

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 107 and 171**

[Docket No. HM-208; Notice No. 93-6]

RIN 2137-AB43

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Filing requirements.

SUMMARY: The Hazardous Materials Registration Program is now in effect. Persons who transport or offer for transportation certain hazardous materials are required to annually file a registration statement and pay a fee to the Department of Transportation.

FOR FURTHER INFORMATION CONTACT: David W. Donaldson, Office of Hazardous Materials Planning and Analysis (202-366-4109), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: This notice is intended to serve as a further notification to persons who transport or offer for transportation certain hazardous materials of an annual requirement to register with the Department of Transportation. A final rule implementing this requirement was published in the *Federal Register* on July 9, 1992 (57 FR 30620-20633), a clarification on July 28, 1992 (57 FR 33416-33417), editorial revisions on August 21, 1992 (57 FR 37900-37902), and a formal interpretation of the terms "offeror" and "transporter" on October 28, 1992 (57 FR 48739-48741). The final rule required that after September 15, 1992, each person, as defined by the Hazardous Materials Transportation Act, who engages in any of the specified activities relating to the transportation of hazardous materials register annually with the Department of Transportation and pay a fee. Proceeds will be used to fund grants to State and Indian tribal governments for emergency response planning and training.

The persons affected by this rule include those who offer or transport in commerce any of the following materials:

- A. Any highway route-controlled quantity of a Class 7 (radioactive) material;
- B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight

container;

- C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A);
- D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or
- E. A shipment of 2,268 kilograms (5,000 pounds) gross weight or more (in other than a bulk packaging) of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

The requirement that a copy of the registration certificate, or another document carrying the Registration Number, be carried in each motor vehicle transporting a covered hazardous material is now in effect.

These registration regulations are now in effect. Any person engaging in any of the specified activities who has not filed a registration statement and paid the associated fee of \$300.00 should contact RSPA to obtain the required form (DOT F 5800.2). Persons who engage (or have engaged since September 16, 1992) in any of the specified activities but fail to register for the registration year in which that activity occurred are subject to civil penalties for each day a covered function is performed. The legal obligation to register for a year in which any of the specified activities was conducted does not end with the registration year. Registration after the completion of a registration year may also involve the imposition of a late fee and interest in addition to a civil penalty.

The 1992-93 registration year ends on June 30, 1993. The 1993-94 registration year will commence on July 1, 1993, and end on June 30, 1994. Persons who register during the 1992-93 year will be sent a registration statement form and explanatory information in April 1993 by RSPA. Others wishing to obtain the form and any other information relating to this program should contact the program number given above. RSPA will accept 1993-94 registrations beginning April 15, 1993. Registrants should use the 1993-94 registration statement form, which incorporates several revisions from the 1992-93 form. Registrants should file a registration statement and pay the associated fee in advance of July 1, 1993. They need to ensure that a 1993-94 Registration Number has been provided by that date to comply with the recordkeeping requirements,

including the requirement that the number be made available on board each truck and truck tractor (not including trailers and semi-trailers) used to transport hazardous materials subject to the registration requirements. A Certificate of Registration is generally mailed within three weeks of RSPA's receipt of a Registration Statement.

Dated: February 16, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93-4040 Filed 2-22-93; 8:45 am]

BILLING CODE 4910-60-M

49 CFR Part 198

[Docket No. PS-119; Amdt. 198-1]

RIN 2137-AC12

Allocation Formula for State Grants

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule codifies the formula for allocating federal pipeline safety grants to states. Codification is particularly appropriate at this time, as the formula is undergoing major revision to make it predominantly performance based. Formula revisions are being phased in over several years, allowing states time to take steps to meet performance factors. These factors cover state field operations as well as procedural compliance with federal requirements. A particularly critical component of performance is state assumption of safety jurisdiction over all intrastate pipeline facilities subject to the minimum federal pipeline safety regulations. A performance-based formula should lead to improved program effectiveness and, ultimately, to increased public safety.

EFFECTIVE DATE: This rule takes effect March 25, 1993.

FOR FURTHER INFORMATION CONTACT: G. Tom Fortner, 202-366-4564, or Karen Sagett, 202-366-4577.

SUPPLEMENTARY INFORMATION:**Background**

The Natural Gas Pipeline Safety Act of 1968 (NGPSA), as amended, and the Hazardous Liquid Pipeline Safety Act of 1979 (HLPESA), as amended, authorize DOT to provide up to 50 percent of the cost of personnel, equipment, and activities reasonably required by a state to carry out a pipeline safety program. From 1971 through 1980, grant appropriations were sufficient to fund 50 percent of each state's program

request. In 1981 and subsequent years, requests exceeded appropriations, and methods of allocation were developed to support state programs with the funds available. (A detailed description of the formula between 1981 and 1990 appears in an Advance Notice of Proposed Rulemaking (ANPRM), Allocation Formula for State Grants, published in the February 25, 1991, *Federal Register* (56 FR 7636).)

Initially, funds were allocated to assure all states adopted the minimum federal pipeline safety regulations and had basic programs in place. In 1985, a factor was added to the allocation formula as an incentive to encourage states to improve state program performance and to take on more responsibility for pipeline safety. This performance factor accounted for 20 percent of the grant allocation. In 1986, the performance factor was increased to 25 percent, and in 1992 it was further increased to 50 percent.

The February 25, 1991, ANPRM solicited ideas on revising the allocation formula to encourage states to enhance pipeline safety, improve the effectiveness of their programs, and assume jurisdictional responsibility over all intrastate pipeline operators. The ANPRM specifically requested comments on the best mix of performance factors and appropriate weights to be assigned to each. Additionally, the ANPRM sought reaction to issues such as defining a minimum level of performance, protecting states from an abrupt drop in funding, and phasing in the revised formula. Fourteen comments were received in response to the ANPRM. Thirteen of the 14 were from state agencies and one was from a trade association. Eleven of the 14 were generally supportive of revising the allocation formula. Of the remaining three, two said the current system of allocating the funds seemed reasonable and should be continued. The other commenter wanted to return to the formula first used in 1981.

RSPA issued a Notice of Proposed Rulemaking (NPRM) on March 4, 1992, (57 FR 7705), which (1) summarized the 14 comments received in response to the ANPRM, (2) proposed an approach for phasing in a performance-based allocation formula over a multi-year period, and (3) proposed language to codify the grant allocation formula. The NPRM described the proposed allocation formula for use in 1992 and 1993 in some detail. In contrast, proposed language to be included in the regulation was general, since RSPA is still refining objective performance yardsticks that take into account state

differences. Additionally, RSPA needs to retain some flexibility to target changing priorities and national concerns and does not want to revise the regulation each time the formula changes.

RSPA will continue to finetune performance factors. A key aspect of this further refinement will be hiring "state liaisons" in each of the five pipeline safety Regional Offices to conduct the annual state program evaluations which are instrumental in assessing state performance. The liaisons will also provide technical assistance, support, and hands-on training upon state request. As such, their observations and insights should be useful in defining performance.

State agency comments will be sought in advance of making any changes to the formula. Proposed changes will be mailed to state agencies for discussion at subsequent National Association of Pipeline Safety Representatives (NAPSR) and National Association of Regulatory Utility Commissioners (NARUC) meetings held throughout the year. RSPA places high priority on the continuing involvement of the state partners as work proceeds on finetuning the allocation formula. RSPA will provide documentation on proposed changes and actual allocations to the public upon written request.

Comments Received

RSPA received 12 comments in response to the NPRM: Seven from state agencies, two trade associations, two from gas pipeline operators, and one from a state interest group. Seven of the 12 commenters were generally supportive of revising the allocation formula to place more emphasis on state performance; all seven had suggestions on the mechanics of the allocation process, state constraints in meeting various performance factors, or the performance factors to be included. Four commenters did not specifically comment positively or negatively about moving toward a performance-based formula but rather zeroed in on one or two issues. One commenter totally opposed the current and proposed formulas, saying they measure procedural compliance, *not* performance. RSPA believes that procedural compliance is very much a part of overall state program performance.

Mechanics of the Allocation Process

The February 25, 1991, ANPRM raised a number of issues related to the mechanics of the grant allocation process (e.g., defining a base level of performance, ensuring equity between

large and small programs, setting aside funds for special projects). A number of commenters in responding to the NPRM addressed these mechanics.

Three states supported defining what constitutes adequate state performance at a baseline program level. One of these states suggested developing specific criteria for measuring full, partial, or inadequate performance. The work of the NAPSR Staffing Formula Committee to develop a model for projecting the appropriate state technical staffing level given extent of jurisdictional responsibilities, miles of pipeline, number of inspection units, and other factors is a step toward defining a baseline program. RSPA is currently reviewing the Committee's proposed approach. Continuing efforts to define performance will further lead to a working definition of baseline-level program.

Three states commented on the inequity in the current formula as well as the proposed formulas for 1992 and 1993 which may negatively impact large programs. One state with a large program said it would lose even more funding in 1993 when 75 percent of the allocation will be based on performance (compared to 50 percent in 1992). That state recommended establishing a 100-point scale for assigning performance points to allow for a wider point spread among states, better reflecting program performance than the current 27 points.

RSPA is attempting to assure that all states are treated equitably in the distribution of funds. However, until the full 50 percent of state program costs is appropriated, there will not be adequate funds to assure each state receives the maximum funding for which it is eligible. RSPA will adopt a 100-point scale for assigning performance points as proposed. Beginning in 1993, a state will be eligible to receive a maximum of 100 performance points. Fifty points will be based on information provided in the state's annual certification/agreement attachments which document activities for the past year and 50 points will be based on the state's rating on its annual program evaluation conducted by the RSPA regional pipeline safety office. The certification/agreement attachments will be used primarily to measure state procedural compliance in meeting national program objectives, while the evaluation will be used to assess state field operations. Together, these two instruments will provide an indication of overall state program performance.

RSPA will provide state agencies with information on actual performance factors and the number of points assigned to each factor well in advance

of the allocation of funds, in mailings transmitting the annual certification/agreement and program evaluation.

Two states commented on how funds would be prorated if state requests exceed available appropriations. One state agreed with RSPA that available funds should be prorated equally so larger programs do not have to absorb a disproportionate reduction. The other state asked for clarification on whether all grants would be reduced by the same percentage or whether a sliding scale would be used based on program size. The state remarked that reduced grants are disproportionately burdensome for smaller programs, a consideration which was taken into account in developing the original grant allocation formula. As noted above, RSPA is exploring alternatives for assuring equitable treatment of small and large programs alike when available appropriations are insufficient to fund state requests.

The state interest group was concerned that too rapid an increase in the percentage of funding based on performance might trigger unwanted reductions in good, small state programs. To avoid this occurrence, the interest group proposed that the word "maximum" be inserted in § 198.13(a): "The *maximum* percent of each state agency allocation that is based on performance * * *" RSPA agrees that the transition to a performance base formula could disrupt small state programs and has inserted "maximum" in the final rule.

Three states were concerned about not having enough lead time to anticipate changes in the formula. One of these states agreed with the need for flexibility in the regulation but recommended notifying states of any changes as far in advance as possible. Another of these states said varying performance criteria/weight from year to year could have a disruptive effect on the ability of the state to meet RSPA criteria and adversely impact the funding level. RSPA will notify states as far in advance as possible about changes in the formula. Proposed changes will be discussed at NAPSR and NARUC meetings in the year prior to the change. Every effort will be made to lessen any hardship related to formula changes. RSPA has revised the wording in § 198.13(e) to provide written notice of changes 9 months prior to allocating funds instead of 6 months as proposed in the NPRM.

One state believed it would be a good idea to use additional grant funds for special projects and extraordinary expenses as long as the regular allocation was not touched. Historically,

every year a number of states spend less money than anticipated at the beginning of the year (e.g., staff may resign and not be immediately replaced), and funds have to be deobligated at the end of the year. To the extent permitted by law, RSPA will consider earmarking deobligated funds for special projects.

State Constraints

At least five state agencies alluded to their lack of control over getting their legislatures to adopt federal requirements and the inequity of reducing their grant allocation when they had done everything within their power to secure passage but failed because of resistance in the legislature. States proposed a number of creative ways to deal with program deficiencies resulting from the lack of legislative authority. One state suggested that bonus points be assigned for extra safety activities above the minimum (e.g., more stringent code, additional jurisdiction, operator training program) and that these points be used to offset points lost in other areas.

RSPA is making an effort to assist states having difficulty in adopting necessary federal safety requirements because of legislative resistance. The state liaisons will be available to assist states develop strategies for overcoming opposition to safety requirements. With respect to the assignment of bonus points, RSPA does not think it would be fair to states that have already achieved the baseline level program to give extra points to states that go beyond the basics in certain areas to offset deficiencies in other areas. States need to focus their efforts on achieving the baseline level program.

Another state suggested the first year a deficiency is identified the state should be issued a warning; a probation period would be established but the funding level would not be affected. If the deficiency was not corrected the second year, the funding level would be reduced somewhat. If still no correction were made by the third year, the funding level would be further reduced. Funding would be restored when corrective action was taken. While RSPA appreciates the intent of this suggestion, RSPA believes that tracking the status of deficiencies for 50 states over a 3-year period would be an administrative burden and therefore will not adopt it. Rather, RSPA will consider giving partial credit in instances where states are taking steps to remedy a deficiency or adopt required standards.

Two states made a case for providing sufficient time for adoption of federal requirements. The NGPSA and HLPISA

both require a state to demonstrate that within 120 days after a federal safety regulation goes into effect, the state is taking steps to adopt the regulation. RSPA believes it is reasonable to allow a state 24 months, or two general sessions of the state legislature, whichever is longer, to adopt a federal regulation before reducing that state's grant allocation. If the state does not adopt the regulation within 24 months (or two general sessions of the legislature), its grant allocation will be reduced. Regardless of whether or not a state has adopted a particular safety regulation, pipeline operators must still comply with the regulation.

Specific Performance Factors

A number of commenters singled out certain performance factors they wanted included in the formula.

Damage Prevention/One-Call Systems

Three commenters mentioned the one-call damage prevention program. Two of these commenters (the two trade associations) were most supportive of strong damage prevention laws and giving significant weight to states having adopted or taking steps to adopt such laws in allocating funds. Both associations believe state damage prevention programs should include mandatory requirements for a true one-call system, where all owners-operators of buried underground utility facilities are required to participate (natural gas and hazardous liquid pipelines, as well as water mains, storm sewers, sanitary sewers, steam pipelines, electronic power cables, telephone cables, fiber optic cables, and cable television). While these two associations recognized that RSPA regulates only natural gas and hazardous liquid pipelines, they nevertheless urged RSPA to place significant weight in allocating funds on whether all types of underground utility facilities are included in one-call systems. These two associations want stiff penalties and vigorous enforcement of damage prevention laws except in emergency excavations and demolition activities.

Only one state commented on the one-call notification system, saying it should be included as a performance factor in the formula but ranked "low" to "medium." RSPA will include state adoption of minimum requirements for a one-call notification system as a performance factor in the allocation formula.

Enforcement/Civil Penalties

Two commenters mentioned enforcement and use of civil penalties in regard to pipeline safety in general.

One of these, a state, thought enforcement of regulations should be included as a performance factor with a "medium" ranking but that assessment of civil penalties should not be included at all. One gas pipeline operator said giving weight to assessment of penalties was not evidence of a good program. The use of fines as a measure for funding would create undue incentives for regulators and lead to adversarial relationships with operators. The operator felt that safety can best be promoted through a cooperative relationship without the threat of costly fines. States participating in the pipeline safety program under NGPSA and HLPESA are required to have injunctive and monetary sanctions substantially the same as RSPA. RSPA believes the use of civil penalties is an effective deterrent action, especially in situations involving repeat violations or gross noncompliance. Accordingly, RSPA will include use of civil penalties as a performance factor in the allocation formula.

Inspection Person-Days

Two commenters mentioned inspection person-days. A state said the existing inspection person-day requirement (85 days per year) is reasonable and should be retained. A gas pipeline operator, in its only comment, felt increasing requirements such as the number of inspection person-days would increase an operator's cost of doing business but not necessarily increase safety, and that an increase in requirements could possibly strain industry's ability to compete in the energy market. RSPA has no current plans for increasing the number of inspection person-days a state must meet. RSPA will include inspection person-days as a performance factor in the allocation formula.

One state was opposed to the current and proposed formulas on the grounds that these formulas did not measure performance. The state provided examples of the types of actions important to measuring performance of a state pipeline safety program including state prohibition against installation of new cast iron pipe; state program for cast iron/bare steel pipe removal; state requirement that utilities leak survey their whole systems with electronic equipment annually, business districts twice a year, and all buildings used for public gatherings annually; lost and unaccounted-for natural gas held effectively at zero; requirement that all defects on steel pipe such as dents and scratches be removed or repaired; state program encouraging utilities to actively share pipeline safety information.

Other states mentioned additional performance factors such as pursuing legislation to prohibit master meter systems, active state promotion of programs to prevent damage by outside force, and on-the-job training. RSPA will consider these additional measures of performance as it refines the formula in future years.

Several commenters agreed with the shift to program performance, but they were concerned that funds should not be allocated solely on the basis of performance as it could create a negative incentive for some states. While funds will be allocated based on state performance, the formula will also take into account the level of the state request for funds (i.e., large state programs will need more funds to cover their program costs than small state programs).

RSPA believes a performance-based formula will be a positive incentive for states to improve program effectiveness. The Senate Committee on Appropriations supported the merits of a performance-based allocation formula in approving RSPA's FY 1992 budget request for the pipeline safety grant program. The Committee urged RSPA to move expeditiously toward a performance-based approach in awarding grant funds and to ensure that participating states take full authority over intrastate pipeline facilities as contemplated in NGPSA and HLPESA.

By defining a baseline-level program with clear performance factors, RSPA will set forth what is expected of states to be eligible for maximum grant funding. State agencies administering the program can, in turn, use this information to strengthen the case to secure necessary authority from the state public service commission or state legislature for adoption of federal requirements.

Regulatory Analysis and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This final rule is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), as the rule merely formalizes an existing administrative procedure. No regulatory evaluation is required because the rule deals with the allocation of grant funds and does not impose costs on any state or regulated entity.

Paperwork Reduction Act

Information submitted by a state in conjunction with its annual

certification/agreement under section 5(a) or 5(b) of NGPSA and section 205(a) or 205(b) of HLPESA is used in part to allocate grant funds. This information collection imposes a reporting burden on the state and, as such, has been approved by the Office of Management and Budget (OMB) under OMB No. 2137-0584, in accordance with 44 U.S.C. chapter 35.

None of the comments received in response to the March 4, 1992, NPRM addressed any concerns associated with overly burdensome paperwork requirements. Rather, the comments focused on programmatic matters such as the mechanics of the grant allocation process, state constraints in meeting federal performance criteria, and the merits of various performance factors.

Regulatory Flexibility Act

Based on the facts available concerning the impact of this rule, I certify under section 605 of the Regulatory Flexibility Act that it would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

This action would not have substantial direct effects on states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 198

Grant programs, Formula, Pipeline safety.

In consideration of the foregoing, RSPA amends 49 CFR part 198 as follows:

PART 198—[AMENDED]

1. The authority citation for part 198 continues to read as follows:

Authority: 49 App. U.S.C. 1674, 1687, and 2004; 49 CFR 1.53.

2. New subpart B is added to 49 CFR part 198 as follows:

Subpart B—Grant Allocation

Sec.

198.11 Grant authority.

198.13 Grant allocation formula.

Subpart B—Grant Allocation**§ 198.11 Grant authority.**

Section 5(d)(1) of the Natural Gas Pipeline Safety Act and section 205(d)(1) of the Hazardous Liquid Pipeline Safety Act authorize the Administrator to pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

§ 198.13 Grant allocation formula.

(a) Beginning in calendar year 1993, the Administrator places increasing emphasis on program performance in allocating state agency funds under § 198.11. The maximum percent of each state agency allocation that is based on performance follows: 1993—75 percent; 1994 and subsequent years—100 percent.

(b) A state's annual grant allocation is based on maximum of 100 performance points derived as follows:

(1) Fifty points based on information provided in the state's annual certification/agreement attachments which document its activities for the past year; and

(2) Fifty points based on the annual state program evaluation.

(c) The Administrator assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by the Administrator and communicated to each State agency. At a minimum, the Administrator considers the following performance factors in allocating funds:

- (1) Adequacy of state operating practices;
- (2) Quality of state inspections, investigations, and enforcement/compliance actions;
- (3) Adequacy of state recordkeeping;
- (4) Extent of state safety regulatory jurisdiction over pipeline facilities;
- (5) Qualifications of state inspectors;
- (6) Number of state inspection person-days;
- (7) State adoption of applicable federal pipeline safety standards; and
- (8) Any other factor the Administrator deems necessary to measure performance.

(d) Notwithstanding these performance factors, the Administrator may, in 1993 and subsequent years, continue funding any state at the 1991 level, provided its request is at the 1991 level or higher and appropriated funds are at the 1991 level or higher.

(e) The Administrator notifies each state agency in writing of the specific performance factors to be used and the weights to be assigned to each factor at least 9 months prior to allocating funds. Prior to notification, RSPA seeks state agency comments on any proposed changes to the allocation formula.

(f) Grants are limited to the appropriated funds available. If total state agency requests for grants exceed the funds available, the Administrator prorates each state agency's allocation.

Issued in Washington, DC, on February 17, 1993.

Rose A. McMurray,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 93-4089 Filed 2-22-93; 8:45 am]

BILLING CODE 4910-60-M

Federal Transit Administration**49 CFR Part 665**

[Docket No. 89-B]

Bus Testing Program; Modification to Interim Final Rule; Delay in Application Date for Small Vehicles

AGENCY: Federal Transit Administration, DOT.

ACTION: Interim final rule.

SUMMARY: On July 28, 1992, the Federal Transit Administration (FTA) published an interim final rule on its bus testing program. Among other things, the rule adds two new vehicle types (small vehicles with service lives of 4 and 5 years) to the vehicles subject to testing at the FTA-sponsored testing facility at Altoona, Pennsylvania. On October 13, 1992, the FTA postponed the effective date of the rule as it applied to these types of vehicles for 120 days, until February 10, 1993. Today's document postpones the effective date until October 1, 1993. The delay is due to numerous requests from commenters to the docket. The additional time is needed for the FTA to seek additional comments on particular issues to determine whether further changes need to be made to the rule.

DATES: *Effective date:* February 23, 1993.

Comment due date: June 23, 1993.

Comments received after this date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: For technical issues, Steven A. Barsony, Director, Office of Engineering Evaluations, Office of Technical Assistance and Safety, (202) 366-0090; for legal issues, Richard L. Wong, Attorney-Advisor, Office of the Chief Counsel, (202) 366-1936.

SUPPLEMENTARY INFORMATION:**Background**

The Surface Transportation and Uniform Relocation Assistance Act of 1987 required the FTA to establish a bus testing facility for the testing of a model of any new bus model purchased with FTA financial participation. The FTA issued its first interim final rule implementing this program in 1989 and announced it would phase-in the program, applying the testing requirements to different-sized vehicles over a multi-year period. The first interim final rule, published on August 23, 1989 (54 FR 35158), established three categories of vehicles subject to testing: Heavy duty large buses with a service life of 12 years or 500,000 miles; heavy duty small buses with a service life of ten years or 350,000 miles; and purpose-built medium duty buses with a service life of seven years or 200,000 miles. The second interim final rule, published on October 9, 1990 (55 FR 41174), extended the testing requirements to the medium duty body-on-chassis category by combining the purpose-built and body-on-chassis subdivisions into one inclusive medium-duty bus category.

On July 28, 1992 (57 FR 33394) the FTA issued its third interim final rule to apply the testing requirements to the final two categories of vehicles requiring testing: Light duty mid-size buses with a service life of five years or 150,000 miles; and light duty small buses with a service life of four years or 100,000 miles. Although the third interim final rule went into effect on August 27, 1992, the FTA suspended on October 13, 1992 (57 FR 46814), the effective date as applied to the two categories of vehicles until February 10, 1993.

I. Suspension of the Effective Date and Comment Period Extension

Today's action again suspends the effective date as it applies to the remaining categories of vehicles that must be tested until October 1, 1993. This suspension retroactively applies to bids or solicitations for the two affected categories of vehicles issued between February 10, 1993, and the publication date of this rule. In addition, the FTA is reopening the docket to receive comments on the questions raised below until June 23, 1993.

II. Request for Comments on Particular Issues

Docket comments, as well as the FTA's separate evaluation, indicate that implementing testing of small vehicles would burden the Altoona facility. This is due in part to the nature of the small