

### C. Regulations Under Analysis

During Year 8 (2006–2007), the Analysis Year, we will conduct a preliminary assessment of the rules in 49 CFR part 178 applicable to specifications for non-bulk packages. The review will include the following subparts:

#### PART 178

Subpart	Title
Subpart B .....	Specifications for Inside Containers and Linings.
Subpart L .....	Non-bulk Performance Oriented Packaging Standards.
Subpart M .....	Testing of Non-bulk Packagings and Packages.

In addition, we will conduct a preliminary assessment of the rules in 49 CFR part 110 establishing procedures for the Hazardous Materials Public Sector Training and Planning Grants. These regulations include eligibility requirements, grant application procedures, disbursement of Federal funds, grant monitoring, and after-grant requirements.

The oil pipeline response plan regulations in Part 194 and the hazardous liquid pipeline safety regulations in Subpart B of Part 195 are also scheduled for review this year. The Part 194 regulations contain requirements for oil spill response plans to reduce the environmental impact of oil discharged from onshore oil pipelines. Part 195, Subpart B, addresses hazardous liquid reporting requirements, including annual reporting, accident reporting, and reporting of safety related conditions.

We are seeking comments on whether any requirements for training and planning grants in Part 110, specifications for non-bulk packagings in Part 178, oil response plans in Part 194, or hazardous liquid pipeline reporting requirements in Part 195 have a significant impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if any of the above described regulatory requirements has a significant economic impact on your business or organization, please submit a comment explaining how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you

believe the economic impact is significant.

## II. Plain Language

### A. Background and Purpose

Plain language helps readers find requirements quickly and understand them easily. Examples of plain language techniques include:

(1) Undesignated center headings to cluster related sections within subparts.

(2) Short words, sentences, paragraphs, and sections to speed up reading and enhance understanding.

(3) Sections as questions and answers to provide focus.

(4) Personal pronouns to reduce passive voice and draw readers into the writing.

(5) Tables to display complex information in a simple, easy-to-read format.

For an example of a rule drafted in plain language, you can refer to our final rule entitled "Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures," which was published June 25, 2002 (67 FR 42948). This final rule revised and clarified the hazardous materials safety rulemaking and program procedures by rewriting 49 CFR Part 106 and Subpart A of Part 107 in plain language and creating a new Part 105 that contains definitions and general procedures.

### B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews of the HMR and pipeline safety regulations over a 10-year period on a schedule consistent with the section 610 review schedule. Thus, our review of requirements in Part 110 applicable to training and planning grants, part 178 applicable to specifications for non-bulk packagings, Part 194 applicable to oil response plans, and Part 195 applicable to hazardous liquid pipeline reporting will also include a plain language review to determine if the regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as putting information in tables or consolidating regulatory requirements, that may make the regulations easier to use.

Issued in Washington, DC, on August 2, 2006.

**Robert A. McGuire,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. E6–12859 Filed 8–7–06; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 601

[Docket FTA–2006–22428]

RIN 2132–AA89

#### Emergency Procedures for Public Transportation Systems

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This rulemaking proposes to establish a new subpart in 601 of Title 49 of the Code of Federal Regulations, to establish emergency relief procedures for granting relief from Federal transit policy statements, circulars, guidance documents, and regulations in times of national or regional emergencies.

**DATES:** *Comment Closing Date:* Comments should be submitted by October 10, 2006. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments identified by the docket number [FTA–2006–22428] by any of the following methods:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Web site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

*Fax:* 202–493–2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, 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.

*Instructions:* You must include the agency name (Federal Transit Administration) and Docket number (FTA–2006–22428) or the Regulatory Identification Number (RIN) for this rulemaking at the beginning of your comments. You should submit two copies of your comments if you submit

them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided, and will be available to internet users. Please see the Privacy Act section of this document.

*Docket:* For access to the docket to read background documents and comments received, go to <http://dms.dot.gov> at any time or to 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.

**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@dot.gov](mailto:Bonnie.Graves@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Authority for This Rulemaking**

In addition to FTA's general rulemaking authority provided under 49 U.S.C. 15334, 42 U.S.C. 5141 (section 301 of the Stafford Act, Pub. L. 92-288, as amended) provides that "[a]ny Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster."

This section allows FTA, at a State or local governmental entity's request, to waive or modify any administrative condition it has placed on any of its Federal transit assistance programs if the State or local governmental entity cannot meet the condition because of the major disaster. This provision does not, however, allow for the waiver or modification of any Federal transit program requirement mandated by statute, therefore, this rulemaking would apply only to non-statutory requirements in FTA regulations and policies.

**II. Background**

When a natural or man-made disaster occurs that results in significant damage to property and loss of life, such as Hurricanes Katrina and Rita or the

events of September 11, 2001, our nation's transit systems play a key role in evacuating people, providing necessary supplies, and moving displaced families and relief personnel to and from the area. In the aftermath of Hurricanes Katrina and Rita, FTA received numerous requests for relief from policy statements, circulars, guidance documents and regulations, from transit agencies in the immediate disaster zone as well as transit agencies receiving evacuees. In order to ensure consistent responses to similar requests, FTA regional offices had to forward all requests to headquarters, which then reviewed the request and sent a message back to the regional office. This was a time-consuming process that resulted in delayed responses to requests for relief. Therefore, FTA believes it is necessary to establish a process by which we can quickly and efficiently handle requests for relief from Federal requirements that are directly related to the effects of a national or regional emergency, such as Hurricanes Katrina and Rita. FTA recognizes that these types of petitions must be afforded special consideration and must be handled expeditiously in order to ensure that the safety of the public and the safety of those individuals and businesses providing aid are immediately addressed.

This NPRM would establish an Emergency Relief Docket within two business days of an emergency or disaster declaration in which it appears transit agencies are or will be impacted. In the event emergencies can be foreseen, such as hurricanes, FTA proposes setting up such a docket in advance of the event, so that emergency evacuation and other services can occur in a timely manner. FTA would place a message on its Web page (<http://www.fta.dot.gov>) indicating an Emergency Relief Docket has been established and including the docket number. Any person would be able to petition the Administrator for temporary relief from administrative requirements. The petition would be conditionally granted for three (3) business days, during which time anyone could provide comments on the petition. FTA would then post a decision to the Emergency Relief Docket.

In some instances, grantees or subrecipients may not have access to electronic means by which to request relief. In those situations, FTA proposes to allow the grantee or subrecipient to contact any FTA regional office and ask the office to submit a request for relief on its behalf. Further, in the event a State's subrecipient is impacted by an emergency, the State may request relief on behalf of the subrecipient, even if the

State (as the recipient) is not impacted by the emergency.

FTA believes this new emergency procedure would provide the agency with the ability to promptly and effectively address relief requests, while ensuring that the public and all interested parties are afforded proper notice of any such requests and are provided a sufficient opportunity to comment. FTA notes that these procedures would apply to policy statements, circulars, guidance documents and non-statutory requirements in regulations only, as FTA does not have the authority to waive statutory requirements.

In addition, FTA cannot independently waive regulations promulgated by the U.S. Department of Transportation (DOT). If a grantee needed relief from DOT regulations, such as the Americans with Disabilities Act (49 CFR part 37) or the Common Grant Rule (49 CFR part 18), the grantee would submit a request for relief to FTA's Emergency Relief Docket in the same manner it would request relief from FTA regulations. FTA would then work with DOT to process the petition for relief, including a request for a hearing, if any. Once DOT provides a response, FTA would post the response to the docket and the same review procedures would apply.

The proposed emergency procedures would establish FTA's criteria for requesting relief and would only be used to address petitions for relief that FTA determines are directly related to a Presidential declaration of a national or regional emergency, or anticipation of such a declaration, such as Hurricanes Katrina and Rita, or the events of September 11, 2001. FTA seeks comment on whether a State Governor's declaration of an emergency should also trigger these emergency relief procedures.

As FTA responds to emergencies, trends emerge as to the types of relief requests we are likely to receive. FTA seeks comment on whether it would be helpful, when opening an emergency relief docket, for FTA to proactively extend relief from certain policies, circulars, guidance or regulations to the geographical area(s) most impacted by the emergency, rather than waiting for transit agencies to request relief.

FTA remains mindful that as both public and private transportation providers move to expand service to address the needs of persons affected by national or regional emergencies, like Hurricanes Katrina and Rita, it is important to ensure that private companies are not placed at a competitive disadvantage in the

marketplace. FTA requests public comment on whether the procedures contained in this NPRM would provide the necessary relief while also allowing the private sector to participate in transit relief efforts.

Under the proposed relief procedures, FTA would reserve the right to reopen any docket and reconsider any decision on its own initiative or based upon information or comments received. FTA requests public comment on whether the proposed three business day period is a sufficient amount of time to provide comments on petitions for relief.

### III. Rulemaking Analysis and Notices

#### *Executive Order 12866*

This NPRM is nonsignificant for purposes of Executive Order 12866 and the Department of Transportation's Regulatory Policies and Practices. The NPRM proposes to establish emergency procedures and requests for relief from Federal transit regulations. FTA requests comment on whether this rulemaking may have unintended cost impacts.

#### *Federalism Assessment*

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). FTA believes this rule would not impose any requirements that would have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

#### *Executive Order 13175*

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this NPRM does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

#### *Regulatory Flexibility Act and Executive Order 13272*

Section 603 of the Regulatory Flexibility Act (RFA) requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553 to publish a general notice of proposed rulemaking for any proposed rule. Similarly, section 604 of the RFA requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553 after being

required to publish a general notice of proposed rulemaking. Because this rulemaking proposes a process by which small entities may seek relief from Federal transit requirements, FTA does not believe this NPRM would have a significant economic impact on a substantial number of small entities. FTA requests public comment on whether this rulemaking may have unintended impacts on small entities.

#### *Unfunded Mandates Reform Act of 1995*

This rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$128.1 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

#### *Paperwork Reduction Act*

There are no new information collection requirements in this NPRM.

#### *Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in heading of this document may be used to cross-reference this action with the Unified Agenda.

#### *Environmental Assessment*

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We find that there are no significant environmental impacts associated with this NPRM, but ask for public comment on this issue.

#### *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, Functions, and Procedures.

For the reasons set forth in the preamble, part 601 of title 49 of the Code of Federal Regulations is proposed to be amended as follows:

Add subpart D, consisting of 601.40 through 601.46, to read as follows:

#### **Subpart D—Emergency Procedures for Public Transportation Systems**

Sec.

- 601.40 Applicability.
- 601.41 Petitions for relief.
- 601.42 Emergency relief docket.
- 601.43 Required information.
- 601.44 Processing of petitions.
- 601.45 Request for hearing on petition for relief.
- 601.46 Review procedures.

**Authority:** 49 U.S.C. 5334; 49 CFR 1.51, 42 U.S.C. 5141.

#### **Subpart D—Emergency Procedures for Public Transportation Systems**

##### **§ 601.40 General applicability.**

This part prescribes procedures that apply to FTA grantees and subgrantees when the President has declared a national or regional emergency, or in anticipation of such a declaration.

##### **§ 601.41 Petitions for relief.**

In the case of a national or regional emergency or disaster, or in anticipation of such a disaster, any person may petition the Administrator for temporary relief from the provisions of any policy statement, circular, guidance document or rule.

##### **§ 601.42 Emergency relief docket.**

(a) In an effort to maintain transparency regarding the approval or denial of requests for petitions for relief, FTA will establish an Emergency Relief docket in the Department's Docket Management System (DMS). FTA will place a message on its Web page (<http://www.fta.dot.gov>) indicating an Emergency Relief Docket has been established and including the docket number.

(b) The Emergency Relief Docket will be established within two business days of an emergency or disaster declaration in which it appears FTA grantees or subgrantees are or will be impacted. In cases in which emergencies can be anticipated, such as hurricanes, FTA will establish an Emergency Relief Docket in advance of the event. In the event any person believes an Emergency Relief Docket should be established and one has not been so established, that person may submit a petition in duplicate to the Administrator, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590, requesting establishment of the docket and including the information under § 601.43 below. The Administrator in

his/her sole discretion shall determine the need for an Emergency Relief Docket.

(c) All petitions for relief must be posted in the docket in order to receive consideration by FTA.

(1) The docket is publicly accessible and can be accessed 24 hours a day, seven days a week, via the Internet at the docket facility's Web site at <http://dms.dot.gov>. Petitions may also be submitted by U.S. mail or by hand delivery to the DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590.

(2) In the event a person needs to request immediate relief and does not have access to electronic means to request that relief, the person may contact any FTA regional office and request that the FTA regional office submit the petition on their behalf.

(3) Any person submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number, which will be assigned at the time the docket is established. Persons making submissions by mail or hand delivery should submit two copies.

(4) Note that all petitions for relief and comments received will be posted, without change, to <http://dms.dot.gov> including any personal information provided and will be available to Internet users.

(5) All documents in this docket are available for inspection and copying on the web site or are available for examination at the DOT Docket Management Facility during regular business hours (9 a.m. to 5 p.m. eastern time).

#### **§ 601.43 Required Information.**

A petition for relief under this section must:

- (a) Identify the grantee or subgrantee and its geographic location;
- (b) Specifically address how the petition for exemption from FTA policy statements, circulars, guidance documents and/or rules is related to the emergency relief efforts, or how the grantee or subgrantee is negatively impacted by the emergency or disaster;
- (c) Identify the policy statement, circular, guidance document and/or rule from which the petitioner seeks relief;
- (d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is in effect. The time period may not exceed three months, however, additional time may be requested through a second petition for relief; and
- (e) If relief is sought from charter service requirements, include a

certification that the grantee or subgrantee made good faith efforts to contact, by whatever means available, private charter or school bus operators to determine whether those entities are willing to provide the service. Documentation should include the name and address of the private charter operator(s), the date the requestor (e.g., the transit agency) contacted the operator(s), and what response the requestor received. In addition, the grantee or subgrantee must certify that it contacted the American Bus Association (e-mail: [abainfo@buses.org](mailto:abainfo@buses.org), phone: (202) 842-1645); the United Motor Coach Association (e-mail: [info@uma.org](mailto:info@uma.org), phone: (800) 424-8262); and the National School Transportation Association (e-mail: [info@yellowbuses.org](mailto:info@yellowbuses.org), phone: (800) 222Z-NSTA).

#### **§ 601.44 Processing of petitions.**

A petition for relief will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA will then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition.

#### **§ 601.45 Request for hearing on petition for relief.**

Parties interested in having a public hearing on any petition must notify FTA within three business days of the posting of the petition for relief in the Emergency Relief Docket. Upon receiving such a request, FTA will immediately arrange for a telephone conference to occur between all interested parties as soon as practicable. FTA may grant a petition for relief prior to conducting a public hearing if such action is in the public interest or in situations where a hearing request is received after the three business days has expired. In such an instance, FTA will immediately notify the party requesting the public hearing and will arrange to conduct such hearing as soon as practicable.

#### **§ 601.46 Review Procedures.**

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative or based upon information or comments received subsequent to the

three business day comment period or at a later scheduled public hearing.

Issued in Washington, DC, this 2nd day of August 2006.

**Sandra K. Bushue,**

*FTA Deputy Administrator.*

[FR Doc. 06-6771 Filed 8-7-06; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### **Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Casey's June Beetle (*Dinacoma caseyi*) as Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Casey's June beetle (*Dinacoma caseyi*) as endangered under the Endangered Species Act of 1973, as amended (Act). We find the petition presents substantial scientific information indicating that listing the Casey's June beetle as endangered may be warranted. Therefore, with the publication of this notice, we are initiating a status review, and we will issue a 12-month finding on the petition to list the Casey's June beetle announcing our determination of whether listing the species as endangered is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

**DATES:** The finding announced in this document was made on August 8, 2006. To be considered in the 12-month finding for this petition, comments and information must be submitted to the Service by October 10, 2006.

**ADDRESSES:** If you wish to comment, you may submit new information, materials, comments, or questions concerning this species by any one of the following methods:

1. You may submit comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92011.
2. You may hand-deliver written comments and information to the above address.
3. You may fax your comments to 760-431-9624.