captioned as a ''dry lease'' of an aircraft from the owner to the air carrier, and in a separate document the same parties agree that the owner will provide a crewmember to the carrier, such an arrangement would still constitute a wet lease. The FAA would evaluate the two documents together. Such an arrangement (assuming the owner is not a certified air carrier) also would be contrary to section 119.53(b). An air carrier does not have actual operational control of the carrier flight operations if a person other than the air carrier can determine who the pilots of the aircraft will be or can exercise control over those pilots.

c. If an air carrier and an aircraft owner enter into an arrangement labeled as a ''dry lease'' of an aircraft from the owner to the carrier but in a separate document the parties give the owner the right to consent to or approve of the selection of crew, then such an arrangement might be treated as a wet lease depending on the particular circumstances. If in practice only the owner's pilots would be approved (as shown, for example, by evidence that all other pilots had been vetoed for use by the owner), the FAA would deem this leasing arrangement to be a ''wet lease'' in contravention of § 119.53(b). A carrier cannot be said to enjoy actual operational control of its flight operations if an aircraft owner (non-carrier) can effectively veto the carrier's proposed pilot assignments, where those pilots are otherwise qualified and appropriately certificated and trained to conduct carrier flights.

d. The following example would be considered a wet lease by the FAA. Although the carrier is not formally obligated to use the owner's pilots, it is clear from that business arrangement between the carrier and the aircraft owner that the aircraft owner's pilots are provided with the aircraft. Certain aircraft leases contain penalty clauses that provide that if the aircraft owner's pilots are not available to fly the aircraft for the part 135 carrier, then the aircraft owner must compensate the part 135 carrier for any costs the carrier incurs in getting other pilots to fly the aircraft. Because the parties contemplated that the owner would provide both the aircraft and crew, this too constitutes a wet lease, even though the carrier ultimately may use pilots who did not come from the aircraft owner. This type of arrangement is contrary to the provisions of section 119.53(b) of the Federal Aviation Regulations.

2. Other Arrangements Raising Serious Concern as to Operational Control of Flight

a. Operational control issues may arise in situations where there are no leases whatsoever. On occasion an air carrier may make arrangements with an aircraft owner to use its aircraft without entering into a real lease, and thus, the carrier never gets legal possession of the aircraft. This sort of informal arrangement will raise significant legal concerns over inadequate operational control when the carrier has no contractual arrangements with the crew, does not directly pay the crew for their service in air carrier operations, and receives no direct compensation by the customers for transporting passengers or property.

b. Another arrangement raising serious legal concern arises when a certificated air carrier receives a flat ''certificate use'' fee from the aircraft owner regardless of the number of commercial flights conducted per month, and the transportation customer pays the aircraft owner directly. Absent evidence to the contrary showing that the air carrier exercised actual and legal operational control of all flights, such arrangements constitute an inappropriate franchising of an air carrier certificate.

c. Some air carriers only occasionally lease aircraft from particular owners, who may enter into similar arrangements with multiple carriers. Although our rules do not forbid this practice, each carrier must ensure in all of its leasing arrangements that there are mechanisms in place to avoid confusion over who is using the aircraft and when. Similarly, the carrier must have procedures that ensure that the crewmembers adhere to the instructions of the carrier, not the aircraft owner.

E. Conclusion: Recommended Carrier Review of Existing Leasing Arrangements

The foregoing discussion is intended to provide the public, including air carriers and aircraft owners, with a better understanding of the FAA's concerns about the key safety issues linked to operational control of flights made under the authority of FAA certificates. The discussion is also intended to encourage air carriers to closely consider whether their business arrangements comport with the requirements for maintaining operational control. The FAA urges all air carriers to review the leasing and other arrangements they have with aircraft owners to ensure compliance with the regulations. In this regard, the FAA encourages carriers to consider whether they have sufficient controls in place that they have timely knowledge to answer the following questions:

1. What is the actual location of each aircraft listed on the carrier's operations specifications?
2. Who has the carrier authorized to fly the aircraft?
3. Does the carrier have mechanisms in place to prevent unauthorized use of the aircraft?
4. Who or what is being transported on the aircraft?
5. Is a given flight for compensation or hire?
6. If the flight is for compensation or hire, are the crewmembers properly certificated and trained?
7. Are the crewmembers loyal to the air carrier (as opposed to the aircraft owner or some other entity) so that they will adhere to the carrier's instructions not to fly or to delay a flight or to divert a flight?
8. What procedures and mechanisms are in place so that the carrier can fulfill its duty to ensure that the aircraft is airworthy and meets all of the carrier's maintenance programs?

Issued in Washington, DC on October 19, 2005.

James J. Ballough,

Director, Flight Standards Service.

Andrew B. Steinberg,

Chief Counsel.

[FR Doc. 05–21226 Filed 10–19–05; 3:13 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of Environmental Impact Statement for the Downtown Birmingham/University of Alabama Birmingham Activity Centers (a.k.a. In-town Transit Partnership Project)

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Intent to prepare an Alternatives Analysis (AA) and Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration and the Regional Planning Commission of Greater Birmingham are conducting an alternatives analysis and preparing a Draft Environmental Impact Statement (DEIS) for transit improvements in the Downtown Birmingham/University of Alabama Birmingham Activity Centers. The FTA is the lead federal agency and the DEIS will be prepared in accordance with National Environmental Policy Act (NEPA) and the applicable regulations

for implementing NEPA, as set forth in 23 CFR part 771 and 40 CFR parts 1500–1508, as well as applicable laws and regulations including section 4(f) of the Department of Transportation Act of 1966, the Clean Air Act, and Executive Order 12898 on Environmental Justice.

The project will consider the following alternatives: (1) A No-Build Alternative consisting of improvements included in the Birmingham MPO 2030 Long Range Transportation Plan; (2) Transportation System Management (TSM) Alternative that includes all reasonable cost-effective transit service improvements in the study area short of the major investment in a New starts project; (3) Build Alternative: Bus Rapid Transit (BRT) project using rubber tired vehicles operating either in mixed traffic or along an exclusive right-of-way; and (4) Build Alternative: Streetcar using light rail technology operating along tracks embedded in the pavement operating in either mixed traffic or along an exclusive right-of-way. The type, location, and need for ancillary facilities such as maintenance facilities will also be considered for each alternative. In addition, alternatives that are identified during the scoping process will be evaluated in the AA.

Scoping will be accomplished through correspondence and discussions with interested persons; organizations; and Federal, State, and local agencies; and through public and agency meetings. Depending on the outcome of the scoping process and the analysis of a range of transit alternatives in the DEIS, a Locally Preferred Alternative (LPA) will be selected and addressed in the Final EIS (FEIS). The FEIS will address the potential impacts of the selected investment strategy and a No-Build Alternative.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered in the AA/DEIS must be received no later than January 20, 2006 and must be sent to the Regional Planning Commission of Greater Birmingham (RPCGB) at the address indicated below.

Scoping Meeting Date: Public Scoping Meetings will be held on Monday and Tuesday December 5 and 6, 2005 from 1 p.m. to 7 p.m. each day at the Regional Center for Planning and Design 1st Floor Conference Room located at the Regional Planning Commission of Greater Birmingham, 1731 First Avenue North, Birmingham, AL 35203. Presentation boards depicting the project concept will be available for review at the meeting location. Formal presentations will be made at 2 p.m. and 6 p.m. each day. This will be followed by the opportunity for the public to make comments on the scope of the EIS. Regional Planning Commission of Greater Birmingham staff will be available for informal questions and comments throughout the duration of each scoping meeting. Oral and written comments may be given at the scoping meeting; a stenographer will record oral comments. Persons with disabilities or other special needs such as sign language interpretation should contact Darrell Howard at the RPCGB (see **ADDRESSES** section below) 72 hours prior to the scoping meeting for special arrangements. The location is accessible to people with disabilities.

ADDRESSES: Written comments on the project scope should be sent to: Mr. Darrell Howard, Principal Transportation Planner, Regional Planning Commission of Greater Birmingham,1731 First Avenue North, Suite 200, Birmingham, AL 35203, Phone (205) 264–8441 ext 441. E-mail *dhoward@rpcgb.org.*

To be added to the mailing list please contact Mr. Darrell Howard at the address listed above. Please specify the mailing list of the Downtown Birmingham/University of Alabama Birmingham Activity Centers (also known as In-town Transit Partnership Project). The dates and address of the scoping meetings are given in the **DATES** section above.

FOR FURTHER INFORMATION CONTACT: To request a scoping information packet, contact Mr. Darrell Howard, Principal Transportation Planner, Regional Planning Commission of Greater Birmingham, 1731 First Avenue North, Suite 200, Birmingham, AL 35203; Phone (205) 264–8441 ext 441. E-mail *dhoward@rpcgb.org.* The Federal agency contact is: Mr. Len Lacour, Transportation Program Specialist, Federal Transit Administration—District 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562–3515. E-mail is *len.lacour@fta.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Study Area and Scope

The Federal Transit Administration, as joint lead agency with the Regional Planning Commission of Greater Birmingham, will prepare an AA/DEIS on a proposal to transit service in a study area that is about 2.5 miles long and 2.5 miles wide that includes the Downtown Birmingham Financial Center, the University of Alabama at Birmingham (UAB) campus, the Five Points South activity center and portions of adjacent neighborhoods. The study area is generally bounded by 13th Avenues North on the north, U.S. 31 and 280 and 35th Street South on the east, 16th Avenue South on the south, and Interstate 65 on the west. Most of the area is densely developed and serves as the Central Business District (CBD) for the City of Birmingham and represents the largest single concentration of employment in the metropolitan area. The project is a result of the Birmingham MPO Strategic Regional Multi-Modal Plan (SRMMP) completed in 1999 and the Birmingham Regional Transportation Alternatives Analysis completed in 2004. The Downtown Birmingham/University of Alabama Birmingham-Southside was one of three corridors recommended for priority action. The AA/DEIS will include an analysis of alternatives and selection of a LPA. This will also include conceptual engineering of the alternatives considered to a level necessary to satisfy the National Environmental Policy Act (NEPA) requirements. Cost estimates and a financial plan that examines alternative funding sources will also be prepared.

II. Purpose and Need

With more than 80,000 daily workers, the Downtown Birmingham and UAB area represents the largest single concentration of employment in the region and is forecast to add another 17,000 employees over the next 20 years. As the largest employer in the metropolitan area, UAB serves as an economic engine for the region and has a growing student enrollment of more than 16,000. The area also includes more than 4.8 million square feet of office development, the city's major convention center, and burgeoning residential development and redevelopment projects in the city center and adjacent neighborhoods. Maintaining and enhancing access into and within these important activity centers is critical for the economic health of the region and quality of life for area residents. Increasing traffic congestion, air quality concerns, parking constraints, and limited transportation choices threaten the continued expansion of this vital area. Transit service options need to be considered that have the potential to: connect regional transit services to destination points in the downtown and university areas, connect residential neighborhoods to employment and retail businesses, reduce the demand for additional parking spaces in the core area, reduce automobile travel for short trips between various destinations within the Downtown and UAB areas, reinforce the city center as a regional

destination, support expansion plans for both UAB and the Convention Center, and better serve transit dependant populations are needed.

III. Alternatives

Alternatives have been identified to address transportation needs in the study area, connecting major activity centers including the Downtown Financial core, University of Alabama Birmingham Campus, Five Points South commercial area, the Convention Center, area hospitals/medical centers, and adjacent neighborhoods. The project will be consistent with Federal Transit Administration (FTA) Alternatives Analysis and Section 5309 New Start Program requirements for determining future federal funding in recommended programs and be consistent with the National Environmental Policy Act (NEPA). The alternatives being considered will analyze mobility needs and identify and compare the costs, benefits, and impacts of a range of transit alignment and technology alternatives. At a minimum the following alternatives will be considered:

- *No-Build Alternative*—This includes all of the transportation improvements included in the RPCGB Year 2030 Long Range Transportation Plan but assumes that the potential new start project being evaluated in the EIS is not constructed.
- *Transportation System Management (TSM) Alternative*—This includes all of the improvements assumed in the No-Build alternative plus other reasonable low cost improvements to address the project purpose and need. The TSM also assumes that the potential new start project being considered in the EIS is not constructed.
- *Build Alternative: Bus Rapid Transit (BRT)*—This assumes that all of the improvements included in the No-Build Alternative are constructed plus the addition of a rubber tired transit service that operates in either mixed traffic or in reserved right-of-way connecting the major activity centers in the study area.
- *Build Alternative: Streetcar*—This assumes that all of the improvements included in the No-Build Alternative are constructed plus the addition of a rail transit service that operates on tracks in either mixed traffic or in reserved right-of-way connecting the major activity centers in the study area.

The alternatives will be developed further during the preparation of the AA/DEIS. Based on previous studies several candidate streets in the study area have been identified as possible alignments for the Build Alternatives. These streets include: 18th Street, 19th Street, 20th Street, and Richard Arrington Blvd in the north-south direction and 5th Avenue South, 6th Avenue South, 7th Avenue South, and University Boulevard in the east-west direction. Additional reasonable Build Alternatives suggested during the scoping process including those involving other modes, may be considered.

IV. Probable Effects

The purpose of the DEIS is to fully disclose the environmental consequences of building and operating a major capital investment in the Downtown Birmingham and UAB Activity Centers study area in advance of any decision to commit substantial financial or other resources towards its implementation. The DEIS will explore the extent to which study alternatives and alignment options result in environmental impacts and will discuss actions to reduce or eliminate such impacts.

Environmental issues to be examined in the DEIS include impacts to: Community facilities, cultural resources, parklands, traffic operations, parking, transit service and operations, local economy, air quality, noise and vibration, environmental justice populations, potential contaminated sites, and water resources as well as any displacements of residents and businesses. Impacts will be identified for both the construction period and long term operation of the alternatives. The proposed transportation criteria will include transportation, social, economic, and financial measures as required by current federal (NEPA) environmental laws and the implementing regulations of the Council on Environmental Quality and of FTA.

To ensure that the full range of issues related to this proposed action will be addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed and the DEIS should be directed to Mr. Darrell Howard at the RPCGB at the address noted in the **ADDRESSES** section above.

V. FTA Procedures

Depending on the outcome of the scoping process and the analysis of a wide range of transit alternatives, an LPA will be selected and evaluated in the DEIS. The DEIS will be prepared simultaneously with the conceptual engineering for the alternatives, including station and alignment options. The DEIS will address the potential use of federal funds for the proposed action as well as assess the social, economic, environmental, and transportation impacts of the station and alignment options. Station and alignment options will be refined to minimize and mitigate any adverse impacts.

After publication, the DEIS will be available for public and agency review and comment, and a public hearing will be held. Based on the DEIS and comments received, the LPA may be refined, and the RPCGB will further assess the LPA in the Final EIS and will apply for FTA approval to initiate Preliminary Engineering of the LPA.

Issued on: October 19, 2005.

Alexander E. McNeil,

Director, Office of Planning & Program Development.

[FR Doc. 05–21237 Filed 10–24–05; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005 22783]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CRYSTAL SPIRIT.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–22783 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the