should not be where the funds are spent, but rather how much congestion and pollution will be prevented in nonattainment areas * * *"

There were also a number of respondents whose support was limited. These respondents favored the idea of CMAQ flexibility for rail projects, but through additional eligibility requirements, new regulations, or major changes to the program for which statutory authority does not exist. Many of these proposed changes are infeasible under current legislation. However, a number of these respondents provided information that may help to address

¹ States which have no designated nonattainment or maintenance areas receive a minimum apportionment of one-half of one percent of the national CMAQ funding. This money may be spent anywhere in the State for any project which would be eligible for funding under the Surface Transportation Program (STP) as well as for any CMAQ purpose. States whose apportionments based on their nonattainment and maintenance area populations are less than one-half of one percent receive additional funds to make up to the one-half percent minimum. These additional funds may also be spent anywhere in the State for any STP or CMAQ eligible purpose.

² Specifically, 23 U.S.C. 149(b) provides: "ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, and * * *"

the issues of what it means for projects to be in close proximity to and primarily benefitting the nonattainment area. For example, it was suggested that "close proximity should be defined as a government defined jurisdiction that shares a common border with the nonattainment or maintenance area."

In relation to the demonstration of benefits primarily realized (or occurring) within the designated areas, it was offered that "Projects must demonstrate air quality benefits primarily within the nonattainment area or maintenance area boundary [and] a performance standard is important. To be eligible for funding, at least 75 percent of the project's emission reduction should accrue in the nonattainment or maintenance area." Apparently with respect to defining the criterion that the project primarily serve the area, it was also suggested that the * * * decision * * * on whether a project provides enough emission reduction potential to warrant receipt of a CMAQ allocation should be decided at the State and local level."

The FHWA and the FTA believe that the commenter is right that a preponderance of the emissions reduction benefit should accrue within such areas for a project to be eligible. However, no commenter provided a legislative or clear scientific basis to assign any specific share of emission reduction benefits as a threshold for determining eligibility. The threshold could just as easily be set at 85 or 95 percent to meet the statutory requirements. Further, the agencies believe that while State and local entities, including the MPOs, are in a good position to weigh the emissions and air quality benefits of an activity proposed for CMAQ funds, a final determination must rest with the FHWA and the FTA.

The FHWA and the FTA continue to believe that there are instances where the project sponsor can demonstrate benefits primarily for a nonattainment or maintenance area despite the fact that the project or program may not be physically located entirely within the boundary area, but that this demonstration becomes increasingly difficult the farther the project, program or service extends beyond the area's boundaries. We have retained "close proximity" as part of the eligibility standard because, whatever else may be argued about the difficulty of accurately quantifying benefits, they do diminish with distance.

There is no disagreement among the commenters that the primary purpose of the CMAQ program is to fund transportation improvements within

nonattainment and maintenance areas that reduce emissions. The FHWA and the FTA believe that this will continue to be the general case for CMAQ eligibility. The FHWA and the FTA have administered the program under the general policy that CMAQ funds should be used for projects located in nonattainment and maintenance areas.

The current policy, set forth in the agencies' program guidance document, also allows certain circumstances under which projects can be determined to be eligible for CMAQ funding even though they are not located entirely within designated nonattainment or maintenance areas. Those exceptional circumstances are when a project is located in close proximity to designated areas and the benefits will be realized primarily within the nonattainment or maintenance area boundaries. For example, the rail proposals found eligible thus far have both begun and ended in nonattainment or maintenance areas, have been for the most part located in designated areas, and have benefits which are primarily realized within the boundaries of the designated areas.

As mentioned above, the FHWA and the FTA support flexibility and keeping the decisionmaking as close to the affected area as possible. Standards to define "close proximity" are difficult to establish without being arbitrary. Defining a specific distance from the designated boundary could artificially establish a second boundary. This new "boundary" could lead to another round of proximity questions. To avoid this, we believe that maintaining our policy of allowing emission reducing projects to go forward without specifically defining close proximity is the more prudent course. Of course, in the absence of an exact limit, the "burden of proof" falls on the project sponsor. It is up to the project sponsor to demonstrate that its emission reductions primarily benefit the nonattainment or maintenance area, a task clearly aided by showing a close proximity to the area.

We believe that the preponderance of emission reduction benefits must accrue to such areas, in comparison with other areas served, to demonstrate that the project will primarily benefit the nonattainment or maintenance area. To that end we believe that the project sponsor must demonstrate the project's emission reduction benefits will primarily be realized within the nonattainment and maintenance area boundaries to be eligible.

High Speed Rail Projects

High speed rail service, in general, is a passenger transportation mode that links well-populated metropolitan areas that could be as much as 100 to 500 miles apart. It usually has few station stops since more would increase travel times. The metropolitan areas that such links serve may, or may not, be in nonattainment or maintenance areas.

A project to improve a high speed rail service which is located within a nonattainment or maintenance area would be eligible for CMAQ if it reduces emissions and meets the other eligibility criteria and title 23, U.S. Code, requirements. Similarly, a high speed rail service may link two or more nonattainment (or maintenance) areas. If the project creates emission reductions in the nonattainment or maintenance areas, it may be eligible for CMAQ.

Using CMAQ funds, the FHWA has funded rail projects that primarily serve nonattainment or maintenance areas and whose benefits occur primarily within those areas. CMAQ funds have already been used for a variety of freight and passenger rail services in New York, Ohio, Maine, and Illinois.

One such project is the Empire Corridor of New York State. CMAQ funds are being provided to support rail improvements necessary for high speed rail in five counties between New York City and Schenectady. Four of those counties are designated as maintenance areas for the 1-hour ozone standard. One county, in the middle of the project, is not designated.

The portion of the Empire Corridor that is being funded is approximately 160 miles long and connects the New York City nonattainment area with the Albany maintenance area. Various track improvements, double track additions, bridge work and station improvements are needed to complete a viable project, in addition to new train-sets that will run the entire length of the project. Approximately 25 miles of the track work will be in the one county that is not designated. That track begins and ends in designated areas and is in close proximity to a designated county just to the west of the county through which it runs. The project is not viable without the link through the undesignated county, and the emissions benefits to be obtained within the designated areas by providing a quick alternative to automobile travel cannot be realized without this important portion. Therefore, the entire length from New York City to Schenectady has been found to be eligible for CMAQ funding, including the link within the one county that is not designated.

Another proposal that was recently approved is to provide CMAQ support to a new rail service between Los Angeles and Las Vegas. The State of Nevada proposed to provide a relatively small portion of the total cost of this service using CMAQ funds. The eligibility determination was based on the particulate emission reductions to be obtained within the Las Vegas particulate matter nonattainment area.

Within Nevada, the project will begin in the Las Vegas nonattainment area and proceed southwesterly toward the California State line, about 30 miles away. Approximately half of that distance is within the designated nonattainment area; the remainder of the distance within Nevada is not designated. Within California, the entire remaining distance is designated nonattainment for particulate matter. The western part of the route, closer to Los Angeles is classified as a serious nonattainment area. Thus, only about 15 miles of the approximately 275 mile long project is outside of designated areas. And, the emission benefits related to moving people by train rather than by automobile can only be obtained by a continuous project, including the area not designated.

Policy Decision

The FHWA and the FTA believe that the current policy can serve the needs of those high speed rail projects that are eligible within the statutory authority of 23 U.S.C. 149. Under the current policy, rail projects can be funded if they (1) are located within, or in close proximity to, nonattainment or maintenance areas, (2) can demonstrate the projects' emission reductions are realized primarily within the designated areas, and (3) meet other criteria for CMAQ funding. There is no compelling need to modify the policy at this time. The determination that proposals for CMAQ funding meet these criteria should be made in close collaboration with State and local officials at transportation and air quality agencies, including the MPO, and the EPA, but the final determination of CMAQ eligibility rests with the FHWA and the FTA, as always.

Authority: 23 U.S.C. 149, 315; 49 CFR 1.48 and 1.51.

Issued on: January 9, 2002.

Mary E. Peters,
Administrator, Federal Highway Administration.

Jennifer L. Dorn,
Federal Transit Administrator.
[FR Doc. 02-1164 Filed 1-15-02; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34149]

Stillwater Central Railroad, Inc.— Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

Stillwater Central Railroad, Inc. (SCRRI), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from The Burlington Northern and Santa Fe Railway Company and operate approximately 119.73 miles of rail line between milepost 549, at Wheatland, OK, and milepost 668.73, at Long, OK.

The transaction was scheduled to be consummated on or shortly after December 28, 2001.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34149, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., BALL JANIK LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: January 4, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-766 Filed 1-15-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34121]

Craggy Mountain Line, Inc.— Acquisition and Operation Exemption—Norfolk Southern Railway Co.

Craggy Mountain Line, Inc. (CMLX), a noncarrier, has filed a verified notice of exemption under 49 CFR part 1150.31 to acquire and operate approximately 3.45 miles of rail line currently owned by Norfolk Southern Railway Company (NS). The line, known as the Asheville

to Craggy Branch, is a portion of the former Southern Railroad located in Woodfin Township, Buncombe County, NC, and extends between the beginning Survey Station ACM, 17+63=0100 in Woodfin Township and the ending Survey Station 123+00 "Asheville to Southern" 17+97 in Woodfin Township. CMLX certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction was scheduled to be consummated on or after December 31, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34121, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on David R. Payne, P.A., 218 East Chestnut St., Asheville, NC 28801.

Boards decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: January 9, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-968 Filed 1-15-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104-13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting financial, traffic and operating statistics from small