

**SUPPLEMENTARY INFORMATION:****Background**

The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) required FTA to establish a facility for the testing of buses, and prohibited the expenditure of FTA funds for any new bus model that had not first been tested at that facility.

FTA's initial Notice of Proposed Rulemaking (NPRM), published on May 25, 1989, was expansive, proposing that all new vehicles used in mass transportation service after September 30, 1989, (the effective date in STURAA) would be subject to testing. Due to numerous comments from the industry, FTA issued its first interim final rule on August 23, 1989, limiting testing to large buses, noting that the categories of vehicles subject to testing would be expanded over time. Subsequent interim final rules adding these remaining categories of vehicles were published on October 6, 1990, and July 28, 1992. Because of additional industry concerns, however, the effective dates in the July 28, 1992, interim final rule were further postponed, finally taking effect on February 10, 1993. FTA's fourth interim final rule, issued on November 3, 1993, set forth the final four subcategories of small vehicles subject to testing, and established guidelines for the partial testing of bus models that had been fully tested but later are produced with changes in configuration or components.

During the rulemaking process, FTA has had numerous meetings with bus manufacturing representatives that were widely publicized throughout the industry and interested persons were invited to attend the meetings and participate in the deliberations. Most recently, FTA and the Pennsylvania Transportation Institute (PTI) conducted a Bus Testing Program Workshop at PTI's facilities in State College, Pennsylvania, from January 28–29, 2002, in which all entities, both vehicle manufacturers and purchasers, were invited to express their views on the subject.

We note that at that workshop, as well as at Bus Rapid Transit (BRT) conferences in Los Angeles in April 2002 and at State College in June 2002, the issue of testing BRT vehicles was discussed. We believe that the current regulation, including the provisions which allow a waiver for demonstration vehicles and partial testing procedures, are adequate to address vehicles intended for use on BRT systems. FTA, however, is willing to entertain

petitions for further rulemaking by interested parties.

Administratively, FTA has been pursuing non-regulatory efforts to reduce the testing burden on purchasers and manufacturers, such as implementing the partial testing procedures in the regulation to streamline test procedures and eliminate unnecessary and redundant tests. In addition, FTA is reviewing the possibility of progress payments, which would affect the funding eligibility of buses undergoing testing at PTI.

After consideration of all relevant material, including the discussions at the workshop and conferences, FTA has determined that accepting the existing regulation as FTA's final rule, without change, as published in the **Federal Register** (58 FR 58732 November 3, 1993) will effectuate the declared intent of STURAA.

**Regulatory Analyses and Notices**

FTA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as the economic affect of this rulemaking will not exceed \$100 million or more, it will not adversely affect, in a material way, any sector of the economy, nor will it interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. However, it was listed as significant within the meaning of U.S. Department of Transportation's regulatory policies and procedures due to Congressional interest in the implementation of the program.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FTA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities, as FTA now pays 80 percent of the testing fee (57 FR 8954, March 13, 1992), and allows the partial testing of certain vehicles (57 FR 33394, July 28, 1992). For these reasons, FTA believes that it has minimized the effects of this rule so that it will not have a significant economic impact on a substantial number of small entities.

**Unfunded Mandates Reform Act of 1995**

This rule is consistent with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48), as it will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the

private sector, of \$100 million or more in any one year (2 U.S.C. 1532). This final rule reflects participation by state and local governments, and FTA believes it is the least costly and most effective way of implementing the statutory mandate.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, as it will not result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FTA has determined that this action does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. FTA believes that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. OMB has approved the paperwork requirements of this rule (OMB No. 2132–0550), and this action will not impose any additional paperwork burden.

**Executive Order 12988 (Civil Justice Reform)**

This action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Regulation Identification Number**

A regulation identification 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 contained in the heading of this document can be