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The petition appeal, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition appeal is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* December 1, 2005.

**Authority:** (49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: October 26, 2005.

**Ronald L. Medford,**

*Senior Associate Administrator for Vehicle Safety.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 03-15651]

#### Federal Motor Vehicle Safety Standards; Replacement Lamps, Reflective Devices, and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of interpretation and termination of rulemaking.

**SUMMARY:** This document provides an interpretation concerning how our standard for lamps, reflective devices, and associated equipment applies to replacement equipment. It represents the continuation of a process that began with the publication of a notice of draft interpretation in July 2003, and included the publication of a notice of interpretation in October 2004. We are providing this interpretation in response to requests that we reconsider the October 2004 notice of interpretation on this subject in several areas. This document also announces termination of a rulemaking announced in that notice of interpretation.

**FOR FURTHER INFORMATION CONTACT:** Edward Glancy, Office of Chief Counsel, National Highway Traffic Safety

Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### Background

FMVSS No. 108 specifies requirements for original and replacement lamps, reflective devices, and associated equipment. The standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles. Under the standard, vehicle manufacturers are required to certify that a new vehicle meets, among other things, FMVSS No. 108's requirements with respect to lamps, reflective devices, and associated equipment. In addition, FMVSS No. 108 also applies to lamps, reflective devices, and associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which the standard applies. Thus, FMVSS No. 108 is both a vehicle standard and an equipment standard.

The purpose of FMVSS No. 108 is to reduce crashes and deaths and injuries from crashes, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicles on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility. The agency has addressed the safety need for the various requirements included in FMVSS No. 108 in many rulemakings over the years.

##### October 2004 Notice of Interpretation

On October 8, 2004, NHTSA published in the **Federal Register** (69 FR 60462) a notice of interpretation concerning how Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*, applies to replacement equipment. The interpretation addressed requests for interpretation in two letters submitted by Calcoast-ITL (Calcoast), a testing company. Our notice of interpretation reflected consideration of public comments on a July 2003 notice of draft interpretation.<sup>1</sup>

*Requests for interpretation.* The first Calcoast letter asked whether replacement lamps are required to have all the functions of original lamps. The letter also asked whether replacement lamps for the rear of a vehicle may have the rear reflex reflectors in a location that is inboard from that in the original lamps. The second Calcoast letter asked a series of questions regarding whether

it is permissible for replacement lamps to use alternative light sources, *i.e.*, those that are different from those specified by the original equipment (OE) manufacturer.

*Primary interpretation.* In responding to the issues raised by Calcoast, our interpretation focused primarily on the meaning of the following language, set forth in paragraph S5.8.1 of the standard:

Except as provided below, each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies shall be designed to conform to this standard.

We said that this language applies to individual replacement lamps or other items of replacement equipment, not sets of lamps or equipment. We concluded therefore that compliance of each individual replacement lamp or other item of replacement equipment is determined based solely on the properties and characteristics of the individual lamp or combination lamp, without consideration of other lamps that may be included as part of a set. That is, in the case of a replacement lamp designed or recommended for a particular vehicle and sold as part of a set of two lamps, the lamp would not comply with FMVSS No. 108 if, when installed on one side of the vehicle, it would take the vehicle out of compliance with the standard.

*Retention of required functions.* We concluded that replacement lamps are required to have all the functions of the original lamps.

*Location of required functions.* Given that FMVSS No. 108 requires that reflex reflectors be located "as far apart as practicable," we concluded that replacement lamps that have the effect of moving the reflex reflectors closer together would clearly not be "as far apart as practicable," and therefore would not conform to the standard.

*Use of alternative light sources.* On the issue of use of alternative light sources for replacement lighting equipment, we concluded that replacement lighting (other than replacement headlamps) may utilize a different type of light source than that of the original equipment lighting, provided that the replacement lighting equipment meets the requirements of the standard for that type of lamp and does not take the vehicle out of compliance.

With respect to replacement headlamps, however, we stated that we were adhering to a March 13, 2003 letter of interpretation to Mr. Galen Chen. That letter stated that headlamps

<sup>1</sup> 68 FR 42454; July 17, 2003.

manufactured to replace OE headlamps must comply with all applicable photometry requirements using the replaceable light sources intended for use in the headlighting system on the vehicle for which the replacement headlamp is intended. We stated that, unlike other lamps, FMVSS No. 108 specifically regulates headlamp systems, including their light sources.

*Determination of compliance of paired replacement lamps.* In our October 2004 notice of interpretation, we noted that the agency had adopted the existing language of S5.8.1 at a time when replacement lighting equipment was very similar to original equipment and expected to remain so, *i.e.*, the purpose of replacement equipment was to replace broken or worn-out equipment. Now, however, a market has developed where manufacturers produce “restyled” lamps, *e.g.*, with redesigned and sometimes relocated functions, to enable consumers to customize the appearance of their vehicles.

We explained that, after considering the comments on our draft interpretation, we had tentatively concluded that the existing requirement (as interpreted in the October 2004 notice) was unnecessarily design-restrictive in some situations. We stated in that notice that we believed it would be appropriate to consider the compliance of pairs of replacement lamps in certain circumstances, and announced that we planned to conduct rulemaking during 2005 that would propose to amend FMVSS No. 108 to that effect. We also stated that we would not enforce the standard in certain specific situations involving pairs of lamps pending completion of the rulemaking.

*Large vehicles.* We stated that our interpretation of S5.8.1 applied to all covered vehicles, regardless of size. We noted further that a manufacturer of aftermarket lighting equipment could not design or recommend lighting equipment for a specific vehicle if installation of the equipment (assuming that it was done correctly) on a vehicle took that vehicle out of compliance with FMVSS No. 108.

#### Requests for Reconsideration

After we published the October 2004 notice of interpretation, we received two requests for reconsideration. We note that while one of the requests was styled as a “petition for reconsideration,” a request that we reconsider an interpretation does not qualify as a petition under any of our regulations. Therefore, we are responding to both requests as letters requesting that we

reconsider an interpretation. Given that the interpretation in question was published as a notice of interpretation, and since we are changing our interpretation in several respects, we decided to publish this document as a notice of interpretation as well.

The Motor and Equipment Manufacturers Association (MEMA), the Motor Vehicle Lighting Council (MVLC) and the Transportation Safety Equipment Institute (TSEI) jointly submitted one request for reconsideration. (We will hereafter refer to these organizations as MEMA *et al.*) The Specialty Equipment Market Association (SEMA) submitted the other request. In addition, we received a request for clarification/interpretation from the National Truck Equipment Association (NTEA).

Subsequently, we received a letter from the Alliance of Automobile Manufacturers (Alliance) concerning the requests for reconsideration. The Alliance stated that while it agrees with parts of our interpretation, it believes that the organizations requesting reconsideration have raised good points with respect to the decision to reaffirm the March 13, 2003 interpretation to Mr. Galen Chen relating to the necessity for using in replacement headlamps light sources intended for use in the headlighting system on the vehicle for which the replacement headlamp is intended, and asked us to reconsider that aspect of the interpretation.

The organizations requesting reconsideration disagreed with our interpretation of S5.8.1 with respect to a number of issues. They raised issues relating both to the existing language of the standard and to what they believe the standard should and should not require in this area. MEMA *et al.* and SEMA asked that we withdraw our interpretation.

*Language of S5.8.1.* One argument raised by the organizations was that the interpretation goes beyond the words of S5.8.1. MEMA *et al.* stated that wording of that section is simply that lamps replacing original lighting equipment on vehicles “shall be designed to conform” to FMVSS No. 108, and that the agency had essentially derived a new requirement, without benefit of rulemaking, from this subsection. They stated that the practical effect of the interpretation is a requirement that all replacement lamps utilize (for required functions): (1) The same original headlamp light source; (2) the same functions; (3) the same function colors; and (4) the same location.

MEMA *et al.* argued that the interpretation departs from more than 30 years of the shared NHTSA and

industry view of replacement lamp compliance. Those organizations stated that they believe that prior to the October 2004 interpretation, FMVSS No. 108 required that replacement headlamps be designed to meet the photometric and environmental performance requirements without any restrictions on the choice of design light source, except that replaceable bulb headlamps must use Part 564 light sources and any necessary ballasts. They stated that no restriction or control of light sources is stated in the current FMVSS No. 108 other than for bulbs (light sources) for replaceable bulb headlamps.

*Statutory requirements.* SEMA argued that the agency engaged in a rulemaking when it published a request for public comments on a draft interpretation and then issued a final notice of interpretation, but without following the procedures specified in the Administrative Procedures Act.

The organizations also raised issues related to the requirements of the Vehicle Safety Act. MEMA *et al.* stated that, under the interpretation, the standard is design-based and conflicts with the agency’s charter to establish performance-based standards based upon safety benefits.

SEMA also argued that the interpretation results in a design standard, which it stated the agency does not have the authority to establish except when necessitated by safety. SEMA also argued that the interpretation results in a design standard that is improperly delegated to the vehicle manufacturers.

*Limitations on aftermarket manufacturers and consumers.* Another concern raised by the organizations was their belief that, under the interpretation, the standard imposes inappropriate limitations on aftermarket manufacturers and consumers. MEMA *et al.* stated that aftermarket lighting manufacturers suddenly find themselves relegated to a technology-restrictive “me too” position of cloning their lamp’s light sources and, thus, essentially performance to that of the OE design. Those organizations argued that manufacturers of replacement lamps for OEM vehicle manufacturers and the manufacturers of vehicle compatible aftermarket replacement lamps should be given the full design freedom allowed for OEMs as long as all performance, functional and positioning criteria of FMVSS 108 are met and electrical compatibility with the intended vehicle is provided.

MEMA *et al.* stated that owners of motor vehicles and trailers should be allowed to replace the original lighting

equipment with any system that meets the performance, functional and positioning requirements of FMVSS 108, and which is electrically compatible with their vehicles. They argued that a requirement that owners use the same light source will severely limit the ability of consumers to benefit from improvements in lighting safety and durability, while at the same time increase the cost of supplying aftermarket lamps across a wide range of vehicle applications and special situations. According to those organizations, the customer's opportunities for vehicle personalization and freedom to choose products offering performance attributes tailored to his or her needs, while still meeting basic safety requirements, is also significantly restricted by the standard under the interpretation.

*Final stage manufacturers.* MEMA *et al.* and NTEA also requested clarification as to how the interpretation applies with respect to final stage manufacturers. MEMA *et al.* stated that by its terms, the interpretation is limited to replacement, or aftermarket, lamp applications. It sought clarification that the interpretation does not apply to final stage manufacturers. NTEA requested clarification that the final stage manufacturer is the vehicle manufacturer for purposes of this interpretation and able to install compliant lighting in the manner they believe is most appropriate for the vehicle.

### Revised Interpretation

In responding to the requests for reconsideration, we begin by noting that both the initial interpretation, as well as the one provided today, are interpretations of existing language of FMVSS No. 108, and not amendments to the standard. The practice of requesting public comments on a draft interpretation and/or publishing an interpretation in the **Federal Register** is neither intended to nor in fact transforms an interpretation into a rulemaking. Moreover, as indicated above, we will respond to a letter requesting that we reconsider a notice of interpretation in the same manner as we would respond to a letter requesting that we reconsider a letter of interpretation.

On reconsideration, we have decided to modify the interpretation we provided in the October 2004 notice of interpretation. As discussed below, we believe the specific language of FMVSS No. 108 warrants a less restrictive, and less complicated, interpretation.

*Primary interpretation.* As indicated above, FMVSS No. 108's current requirement for replacement equipment,

set forth in paragraph S5.8.1 of the standard, reads as follows:

Except as provided below, each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies shall be designed to conform to this standard.

This language is relatively straightforward. For any particular item of lighting equipment, *e.g.*, a lamp, FMVSS No. 108 states only that if a lamp is manufactured to replace a lamp on a vehicle to which the standard applies, it must be designed to conform to the standard. It does not say anything about the replacement lamp's being required to have the same type of light source as the OE lamp. Moreover, while it is true that, unlike other lamps, FMVSS No. 108 specifically regulates headlamp systems including their light sources, neither the language of S5.8.1 nor any other language in the standard requires replacement headlamps to use the same light sources as the OE headlamps.

Under our revised interpretation, it is our opinion that a lamp (or other item of lighting equipment, as relevant) manufactured to replace a lamp on a vehicle to which the standard applies is permitted under S5.8.1 so long as the vehicle manufacturer could have certified the vehicle to FMVSS No. 108 using the replacement lamp instead of the lamp it actually used. To the extent the vehicle manufacturer could have certified the vehicle using the replacement lamp, instead of the lamp it actually used, we believe the replacement lamp should be viewed as being designed to conform to FMVSS No. 108. This includes, but is not limited to, replacement headlamps using different light sources than the OE headlamps.

*Photometric and other specific requirements.* Our revised interpretation means, of course, that the replacement lamp must meet all photometric, environmental, location, material, color, area, wiring, markings, and other requirements specified in FMVSS No. 108 for that type of lamp, reflective device, or other item of equipment (in the case of a combination lamp, it must meet these requirements for each function).

*Functions.* Our revised interpretation also means that the replacement lamp must include all of the functions of the lamp, reflective device, or item of associated equipment, including a combination lamp, it is intended to replace (other than functions not required by FMVSS No. 108 for vehicles). This is so because the vehicle

manufacturer could not have certified the vehicle using the replacement lamp instead of the lamp it actually used unless these requirements were met.

*Paired lamps.* As to paired lamps used on opposite sides of the vehicle, we recognize that the issue of whether the vehicle manufacturer could have certified the vehicle using one of the replacement lamps in a paired set instead of the lamp it actually used may be dependent on whether the other lamp in the paired set was also used. For example, FMVSS No. 108 requires most front and rear mounted lighting equipment to be "at the same height" when more than one item is required, and to be of the same color. If a replacement combination lamp is restyled to incorporate changes in the height or color of these items, the vehicle manufacturer could only have certified the vehicle using this replacement lamp if it used both of the paired lamps, one on each side of the vehicle.

For purposes of interpreting S5.8.1 for paired lamps used on opposite sides of the vehicle, we believe the simplest and most appropriate approach is to assume that both of the paired lamps would be used, one on each side of the vehicle. Since the use of matching lamps on opposite sides of the vehicle is a universal practice, we believe this is a commonsense way of interpreting the standard. That is, and as discussed further below, there is no reason to believe in the case of restyled lamps that consumers will not ordinarily maintain matching lamps on opposite sides of the vehicle.

We considered the possibility of interpreting the standard as requiring that restyled paired lamps used on opposite sides of the vehicle only be sold in pairs in this type of situation, since the use of only one such lamp would take the vehicle out of compliance with the standard. However, we decided not to do so. First, we do not believe such an interpretation follows well from the text of S5.8.1. Second, we recognize that there are situations in which consumers might replace a pair of lamps and then have a need to replace one of the replacement lamps. In such a situation, there would be no reason to require the consumer to buy two lamps instead of one.

As a practical matter, however, we believe that restyled paired lamps will generally be sold in pairs. Moreover, we believe that consumers will generally use both lamps in the pairs, since use of only one of the restyled lamps would create an odd, unbalanced look. We also observe that 49 U.S.C. 30122 prohibits, *inter alia*, distributors, dealers, and

motor vehicle repair businesses from knowingly making inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with FMVSS No. 108. As such, these businesses are prohibited by the Safety Act from installing a single restyled lamp on a motor vehicle if it would have the effect of taking the vehicle out of compliance with the standard.

*Additional lamps and devices sold with replacement lamps.* In considering whether the vehicle manufacturer could have certified the vehicle using the replacement lamp instead of the lamp it actually used, we would not otherwise consider additional devices, such as other separate lamps or reflective devices, even if they are sold together with the replacement lamp. Thus, it would not be permissible under paragraph S5.8.1 to manufacture sets of replacement combination lamps if required functions were moved from one combination lamp to another, or removed from a combination lamp but included as a separate item in the package.

This situation is not comparable to the one in which paired lamps are used on opposite sides of the vehicle. As discussed above, the language of paragraph S5.8.1 requires that if a lamp is manufactured to replace a lamp installed on a vehicle to which the standard applied, it must be designed to conform to the standard. The focus is thus on lamp for lamp replacement.

While we believe it is reasonable and commonsense to assume that consumers will generally maintain matching lamps on opposite sides of their vehicles, and are taking account of that in our interpretation, we are not aware of any similar reason to assume that consumers will necessarily use all of the lamps included in replacement sets more generally. In particular, there is a greater chance that a consumer may not use all of the lamps in such replacement sets, since the use of only some of the lamps would not necessarily give the vehicle an odd, unbalanced appearance. For example, if a replacement lamp set consisted of four lamps across the rear of a vehicle, a consumer might replace only the outer lamps.

In addition, the safety consequences of a consumer's not using all of the lamps would be much greater. In the case of paired lamps used on opposite sides of the vehicle, the failure of a consumer to replace both lamps could result in required functions being at different heights or having different colors on opposite sides of the vehicle. In this other case, however, a required safety function would be lost altogether.

*Termination of related rulemaking.* In our October 2004 interpretation, we announced that we had decided to initiate rulemaking to amend FMVSS No. 108 to address issues related to restyled replacement equipment. We were concerned that, under that interpretation, the standard was unnecessarily design-restrictive for restyled lamps in some situations. This is no longer the case under our revised interpretation (see especially our discussion of paired lamps above), and NHTSA has therefore decided to terminate that rulemaking.

*Effect on previous interpretations.* This notice of interpretation modifies and supersedes our October 2004 interpretation, to the extent that it is inconsistent. It also supersedes our March 13, 2003 interpretation to Mr. Galen Chen concerning replacement headlamp light sources.

*Location of required functions.* We note that we are not changing our October 2004 interpretation with respect to location of required functions. In that document, we addressed this issue as follows:

Another issue raised by Calcoast's letter is how compliance of replacement equipment with FMVSS No. 108 is assessed with respect to location requirements. In our draft interpretation, we stated that because FMVSS No. 108 requires rear reflex reflectors to be "as far apart as practicable," an aftermarket product that moves the reflex reflectors closer together would not conform to the requirements of the standard, since the OE equipment's placement was clearly practicable to achieve.

We have considered the argument made by some commenters, including the Alliance, that replacement lamp manufacturers should have flexibility in this area. However, given the language of the standard, we do not believe it would be appropriate to change our interpretation in this area.

In particular, while there may be questions of fact in some situations as to what constitutes "as far apart as practicable" in the context of OE lighting, such questions are narrower for aftermarket lighting manufacturers. This is because the placement of the OE lighting sets a baseline for what is practicable. Again, an aftermarket product that moves the reflex reflectors closer together would not conform to the requirements of the standard, since the OE equipment's placement was clearly practicable to achieve. 69 FR at 60469 (footnote omitted).

*Heavy vehicles and generic lighting.* We also note that while our interpretation of S5.8.1 is not dependent on the size of the vehicle for which a lamp is intended, it has a more limited application to aftermarket lighting equipment for heavy vehicles than to light vehicles. The specific context of the questions asked by Calcoast was

aftermarket combination lamps for light vehicles, such as passenger cars. These lamps are typically designed for specific models and can only be installed on those models in the same location as the lamps they replace.

However, for heavy vehicles, lighting equipment is often generic and not designed for specific models. Truck-Lite, for example, commented on our notice of draft interpretation that it sells many kinds of lighting devices through catalog sales to hundreds of vehicle manufacturers whose equipment it has no way of knowing about.

Consistent with our discussion in the October 2004 notice of interpretation, we note that our interpretation does not mean that the manufacturer of generic lighting equipment has the responsibility for ensuring correct selection and installation of its equipment. On the other hand, under our interpretation, a manufacturer of aftermarket lighting equipment could not design or recommend lighting equipment for a specific vehicle if the vehicle manufacturer could not have certified the vehicle using that lighting equipment instead of the lighting equipment it actually used.

*Final stage manufacturers.* Finally, as to the requests for clarification as to how the interpretation applies with respect to final stage manufacturers, we note that this issue is still relevant under our revised interpretation. As MEMA *et al.* suggested, the interpretation is limited to replacement, or aftermarket, lamp applications.

As we explained at the beginning of this document, FMVSS No. 108 is both a vehicle standard and an equipment standard. That is, under the standard, vehicle manufacturers are required to certify that a new vehicle meets FMVSS No. 108's requirements with respect to lamps, reflective devices, and associated equipment. In addition, the standard also applies to lamps, reflective devices, and associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which the standard applies.

Paragraph S5.8.1 does not apply to new vehicles. Final stage manufacturers and persons altering a vehicle prior to its first retail sale are not limited by the provisions of paragraph S5.8.1, but must instead ensure the compliance of the vehicle with FMVSS No. 108 as a vehicle standard. Thus, our interpretation of paragraph S5.8.1 does not place limits on the lighting equipment that can be used by final stage manufacturers.

Issued: October 26, 2005.

**Stephen P. Wood,**

*Acting Chief Counsel.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34658]

#### **The Alaska Railroad Corporation— Petition for Exemption to Construct and Operate a Rail Line Between Eielson Air Force Base (North Pole) and Fort Greely (Delta Junction), Alaska**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Intent to Prepare an Environmental Impact Statement, Notice of Availability of Draft Scope of Study for the Environmental Impact Statement, Notice of Scoping Meetings, and Request for Comments.

**SUMMARY:** The Alaska Railroad Corporation plans to file a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority to construct and operate a new rail line between Eielson Air Force Base (located south of Fairbanks) and the Delta Junction/Fort Greely area. The project would involve the construction and operation of approximately 80 miles of new main line track and could include an approximately 15-mile rail spur to the U.S. Air Force's Blair Lakes training area. Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section on Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. The purpose of this Notice of Intent is to notify individuals and agencies interested in or affected by the proposed project of the decision to require an EIS. SEA is holding public scoping meetings as part of the EIS process. Additionally, as part of the scoping process, SEA has developed a draft Scope of Study for the EIS.

**DATES AND LOCATIONS:** Scoping meetings will be held on:

December 6, 2005, 4–8 pm at the City Council Chambers, 125 Snowman Lane, North Pole, Alaska

December 7, 2005, 4–8 pm at Jarvis West Building, Mile 1420.5 Alaska Highway, Delta Junction, Alaska

December 8, 2005, 4–8 pm at Lousaac Library Public Conference Room, 3600 Denali Street, Anchorage, Alaska

The public scoping meetings will be informal meetings in a workshop format during which interested persons may ask questions about the proposal and the Board's environmental review process, and advise the Board's representative about potential environmental effects of the project. In keeping with the workshop format of the scoping meetings, there will no formal presentations made by agency representatives. Rather, staff will be available to answer questions and receive comments individually. SEA has made available for public comment the draft Scope of Study contained in this notice.

The meeting locations comply with the Americans With Disabilities Act. Persons that need special accommodations should telephone SEA's toll-free number for the project at 1-800-359-5142.

SEA will issue a final Scope of Study after the close of the scoping comment period. Written comments on the Scope of Study and potential environmental effects of the project are due January 13, 2005.

**Filing Environmental Comments:** Interested persons and agencies are invited to participate in the EIS scoping process. Comments should be submitted to: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001.

To ensure proper handling of your comments, please mark your submission: Attention: David Navecky, Environmental Filing.

Environmental comments may also be filed electronically on the Board's Web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. Please refer to STB Finance Docket No. 34658 in all correspondence, including e-filings, addressed to the Board.

#### **SUPPLEMENTARY INFORMATION:**

**Background:** The proposed Northern Rail Extension Project includes construction of approximately 80 miles of new rail line connecting the existing rail line near Eielson AFB near North Pole, Alaska to a point near Fort Greely and the Donnelly Training Area near Delta Junction, Alaska. The proposed project could also include the construction of a 15-mile spur line from Flag Hill to the Blair Lakes Military Training Area. As a result of this project, the U.S. Army would have year round access to the Tanana Flats and Donnelly training areas and all the major military installations in Alaska would be accessible by rail through Fort Greely. The EIS will analyze the potential impacts of the proposed route, the "no-build" alternative and possible alternative routes.

**Environmental Review Process:** The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. SEA is responsible for ensuring that the Board complies with NEPA and related environmental statutes. The first stage of the EIS process is scoping. Scoping is an open process for determining the scope of environmental issues to be addressed in the EIS. As part of the scoping process, SEA has developed, and is making available in today's notice, a draft Scope of Study for the EIS. Concurrently, scoping meetings will be held to provide further opportunities for public involvement and input during the scoping process. At the conclusion of the scoping and comment period, SEA will issue a final Scope of Study for the EIS.

After issuing the final Scope of Study, SEA will prepare a Draft EIS (DEIS) for the project. The DEIS will address those environmental issues and concerns identified during the scoping process. It will also contain SEA's preliminary recommendations for environmental mitigation measures. The DEIS will be made available upon its completion for review and comment by the public, government agencies and other interested parties. SEA will prepare a Final EIS (FEIS) that considers comments on the DEIS. In reaching its decision in this case, the Board will take into account the DEIS, the FEIS, and all environmental comments that are received.

SEA has recently invited several other Federal agencies to participate in this EIS process as cooperating agencies on the basis their special expertise or jurisdiction by law. These agencies include: U.S. Department of Defense, Alaskan Command; U.S. Department of Defense, U.S. Army Garrison—Alaska; U.S. Department of Defense, 354th Fighter Wing Command; U.S. Army Engineers District—Alaska; U.S. Department of Interior, Bureau of Land Management—Northern Field Office; U.S. Coast Guard, Seventeenth Coast Guard District; U.S. Department of Transportation, Federal Railroad Administration; and U.S. Department of Transportation, Federal Transit Administration—Region 10.

#### **FOR FURTHER INFORMATION CONTACT:**

David Navecky, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001, or call SEA's toll-free number for the project at 1-800-359-5142. Assistance