



Federal Register

**Friday,
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Part V

Department of Transportation

Federal Transit Administration

49 CFR Part 601

**Organization, Functions, and Procedures;
Final Rule**

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****49 CFR Part 601**

[Docket FTA-2005-22705]

RIN 2132-AA79

Organization, Functions, and Procedures**AGENCY:** Federal Transit Administration (FTA), DOT.**ACTION:** Final rule.

SUMMARY: This final rule will amend 49 CFR Part 601 to reflect modifications in the organization and distribution of functions within the Federal Transit Administration (FTA), and to document its rulemaking procedures. This rule has not been amended since 1999, and recently there has been a restructuring of offices and duties within FTA. Additionally, many of FTA's regional offices have physically moved to different locations; thus, this rule revises the addresses and phone numbers of the regional offices. Further, the outdated internal delegations of authority have been removed, the means by which the public can access FTA information has been updated, and FTA's rulemaking procedures are provided.

EFFECTIVE DATE: The effective date of this rule is November 4, 2005.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Legislation and Regulations Division, Office of Chief Counsel, Federal Transit Administration, 400 Seventh Street SW., Room 9316, Washington, DC 20590, phone: (202) 366-4011, fax: (202) 366-3809, or e-mail, Bonnie.Graves@fta.dot.gov.

SUPPLEMENTARY INFORMATION:**Availability of the Final Rule**

You may download this rule from the Department's Docket Management System (<http://dms.dot.gov>) by entering docket number 22705 in the search field or from Government Printing Office's **Federal Register** Main Page at <http://www.gpoaccess.gov/fr/index.html>. Users may also download an electronic copy of this document using a modem and suitable communications software from the GPO Electronic Bulletin Board Service at (202) 512-1661.

Justification for Immediate Adoption

This final rule is ministerial in nature and relates only to agency management, organization, procedure, and practice. This is not a regulation or rule for the

purposes of Executive Order No. 12866. Therefore, under 5 U.S.C. 553(b)(3)(A), this rule is exempt from notice and comment rulemaking requirements. The changes made will have no substantive effect on the public; therefore, under 5 U.S.C. 553(d), this rule may become effective less than 30 days after publication in the **Federal Register**.

I. Background.

Part 601 was most recently updated in 1999, when section 601.4, Responsibilities of the Administrator, was revised subsequent to passage of the Federal Vacancies Reform Act of 1998. The rule was amended previously in 1982 when Subpart C, Public Availability of Information was added. Contact information and descriptions of the functions and duties of the offices within FTA has not been updated since 1976.

With passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) on August 10, 2005 (Pub. L. 109-59; 119 Stat. 1144), Congress directed FTA to engage in significant rulemaking activities. To date, FTA has not formally outlined its procedures for rulemaking. Adopting these procedures gives the public knowledge of the rulemaking process and how to participate in that process. Part 601 will specify the procedures for notices of proposed rulemaking and adoption of final rules, as well as procedures by which FTA may expedite the processing of non-controversial changes to its regulations. Rules that the Administrator of FTA judges to be unlikely to result in public comment would be published as direct final rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the **Federal Register**. The rulemaking procedures adopted by FTA today are consistent with other DOT modal administrations' rulemaking procedures.

II. Rulemaking Overview/Summary of Rule Changes

This rulemaking amends Subpart A to reflect changes in the organization of FTA and the physical relocation of many regional offices. It eliminates the Delegations of Authority in Subpart B. Subpart C, Public Availability of Information, is being moved to Subpart B, and the procedures are being updated. This rule provides a new Subpart C, Rulemaking Procedures.

III. Regulatory Process Matters*Executive Order 12866*

Since this final rule is ministerial in nature and relates only to agency management, organization, procedure and practice, FTA has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures.

Regulatory Flexibility Act

This rule merely makes administrative changes to FTA's internal policies and procedures, therefore, FTA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking. There are no costs associated with this rule.

Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit "<http://dms.dot.gov>".

List of Subjects in 49 CFR Part 601

Administrative Practice and Procedure, Organization and Functions (Government agencies), Freedom of Information.

■ For the reasons stated in the preamble, the Federal Transit Administration revises 49 CFR Part 601 as set forth below:

PART 601—ORGANIZATION, FUNCTIONS, AND PROCEDURES**Subpart A—General**

- Sec.
601.1 Purpose
601.2 Organization of the Administration
601.3 General responsibilities
601.4 Responsibilities of the Administrator

Subpart B—Public Availability of Information

- 601.10 Sources of Information

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- 601.28 Consideration of comments received.
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- 601.30 Hearings.
- 601.31 Adoption of final rules.
- 601.32 Petitions for rulemaking or exemptions.
- 601.33 Processing of petition.
- 601.34 Petitions for reconsideration.
- 601.35 Proceedings on petitions for reconsideration.
- 601.36 Procedures for direct final rulemaking.

Authority: 5 U.S.C. § 552; 49 U.S.C. 5334; 49 U.S.C. 1657, 1659; Reorganization Plan No. 2 of 1968 (82 Stat. 1369); 49 CFR 1.51.

Subpart A—General Provisions

§ 601.1 Purpose.

This part describes the organization of the Federal Transit Administration (“FTA”), an operating administration within the U.S. Department of Transportation. This part also describes general responsibilities of the various offices of which FTA is comprised. In addition, this part describes the sources and locations of available FTA program information, and provides information regarding FTA’s rulemaking procedures.

§ 601.2 Organization of the Administration

(a) The headquarters organization of FTA is comprised of eight principal offices which function under the overall direction of the Federal Transit Administrator (“the Administrator”) and Deputy Administrator. These offices are:

- (1) Office of Administration.
- (2) Office of Budget and Policy.
- (3) Office of Chief Counsel.
- (4) Office of Civil Rights.
- (5) Office of Communications and Congressional Affairs.
- (6) Office of Planning and Environment.
- (7) Office of Program Management.
- (8) Office of Research, Demonstration and Innovation.

(b) FTA has ten regional offices, each of which function under the overall direction of the Administrator and Deputy Administrator, and under the general direction of a Regional Administrator. In addition, FTA has established a Lower Manhattan Recovery Office, which is under the general direction of the Director for this office.

| Region/States | Office/address | Telephone No. |
|---|---|----------------|
| I. Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. | FTA Regional Administrator, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093. | (617) 494–2055 |
| II. New York, New Jersey, and U.S. Virgin Islands | FTA Regional Administrator, One Bowling Green, Room 429, New York, NY 10014–1415. | (212) 668–2170 |
| III. Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia. | FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124. | (215) 656–7100 |
| IV. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee. | FTA Regional Administrator, Atlanta Federal Center, Suite 17T50, 61 Forsyth Street, SW., Atlanta, GA 30303. | (404) 562–3500 |
| V. Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin. | FTA Regional Administrator, 200 West Adams Street, Suite 320, Chicago, IL 60606. | (312) 353–2789 |
| VI. Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. | FTA Regional Administrator, 819 Taylor Street, Room 8A36, Fort Worth, TX 76102. | (817) 978–0550 |
| VII. Iowa, Kansas, Missouri, and Nebraska | FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106. | (816) 329–3920 |
| VIII. Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. | FTA Regional Administrator, Dept. of Transportation, FTA, 12300 W. Dakota Ave., Suite 310, Lakewood, CO 80228–2583. | (720) 963–3300 |
| IX. Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Northern Mariana Islands. | FTA Regional Administrator, 201 Mission Street, Suite 310, San Francisco, CA 94105. | (415) 744–3133 |
| X. Alaska, Idaho, Oregon, and Washington | FTA Regional Administrator, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002. | (206) 220–7954 |
| Lower Manhattan Recovery Office | FTA LMRO Director, One Bowling Green, Room 436, New York, NY 10004. | (212) 668–1770 |

§ 601.3 General Responsibilities.

The general responsibilities of each of the offices which comprise the headquarters organization of FTA are:

(a) *Office of Administration.* Directed by an Associate Administrator for Administration, this office develops and administers comprehensive programs to meet FTA’s resource management and administrative support requirements in the following areas: Organization and management planning, information resources management, human resources, contracting and procurement, and administrative services.

(b) *Office of Budget and Policy.* Directed by an Associate Administrator for Budget and Policy, this office is responsible for policy development and performance measurement, strategic and

program planning, program evaluation, budgeting, and accounting. The office provides policy direction on legislative proposals and coordinates the development of regulations. The office formulates and justifies FTA budgets within the Department of Transportation, to the Office of Management and Budget, and Congress. The office establishes apportionments and allotments for program and administrative funds, ensures that all funds are expended in accordance with Administration and congressional intent, and prepares and coordinates statutory reports to Congress. The office coordinates with and supports the Department of Transportation Chief Financial Officer on all FTA accounting and financial management matters. This

office also serves as the audit liaison in responding to the Office of the Inspector General and the Government Accountability Office.

(c) *Office of Chief Counsel.* Directed by a Chief Counsel, this office provides legal advice and support to the Administrator and FTA management. The office is responsible for reviewing development and management of FTA-sponsored projects; representing the Administration before civil courts and administrative agencies; drafting and reviewing legislation and regulations to implement the Administration’s programs; and working to ensure that the agency upholds the highest ethical standards. The office coordinates with and supports the U.S. Department of

Transportation's General Counsel on FTA legal matters.

(d) *The Office of Civil Rights*. Directed by a Director for Civil Rights, this office ensures full implementation of civil rights and equal opportunity initiatives by all recipients of FTA assistance, and ensures nondiscrimination in the receipt of FTA benefits, employment, and business opportunities. The office advises and assists the Administrator and other FTA officials in ensuring compliance with applicable civil rights regulations, statutes and directives, including but not limited to the Americans with Disabilities Act of 1990 (ADA), the Civil Rights Act of 1964, Disadvantaged Business Enterprise (DBE) participation, and Equal Employment Opportunity, within FTA and in the conduct of Federally-assisted public transportation projects and programs. The office monitors the implementation of and compliance with civil rights requirements, investigates complaints, conducts compliance reviews, and provides technical assistance to recipients of FTA assistance and members of the public.

(e) *Office of Communications and Congressional Affairs*. Directed by an Associate Administrator for Communications and Congressional Affairs, this office is the agency's lead office for media relations, public affairs, and Congressional relations, providing quick response support to the agency, the public, and Members of Congress on a daily basis. The office distributes information about FTA programs and policies to the public, the transit industry, and other interested parties through a variety of media. This office also coordinates the Administrator's public appearances and is responsible for managing correspondence and other information directed to and issued by the Administrator and Deputy Administrator.

(f) *Office of Planning and Environment*. Directed by an Associate Administrator for Planning and Development, this office administers a national program of planning assistance that provides funding, guidance, and technical support to State and local transportation agencies. In partnership with the Federal Highway Administration (FHWA), this office oversees a national program of planning assistance and certification of metropolitan and statewide planning organizations, implemented by FTA Regional Offices and FHWA Divisional Offices. The office provides national guidance and technical support in emphasis areas including planning capacity building, financial planning, transit oriented development, joint

development, project cost estimation, travel demand forecasting, and other technical areas. This office also oversees the Federal environmental review process as it applies to transit projects throughout the country, including implementation of the National Environmental Policy Act (NEPA), the Clean Air Act, and related laws and regulations. The office provides national guidance and oversight of planning and project development for proposed major transit capital fixed guideway projects, commonly referred to as the New Starts program. In addition, this office is responsible for the evaluation and rating of proposed projects based on a set of statutory criteria, and applies these ratings as input to the Annual New Starts Report and funding recommendations submitted to Congress, as well as for FTA approval required for projects to advance into preliminary engineering, final design, and full funding grant agreements.

(g) *Office of Program Management*. Directed by an Associate Administrator for Program Management, this office administers a national program of capital and operating assistance by managing financial and technical resources and by directing program implementation. The office coordinates all grantee directed guidance, in the form of circulars and other communications, develops and distributes procedures and program guidance to assist the field staff in grant program administration and fosters responsible stewardship of Federal transit resources by facilitating and assuring consistent grant development and implementation nationwide (Statutory, Formula, Discretionary and Earmarks). This office manages the oversight program for agency formula grant programs and provides national expertise and direction in the areas of capital construction, rolling stock, and risk assessment techniques. It also assists the transit industry and State and local authorities in providing high levels of safety and security for transit passengers and employees through technical assistance, training, public awareness, drug and alcohol testing and state safety oversight.

(h) *Office of Research, Demonstration, and Innovation*. Directed by an Associate Administrator for Research, Demonstration and Innovation, this office provides transit industry leadership in delivery of solutions that improve public transportation. The office undertakes research, development, and demonstration projects that help to increase ridership; improve capital and operating efficiencies; enhance safety and

emergency preparedness; and better protect the environment and promote energy independence. The office leads FTA programmatic efforts under the National Research Programs (49 U.S.C. 5314).

§ 601.4 Responsibilities of the Administrator.

The Administrator is responsible for the planning, direction and control of the activities of FTA and has authority to approve Federal transit grants, loans, and contracts. The Deputy Administrator is the "first assistant" for purposes of the Federal Vacancies Reform Act of 1998 (Pub. L. 105-277) and shall, in the event of the absence or disability of the Administrator, serve as the Acting Administrator, subject to the limitations in that Act. In the event of the absence or disability of both the Administrator and the Deputy Administrator, officials designated by the agency's internal order on succession shall serve as Acting Deputy Administrator and shall perform the duties of the Administrator, except for any non-delegable statutory and/or regulatory duties.

Subpart B—Public Availability of Information

§ 601.10 Sources of information.

(a) *FTA guidance documents*. (1) Circulars and other guidance/policy information are available on FTA's Web site: <http://www.fta.dot.gov>.

(2) Single copies of any guidance document may be obtained without charge by calling FTA's Administrative Services Help Desk, at (202) 366-4865.

(3) Single copies of any guidance document may also be obtained without charge upon written request to the Associate Administrator for Administration, Federal Transit Administration, 400 7th Street SW., Room 9107, Washington, DC, 20590, or to any FTA regional office listed in § 601.2.

(b) *DOT Docket Management System*. Unless a particular document says otherwise, the following rulemaking documents in proceedings started after February 1, 1997, are available for public review and copying at the Department of Transportation's Docket Management System, Room PL 401, 400 7th Street SW., Washington, DC 20590, or for review and downloading through the Internet at <http://dms.dot.gov>:

- (1) Advance notices of proposed rulemaking;
- (2) Notices of proposed rulemaking;
- (3) Comments received in response to notices;
- (4) Petitions for rulemaking and reconsideration;

(5) Denials of petitions for rulemaking and reconsideration; and
(6) Final rules.

(c) Any person may examine docketed material, at any time during regular business hours after the docket is established, and may obtain a copy of such material upon payment of a fee, except material ordered withheld from the public under section 552(b) of Title 5 of the United States Code.

(d) Any person seeking documents not described above may submit a request under the Freedom of Information Act (FOIA) by following the procedures outlined in 49 CFR Part 7.

Subpart C—Rulemaking Procedures

§ 601.20 Applicability.

This part prescribes rulemaking procedures that apply to the issuance, amendment and revocation of rules under an Act.

§ 601.21 Definitions.

Act means statutes granting the Secretary authority to regulate public transportation.

Administrator means the Federal Transit Administrator, the Deputy Administrator or the delegate of either of them.

§ 601.22 General.

(a) Unless the Administrator, for good cause, finds a notice is impractical, unnecessary, or contrary to the public interest, and incorporates such a finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking must be issued, and interested persons are invited to participate in the rulemaking proceedings involving rules under an Act.

(b) For rules for which the Administrator determines that notice is unnecessary because no adverse public comment is anticipated, the direct final rulemaking procedure described in § 601.36 of this subpart may be followed.

§ 601.23 Initiation of rulemaking.

The Administrator initiates rulemaking on his/her own motion. However, in so doing, he/she may, in his/her discretion, consider the recommendations of his/her staff or other agencies of the United States or of other interested persons.

§ 601.24 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the **Federal Register**, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the **Federal Register** or personally served, includes:

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

§ 601.25 Participation by interested persons.

(a) Any interested person may participate in rulemaking proceedings by submitting comments in writing containing information, views, or arguments.

(b) In his/her discretion, the Administrator may invite any interested person to participate in the rulemaking procedures described in § 601.29.

§ 601.26 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than three (3) days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the **Federal Register**.

§ 601.27 Contents of written comments.

All written comments must be in English and submitted in five (5) legible copies, unless the number of copies is specified in the notice. Any interested person must submit as part of his/her written comments all material that he/she considers relevant to any statement of fact made by him/her. Incorporation of material by reference is to be avoided. However, if such incorporation is necessary, the incorporated material shall be identified with respect to document and page.

§ 601.28 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered so far as practicable.

§ 601.29 Additional rulemaking proceedings.

The Administrator may initiate any further rulemaking proceedings that he/she finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his/her representative at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

§ 601.30 Hearings.

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, non-adversary, fact-finding procedures at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Transit Administration designates a member of his/her staff to serve as legal officer at the hearing.

§ 601.31 Adoption of final rules.

Final rules are prepared by representatives of the office concerned and the Office of Chief Counsel. The rule is then submitted to the Administrator for his/her consideration. If the Administrator adopts the rule, it is published in the **Federal Register**, unless all persons subject to it are named and are personally served a copy of it.

§ 601.32 Petitions for rulemaking or exemptions.

(a) Any interested person may petition the Administrator to establish, amend, or repeal a rule, or for a permanent or temporary exemption from FTA rules as allowed by law.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Administrator, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590;

(2) State the name, street and mailing addresses, and telephone number of the petitioner; if the petitioner is not an individual, state the name, street and mailing addresses and telephone number of an individual designated as an agent of the petitioner for all purposes related to the petition;

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interest of the petitioner in the action requested, including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(5) Contain any information and arguments available to the petitioner to support the action sought; and

(6) In the case of a petition for exemption, except in cases in which good cause is shown, the petition must be submitted at least 120 days before the requested effective date of the exemption.

§ 601.33 Processing of petitions.

(a) Each petition received under § 601.32 of this part is referred to the head of the office responsible for the subject matter of that petition. Unless the Administrator otherwise specifies, no public hearing, argument or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Administrator determines the petition contains adequate justification, he/she initiates rulemaking action under this Subpart C or grants the exemption, as the case may be.

(c) *Denials.* If the Administrator determines the petition does not justify rulemaking or granting the exemption, he/she denies the petition.

(d) *Notification.* Whenever the Administrator determines that a petition should be granted or denied, the office concerned and the Office of Chief Counsel prepare a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

§ 601.34 Petitions for reconsideration.

(a) Any interested person may petition the Administrator for reconsideration of a final rule issued under this part. The petition must be in English and submitted in duplicate to the Administrator, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC, 20590, and

received not later than thirty (30) days after publication of the final rule in the **Federal Register**. Petitions filed after that time will be considered as petitions filed under § 601.32. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the final rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, he/she must state the reason the facts were not presented to the Administrator within the prescribed comment period of the rulemaking.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the final rule.

§ 601.35 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he/she determines to reconsider any rule, he/she may issue a final decision on reconsideration without further proceedings, or he/she may provide such opportunity to submit comment or information and data as he/she deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he/she prepares a notice of the grant or denial of a petition for reconsideration and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

§ 601.36 Procedures for direct final rulemaking.

(a) Rules the Administrator judges to be non-controversial and unlikely to result in adverse public comment may be published as direct final rules. These include non-controversial rules that:

(1) Affect internal procedures of FTA, such as filing requirements and rules governing inspection and copying of documents;

(2) Are non-substantive clarifications or corrections to existing rules;

(3) Update existing forms;

(4) Make minor changes in the substantive rule regarding statistics and reporting requirements;

(5) Make changes to the rule implementing the Privacy Act; and

(6) Adopt technical standards set by outside organizations.

(b) The **Federal Register** document will state that any adverse comment or notice of intent to submit adverse comment must be received in writing by FTA within the specified time after the date of publication and that, if no written adverse comment or written notice of intent to submit adverse comment is received, the rule will become effective a specified number of days after the date of publication.

(c) If no written adverse comment or written notice of intent to submit adverse comment is received by FTA within the specified time of publication in the **Federal Register**, FTA will publish a notice in the **Federal Register** indicating that no adverse comment was received and confirming that the rule will become effective on the date that was indicated in the direct final rule.

(d) If FTA receives any written adverse comment or written notice of intent to submit adverse comment within the specified time of publication in the **Federal Register**, a notice withdrawing the direct final rule will be published in the final rule section of the **Federal Register** and, if FTA decides a rulemaking is warranted, a notice of proposed rulemaking will be published in the proposed rule section of the **Federal Register**.

(e) An "adverse" comment for the purpose of this subpart means any comment that FTA determines is critical of the rule, suggests that the rule should not be adopted, or suggests a change that should be made in the rule. A comment suggesting that the policy or requirements of the rule should or should not also be extended to other Departmental programs outside the scope of the rule is not adverse.

Issued in Washington, DC, this 1st day of November 2005.

Jennifer L. Dorn,
Administrator.

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