in the **Federal Register** of March 10, 2006 (71 FR 12311). For information about the applicability of the statutory and executive order reviews to the proposed rule, please refer to the discussion in Unit XII. of that document (71 FR 12311).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 4, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 06–3400 Filed 4–5–06; 1:17 pm]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 604

[Docket No. FTA–2005–22657]

RIN 2132–AA85

Charter Service

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final notice forming a negotiated rulemaking advisory committee.

SUMMARY: Pursuant to the direction contained in the Joint Explanatory Statement of the Committee of Conference, for section 3023(d), ''Condition on Charter Bus Transportation Service'' of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) of 2005, FTA is establishing a committee to develop, through negotiated rulemaking procedures, recommendations for improving the regulation regarding the prohibition of FTA grant recipients from providing charter bus service. The committee will consist of persons who represent the interests affected by the proposed rule, i.e., charter bus companies, public transportation operators, and other interested parties. This document lists the committee members, issues to be addressed by the committee, and proposed meeting dates, time, and location.

DATES: *Effective Date:* April 10, 2006.

FOR FURTHER INFORMATION CONTACT: For questions regarding accessibility, directions, or administrative procedures, please contact Elizabeth Martineau at (202) 366–1966 or Linda Lasley at (202) 366–4063.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Section 3023 of SAFETEA–LU amends 49 U.S.C. 5323(d) to state that ''the Secretary shall bar a recipient or an operator from receiving federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the [charter bus] agreement.'' Congressional conference report language on Section 3023 requests that FTA ''initiate a negotiated rulemaking seeking public comment on the regulations implementing section 5323(d)'' and to consider the issues listed below:

1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators?
2. How can the administration and enforcement of charter bus provisions be better communicted to the public, including use of internet technology?
3. How can the enforcement of violations of the charter bus regulations be improved?
4. How can the charter complaint and administrative appeals process be improved?

II. Negotiated Rulemaking

As requested by conference report language on Section 3023 of SAFETEA–LU, FTA will conduct the negotiated rulemaking. The Negotiated Rulemaking Act of 1990, Pub. L. 101–648 (5 U.S.C. 561, *et seq.*) (NRA) establishes a framework for the conduct of a negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the rulemaking process. FTA will form an advisory committee consisting of representatives of the affected interests for the purpose of reaching consensus, if possible, on a proposed rulemaking.

A. The Concept of Negotiated Rulemaking

Usually FTA develops a rulemaking proposal using its own staff and consultant resources. The concerns of affected parties are made known through means such as various informal contacts and advance notices of proposed rulemaking published in the **Federal Register**. After the notice of proposed rulemaking is published for comment, affected parties may submit arguments and data defining and supporting their positions with regard to the issues in the proposed rule. All comments from affected parties are directed to the Department's docket (*http://dms.dot.gov*) for the rulemaking. In general, there is limited communication among parties representing different interests. As Congress noted in the RA, such regulatory development procedures may ''discourage the affected parties from meeting and communicating with each other, and may cause parties with different interest to assume conflicting and antagonistic positions * * *'' (Sec. 2(2) of *Pub. L. 101–648*). Congress also stated ''adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.'' (Sec. 2(3) of *Pub. L. 101–648*).

Using negotiated rulemaking to develop the proposed rule is fundamentally different. Negotiated rulemaking is a process by which a proposed rule is developed by a committee composed of representatives of those interests that will be significantly affected by the rule. Decisions are made by some form of consensus, which generally requires a measure of concurrence among the interests represented.[1] An agency desiring to initiate the process does so by carefully identifying all interests potentially affected by the rulemaking under consideration. To help in this identification process, the agency publishes a notice, such as this one, which identifies a preliminary list of interests and requests public comment on that list. Following receipt of the comments, the agency establishes an advisory committee representing these various interests to negotiate a consensus on the terms of a proposed rule. The committee is chartered under the Federal Advisory Committee Act (5 U.S.C. App. 2) (FACA). Representation on the committee may be ''direct'', that is, each member represents a specific interest, or may be ''indirect,'' that is, through coalitions of parties formed for this purpose. The establishing agency has a member of the committee representing the Federal Government's own set of interests. A facilitator or mediator can assist the negotiated rulemaking advisory committee by

[1] The negotiated Rulemaking Act defines ''consensus'' as ''unanimous concurrence among the interests represented on a negotiated rulemaking committee * * * unless such committee (A) agrees to define such term to mean a general but not unanimous concurrence; or (B) agrees upon another specified definition.'' 5 U.S.C. 562(2).

facilitating the negotiation process. The role of this mediator, or facilitator, is to apply proven consensus building techniques to the advisory committee setting.

Once a regulatory negotiation advisory committee reaches consensus on the provisions of a proposed rule, the agency consistent with its legal obligations, uses this consensus as the basis of its proposed rule and published it in the **Federal Register**. This provides the required public notice under the Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*) and allows for a public comment period. Under the APA, the public retains the right to comment. FTA anticipates, however, that the pre-proposal consensus agreed upon by this committee will effectively address virtually all major issues prior to publication of a proposed rulemaking.

B. The Federal Transit Administration's Commitment

In initiating this regulatory negotiation process, FTA plans to provide adequate resources to ensure timely and successful completion of the process. This includes making the process a priority activity for all representatives, components, officials, and personnel of FTA who need to be involved in the rulemaking, from the time of initiation until such time as a final rule is issued or the process is expressly terminated. FTA will provide administrative support for the process and will take steps to ensure that the negotiated rulemaking committee has adequate resources to complete its work in a timely fashion in each case as reasonably determined by FTA. These may include the provision or procurement of such support services as properly equipped space adequate for public meetings and caucuses; logistical support; word processing and distribution of background information; the services of a facilitator; and additional research and other technical assistance. FTA hired Susan Podziba & Associates, a public policy mediation and consensus building company, to act as the facilitator for this negotiated rulemaking.

C. Committee Members

As discussed above, the negotiated rulemaking process is fundamentally different from the usual process for developing a proposed rule. Negotiation allows interested and affected parties to discuss possible approaches to various issues rather than simply being asked in a regular notice and comment rulemaking proceeding to respond to details on a proposal developed and issued by an agency. The negotiation process involves the mutual education of the parties by each other on the practical concerns about the impact of various approaches. Each committee member participates in resolving the interests and concerns of other members, rather than leaving it exclusively to the agency to bridge different points of view.

A key principle of negotiated rulemaking is that agreement is by consensus, as defined by the committee. Thus, no one interest or group of interests shall control the process. Under the NRA as noted above, ''consensus'' usually means the unanimous concurrence among interests represented on a negotiated rulemaking committee, though a different definition may be employed in some cases. In addition, experience has demonstrated that using a professional mediator to facilitate this process will assist all potential parties, including helping to identify their interests in the rule and enabling them to reevaluate previously stated positions on issues involved in the rulemaking effort.

D. Key Issues for Negotiation

The Conference Committee report on SAFETEA–LU requested that FTA and the negotiated rulemaking committee consider the issues listed below:

1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators?

2. How can the administration and enforcement of charter bus provisions be better communicated to the public, including use of internet technology?

3. How can the enforcement of violations of the charter bus regulations be improved?

4. How can the charter complaint and administrative appeals process be improved?

In addition to those issues posed in the Conference Committee Report, FTA identified the following issues for consideration by the committee:

1. A potential new exception for emergency services such as evacuation and training for emergencies, including homeland security, natural disasters, and other emergencies.

2. A new process for determining if there a private charter bus companies willing and able to provide service that would utilize electronic notification and response within 72 hours.

3. A new exception for transportation of government employees, elected officials, and members of the transit industry to examine local transit operations, facilities, and public works.

4. Clarify the definitions of regulatory terms.

FTA invited comment on all of these issues.

III. Comments Received

We received 20 comments on the proposed issues for consideration by the advisory committee; see document published 71 FR 5037, Jan. 31, 2006. We heard from large and small public transportation providers, rural transportation providers, large, medium, and small bus companies, transit associations, charter associations, and several state Departments of Transportation (state DOT). While we have summarized the comments received, we do not feel it is appropriate at this time to respond to the comments received. As a member of the advisory committee, FTA is eager to engage in discussions and deliberations with the other members of the committee regarding the issues identified in the Conference Committee Report and the issues we identified. Responding to comments now could give the impression that we have settled on a particular approach or resolution.

Conference Committee Report Issues

1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators?

Private charter operators took exception to the inclusion of the term ''cost-effective'' in this issue because there has been no demonstrated ''unmet need'' by public transportation providers. One commenter noted that cost-effectiveness cannot be equated with price. Providing incidental charter service will cost private carriers and public transit systems roughly the same. Public transit systems, however, often price their service at or below their costs for providing the service. According to this commenter that argument ''goes to very heart of 'unfair government competition.' '' Another private charter operator noted that while they do not believe there is an unmet charter service need, if public transportation providers could demonstrate ''that a valid need exists to create further exceptions to the charter rule, we would only consider supporting such exceptions if they were clearly defined and significantly limited; if there were more accountability, reporting and

publication requirements built into the process; and if we could be assured of more consistent and aggressive enforcement of the charter rules.''

Several comments from public transportation providers asked FTA to revise the charter rules to make them more flexible for FTA funded providers in rural areas. One commenter summarized this issues as: ''Charter bus operators seldom base equipment in rural areas and thus face high mobilization costs if they are to move vehicle to small communities to provide services for limited periods of time. Since private charter companies are often unable to provide the service at a price the group can afford, the service need goes unmet.'' Another commenter noted that public officials who already have limited budgets feel they should be able to use the vehicles for community-based events such as transporting juries to crime locations or transporting potential new business owners who may be interested in locating in the area.

A few comments from public transportation providers supported an exception from charter regulations for those transit systems that contract out their day-to-day operations to a private for-profit transit provider. Those commenters assert that these contracts already support private charter operations, and, thus, the regulations should not apply to their systems. One of these commenters requested that the regulations require the public transit agency, instead of the customer, contact the private charter company. This commenter believes that such a requirement would lessen the frustration of those seeking charter services.

2. How can the administration and enforcement of charter bus provisions be better communicated to the public, including use of internet technology?

All comments received agreed that FTA could more effectively use the internet to inform the public and transportation providers regarding requests for charter service. One commenter suggested that all transit agencies provide their chartering policies on their websites. Another commenter states that ''those companies willing and able to provide charter service should have to submit information on service area and ability to provider charters to [FTA] and to the [state DOTs] so that the information will be readily available to public transit providers in their service areas.'' This commenter also states that following this method would provide a record of notification and responses, or non-responses. One commenter encouraged the use of the Internet but warned that many rural operators still do not have access to the Internet.

A state DOT would like to see FTA develop a brochure—paper and on the Internet—that would inform state and local officials as to when a transit agency cannot provide service even though providing such service would appear to be consistent with the transit agency's mission. This commenter also believes that FTA should adopt methods for removing private charter companies from the list of willing and able companies when that private charter company, in fact, never provides the services.

A private operator also suggested a Web-based clearinghouse and recommended that the Web site be arranged to send alerts to private operators that there is a request for charter service. In addition, this commenter noted that FTA could more regularly and effectively communicate the rules to public transit grantees through ''Dear Colleague'' letters, publications, audits, congressional testimony, trade association presentations and other means. This commenter also encouraged FTA publish complaints and enforcement actions on the Internet.

3. How can the enforcement of violations of the charter bus regulations be improved?

One commenter suggested that the committee consider definitions (or a requirement for formal FTA written guidance) to make it clear under what conditions the FTA, or a state DOT for rural operators, may require a transit agency to cancel pending prohibited charter service, when doing so would require the transit agency to nullify a contract commitment. Additionally, this commenter suggested the committee might consider requiring FTA to develop standard methods that can be used by FTA and state DOTs to evaluate a complaint and, in particular, confirm that a transit agency did not provide prohibited charter service.

A state DOT suggested letting non-charter systems know up-front the ramifications of performing charter service. Another state DOT commented that state-level bus associations and the national associations should receive copies of all complaints, and FTA's regional offices should have appropriate levels of dedicated personnel in order to participate in any complaint and enforcement activities.

A public transportation provider stated that FTA can improve its enforcement of violations of charter prohibitions by issuing a written warning to the transit agency for the first offense. The warning serves to inform the agency that their action is deemed inappropriate. If there are subsequent offenses, then the transit agency should lose its Federal funding in the amount of the Federal share of the cost of the vehicle(s) it used to provide the charter service in question.

A private charter operator commented that the Secretary should clearly and repeatedly inform all transit assistance recipients of the regulations governing use of equipment purchased with Federal funds and FTA should offer tools to transit agencies to aid in this compliance including: Greater consistency in enforcement decisions; publication of enforcement decisions; clear guidance on permissible and impermissible actions and appropriate training for agency employees assigned the responsibility for enforcing the charter rules. This comment also suggested the Secretary could promote greater compliance among public agencies by requiring them to notify FTA of charter service provided and audits of the charter service provided should be conducted to ensure compliance.

Another private operator suggested two enforcement options: (1) A financial penalty (developed on a predetermined, progressive scale) or (2) a total prohibition to provide charter service for an extended period of time.

4. How can the charter complaint and administrative appeals process be improved?

One state DOT suggested the committee consider allowing FTA to make a determination that a complaint is substantially incomplete, such that the complainant can be requested to provide additional information or documentation before FTA will accept or act on the complaint.

A private charter operator stated if FTA offered a more open, flexible and timely process, the appeals process could indeed become truly fair for all parties. FTA should consider the average length of time an appeal takes from the initiation to resolution; the ability of a Regional decision to be overturned; and the fairness of this process to both the complainer and the complainant. Another private operator suggested each grantee or sub-grantee should provide FTA with an annual report of the actual dates and total compensation of charter services it provided. This type of report could be generated and reported with only a minimal amount of effort by the grantees. The data would serve as a basis for evaluating the extent of these

services, and should FTA receive a charter complaint, there would be a record of such activity. The information would expedite the FTA's administrative compliance review of these provisions, and in turn, the timeliness on any determination of any complaint and appeal process will certainly be reduced. This commenter also suggested that FTA should also impose a penalty for grantees' failure to report charter service dates and their associated revenue.

FTA Issues

1. A potential new exception for emergency services such as evacuation and training for emergencies, including homeland security, natural disasters, and other emergencies

Several public transportation providers supported an exception from charter service regulations for emergency services. One comment summarized their support for such an exception ''because in times of crisis, brownouts, natural catastrophic events, or by order of the Governor or his designated emergency response agency, public systems should be able to provide non-scheduled service on an immediate basis, e.g., evacuations, particularly for local government and non-profit personnel but also more broadly.'' In addition, this commenter noted ''we believe that providing charter transportation to assist government officials with training is consistent with the broader exception for serving government officials raised in the first question posed by Congress and therefore supports a new exception for training as raised in this question.''

Private operators expressed concern about this potential exception. One commented that it is premature to create such an exception at this time and discussion by the committee on these additional issues, such as an emergency services exception, should occur only after consensus is reached on the core issues. Another private operator stated that issues one and three on FTA's list of issues are totally new issues beyond the scope of the conference committee report and this commenter recommended that the regulatory negotiation advisory committee only consider these items if there are limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators. Another private operator stated that a potential emergency service exemption does not fit within topic one on the Conference Committee Report list, and this topic should not be lumped into a rulemaking that relates to government competition with the private sector. Discussions relating to national security and emergency services training, by necessity, will require a different group of interested parties than those identified for this rulemaking.

2. A new process for determining if there are private charter bus companies willing and able to provide service that would utilize electronic notification and response within 72 hours

All comments received agreed with utilizing an electronic notification and response system. A private charter operator commented that FTA should modernize the charter rules through a Web-based approach with electronic notification. Once a notice is issued, all users would have the same amount of time in which to respond. All users would receive the information the same way, and, thus, be in the same position to respond. A state DOT also agreed with the notion of utilizing an electronic or internet notification system in lieu of the current system because it would be cost effective, timely way of doing business. Another state DOT stated an electronic system would potentially let publicly funded transit systems know that charter service is not available to a group of passengers and would allow the publicly funded system to perform that service.

3. A new exception for transportation of government employees, elected officials, and members of the transit industry to examine local transit operations, facilities, and public works

Private charter operators object to this potential exception because ''any exemption applied to providing service to government employees will have a severe negative effect on many private operators most of which are small businesses.'' In addition, any exemption that would allow transit agencies to undercut the private sector and provide similar fixed-contract services to any government agency, is not within the scope of Conference Committee Report's issues and was not the intent of Congress. An association stated that school districts should be excluded from any new exception for local government entities.

Public transportation providers generally supported this exception. One noted that it supports an exemption for the transportation of government officials or other similar individuals ''who are participating in a tour of transit facilities or are en route to a transit agency-sponsored event.'' Another public transportation provider commented that ''if the funding sources see a duplication of spending and that dollars could be saved, then this will be a good idea.'' This commenter also noted that it is very difficult for an operator of a public transit system to tell elected officials that they can not provide a service even though that governmental entity owns and operates the vehicle. One also commented that ''the committee should be clear on what constitutes 'public work.' ''

4. Clarify the definitions of regulatory terms

Comments received generally agree that there should be a clarification of the terms used in the charter bus regulations. One noted that the committee should be sure all definitions in the rule, and FTA guidance materials that result from the rule, are applicable to demand response services. Another commented that consensus on the definitions of regulatory terms is absolutely essential to the success of any changes to the charter rule. An association provided a list terms that should be clarified: ''Charter,'' ''regular and continuing service,'' ''closed door service,'' and ''pattern of violations.''

Finally, we received three comments suggesting new issues for consideration by the advisory committee. Two commenters suggested that the negotiated rulemaking advisory committee consider consolidating all charter service requirements into one regulation. These commenters note that while there are slightly different approaches in each of the program areas (charter, school, and complementary paratransit service), in the interest of simplicity and consistency, FTA should create one set of regulations to ensure that ''private purveyors'' are not adversely affected by the existence of Federally subsidized assets. The third comment suggested the committee address FTA policies relative to the enforcement of charter rules and the boundary between charter and mass transit services in specific circumstances, such as university transportation and transportation to/from special events. The advisory committee will determine whether to consider these two additional issues.

IV. Interests Likely To Be Affected; Representation of Those Interests

The advisory committee will include a representative from FTA and from the interests and organizations listed below. The FTA representative is the Designated Federal Official (DFO) and will participate in the deliberations and

activities of the committee. The DFO will be authorized to fully represent FTA in the discussions and negotiations of the committee.

The DFO for the Charter Bus Negotiated Rulemaking Advisory Committee (CBNRAC) will be David B. Horner, Chief Counsel of FTA. As the DFO, Mr. Horner will serve as the Chairperson for the CBNRAC and is primarily responsible for ensuring the proper administration of the CBNRAC. The Chairperson's responsibilities are set out in the Charter for the CBNRAC, which is included in the docket for this rulemaking.

The CBNRAC will include the following individuals:

1. Community Transportation Association of America (CTAA; represented by Dale Marsico).
2. Northwest Motorcoach Association/ Starline Luxury Coaches (represented by Gladys Gillis).
3. American Association of State Highway and Transportation Officials (AASHTO; represented by David Spacek from IL DOT).
4. National School Transportation Association (NSTA; represented by John Corr from Transgroup).
5. Trailways (represented by Jack Burkett).
6. Lancaster Trailways of the Carolinas (represented by Mary Presley).
7. American Public Transportation Association (APTA; represented by Dan Duff).
8. Kansas City Area Transportation Authority (KCATA; represented by Mark Huffer).
9. New York Metropolitan Transportation Authority (NYMTA; represented by Christopher Boylan).
10. Los Angeles County Municipal Operators Association (LACMOA; represented by Stephanie Negriff of Santa Monica's Big Blue Bus).
11. Amalgamated Transit Union (ATU; represented by Karen Head).
12. Oklahoma State University, The Bus Community Transit System (represented by Hugh Kierig).
13. Monterey-Salinas (MST; represented by Carl Sedoryk).
14. Taxicab, Limousine & Paratransit Association (TLPA; represented by Harold Morgan).
15. South Dakota Department of Transportation (represented by Ron Baumgart).
16. American Bus Association (ABA; represented by Clyde Hart).
17. United Motorcoach Association (UMA; represented by Victor Parra).
18. FTA.

We asked for comment on our proposed list of committee members and received comments primarily requesting representation of certain individuals on the CBNRAC. Others requested representation of specific interests. We believe our list of committee members for the CBNRAC is responsive to the concerns expressed by commenters. What follows is a summary of the comments received regarding our list of proposed interests. We do not include, however, a summary of specific individuals who applied for membership or were nominated for membership on the committee. Those names can be obtained by reviewing the docket for this matter.

One comment asked that we include an employee representative on the negotiated rulemaking advisory committee. This would ensure that the revised regulations on charter service protect the interests of the workers in both the private bus industry and the public transit agencies.

FTA agrees with this comment, and, therefore, we have included employee representation by selecting the Amalgamated Transit Union to participate on the CBNRAC.

A state DOT emphasized the importance of having small rural transit providers represented as well as non-profit agencies, senior centers and other human service agencies who are users of public transportation services. This commenter also noted that the list of individuals proposed to be named to the committee does not appear to include an officer of a state DOT. This is a significant omission and the committee should not be convened until one or more state DOT officials are made part of the committee.

FTA agrees with this comment, and, in response, we have included the South Dakota Department of Transportation and a member from the American Association of State Highway and Transportation Officials.

A private charter association advised that the inclusion of [elderly, disabled, and other consumers groups] will only serve to detract from the fundamental discussion of whether there are limited conditions whereby public transit operators might provide community-based charter services directly to local governments and private non-profit agencies. The commenter went on to note these additional interests, while representative of parts of the community, are not representative of the key elements to this discussion. Another private charter operator stated the number of the interest groups FTA identified—consumer with disabilities, elderly consumers, for-profit consumers, convention bureaus and representatives of large sporting events—would have the effect of skewing the discussions and shift the balance of the negotiation advisory committee membership in favor of the pro charter views espoused by transit agencies. Adding representatives from these groups to the negotiation advisory committee goes beyond the scope of the negotiated rulemaking as set by the conference committee report. An association for private charter operators echoed this comment by stating: ''These parties may believe they have legitimate interests in the negotiations; however, they are in no way referenced under the issues identified as subjects for the rulemaking in the SAFETEA–LU Conference Report.''

FTA disagrees that with these comments to the extent that they suggest FTA cannot include interests that were not identified in SAFETEA–LU. Convening a negotiated rulemaking advisory committee is not mandated by SAFETEA–LU and SAFETEA–LU did not identify nor limit interests that might participate in the negotiations. Therefore, FTA has exercised its discretion to select a balanced panel of groups and interests to deliberate the revisions to the charter bus regulations.

One comment asked for private sector school bus contractor representation on the committee because those individuals are an important player in the charter community and to the success of the overall negotiated rulemaking process on this issue. This type of service represents a significant amount of business for school bus contractors and is the area where we find that violations of the charter bus rules often occur.

FTA agrees with this comment and has included the National School Transportation Association on the CBNRAC.

A. Meeting Location and Dates

All meetings of the CBNRAC will be held in Washington, DC at 400 Seventh Street, SW., in room 6248. The first meetings will be held on May 8th and 9th from 9 a.m. until 4:30 p.m. Subsequent meetings dates will be discussed during the first meeting and a **Federal Register** notice will be issued announcing those meeting dates and time. Each of the individuals selected will receive a letter confirming their participation on the CBNRAC.

B. Persons Not Selected for Committee Membership

We believe that each potentially affected group does not need to participate directly in the negotiations. What is important is that each affected interest be adequately represented. It is very important to recognize that

interested parties who are not selected for membership on the committee can make valuable contributions to this negotiated rulemaking effort in several ways:

- The person or organization could request to be placed on the committee mailing list, submitting written comments, as appropriate;
- Any member of the public could attend the committee meetings, caucus with his or her interest's member on the committee, and, as provided in FACA, speak to the committee. Time will be set aside during each meeting for this purpose, consistent with the committee's need for sufficient time to complete its deliberations;
- The person or organization could assist in the work of a workgroup that might be established by the committee; or
- The person or organization may participate by telephone. FTA will establish a call-in number for that purpose. Members of the public who wish to participate by phone may request the call-in number by writing to the Chairperson, David B. Horner, Chief Counsel, Federal Transit Administration, 400 Seventh Street, SW., Room 9316, Washington, DC 20590. At the Chairperson's discretion, the number of individuals participating may be limited.

Informal workgroups are usually established by an advisory committee to assist it in ''staffing'' various technical matters (e.g., researching or preparing summaries of the technical literature or comments on particular matters such as economic issues) before the committee so as to facilitate committee deliberations. They also might assist in estimating costs and drafting regulatory text on issues associated with the analysis of the costs and benefits addressed, and formulating drafts of the various provisions and their justification previously developed by the committee. Given their staffing function, workgroups usually consist of participants who have expertise or particular interest in the technical matter(s) being studied.

C. Notice of Proposed Rulemaking

The CBNRAC's objective will be to prepare a report, consisting of its consensus recommendations for the regulatory text of a draft notice of proposed rulemaking (NPRM). This report may also include suggestions for the NPRM preamble, regulatory evaluation, or other supplemental documents. If the CBNRAC cannot achieve consensus on some aspects of the proposed regulatory text, it will, pursuant to the ''ground rules'' the CBNRAC has established, identify in its report those areas of disagreement, and provide explanations for any disagreement. FTA will use the information and recommendations from the CBNRAC report to draft a notice of proposed rulemaking and, as appropriate, supporting documents. CBNRAC recommendations and other documents produced by it will be placed in the rulemaking docket.

In the event that FTA's NPRM differs from the CBNRAC's consensus recommendations, the preamble to an NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the decision to depart from the CBNRAC's recommendations.

Following the issuance of NPRM and comment period, FTA will prepare and provide to the CBNRAC a comment summary. The CBNRAC will then be asked to determine whether it should reconvene to discuss changes to the NPRM based on the comments.

D. Committee Procedures

Under the general guidance of the facilitator, and subject to legal requirements, the CBNRAC will establish detailed procedures for the meetings. The meetings of the CBNRAC will be open to the public. Any person attending the meetings may address the CBNRAC if time permits or may file statements with the committee.

E. Record of Meetings

In accordance with FACA requirements, the facilitator will prepare summaries of all CBNRAC meetings. These summaries will be placed in the public docket for this rulemaking.

Issued this 3rd day of April 2006.

Sandra K. Bushue,

Deputy Administrator, Federal Transit Administration.

[FR Doc. 06–3411 Filed 4–7–06; 8:45 am]

BILLING CODE 4910–57–M