

classified under the Act as existing commercial air tour operators (49 U.S.C. 40128(f); 14 CFR 136.3). These existing operators are eligible to receive interim operating authority (IOA), under conditions set forth in the Act. IOA allows these operators to continue conducting commercial air tours over the parks or tribal lands pending completion of the ATMP. With a few limited exceptions, no other operators are permitted to operate pending completion of the ATMP.

Since the Act did not directly address the issue of IOA transferability, the FAA must determine whether allowing transferability of IOA from one operator to another is consistent with the Act's provisions and overall goals. By notice published in the **Federal Register** on June 28, 2006, the FAA solicited comments on a draft opinion that concluded permitting the transferability of IOA is neither consistent with provisions of the Act nor its overall goals. On July 26, 2006, the FAA extended the comment period to September 13, 2006.

The FAA received six comments in response to that notice. The majority of commenters raised two common points. First, because of the amount of time it takes to complete an ATMP, failure to allow free transferability of IOA will inevitably result in an overall reduction of the number of air tour flights available to the public. Secondly, allowing the transfer of IOA among existing and new operators would not increase the overall number of potential IOA at a park and is fully consistent with the intent of Congress.

The FAA acknowledges that, if IOA is not transferable, the number of air tours at a park may be reduced if an air tour operator goes out business without a successor purchaser. It must also be acknowledged, though, that Congress clearly intended IOA to be temporary in nature and severely limited FAA and NPS' ability to grant increases of IOA to existing operators or new entrants. The statutory scheme for IOA as expressed in the Act does not support the concept that Congress intended to allow the free trafficking in IOA. It cannot be presumed that, while Congress authorized FAA and the NPS to reduce, or even eliminate IOA prior to the implementation of an ATMP, it intended to preserve the existing level of air tours by permitting unrestricted transfer of IOA.

Some commenters argued that the transferability mechanism for Grand Canyon should serve as a model for IOA. Others requested that, if it is decided IOA is not transferable, that decision should not apply to operating

authority (OA) granted under an ATMP. If IOA were transferable, then the Grand Canyon transfer mechanism in 14 CFR 93.321 could serve as a model; however, Grand Canyon's transfer mechanism was created by regulation under different statutory authority. It does not serve as a precedent for the transferability of IOA. On the other hand, this opinion only addresses the transferability of IOA. Transferability of OA will be covered separately, as part of the ATMP process.

After due consideration of the comments received, the FAA issues the following final opinion on the transferability of IOA.

Opinion: Congress required ATMPs to be established over units of the national park system and abutting tribal lands to ensure that the agencies analyze the environmental impact of commercial air tours upon such land and "develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences and tribal lands" (49 U.S.C. 40128(b)(1)(B); 14 CFR 136.9(a)). Under the Act, commercial air tours are not permitted until an ATMP is completed for the park, unless the operator is an existing air tour operator as defined in the Act and receives IOA, has received authority to operate under part 91 with a letter of agreement from the Administrator and the NPS superintendent for that national park unit (49 U.S.C. 40128(a)(3); 14 CFR 136.7(g)), or has received authority to operate as a new entrant prior to the completion of the ATMP (49 U.S.C. 40128(c)(3)(C); 14 CFR 136.11(c)).

Congress set up the IOA process as a way of ensuring that those commercial air tour operators conducting commercial air tours over national parks at the time of Act's enactment would not be put out of business while the FAA, in cooperation with NPS, analyzed the environmental impact of the air tours on the national park unit and developed an ATMP. The IOA then ends 180 days after the ATMP is adopted.

IOA is granted to specific operators over specific parks. Those operators who conducted commercial air tour operations in the 12 months preceding enactment (April 5, 2000) over the particular units of the park system for which they are applying for authority qualify for IOA. Those operators receive an allocation equal to the number of operations they conducted in the 12 month period preceding enactment, or an average, based on the three years preceding enactment. Thus, under the

terms of the Act, only existing operators initially qualify for IOA.

Additionally, a particular operator's IOA may not exceed the number of allocations earned by that operator for a calendar year, unless it was increased pursuant to the Act's provisions, which require concurrence between the FAA and NPS. The FAA and NPS may grant such increases under limited circumstances, and the allocations involved in the increase are not subject to sale. The FAA, in cooperation with NPS, may grant IOA to a new entrant air tour operator only if the FAA determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.

Given the specificity of the IOA authority and the limitations placed on that authority, FAA has concluded that Congress did not intend for the operators to possess it as a valuable right to be bought and sold. IOA was designed as a temporary solution to allow operators already conducting air tours at the time of the enactment of the Act to continue to operate pending completion of the ATMP, or new entrants to begin operation to ensure competition. If FAA were to conclude that IOA can be transferred, then operators could grow an existing business by adding IOA allocations to their current allotment from other operators and new entrants could obtain IOA allocations and start operations without FAA and/or NPS approval. Such an interpretation would be inconsistent with the overall structure of the Act.

In consideration of the foregoing, it is the opinion of the FAA that IOA is not transferable.

Issued in Washington, DC, on February 7, 2007.

James W. Whitlow,
Deputy Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2007-26977]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Notice of Request for Extension
of Currently Approved Information
Collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under Supplementary Information. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 16, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA-2007-26977 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bob Bini, 202-366-6799, or Cynthia Hatley, 202-493-0426, Office of Federal Lands Highway, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Federal Lands Highway Program.

OMB Control #: 2125-0598.

Background: Title 23 U.S.C. 204 requires the Secretary of Transportation and the Secretary of each appropriate Federal land management agency to develop, to the extent appropriate, safety, bridge, pavement, and congestion management systems for roads funded under the Federal Lands Highway Program (FLHP). A management system is a process for collecting, organizing, and analyzing data to provide a strategic approach to transportation planning, program development, and project selection. Its purposes are to improve transportation system performance and safety, and to develop alternative

strategies for enhancing mobility of people and goods. This data collection clearance addresses the management systems for the National Park Service (NPS) and the Park Roads and Parkways (PRP) Program; Bureau of Indian Affairs (BIA) and the Indian Reservation Roads (IRR) Program; Fish and Wildlife Service (FWS) and the Refuge Roads (RR) Program; and Forest Service (FS) and the Forest Highway (FH) Program.

Outputs from the management systems are important tools for the development of transportation plans and transportation improvement programs, and in making project selection decisions consistent with 23 U.S.C. 204. Further, management system outputs also provide important information to the FHWA for their stewardship and oversight roles for the Park Roads and Parkways, Indian Reservation Roads, Refuge Roads, and Forest Highway Programs. The data collection required to implement these management systems supports the DOT Strategic Objectives of Safety, Mobility, Environmental Stewardship, and Organizational Excellence. The proposed data collection also directly supports the FHWA's Vital Few Initiative of Safety, Congestion Mitigation, and Environmental Stewardship and Streamlining that represent the three most important strategic planning and performance goals for the agency.

The National Park Service, Bureau of Indian Affairs, Fish and Wildlife Service, and Forest Service are continuing to implement the required management systems and the associated information collections. Completion of this phase-in of the management systems is expected to occur during the time period covered by this information collection, and the average annual burden estimates are based on expected increases in the overall burden over that time period. The management systems vary in complexity among the four agencies and reflect differences in the characteristics of the transportation systems involved such as size, ownership, and eligibility for inclusion in the program. These variations result in differences among the agencies in the expected number of respondents to the information collection, and in the anticipated time necessary to respond to the information collection.

Typical information that might be collected for the management systems includes:

- Traffic information including volumes, speeds, and vehicle classification;
- Pavement features such as number of lanes, length, width, surface type,

functional classification, and shoulder information; and pavement condition information such as roughness, distress, rutting, and surface friction;

- Bridge features such as deck width, under/over-clearance, details of structural elements such as girders, joints, railings, bearings, abutments, and piers; and information on the condition of the bridge elements sufficient to describe the nature, extent, and severity of deterioration;

- Safety information such as crash records, crash rates, and an inventory of safety appurtenances such as signs and guardrails; or

- Congestion measures such as roadway level of service or travel delay.

Respondents to the information collection might be collecting and submitting information in one or more of these categories for the portion of their transportation system that is covered under the FLHP. For example, this might include the collection and submission of these types of information for State or county-owned roads that are Forest Highways, or Indian Reservation Roads owned by Indian Tribal Governments. Typically, the respondents would collect information each year on a portion of their system. Burden estimates have been developed using this assumption combined with an estimate of the time needed to collect and provide the information.

Respondents: The estimated average annual number of respondents for the management systems for each of the agencies addressed by this information collection is: NPS management systems—35 States and 40 Metropolitan Planning Organizations (MPOs), regional transportation planning agencies, counties, local or tribal governments. BIA management systems—35 States and 50 MPOs, regional transportation planning agencies, counties, local or tribal governments. FWS management systems—35 States and 40 MPOs, regional transportation planning agencies, counties, local or tribal governments. FS management systems—35 States and 50 MPOs, regional transportation planning agencies, counties, local or tribal governments.

Frequency: Annual.

Estimated Average Annual Burden per Response: NPS management systems—Approximately 40 hours per respondent. BIA management systems—Approximately 60 hours per respondent. FWS management systems—Approximately 20 hours per respondent. FS management systems—Approximately 60 hours per respondent.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 14,700 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: February 7, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Alamance County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: None of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the relocation of highway NC 119 in Mebane, Alamance County, North Carolina (TIP Project U-3109).

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Coleman, PE, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856-4350, Extension 133.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on the relocation of NC 119 in Mebane, Alamance County. The proposed action would be the construction of a multi-lane divided facility on new location from the I-85 interchange southwest of Mebane to existing NC 119 near SR 1918 (Mrs. White Lane) north of Mebane. Full control of access is proposed at the I-85 interchange and limited or partial

control of access (access only at existing secondary roads (SRs)) is proposed for the remainder of the project. The purpose of this project is to relieve traffic congestion in the downtown area, provide access to the local area, and provide Alamance County with a primary north/south route. The proposed action is consistent with the 2030 Long Range Transportation Plan for Burlington-Graham Metropolitan Planning Organization last updated in May 2005. The proposed action is also consistent with the Burlington-Graham Urbanized Area Transportation Plan (which the Thoroughfare Plan map is a part of) last updated in January 2004. Alternatives under consideration include: (1) The "no-build", (2) improving existing facility, and (3) three limited controlled access highways on new location. Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies. A public meeting and meetings with local officials and neighborhood groups were and will continue to be held in the project study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. A formal scoping meeting was held on February 15, 1994.

A result of the scoping meeting, as well as a meeting held with local officials, was an environmental study area comprised of several potential alignment corridors for the relocation of NC 119. The project study area developed from the initial project scoping process was presented to the public at two Citizens Informational Workshops, at which time public input on this study area was received. In addition, NCDOT held several small group meetings with representatives from the various communities in the project study area as a way to gain additional input from residents and identify ways to minimize community impacts. In early 1997, the majority of the supporting documentation for the Environmental Assessment (EA) was completed and at that time, the EA was anticipated to be completed in mid 1997.

In March 1997, NCDOT held a meeting where local residents suggested an eastern route for the relocation of NC 119. Over the course of the next year, NCDOT studied various alternatives that would relocate NC 119 to the east side of Mebane. During this process, NCDOT conducted several meetings with agency representatives, as well as residents from the various communities

surrounding the project study area, to discuss concerns regarding the proposed relocation of NC 119. Several project newsletters were mailed to the area residents and project stake holders providing updated information about the project and showing the location of the NC 119 Relocation alternatives being considered. In July 2003, another Citizens Informational Workshop was held by NCDOT, showing the detailed study alternatives to the public and seeking public input. Afterwards, the NCDOT decided that an Environmental Impact Statement would be prepared for this project instead of the EA.

In 2004, the NCDOT hired the Wills Duncan Group to manage a community facilitation program for the NC 119 Relocation project. The intent of this program was to increase citizen involvement and identify the most important issues regarding the proposed project from the perspective of the various communities within the study area. A series of community charettes were conducted by the Wills Duncan Group as part of this program and the result was the formation of the NC 119 Relocation Steering Committee; a diverse group of citizens representing the neighborhoods and the business community of the Greater Mebane area. The primary responsibility of this Steering Committee was to assist in increasing citizen participation in the transportation decision making process and to identify the most important issues regarding the project from the perspective of the local communities. Due to extensive coordination with the resource agencies, local officials, and the public during the EA and EIS process for the NC 119 Relocation project, no additional scoping meetings will be conducted for the DEIS.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 6, 2007.

Clarence W. Coleman,

Operations Engineer, Raleigh, North Carolina.

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