Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Halifax County, Virginia, and Incorporated Areas				
Reedy Creek	Approximately 1,400 feet downstream of Ash Avenue	None	+331	Unincorporated Areas of Halifax County.
	At confluence with Dan River	None	+331	
Rocky Branch	At confluence with Reedy Creek	None	+331	Unincorporated Areas of Halifax County.
	Approximately 0.4 mile upstream of Eastover Road	None	+346	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Halifax County

Maps are available for inspection at Halifax County GIS Department, 134 South Main, Halifax, VA 24558.

Spokane County, Washington, and Incorporated Areas				
Argonne Creek	Approximately 1,300 feet downstream of N Maringo Drive.	None	+1922	Unincorporated Areas of Spokane County.
	Approximately 600 feet upstream of N Boeing Road	None	+1987	
Forker Draw	Approximately at N Progress Road	None	+2065	Unincorporated Areas of Spokane County, City of Spokane Valley.
	Approximately 70 feet downstream of E Bigelow Gulch Road.	None	+2336	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
#Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Spokane Valley

Maps are available for inspection at 11707 E. Sprague Ave., Suite 106, Spokane Valley, WA 99206.

Unincorporated Areas of Spokane County

Maps are available for inspection at 808 W. Spokane Falls Blvd., Spokane, WA 99201.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: September 19, 2008.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–22981 Filed 9–29–08; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 665

[Docket No. FTA–2007–0011]

RIN 2132–AA95

Bus Testing; Phase-In of Brake Performance and Emissions Testing, and Program Updates

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking (NPRM) provides interested parties with the opportunity to comment on the Federal Transit Administration's (FTA's) proposed changes to its Bus Testing Regulation. The NPRM incorporates tests for brake performance and emissions into FTA's Bus Testing Program to comply with the Safe, Accountable, Flexible, Equitable Transportation Efficiency Act: a Legacy for Users (SAFETEA–LU). To improve the FTA Bus Testing Program, FTA is also proposing several updates that will enhance the Program's value and respond to changes in the transit bus industry. FTA seeks comments on the proposals in this notice.

DATES: Comments on this proposed rule must be received on or before December 1, 2008.

ADDRESSES: You may submit comments (identified by the agency name and DOT Docket ID Number FTA–2007–0011) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

See **SUPPLEMENTARY INFORMATION** section for more information on submitting comments.

FOR FURTHER INFORMATION CONTACT: For technical information, Marcel Belanger, Bus Testing Program Manager, Office of Research, Demonstration, and Innovation (TRI), (202) 366–0725, *marcel.belanger@dot.gov.* For legal information, Richard Wong, Office of the Chief Counsel (TCC), (202) 366–0675, *richard.wong@dot.gov.*

SUPPLEMENTARY INFORMATION:

Instructions for submitting comments: You must include the agency name (Federal Transit Administration) and Docket number (FTA–2007–0011) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. 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 www.regulations.gov including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

Docket: For internet access to the docket to read background documents and comments received, go to *www.regulations.gov.* Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Background

Section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) provided that no funds appropriated or made available under the Urban Mass Transportation Act of 1964, as amended, were to be obligated or expended for the acquisition of a new model bus after September 30, 1989, unless a bus of such model had been tested at a facility to be established in Altoona, Pennsylvania. The intent of the testing was to provide reliable performance information to transit authorities that could be used in their purchase or lease decisions. Section 6021 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amended section 317 of STURAA to add tests for brake performance and emissions. Section 3020 of SAFETEA–LU did not change these requirements, incorporating them at 49 U.S.C. 5318. SAFETEA–LU also amended subsection 5318(a) to state, ''The Secretary of Transportation shall maintain one facility for testing a new bus model...'' when this section had previously read ''establish one facility.''

The Bus Testing Center is operated by the Pennsylvania Transportation Institute (PTI) of The Pennsylvania State University. The Bus Testing Center currently performs seven categories of tests that were required by STURAA and are based in part on tests described in the UMTA (Urban Mass Transportation Administration—FTA's predecessor) report, ''First Article Transit Bus Test Plan,'' which is mentioned in the legislative history of Section 317. These tests, when appropriate, leverage Society of Automotive Engineers (SAE) test procedures and other procedures accepted by the transit industry. The seven current test categories are Maintainability, Reliability, Safety, Performance, Structural Integrity, Fuel Economy, and Noise.

The primary purpose of this NPRM is to seek comments on FTA's proposal to incorporate brake performance and emissions tests into FTA's Bus Testing Regulation. FTA is also using this opportunity to seek comments on ways to update the regulation to improve the functioning of the program, enhance its value, and clarify any ambiguities in the existing regulation.

Statutory Changes

FTA seeks comments on the proposed testing procedures, estimated testing fees, and estimated test durations for brake performance and emissions testing, which can be reviewed in the docket (see **ADDRESSES**). The test procedures, costs, and durations will be reviewed after the Bus Testing Center has gained experience in conducting these tests, and the procedures and the time and fee schedule may be revised in the future if necessary. It is possible that different cost tiers might be established if the need becomes apparent as a result of these reviews. For example, battery-dominant (i.e., ''plug-in'') hybrid-electric buses may need to perform additional runs of the Emissions test in order to assess the varying effects on emissions of full and depleted battery states of charge.

Brake Performance Test Procedure

The full proposed draft Brake Testing Procedure is available for review in the docket (*see* **ADDRESSES**). In summary, the operator of the Bus Testing Center will install equipment both on the test bus and at the facilities to support the brake performance test. Prior to the start of a brake performance test, the brake system's functionality will be evaluated. The evaluation will ensure that the brakes are properly adjusted, burnished, and the anti-lock brake system is functioning properly. The proposed test procedure specifies that the test bus will be subjected to a series of brake stops from 20, 30, 40, and 45 mph on a high-friction surface; from 20 mph on a low-friction surface; and up to 45 mph on a split-coefficient surface. The parking brake will be evaluated facing uphill and downhill on a ramp with a 20 percent grade. FTA also seeks comments on whether, and, if so, how, the Maintainability and Noise tests should be modified to capture useful data related to the brake system and whether any such changes should be done within the regulation itself or in non-regulatory policies and procedures. Although it could logically be included under the Safety test category, FTA proposes to incorporate the brake performance test within the existing Performance test category, as specified by SAFETEA–LU. The proposed test procedure specifies that all brake performance tests will be performed with the bus loaded to gross vehicle weight.

Emissions Test Procedure

The proposed draft Emissions Testing Procedure is available for review in the docket (see **ADDRESSES**). The detailed emissions testing procedure has not been finalized, pending setup of the laboratory facility. However, the proposed draft Emissions Testing Procedure is based on 40 CFR Part 86—''Emissions Regulations for New Otto-Cycle and Diesel Heavy-Duty Engines;

Gaseous and Particulate Exhaust Test Procedures'' and 40 CFR Part 1065—''Engine Testing Procedures,'' as well as the Society of Automotive Engineers (SAE) Recommended Practice SAE J2711. The Emissions test will be conducted at the Bus Testing Facility using an emissions testing laboratory equipped with a chassis dynamometer capable of both absorbing and applying power. The emissions of those exhaust constituents regulated by the United States Environmental Protection Agency (EPA) for transit buses, plus carbon dioxide (CO_2) and methane (CH_4), will be measured as the bus is operated over industry-standard driving cycles specified in the test procedure. FTA proposes that mileage accumulated by a bus while operating on the dynamometer during emissions testing will be counted toward the ''other'' miles that must be accumulated during durability testing. Under the proposed test procedure, the dynamometer would be set to simulate curb weight plus one-half of the full seated load for the particular bus under test, in order to be consistent with the above-cited industry standard emissions measurement protocols and to facilitate direct comparisons with emissions measurements collected outside the Bus Testing Program. FTA also seeks comments on the merits of performing the emissions tests with the chassis dynamometer set to simulate gross vehicle weight, which would generally be expected to represent the ''worst case'' for emissions, seated load weight, which may result in emissions measurements closer to a typical case (and which would be consistent with the Performance and Fuel Economy tests, which are currently performed at seated load weight), or a different weight. FTA also seeks comments on whether, and if so, how, the Maintainability test should be modified to capture useful data related to the emissions control system and whether any such changes should be made within the regulation itself or in non-regulatory policies and procedures. FTA proposes to add the Emissions test as a separate, eighth, test category.

Applicability and Phase-In

FTA proposes that the date on which a bus' testing contract was signed will determine the applicability of the brake performance and Emissions tests. Models whose testing contracts were signed before the effective date of this regulation and that continue to be produced without major changes in any structure or systems will not be required to return to the Bus Testing Center to undergo brake performance and emissions testing. Bus Testing contracts signed before the effective date of the rule will not need to include brake performance or emissions testing.

Buses whose full or partial testing contracts are signed on or after the effective date of this regulation will be subject to brake performance and emissions testing (in addition to the other testing requirements). That is, full testing will include the brake performance and Emissions tests. Partial tests triggered by major changes in any part of the bus will include one or both of these tests if FTA would reasonably expect to obtain significantly different test data. In cases where brake performance or emissions data have never been obtained at the Bus Testing Center (initially, in all cases), a change in data is clearly expected and these tests will be required for buses undergoing partial testing, even if major changes have not been made to the brake or emissions control systems. In addition, upon the effective date of the regulation, major changes made to the braking system or to the engine, fuel, or emissions control systems of a previously tested bus model will also trigger partial testing. Partial testing triggered by major changes to the brake or emissions control systems could also include other tests if FTA would reasonably expect to obtain significantly different data from including them.

FTA also seeks comments on whether the Emissions test should apply to all vehicles subject to FTA's Bus Testing Regulation or whether any classes of buses should be exempted. FTA also seeks comments on whether its emissions testing program should begin on the effective date of this rule for all bus types subject to testing or whether the Emissions test requirement should be gradually phased in for various classes of bus (e.g., small or large buses), similar to the phase-in process used in the initial start-up of FTA's Bus Testing Program.

Partial Testing

Partial testing provisions will continue to serve as a means to reduce the cost and time required for testing bus models that have previously completed full testing at the Bus Testing facility but that are subsequently produced with major changes in configuration or components. Consistent with current policy, partial testing determinations will be made on a case-by-case basis. Partial testing may be required when changes made to a bus are expected to produce significantly different data from that previously obtained at the Bus Testing facility.

With regard to the brake performance test, FTA seeks comments on the following proposed list of examples of ''major changes'' that would require previously-tested buses to undergo the brake performance test:

Examples of a major change in the brake system may include, but are not limited to:

1. Change in service brake technology, e.g., changing from drum brakes to disc brakes, or from friction brakes to electromagnetic brakes;
2. Change in brake control technology, e.g., changing the primary control circuit from pneumatic control to electronic or hydraulic control;
3. Changes to the shoe lining, brake pad, drum, and/or rotor material(s) that impact the stopping performance of the bus;
4. Changes to the brake air line plumbing that impact application timing;
5. The addition or major modification of advanced control algorithms that utilize the service brakes, e.g., rollover and yaw stability programs, collision warning systems, or advanced cruise control systems; and/or
6. Adding, deleting, or making major changes to a regenerative braking system.

With regard to the Emissions test, FTA seeks comments on the following proposed list of examples of ''major changes'' that would require previously-tested buses to undergo the Emissions test:

Examples of a major change in the engine, fuel system, or emissions control system may include, but are not limited to:

1. A change to a different engine model;
2. A major change in calibration of the engine, transmission, or hybrid system;
3. A change to a different type of fuel; and/or
4. A major change in the engine-out emissions or emissions control system, such as addition, deletion, or substantial modification of in-cylinder combustion control, exhaust gas recirculation, or aftertreatment devices.

Reporting Procedures

Data from the brake performance test will be reported in the Performance section of the Bus Testing Report (full or partial, as appropriate) for a bus model. Data from the Emissions test will be reported in a new Emissions section of the Bus Testing Report (full or partial, as appropriate) for a bus model. Data from these tests will also be available on the interactive Bus Testing Database accessible at *http://www.altoonabustest.com.*

FTA also seeks comments on how to present data collected from the brake performance and Emissions tests better in the Bus Testing Reports as well as in the Bus Testing Database. FTA also welcomes comments on how to present the data from any of the eight test categories more effectively.

Other Proposed Changes

FTA seeks comments on the following changes that are not specified by statute but which may improve the functioning of the program, enhance its value, or clarify existing provisions.

Service Life Category

Section 665.11(e) of FTA's Bus Testing Regulation gives general guidance on the types of buses that fall into each service life category. However, Section 665.11(f) states, ''Tests performed in a higher service life category (i.e., longer service life) need not be repeated when the same bus model is used in lesser service life applications.'' Consequently, over the past several years FTA has noticed a trend of manufacturers sometimes testing buses in a higher service life category than FTA had originally contemplated for buses of similar construction.

FTA had hoped that this regulatory flexibility would ease burdens on both transit manufacturers and customers and, combined with market forces, would over time encourage improved durability and useful life of buses. Grantees have reported a downside as they find that some of these ''uprated'' buses cannot functionally meet their advertised useful service life.

FTA seeks comments on whether it should maintain its current policy of allowing manufacturers to determine the useful life category in which their buses will be tested and expecting grantees to evaluate the bus testing reports carefully to assess whether the bus will in fact adequately meet their service life requirements. FTA also seeks comments on alternative policies for determining the service life category in which a particular bus model will be tested, such as (1) redefining the characteristics of buses in each service life category, and if that approach is taken, what those characteristics should be; (2) requiring manufacturers to request an official determination from FTA of a vehicle's service life category; or (3) providing guidance on the standard useful life based on type of construction but allowing manufacturers to test and sell in higher service life categories if they post a ''durability assurance'' bond or similar instrument.

Buses That Exceed Weight Limits When Fully Loaded

FTA notes that a number of buses tested at the Bus Testing Center could not be operated in their fully loaded mode (i.e., with all seats and standee positions occupied), since doing so would have caused their actual weight to exceed either their gross vehicle weight ratings (GVWR) or a front or rear gross axle weight rating (GAWR). In these cases, testing ballast was removed from these buses until their actual measured gross and axle weights did not exceed their specified GVWR or GAWRs. This is necessary because State law prevents the Bus Testing Operator from operating buses on public roadways when loaded in excess of their maximum legal weight ratings. However, FTA notes that the test data may not then reflect the performance of these buses in actual service, where operators commonly disregard the legal weight limits to avoid leaving passengers behind at a stop. FTA seeks comments on the following three approaches for addressing these situations:

1. Perform any tests that are specified in the test procedures to be performed at GVW on the test track (which is not a public roadway) with all seats and standee positions ballasted, and perform any tests that are specified in the test procedures to be performed at seated load weight (SLW) on the test track with all seats ballasted. Although the bus would be overloaded, the test data may be more representative of the conditions the bus will face in actual service. This approach would help to ''flag'' buses that are not adequately able to withstand the rigors of transit service. The Bus Testing Report would prominently state that certain (specified) portions of the test were performed in excess of the (specified) gross and/or axle weight rating(s). In addition, any time the bus had to be operated on public roadways, the manufacturer would need to pay the facility operator for the cost of unloading ballast to comply with the legal weight ratings, as well as the cost of restoring the ballast when the bus returned to the test track (the operator could make operational adjustments to limit, but probably not eliminate, the number of times this unloading/reloading cycle occurs). FTA also seek comments on whether manufacturers of such buses should pay the entire cost of this unloading/reloading activity, or whether this should be included in the overall testing charges for which manufacturers pay only 20 percent of the total. If such a policy is adopted, FTA also seek comments on whether it should apply to all transit vehicles, and if not, then how it should be applied. For example, dedicated paratransit vehicles may require a large open floor area to allow wheelchair maneuvering, and would not normally be operated with a full load of standee passengers. Alternatively, FTA seeks comments on whether the definition for ''gross weight'' could be revised to address such situations, and what the ramifications of such a change in definition might be.

2. Continue the operator's current practice of deleting ballast until the bus is within legal weight limits, but place a more prominent notice in the Bus Testing Report stating that the bus will exceed its maximum GVWR and/or GAWR with all passenger positions occupied, and alerting readers that the testing data may not be representative of the bus' actual in-service durability.

3. Decline to test a bus that exceeds its GAWR or GVWR when loaded to full capacity according to the test procedure.

Family of Vehicles

FTA seeks comments on whether it is appropriate to expand its existing ''Family of Vehicles'' policy to the 7-year (or higher) service life categories. The existing Family of Vehicles policy is limited to buses in the 4-year and 5-year service life categories only, and allows manufacturers that have tested a complete bus built on one third-party chassis to offer variants of that bus body on a different (but similar) mass-produced chassis that has been tested at the Bus Testing Center on any bus by any other bus manufacturer. FTA seeks comments on the desirability and ramifications of extending the family of vehicles policy to all buses built on third party chassis.

Separate Reporting of Third-Party Chassis Test Results

While the law authorizing the Bus Testing Program (49 U.S.C. 5318) treats buses as integrated systems, FTA's Family of Vehicles policy described in the previous paragraph would be easier to implement and understand if the Bus Testing Center were to produce separate testing reports for third-party chassis. These reports could be prepared by identifying, separating out, and summarizing only the chassis-related data during tests of buses built on third-party chassis. However, the Bus Testing Center operator has expressed concern that in past experience, a significant number of buses are tested on modified third-party chassis, and these modifications, even if performed in strict compliance with the

manufacturer's guidelines, would frustrate comparisons of data on third-party chassis. FTA seeks comments on the desirability of preparing separate test reports for third-party chassis that are tested in the course of testing complete buses built on those chassis. FTA also seeks comments on any practical considerations that may need to be addressed or difficulties that may be presented, as well as the best ways to separate and report data on third-party chassis. Finally, FTA seeks comments on how the costs of this additional reporting should be borne.

FTA Evaluation/Recommendation of Bus Models

A number of FTA grantees have asked for issuance of a ''pass/fail'' determination for buses in the Bus Testing Reports. Experience has shown that the level of bus performance required varies among operators, and durability that is adequate for one transit operator may be inadequate for another. Therefore, it would be difficult to establish pass/fail thresholds in an optimal manner for all bus purchasers. Instead, Bus Testing Reports present data so that grantees can make informed decisions about the suitability of a particular bus model. FTA grantees have noted that state or local procurement provisions requiring selection of the low bidder sometimes result in the acquisition of less suitable buses, and that a Bus Testing Report ''pass/fail'' system might provide a basis to remove an inadequate bus model from consideration. FTA seeks comments on whether the Bus Testing Reports should include a ''pass/fail'' criterion or a ''recommended/not-recommended'' determination, and if so, how thresholds for such determinations should be established. Alternatively, FTA seeks comments on improved ways to enhance the presentation of data in the reports (e.g., by presenting data graphically) so that information for decision-making is more readily apparent and better informs local decisions.

Section by Section Analysis

Section 665.1 Purpose

The long-past phase-in date has been removed.

Section 665.3 Scope

The references have been updated, and a list of long-past phase-in dates has been removed.

Section 665.5 Definitions

FTA proposes to add new definitions for the terms *automotive, [full] bus testing report, curb weight, emissions, emissions control system, engine-out emissions, final acceptance, gross weight, hybrid, parking brake, partial testing report, regenerative braking system, retarder, seated load weight, service brake(s), and tailpipe emissions.* FTA uses these terms in its test procedures, and frequently uses these terms in its determinations of testing requirements for new and modified bus models; however, the regulation previously did not define the terms. FTA also proposes to replace the existing term *mass-produced chassis* with the term *third-party chassis,* defined as a commercially available chassis whose design, manufacturing, and quality control are performed by an entity independent of the final stage bus manufacturer. FTA feels that this definition more accurately captures the characteristics of these chassis. Several other definitions are consequently modified to substitute the term *third-party chassis* for the term *mass-produced chassis,* and the definition for *non-mass-produced chassis or van* is deleted. FTA notes that when the existing Bus Testing Regulation was written, the term *mass-produced chassis,* defined as production in excess of 20,000 units annually, applied to only two brands of chassis that were appropriate for and typically only used in the 4-year (i.e., light) and 5-year (i.e., medium-light) service life categories. This was a means of giving relief to small bus manufacturers that used these high-volume commercial chassis. However, in the 18 years since the regulation was written, the industry has evolved, and now there are several manufacturers of buses using commercial chassis in the medium-light through medium-heavy-duty bus categories. These chassis are produced in significant numbers, and although some may not reach the threshold of 20,000 units annually, most if not all are produced using mass-production techniques.

FTA seeks comment on whether its definitions of *original equipment manufacturer (OEM)* and *modified third-party chassis or van* are still current with regard to vehicles used in transit service. FTA is aware that many third parties who modify OEM vehicles are themselves considered manufacturers for purposes of National Highway Traffic Safety Administration (NHTSA) regulations, depending upon the scope of the modifications and whether or not they were undertaken prior to first retail sale. Although most of NHTSA's regulations refer generally to ''manufacturers,'' NHTSA distinguishes between incomplete vehicle manufacturers, intermediate manufacturers, final stage manufacturers, and alterers (see 49 CFR Part 567 for definitions). Depending on the roles each of these entities plays with regard to a vehicle, they may all be considered manufacturers and, accordingly, have some responsibilities with regard to certification of compliance and any necessary safety recalls under the laws NHTSA administers. These distinctions are relevant only with regard to vehicles with which more than one manufacturer is involved prior to the first retail sale. ''OEM'' is not actually defined in NHTSA's rules, but NHTSA sometimes uses the term to refer to major vehicle manufacturers (some rules use the term to refer to manufacturers of motor vehicle equipment that is used in new vehicles). FTA seeks comment on whether it would be appropriate to continue to regard such a vehicle as ''modified'' by a third party if the third party is regarded as an OEM in its own right and the modified vehicle is regarded as separate and distinct from the vehicle upon which it is based.

FTA proposes to modify the definition for *unmodified third-party* (formerly mass-produced) *chassis* by deleting the statement, ''A bus chassis modified by the addition of a tandem or tag axle is not considered an unmodified third-party chassis,'' because this procedure will either be prohibited (most likely), or permitted within strict limits, by the OEM's modification guidelines.

References to the term *mass transportation* have been changed to *public transportation* in conformance with SAFETEA–LU, the obsolete definition for *FT Act* has been deleted, and several other minor edits are proposed to improve clarity. FTA seeks comments on these proposed new or revised definitions of terms in Part 665.

Section 665.7 Grantee certification of compliance

FTA is not proposing any changes in policy or procedure, however, the text of this section has been revised to clear up ambiguity and remove the long-past phase-in date. While the proposed regulation still permits grantees to receive the Test Report just prior to final acceptance, FTA continues to recommend strongly that grantees carefully review and assess the applicable Bus Testing Report(s) before committing to purchasing a particular bus model.

Section 665.11 Testing requirements

The list of full tests in Section 665.11(b) is expanded by including

braking performance and Emissions tests. FTA proposes to delete the second sentence in Section 665.11(f), which stated, ''However, the use of a bus model in a service life application higher than it has been tested for may make the bus subject to the bus testing requirements.'' FTA policy has consistently been that a bus may not be offered in a higher service life category than it has been tested in (but a bus manufacturer may re-test a bus model in a higher service life category if the manufacturer believes it is appropriate to do so). Additional minor edits are proposed for the sake of consistency and clarity. FTA seeks comments on these changes, and also seeks comments on whether the guidance on certain characteristics of buses typical of each service life category should be retained or modified.

Section 665.13 Test report and manufacturer certification

FTA proposes several minor edits in this section for clarity, and to acknowledge that many buses are acquired through a dealer rather than directly from the manufacturer. FTA also proposes to change the reference to the ''owner of the test report'' in section 665.13(d) to read ''bus manufacturer.'' While the manufacturer can control whether the report is released to the public (e.g., the manufacturer decides that the bus model will not compete for FTA-funded procurements), the reports are owned by the U.S. Government on behalf of the public.

Section 665.21 Scheduling

This section is revised to remove the regulatory specification of a name, address, and phone number of the Bus Testing Program Operator, and replace it with a link to a website with contact information and scheduling procedures.

Section 665.23 Fees

FTA is not proposing any changes to the text of the regulation itself, although the operator's fee schedule referenced in the regulation will be amended to include the new fees proposed for the brake performance and emissions tests. FTA supports continuation of the operator's policy that in cases of pro-rating the test fee due to early withdrawal of a bus under test, the manufacturer's 20% share of the test fee is applied toward testing costs before the 80% FTA share is applied. The operator's unchanged schedule of fees for the existing tests and its proposed schedule of fees for the additional brake performance and emissions tests are available for review in the docket (*see* **ADDRESSES**).

Section 665.25 Transportation of vehicle

FTA is not proposing any changes.

Section 665.27 Procedures during testing

FTA is proposing to remove the current paragraphs (a) and (b) which are already addressed elsewhere in the regulation. The procedures for determining which tests shall be performed are addressed in section 665.21(b)(3), and the apportionment of the testing fee due to the manufacturer's withdrawal of a bus from the bus testing program is currently addressed in section 665.23(b).

Appendix A to Part 665—Tests To Be Performed at the Bus Testing Facility

The paragraph describing the Performance test is modified to add a description of the proposed braking performance test. A new paragraph describing the proposed Emissions test has been added. The introductory paragraph has been edited accordingly. Where applicable, the descriptions have been edited to conform to the actual test procedures currently in use, speculative comments in the original 19-year-old text have been deleted, the descriptions have been changed from the future to the present tense, and unnecessary details (e.g., weights or speeds, which are described in the actual test procedures) have been removed.

Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

Executive Order 12866 and DOT Regulatory Policies and Procedures. This NPRM is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This NPRM is also nonsignificant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, Feb. 26, 1979). This NPRM imposes minor compliance costs on the regulated industry. FTA, however, will pay 80% of any incremental testing costs.

B. Executive Order 13132

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This NPRM does not include any regulation that has 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. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. 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.

D. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze regulations and proposals to assess their impact on small businesses and other small entities to determine whether the rule or proposal will have a significant economic impact on a substantial number of small entities. Although this NPRM imposes new costs, those costs are not significant and are 80 percent paid for by FTA. Therefore, FTA believes that this proposal does not require further analysis under the Regulatory Flexibility Act. FTA requests public comment on whether the proposals contained in this NPRM will have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This NPRM does not propose unfunded mandates under the Unfunded Mandates Reform Act of 1995. If the proposals are adopted into a NPRM, it will not result in costs of $100 million or more (adjusted annually for inflation), in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

This NPRM proposes no new information collection requirements.

G. 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 the heading of this document may be used to cross-reference this action with the Unified Agenda.

H. 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. There are no significant environmental impacts associated with this NPRM.

I. 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 *www.regulations.gov.*

List of Subjects

Buses, Grant programs—transportation, Public transportation, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Transit Administration proposes to amend 49 CFR Part 665 as set forth below:

Title 49—Transportation

PART 665—BUS TESTING

1. The authority citation for Part 665 is revised to read as follows:

Authority: 49 U.S.C. 5318 and 49 CFR 1.51.

2. Revise Part 665 to read as follows:

PART 665—BUS TESTING

Subpart A—General

Subpart B—Bus Testing Procedures

Subpart C—Operations

Subpart A—General

§ 665.1 Purpose.

An applicant for Federal financial assistance under the Federal Transit Act for the purchase or lease of buses with funds obligated by the FTA shall certify to the FTA that any new bus model acquired with such assistance has been tested in accordance with this part. This part contains the information necessary for a recipient to ensure compliance with this provision.

§ 665.3 Scope.

This part shall apply to an entity receiving Federal financial assistance under 49 U.S.C. 5307, 5309, 5310, or 5311.

§ 665.5 Definitions.

As used in this part—

Administrator means the Administrator of the Federal Transit Administration or the Administrator's designee.

Automotive means that the bus is not continuously dependent on external power or guidance for normal operation. Intermittent use of external power or guidance shall not automatically relieve a bus of its automotive character or requirement for Bus Testing.

Bus means a rubber-tired automotive vehicle used for the provision of public transportation service by or for a recipient.

Bus model means a bus design or variation of a bus design usually designated by the manufacturer by a specific name and/or model number.

Bus testing facility means a testing facility established by renovation of a facility constructed with Federal assistance at Altoona, Pennsylvania, under section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and includes test track facilities operated in connection with the facility.

Bus testing report, also *full bus testing report,* means a complete test report for a bus model, documenting the results of performing the complete set of bus tests on a bus model.

Curb weight means the weight of the empty, ready-to-operate bus plus driver and fuel.

Emissions means the components of the engine tailpipe exhaust that are regulated by the United States Environmental Protection Agency (EPA), plus carbon dioxide (CO_2) and methane (CH_4).

Emissions control system means the components on a bus whose primary purpose is to minimize regulated emissions before they reach the tailpipe exit. This definition does not include components that contribute to low emissions as a side effect of the manner in which they perform their primary function (e.g., fuel injectors or combustion chambers).

Engine-out emissions means the emissions coming out of the engine before they are changed, captured, or otherwise affected by the emissions control system.

Final acceptance means that a recipient has released the FTA-provided funds to a bus manufacturer or dealer in connection with a bus procurement.

Gross weight (gross vehicle weight) means the curb weight of the bus plus passengers simulated by adding 150 pounds of ballast to each seating position and 150 pounds for each 1.5 square foot of free floor space.

Hybrid means a propulsion system that combines two power sources, at least one of which is capable of capturing, storing, and re-using energy.

Major change in chassis design means, for vehicles manufactured on a third-party chassis, a change in frame structure, material or configuration, or a change in chassis suspension type.

Major change in components means:

(1) For those vehicles that are not manufactured on a third-party chassis, a change in a vehicle's engine, axle, transmission, suspension, or steering components;

(2) For those that are manufactured on a third-party chassis, a change in the vehicle's chassis from one major design to another.

Major change in configuration means a change that is expected to have a significant impact on vehicle handling and stability or structural integrity.

Modified third-party chassis or van means a vehicle that is manufactured from an incomplete, partially assembled third-party chassis or van as provided by an OEM to a small bus manufacturer. This includes vehicles whose chassis structure has been modified to include: a tandem or tag axle; a drop or lowered floor; changes to the GVWR from the OEM rating; or other modifications that are not made in strict conformance with the OEM's modifications guidelines.

New bus model means a bus model that—

(1) Has not been used in public transportation service in the United States before October 1, 1988; or

(2) Has been used in such service but which after September 30, 1988, is being produced with a major change in configuration or a major change in components.

Operator means the operator of the bus testing facility.

Original equipment manufacturer (OEM) means the original manufacturer of a chassis or van supplied as a complete or incomplete vehicle to a bus manufacturer.

Parking brake means a system that prevents the bus from moving when

parked by preventing the wheels from rotating.

Partial test(ing) report means a report documenting, for a previously-tested bus model that is produced with major changes, the results of performing only that subset of the complete set of bus tests in which significantly different data would reasonably be expected as a result of the changes made to the bus from the configuration documented in the original full bus testing report. A partial testing report is not valid unless accompanied by the corresponding full Bus Testing Report.

Partial testing means the performance of only that subset of the complete set of bus tests in which significantly different data would reasonably be expected compared to the data obtained in previous full testing of the baseline bus model at the bus testing facility.

Public transportation service means the operation of a vehicle that provides general or special service to the public on a regular and continuing basis.

Recipient means an entity that receives funds under 49 U.S.C. 5307, 5309, 5310, or 5311, either directly from FTA or through a State administering agency.

Regenerative braking system means a system that decelerates a bus by recovering its kinetic energy for on-board storage and subsequent use.

Retarder means a system other than the service brakes that slows a bus by dissipating kinetic energy.

Seated load weight means the weight of the bus plus driver, fuel, and seated passengers simulated by adding 150 pounds of ballast to each seating position.

Service brake(s) means the primary system used by the driver during normal operation to reduce the speed of a moving bus and to allow the driver to bring the bus to a controlled stop and hold it there. Service brakes may be supplemented by retarders or by regenerative braking systems.

Small bus manufacturer means a secondary market assembler that acquires a chassis or van from an original equipment manufacturer for subsequent modification or assembly and sale as 5-year/150,000-mile or 4-year/100,000-mile minimum service life vehicle.

Tailpipe emissions means the exhaust constituents actually emitted to the atmosphere at the exit of the vehicle tailpipe or corresponding system.

Third party chassis means a commercially available chassis whose design, manufacturing, and quality control are performed by an entity independent of the bus manufacturer.

Unmodified mass-produced van means a van that is mass-produced, complete and fully assembled as provided by an OEM. This shall include vans with raised roofs, and/or wheelchair lifts, or ramps that are installed by the OEM, or by a party other than the OEM provided that the installation of these components is completed in strict conformance with the OEM modification guidelines.

Unmodified third-party chassis means a third-party chassis that either has not been modified, or has been modified in strict conformance with the OEM's modification guidelines.

§ 665.7 Grantee certification of compliance.

(a) In each application to FTA for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by the FTA, the recipient shall certify that the bus was tested at the bus testing facility. The recipient shall receive the appropriate full bus testing report and any applicable partial testing report(s) before final acceptance of the first vehicle by the recipient.

(b) In dealing with a bus manufacturer or dealer, the recipient shall be responsible for determining whether a vehicle to be acquired requires full testing or partial testing or has already satisfied the requirements of Part 665.

Subpart B—Bus Testing Procedures

§ 665.11 Testing requirements.

(a) A new bus model to be tested at the bus testing facility shall—

(1) Be a single model;

(2) Meet all applicable Federal Motor Vehicle Safety Standards, as defined by the National Highway Traffic Safety Administration in Part 571 of this title; and

(3) Be substantially fabricated and assembled using the techniques, tooling, and materials that will be used in production of subsequent buses of that model.

(b) If the new bus model has not previously been tested at the bus testing facility, then the new bus model shall undergo the full tests requirements for Maintainability, Reliability, Safety, Performance including braking performance, Structural Integrity, Fuel Economy, Noise, and Emissions;

(c) If the new bus model has not previously been tested at the bus testing facility and is being produced on a third-party chassis that has been previously tested on another bus model at the bus testing facility, then the new bus model may undergo partial testing requirements;

(d) If the new bus model has previously been tested at the bus testing facility, but is subsequently manufactured with a major change in chassis or components, then the new bus model may undergo partial testing.

(e) The following vehicle types shall be tested:

(1) Large-size, heavy-duty transit buses (approximately 35'–40' in length, as well as articulated buses) with a minimum service life of 12 years or 500,000 miles;

(2) Medium-size, heavy-duty transit buses (approximately 30' in length) with a minimum service life of ten years or 350,000 miles;

(3) Medium-size, medium duty transit buses (approximately 30' in length) with a minimum service life of seven years or 200,000 miles;

(4) Medium-size, light duty transit buses (approximately 25'–35' in length) with a minimum service life of five years or 150,000 miles; and

(5) Other light duty vehicles such as small buses and regular and specialized vans with a minimum service life of four years or 100,000 miles.

(f) Tests performed in a higher service life category (i.e., longer service life) need not be repeated when the same bus model is used in lesser service life applications.

(g) The operator of the bus testing facility shall develop a test plan for the testing of vehicles at the facility. The test plan shall follow the guidelines set forth in Appendix A of this Part.

§ 665.13 Test report and manufacturer certification.

(a) Upon completion of testing, the operator of the facility shall provide the resulting test report to the entity that submitted the bus for testing.

(b)(1) A manufacturer or dealer of a new bus model or a bus produced with a major change in component or configuration shall provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to a recipient during the point in the procurement process specified by the recipient, but in all cases before final acceptance of the first bus by the recipient.

(2) A manufacturer who releases a report under paragraph (b)(1) of this section also shall provide notice to the operator of the facility that the report is available to the public.

(c) If a bus model subject to a bus testing report has a change that is not a major change under this Part, the manufacturer or dealer shall advise the recipient during the procurement process and shall include a description of the change and the manufacturer's

basis for concluding that it is not a major change.

(d) A bus testing report shall be available publicly once the bus manufacturer makes it available during a recipient's procurement process. The operator of the facility shall have copies of all the publicly available reports available for distribution.

(e) The bus testing report is the only information or documentation that shall be made publicly available in connection with any bus model tested at the bus testing facility.

Subpart C—Operations

§ 665.21 Scheduling.

(a) To schedule a bus for testing, a manufacturer shall contact the operator of FTA's Bus Testing Program. Contact information and procedures are available on the operator's Bus Testing Web site, *http://www.altoonabustest.com.*

(b) Upon contacting the operator, the operator shall provide the manufacturer with the following:

(1) A draft contract for the testing;

(2) A fee schedule; and

(3) The draft test procedures that will be conducted on the vehicle.

(c) The operator shall provide final test procedures to be conducted on the vehicle at the time of contract execution.

(d) The operator shall process vehicles for testing in the order in which the contracts are signed.

§ 665.23 Fees.

(a) The operator shall charge fees in accordance with a schedule approved by FTA, which shall include different fees for partial testing.

(b) Fees shall be prorated for a vehicle withdrawn from the bus testing facility before the completion of testing.

§ 665.25 Transportation of vehicle.

A manufacturer shall be responsible for transporting its vehicle to and from the bus testing facility at the beginning and completion of the testing at the manufacturer's own risk and expense.

§ 665.27 Procedures during testing.

(a) The operator shall perform all maintenance and repairs on the test vehicle, consistent with the manufacturer's specifications, unless the operator determines that the nature of the maintenance or repair is best performed by the manufacturer under the operator's supervision.

(b) The manufacturer shall be permitted to observe all tests. The manufacturer shall not provide maintenance or service unless requested to do so by the operator.

Appendix A to Part 665—Tests To Be Performed at the Bus Testing Facility

The eight tests to be performed on each vehicle are required by SAFETEA–LU and are based in part on tests described in the FTA report ''First Article Transit Bus Test Plan,'' which is mentioned in the legislative history of section 317 of STURAA. When appropriate, Society of Automotive Engineers (SAE) test procedures and other procedures accepted by the transit industry will be used. The eight tests are described in general terms in the following paragraphs.

1. Maintainability

The Maintainability test should include bus servicing, preventive maintenance, inspection, and repair. It also should include the removal and reinstallation of the engine and drive train components that would be expected to require replacement during the bus's normal life cycle. Much of the maintainability data should be obtained during the bus durability test at the test track. Up to twenty-five percent of the bus life should be simulated and servicing, preventive maintenance, and repair actions should be recorded and reported. These actions should be performed by test facility staff, although manufacturers should be allowed to maintain a representative on site during the testing. Test facility staff may require a manufacturer to provide vehicle servicing or repair, under the supervision of the facility staff. Because the operator will not become familiar with the detailed design of all new bus models that are tested, tests to determine the time and skill required to remove and reinstall an engine, a transmission, or other major propulsion system components may require advice from the bus manufacturer. All routine and corrective maintenance should be carried out by the test operator in accordance with the manufacturer's specifications.

The Maintainability test report should include the frequency, personnel hours, and replacement parts or supplies required for each action during the test. The accessibility of selected components and other observations that could be important to a bus user should be included in the report.

2. Reliability

Reliability should not be a separate test, but should be addressed by recording all bus failures and breakdowns during testing. It is recognized that with one test bus it is not feasible to conduct statistical reliability tests. The detected bus failures, repair time, and the actions required to return the bus to operation should be recorded in the report.

3. Safety

The Safety test should consist of a handling and stability test. The handling and stability test should be an obstacle avoidance or double-lane change test performed at the test track. Bus speed should be held constant throughout a given test run. Individual test runs should be made at increasing speeds up to a specified maximum or until the bus can no longer be operated safely over the course, whichever speed is lower. Both left- and right-hand lane changes should be tested.

4. Performance

The Performance test should be performed on the test track and should measure acceleration, maximum speed attained, gradeability, and braking. The bus should be accelerated at full throttle from a full stop to maximum safe speed on the track. The gradeability capabilities should be measured when starting from a full stop on a steep grade, and supplemented by calculating gradeability based on the acceleration data. The functionality and performance of the service, regenerative (if applicable), and parking brake systems should be evaluated at the test track. The test bus should be subjected to a series of brake stops from specified speeds on high, low, and split-friction surfaces. The parking brake should be evaluated with the bus parked facing both up and down a steep grade.

5. Structural Integrity

Two complementary Structural Integrity tests should be performed. Structural Strength and Distortion tests should be performed at the Bus Testing Center, and the Structural Durability test should be performed at the test track.

a. Structural Strength and Distortion Tests

(1) A shakedown of the bus structure should be conducted by loading and unloading the bus with a distributed load equal to 2.5 times the load applied for the gross weight portions of testing. The bus should then be unloaded and inspected for any permanent deformation on the floor or coach structure. This test should be repeated a second time, and should be repeated up to one more time if the permanent deflections vary significantly between the first and second tests.

(2) The bus should be loaded to gross vehicle weight, with one wheel on top of a curb and then in a pothole. This test should be repeated for all four wheels. The test verifies:

(a) Normal operation of the steering mechanism and (b) Operability of all passenger doors, passenger escape mechanisms, windows, and service doors. A water leak test should be conducted in each suspension travel condition.

(3) Using a load-equalizing towing sling, a static tension load equal to 1.2 times the curb weight should be applied to the bus towing fixtures (front and rear). The load should be removed and the two eyes and adjoining structure inspected for damages or permanent deformations.

(4) The bus should be towed at curb weight with a heavy wrecker truck for several miles and then inspected for structural damage or permanent deformation.

(5) With the bus at curb weight probable damages and clearance issues due to tire deflating and jacking should be assessed.

(6) With the bus at curb weight possible damages or deformation associated with lifting the bus on a two post hoist system or supporting it on jack stands should be assessed.

b. Structural Durability

The Structural Durability test should be performed on the durability course at the test track, simulating twenty-five percent of the

vehicle's normal service life. The bus structure should be inspected regularly during the test, and the mileage and identification of any structural anomalies and failures should be reported in the Reliability test.

6. Fuel Economy

The Fuel Economy test should be conducted using duty cycles that simulate transit service. This test should measure the fuel economy of the bus in miles per gallon or other energy-equivalent units.

The Fuel Economy test should be designed only to enable FTA recipients to compare the relative fuel economy of buses operating at a consistent loading condition on the same set of typical transit driving cycles. The results of this test are not directly comparable to fuel economy estimates by other agencies, such as the U.S. Environmental Protection Agency (EPA) or for other purposes.

7. Noise

The Noise test should measure interior noise and vibration while the bus is idling (or in a comparable operating mode) and driving, and also should measure the transmission of exterior noise to the interior while the bus is not running. The exterior noise should be measured as the bus is operated past a stationary measurement instrument.

8. Emissions

The Emissions test should measure tailpipe emissions of those exhaust constituents regulated by the United States Environmental Protection Agency (EPA) for transit bus emissions, plus carbon dioxide (CO_2) and methane (CH_4), as the bus is operated over specified driving cycles. The Emissions test should be conducted using an emissions testing laboratory equipped with a chassis dynamometer capable of both absorbing and applying power.

The Emissions test is not a certification test, and is designed only to enable FTA recipients to compare the relative emissions of buses operating on the same set of typical transit driving cycles. The results of this test are not directly comparable to emissions measurements obtained by other agencies, such as the EPA, for other purposes.

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Sherry E. Little,

Deputy Administrator.

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