

guidance is derived is also included. This list is not meant to be exhaustive, but does include the authorities relevant to the consideration of EJ principles in the transportation context. Last is a list of references, including **Federal Register** notice and other citations as appropriate to enable readers to view the source documents.

III. Conclusion

Included in the proposed Circular in a few places are examples, such as the example in Chapter II regarding defining the area of analysis for a plan or project, and the example in Chapter VI regarding differences between an EJ analysis and a Title VI analysis. FTA seeks comment on whether more examples would be helpful, and if so, what types of examples would provide the most clarity for grantees.

Issued in Washington, DC this 26th day of September 2011.

Peter M. Rogoff,
Administrator.

[FR Doc. 2011-25123 Filed 9-28-11; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2011-0054]

Title VI; Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed Circular and request for comments.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, proposed guidance in the form of a Circular to assist grantees in complying with Title VI of the Civil Rights Act of 1964. The purpose of this Circular is to provide recipients of FTA financial assistance with instructions and guidance necessary to carry out the U.S. Department of Transportation's Title VI regulations (49 CFR part 21). FTA is updating its Title VI Circular to clarify requirements for compliance. By this notice, FTA invites public comment on the proposed Circular.

DATES: Comments must be submitted by December 2, 2011. Late-filed comments will be considered to the extent practicable.

Public Meetings: FTA and PolicyLink will co-sponsor a series of Information Sessions regarding FTA's proposed revisions to the Title VI Circular and proposed Environmental Justice

Circular (see docket FTA-2011-0055 for more information on the proposed Environmental Justice Circular). The meetings listed below will provide a forum for FTA staff to make oral presentations about the two proposed Circulars and allow attendees an opportunity to ask clarifying questions. Additionally, the sessions are intended to encourage interested parties and stakeholders to submit their comments directly to the official docket per the instructions found in the **ADDRESSES** section of this notice.

These Information Sessions will take place as follows: Kansas City, MO on Tuesday, October 18, 2011 from 6-9 p.m.; Boston, MA on Tuesday, November 1, 2011 from 6-9 p.m.; Detroit, MI on Wednesday, November 9, 2011 from 6-9 p.m.; the San Francisco Bay Area on Monday, November 14, 2011 from 6-9 p.m.; and Atlanta, GA on Thursday, November 17, 2011 from 6-9 p.m. All locations will be ADA- and transit-accessible.

For details about the exact location of each Information Session (*i.e.*, site name and address), please visit <http://www.fta.dot.gov/FTAInformationSessions>.

In consideration of the comfort and safety of all attendees and the maximum seating capacity of meeting rooms, FTA requests RSVPs for the Information Sessions. To RSVP, please visit <http://www.FTAInformationSessions.com>. At the same Web link, persons with disabilities may request a reasonable accommodation.

ADDRESSES: Please submit your comments by only one of the following methods, identifying your submission by docket number FTA-2011-0054. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>.

(1) **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

(2) **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.

(3) **Hand Delivery or Courier:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

(4) **Fax:** 202-493-2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA-2011-0054) for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation

that FTA received your comments, include a self-addressed stamped postcard. Note that all comments received will be posted without change to <http://www.regulations.gov> including any personal information provided and will be available to Internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477). **Docket:** For access to the docket to read background documents and comments received, go to <http://www.regulations.gov> at any time or to 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.

FOR FURTHER INFORMATION CONTACT: For program questions, Amber Ontiveros, Office of Civil Rights, Federal Transit Administration, 1200 New Jersey Ave., SE., Room E54-422, Washington, DC 20590, phone: (202) 366-4018, fax: (202) 366-3809, or e-mail, Amber.Ontiveros@dot.gov. For legal questions, Bonnie Graves, Office of Chief Counsel, same address, room E56-306, phone: (202) 366-4011, or e-mail, Bonnie.Graves@dot.gov.

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I. Overview

FTA is updating its Title VI Circular, last revised in 2007, to clarify what recipients must do to comply with the U.S. Department of Transportation (DOT) Title VI regulations. This notice provides a summary of proposed changes to FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for FTA Recipients." The final Circular, when adopted, will supersede the existing Circular.

The proposed Circular would incorporate lessons learned from triennial reviews, discretionary Title VI compliance reviews, and a

comprehensive review of every Title VI Program submitted to FTA. In these reviews, FTA found some problems, several of them related to ambiguous language in the existing Circular. The proposed Circular reorganizes, clarifies, and provides examples of the information that must be included in a Title VI Program.

The existing Title VI Circular contains many references to environmental justice (EJ). Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," was signed by President Clinton on February 11, 1994. Subsequent to issuance of the Executive Order, DOT issued an Order for implementing the Executive Order on environmental justice. The DOT Order (Order 5610.2, "Order to Address Environmental Justice in Minority Populations and Low-Income Populations," 62 FR 18377, Apr. 15, 1997) describes the process the Department and its modal administrations (including FTA) will use to incorporate EJ principles into programs, policies and activities; the DOT Order does not provide guidance for FTA grantees on what is expected regarding integrating EJ principles into the public transportation decisionmaking process. FTA has not previously published separate and distinct EJ guidance for its grantees, but instead has included environmental justice concepts in its Title VI Circular (Circular 4702.1A).

Several instances of Title VI and EJ issues raised by FTA grantees led FTA to initiate a comprehensive management review of the agency's core guidance to grantees in these and other areas of civil rights responsibilities for public transportation. Based on that review, FTA determined a need to clarify and distinguish what grantees should do to comply with Title VI regulations; and, separately, what grantees should do to facilitate FTA's implementation of Executive Order 12898.

Therefore, FTA is proposing to remove most references to environmental justice from the Title VI Circular in order to clarify the statutory and regulatory requirements for compliance with Title VI. In addition to the proposed revised Circular, FTA has also published, in this issue of the **Federal Register**, a notice of availability and request for comments for a new proposed EJ Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients" (Docket number FTA-2011-0055). The EJ Circular is designed to provide grantees with a distinct

framework to assist them as they integrate principles of environmental justice into their public transportation decisionmaking processes, from planning through project development, operation and maintenance. FTA expects the additional clarification provided by both Circulars will provide grantees the guidance and direction they need to properly incorporate both Title VI and environmental justice into their public transportation decisionmaking. FTA encourages commenters to review both notices and provide comments on both documents.

This notice provides a summary of the proposed changes to the Title VI Circular. The proposed Circular itself is not included in this notice; instead, an electronic version may be found on FTA's Web site, at <http://www.fta.dot.gov>, and in the docket, at <http://www.regulations.gov>. Paper copies of the proposed Circular may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366-4865. FTA seeks comment on the proposed Circular.

Readers familiar with the existing FTA Circular 4702.1A will notice a number of changes to the proposed Circular. For example, we have changed the name of the Circular to "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," removing the "Title VI-Dependent" in the existing title as it refers to the EJ provisions in the existing Circular, and adding "requirements" to reflect inclusion of required actions to ensure compliance with DOT Title VI regulations. We propose retaining "guidance" in the title as the Circular includes actions that FTA encourages or recommends. In addition, we propose changing the format to make this Circular consistent with the style of other Circulars FTA has recently updated. At the same time, we have tried to maintain some consistency with the previous document; for example, most of the chapters still cover the same or similar subject matter. We discuss substantive changes in content in the chapter-by-chapter analysis.

One important change made throughout the proposed Circular is that we have, where applicable, included the text of the DOT Title VI regulation that applies to the requirement. The existing Circular often cites the regulation, but does not quote or summarize the text, which leaves readers wondering what the rule really says. We believe it will be helpful for recipients to see the text or a summary of the regulation so they understand the nexus between the regulation and the requirements in the Circular.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of the existing Circular is entitled, "How to Use This Circular." The content of this chapter has been eliminated or moved to other chapters as appropriate. Chapter I of the proposed Circular is an introductory chapter and covers general information about FTA and how to contact us, briefly reviews the authorizing legislation for FTA programs generally, provides information about FTA's posting of grant opportunities on Grants.gov, includes definitions applicable to Title VI, and provides a brief history of environmental justice and Title VI. Where applicable, we have used the same definitions found in rulemakings, other Circulars, and DOT Orders to ensure consistency. Importantly, we have restored the term "primary recipient," which is found in the DOT Title VI regulations and FTA's 1988 circular but is not in the existing Title VI Circular. A primary recipient is a recipient that extends Federal financial assistance to a subrecipient. We also propose using the term "recipient" to mean any recipient, whether a direct recipient, a designated recipient, a primary recipient, or a subrecipient. We have also included a definition of "provider of public transportation" or "transit provider," to mean any entity that provides public transportation, whether a State, local or regional entity, and inclusive of public and private entities. This term is used exclusively in Chapter IV. We have restored the definition of "minority transit route," a term removed during the last Circular revision. We have added some flexibility to the definition, allowing recipients to base the determination on route mileage, demographics, or ridership. Finally, there is a section describing environmental justice that references the proposed EJ Circular that FTA is developing concurrently with the proposed changes to the Title VI Circular. This section provides a permanent cross-reference to that guidance. FTA seeks comment on the content of Chapter I.

B. Chapter II—Program Overview

We propose amending some of the content of this chapter. As previously stated, definitions have been moved to Chapter I. This chapter starts with program objectives and is followed by statutory and regulatory authority, as well as additional authority for the policies, requirements and recommendations stated in the Circular.

Consistent with our goal of separating Title VI and EJ and developing the EJ Circular, we propose removing both the reference to DOT's Order on Environmental Justice and the objective related to addressing EJ principles from this chapter. We propose moving the "determination of deficiencies" subsection in the Reporting Requirements section and the Determinations section to Chapter VIII, Compliance Reviews.

In the existing Reporting Requirements section, as well as in other places throughout the existing Circular, there is a statement that recipients are required to submit Title VI Programs every three years, or every four years in the case of metropolitan planning organizations (MPOs) that are direct recipients of FTA funds. We propose amending the reporting requirement so that all recipients are required to submit a Title VI Program every three years. We propose amending the Reporting Requirements section further by including a requirement that a recipient's board of directors or appropriate governing entity approve the Title VI Program before the recipient submits it to FTA. We anticipate such a requirement will greatly improve the quality of Title VI Programs that FTA receives. Further, we expect this requirement will add clarity and transparency to implementation of the Title VI Program at the local level. Recipients will be required to submit, with the Title VI Program, a copy of the Board resolution, meeting minutes, or similar documentation as evidence that the board of directors or appropriate governing entity has approved the program. FTA seeks comment on the content of Chapter II.

C. Chapter III—General Requirements and Guidelines

Chapter III in the existing Circular is "Requirements for Applicants." We propose eliminating the one-page chapter dedicated to applicants, and consolidating this information into what is the existing Chapter IV. Proposed Chapter III thus has the same name as the existing Chapter IV: "General Requirements and Guidelines." The proposed Chapter III includes content from the existing Chapters III and IV.

We added the regulatory reference for the requirement to provide Title VI assurances, but otherwise the text remains substantially the same as the similar section in existing Chapter IV. The information for applicants has not changed, except that we added one sentence at the end related to first-time applicants. This information is required under U.S. Department of Justice (DOJ)

regulations. We have also removed references to environmental justice.

We propose keeping much of the content of the existing Chapter IV in this chapter, but it has been reformatted to provide more clarity. Proposed Chapters III, IV, V and VI, which describe the specific requirements for different types of recipients' Title VI Programs, follow the same format. They start with an introduction and some general information. Following that is the requirement to prepare and submit a Title VI Program. The section describing the Title VI Program, in each chapter, cites the regulation and includes the regulatory text or a summary of the regulatory text. It provides information on Board or other governing entity approval of the Title VI Program. It then lists the elements required in the Title VI Program for that type of recipient. The sections following the Title VI Program submission requirements describe in more detail what FTA expects, and provide direction to enable recipients to comply.

For example, Chapter III provides the list of elements that must be in every recipient's (and subrecipient's) Title VI Program. The first item on the list is "a copy of the recipient's Title VI notice to the public that indicates the recipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted." The next section in that chapter is, "Requirements to Notify Beneficiaries of Protection under Title VI." This section cites the regulation and provides information regarding what must be included in a Title VI notice. This section also clarifies the existing requirement by describing how documents should be disseminated, when documents must be translated, and notes that a subrecipient may adopt the primary recipient's Title VI notice. Thus, the detailed description for each required element is presented in a format that clarifies the existing requirements. In addition, we have provided samples of required documents in the Appendices.

Since the proposed Chapter III applies to all recipients, we include in this chapter information on how to upload a Title VI Program to FTA's Transportation Electronic Award Management (TEAM) system. The Title VI Program must be uploaded to TEAM no fewer than thirty calendar days prior to the date of expiration of the previously approved Title VI Program. This is a new requirement, but FTA has previously asked for voluntary submission of revised Title VI Programs

thirty days in advance of expiration of the previously approved Title VI Program. This section also notes how the status of a recipient's Title VI Program will be noted in TEAM. The four status determinations are "approval," "conditional approval," "pending" and "expired." We propose removing the "eliminating redundancy" subsection in the existing Circular, as we have determined that recipients must include all required information in each Title VI Program submission.

We propose continuing the reporting requirement exemption for the University Transportation Center Program, National Research and Technology Program, Over the Road Bus Accessibility Program and Public Transportation on Indian Reservations program. We have also included a new provision that FTA may exempt a recipient, upon receipt of a request for waiver submitted to the Director of the Office for Civil Rights, from the requirement to submit a Title VI Program, or from some elements of the Title VI Program. There may be unique situations that justify the application of this exemption. The absence of the requirement to submit a Title VI Program does not obviate the underlying obligations to comply with Title VI.

We propose including more information in several of the sections describing existing Title VI Program elements in order to clarify the requirements. For example, we provide significantly more information in the public participation section, while still allowing wide latitude for recipients to determine how, when, and how often to engage in public participation activities, and which specific measures are most appropriate. We have referenced the public participation requirements of 49 U.S.C. 5307(c) and 5307(d)(1)(I) as well as the joint FTA/FHWA (Federal Highway Administration) planning regulations at 23 CFR part 450. This section also cross-references the proposed EJ Circular being developed concurrently with the proposed revisions to the Title VI Circular.

The section that addresses the existing requirement for a Language Implementation Plan for Limited English Proficient (LEP) persons now contains a summary of the DOT LEP guidance. Specifically, we propose including a description of the four factor analysis, information on how to develop a Language Implementation Plan, and a summary of the "safe harbor" provision.

We propose restoring the requirement, found in the regulations but not the existing Circular, that a recipient may not, on the grounds of race, color, or national origin, "deny a person the

opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program." As part of the Title VI Program, for non-elected transit planning, advisory, or similar decisionmaking body, recipients shall provide a table depicting the racial breakdown of the membership of those bodies, and a description of the efforts made to encourage participation of minorities on such decisionmaking bodies.

We propose moving the topics, "Providing Assistance to Subrecipients" and "Monitoring Subrecipients," found in the Requirements for States chapter of the existing Circular, to this chapter, as these are existing requirements that are applicable to all recipients that pass funds through to subrecipients, not just States. The requirement to collect Title VI Programs from subrecipients is a new requirement for transit providers that pass funds through to subrecipients; but we would note that anytime a recipient passes funds through to a subrecipient, the entity passing funds through is responsible for ensuring their subrecipients are complying with all Federal requirements, not just Title VI. Collecting and reviewing a subrecipient's Title VI Program will assist the primary recipient/transit provider in ensuring the subrecipient is in compliance. The language in these sections is substantially similar to the language in the existing Circular.

Finally, we have removed the section, "Guidance on Conducting an Analysis of Construction Projects" and inserted in its place, "Determination of Site or Location of Facilities." The language in the existing Circular addresses environmental justice concepts as incorporated into National Environmental Policy Act (NEPA) documentation, and we have moved this analysis to the EJ Circular. We propose revising this section so that it cites the DOT Title VI regulation and describes the requirements related to siting facilities. Recipients must complete a Title VI analysis during project development to determine if the project will have disparate impacts on the basis of race, color, or national origin. If it will have such impacts, the recipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less adverse impact on members of a group protected under Title VI.

FTA seeks comment on the content and format of Chapter III.

D. Chapter IV—Requirements and Guidelines for Transit Providers

Proposed Chapter IV covers much of the information that is in the existing Chapter V. Consistent with our desire to have the chapters follow the same format, this chapter starts with an introduction, includes a description as to which entities it applies, and then describes the requirement to prepare and submit a Title VI Program, followed by specific information related to each of the elements contained in the Title VI Program.

In the existing Circular, Chapter V applies to "recipients that provide service to geographic areas with a population of 200,000 people or greater under 49 U.S.C. 5307." This sentence has created some confusion as to whether recipients in areas with populations over 200,000 but that do not receive funds under 49 U.S.C. 5307 are required to comply with this chapter. In order to eliminate this confusion, we propose a new threshold: Any provider of public transportation, whether a State, regional or local entity, and inclusive of public and private entities, that has an annual operating budget of less than \$10 million per year in three of the last five fiscal years as reported to the National Transit Database (NTD) will only be required to set system-wide standards and policies. Providers of public transportation (also referred to as transit providers) with an annual operating budget of \$10 million or more in three of the last five consecutive years as reported to the NTD; transit providers with an annual operating budget of less than \$10 million but that receive \$3 million or more in New Starts, Small Starts or other discretionary capital funds; and transit providers that have been placed in this category at the discretion of the Director of the Office of Civil Rights in consultation with the FTA Administrator, will be required to set system-wide standards and policies, collect and report demographic data, conduct service and fare equity analyses, and monitor their transit service.

Approximately 97% of public transportation passengers ride on transit systems with annual operating budgets of \$10 million or more. This threshold ensures that small transit providers, whether in a large city or a rural area, are not subject to the more comprehensive reporting requirements, while larger providers, regardless of geographic location, will be subject to the comprehensive reporting requirements. The proposed change in threshold will cause some transit

providers who previously were not required to collect and report demographic data, conduct service and fare equity analyses, and monitor their transit service, to begin to do so. It will also allow some small transit providers in large urbanized areas who were collecting and reporting data, conducting service and fare equity analyses, and monitoring their transit service to stop doing so once the revised Circular takes effect. We selected \$3 million in discretionary transit capital grants as the second threshold for comprehensive reporting as that would be a significant amount of funds for a transit provider with an annual operating budget of less than \$10 million, and would justify the increased reporting requirement. Finally, we propose to allow the Director of the Office of Civil Rights, in consultation with the FTA Administrator, to require a recipient to submit a more comprehensive Title VI Program, as when a small transit provider has a one-time or ongoing issue, likely related to a complaint or otherwise compliance-related.

We propose that the annual operating budget is inclusive of all funds, whether Federal, State, local or other, and will be based on NTD data, recognizing that NTD data has an approximate two-year lag in producing final data. Therefore, we propose "looking back" to fiscal years 2006–2010 to determine whether a transit provider meets the \$10 million or more annual operating budget in three of the last five fiscal years as of the effective date of the Circular. In the **Federal Register** notice announcing the availability of the final Circular, we intend to provide a list of recipients that do not meet the current threshold of providing service in large urbanized areas but that will meet this new threshold. FTA proposes that transit providers who have not been required to set system-wide standards and policies, collect and report data, conduct service and fare equity analyses, and monitor their transit service under the existing FTA Circular 4702.1A, would be required to conduct service and fare equity analyses for major changes in transportation service or fare changes between the effective date of the Circular and their next Title VI Program submission. In addition, these transit providers would be required to update their current Title VI Programs to include service standards and policies, demographic and other data, including data related to monitoring their service. After the final Circular effective date, FTA will contact transit providers that are subject to these requirements for the

first time and provide technical assistance, as needed. FTA will provide an appropriate amount of time for these providers to submit the updated program. Beginning in FY 2015, FTA will publish, in its annual apportionment notice, new transit providers that meet the threshold, as well as transit providers that no longer meet the threshold. FTA seeks comment on this new threshold, and when it should take effect.

We propose that small transit providers—those with annual operating budgets of less than \$10 million—will be required to set system-wide standards and policies, and include these standards and policies in their Title VI Programs. This is a new requirement. We expect that most transit providers already have standards and policies for areas such as vehicle load, vehicle assignment, transit amenities, *etc.*, and that reporting them in the Title VI Program would not be burdensome.

Transit providers with total annual operating budgets of \$10 million or more or that otherwise meet the threshold described above will need to include in their Title VI Programs all of the following: their system-wide standards and policies; a demographic analysis of the transit provider's passengers; data regarding customer demographics and travel patterns; results of the provider's monitoring program; a description of the public engagement process for setting the major service change policy and disparate impact policy; results of any equity analyses conducted since the last Title VI Program submission; and a copy of board meeting minutes or a resolution demonstrating the board's consideration and awareness of any equity analyses completed.

We propose revising the description of the existing requirement to set system-wide service standards and policies. First, as in other areas, we have included the relevant text of DOT's Title VI regulations to more clearly link the regulation with the requirement in the Circular. We propose removing the "transit security" policy, as a transit provider's security policy may be impacted by considerable outside factors that are not within the control of the transit provider. We propose blending the requirements in one section that covers both standards and policies, rather than listing them separately. The standards and policies for vehicle load, vehicle headway, on-time performance, service availability, transit amenities and vehicle assignment remain substantially the same. In the existing Circular, FTA

recommends that recipients report on these standards and policies, and allows recipients to report on other standards and policies. In contrast to the existing Circular, we propose recipients will be required to report on these specific standards and policies, rather than selecting different measures on which to report. However, in practice, this is not a significant change, since most transit providers report on these standards and policies, and do not select other standards or policies on which to report.

The existing Circular allows transit providers to choose among options for demographic data collection, service monitoring, and service and fare equity analyses. These options were added during the last revision of the Circular in 2007, to "reduce administrative burdens by giving recipients and subrecipients greater flexibility to meet requirements through procedures that best match their resources needs, and standard practices." (72 FR 18732, 18735, Apr. 13, 2007). In reality, providing options, including the option to develop a local alternative, has created confusion and inconsistency. Therefore, we propose removing the options and providing one method of compliance for each of these areas. By eliminating options we make it clear to recipients what is required for compliance, and we streamline the Title VI Program review process. FTA seeks comment on this proposal.

The requirement to collect and report demographic data applies only to transit providers with an annual operating budget of \$10 million or more or that otherwise meet the threshold as stated above. The existing Circular allows three different options for collecting and reporting demographic data: Option A is developing demographic and service profile maps and charts; Option B is conducting customer surveys; and Option C is a locally developed alternative. We propose eliminating the locally developed alternative and requiring both options A and B, but with a simplified and streamlined customer survey data requirement. In the existing Circular, transit providers are required to collect data on travel time, number of transfers, overall cost of the trip, as well as how people rate the quality of service. We propose instead that transit providers collect data on travel patterns, such as trip purpose and frequency of use.

The requirement to monitor transit service applies only to transit providers with an annual operating budget of \$10 million or more or that otherwise meet the threshold as stated above. The existing Circular allows four different options for monitoring service: Option

A is a level of service methodology; Option B is a quality of service methodology; Option C is an analysis of customer surveys, and Option D is a locally developed alternative. We propose removing the options and having one means of complying with the requirement to monitor transit service—a slightly modified Option A as the sole means of compliance, as most transit providers currently choose Option A and this Option provides sufficient information to ensure service is being provided in a nondiscriminatory manner. The one addition to this method of monitoring is an evaluation of policies related to transit amenities. As in the existing Circular, transit providers must monitor their transit service against the system-wide standards and policies set by the transit provider. At a minimum, such monitoring will occur every three years and the transit provider will submit the results as part of its Title VI Program. Prior to submitting the information to FTA, we propose that transit providers will be required to brief their board of directors or appropriate governing entity regarding the results of the monitoring program, and include a copy of the board meeting minutes, resolution, or other appropriate documentation demonstrating the board's consideration of the monitoring program.

The requirement to perform service and fare equity analyses applies only to transit providers with an annual operating budget of \$10 million or more or that otherwise meet the threshold stated above. The existing Circular allows two options for evaluating service and fare changes: Option A, which outlines a specific procedure, and Option B, a locally developed alternative. We propose removing the option for a locally developed alternative and having one means of complying with the requirement to perform service and fare equity analyses. The proposed process for evaluating service and fare changes is more rigorous than what is required in the existing Circular. We propose that each transit provider to which this section applies will: Describe in its service equity analysis its policy for a major service change; describe how the public was engaged in the development of the major service change policy; describe the datasets the provider will use in the service change analysis; prepare maps; analyze the effects of proposed service changes; and analyze the effects of proposed fare changes. In addition, as in the existing Circular, the transit provider will assess the alternatives available for people affected

by the fare increase or decrease or major service change, including reductions or increases in service. Finally, the transit provider will determine if the proposals would have the effect of disproportionately excluding or adversely affecting people on the basis of race, color, or national origin, or would have a disproportionately high and adverse effect on minority or low-income riders.

Finally, this chapter states when a transit provider will be required to perform a fare and service analyses for New Starts, Small Starts, and other new fixed guideway capital projects: prior to entering into a Full Funding Grant Agreement or Project Construction Grant Agreement, and updated immediately prior to start of revenue operations.

FTA seeks comment on the content and format of Chapter IV.

E. Chapter V—Requirements for States

This chapter addresses requirements for States that administer FTA programs. As in the existing Circular, States must submit a Title VI Program. This chapter clarifies that States are responsible for including in their Title VI Program the information required from all recipients in Chapter III, and that States providing public transportation are responsible for the reporting requirements for providers of public transportation in Chapter IV. For clarity, we have included as required elements in the Title VI Program all of the elements under the “Planning” section in the existing Circular, as well as the elements listed for the Title VI Program in the existing Circular. We also propose cross-referencing information related to Title VI that FTA and FHWA jointly assess and evaluate during the planning certification reviews. As in the existing Circular, States are responsible for monitoring their subrecipients, whether those are planning subrecipients or transit provider subrecipients. The description of this requirement has been removed from the State requirements chapter, and placed in Chapter III since it applies to all primary recipients. As in Chapter III, we propose removing the “eliminating redundancy” subsection in the existing Circular, as we have determined that recipients must include all required information in each Title VI Program submission. FTA seeks comment on the content and format of Chapter V.

F. Chapter VI—Requirements for Metropolitan Planning Organizations

The proposed chapter VI equates to the chapter VII in the existing Circular.

While MPOs are required, in the existing Circular, to submit a Title VI Program, the chapter is not clear that the information listed is supposed to be included in the Title VI Program, along with the requirements for all recipients. Therefore, we have included the specific requirements that MPOs shall include in their Title VI Programs. Since an MPO may fulfill several roles, including planning entity, designated recipient, direct recipient of FTA funds, and a primary recipient that passes funds through to subrecipients, we have clarified the Title VI reporting requirements for each of these roles. We also propose cross-referencing information related to Title VI that FTA and FHWA jointly assess and evaluate during the planning certification reviews. Finally, since the MPO may have subrecipients, we include the same requirement that applies to States in the existing Circular: that the MPO prepare and maintain information regarding how it passes funds through to subrecipients in a nondiscriminatory manner. FTA seeks comment on the content and format of Chapter VI.

G. Chapter VII—Effecting Compliance With DOT Title VI Regulations

This chapter is Chapter X in the existing Circular. FTA believes it makes sense from a flow and format point of view to move this chapter up, followed by compliance reviews in Chapter VIII and complaints in Chapter IX. This chapter largely tracks the DOT Title VI regulation at 49 CFR 21.13 and 21.15. The only substantive change to this chapter is the addition of the language from 49 CFR 21.13(c) and (d): termination or refusal to grant or to continue to grant Federal financial assistance; and other means authorized by law. FTA seeks comment on the content and format of this chapter.

H. Chapter VIII—Compliance Reviews

Chapter VIII, Compliance Reviews, is substantially similar to the existing Chapter VII of the same name. We propose removing from the list of criteria, “the length of time since the last compliance review,” as in practice FTA has not used this criterion. As in other chapters, we use the word “recipient” to include subrecipients. In Section 6, we propose removing the opportunity for recipients to review and comment on a draft compliance review. This is consistent with changes we are making in other civil rights processes. We proposed removing the compliance review flow chart, as it is unnecessary once the process is streamlined. FTA seeks comment on the content and format of this chapter.

I. Chapter IX—Complaints

The proposed Chapter IX contains most of the same content that is in the existing Chapter IX. We propose removing the “letter of resolution” in Section 4 as it is duplicative of the “letter of finding” issued when a recipient is found to be noncompliant with the DOT Title VI regulations. We also propose removing the appeals process, as it is not required by the regulation and removing it will assist with more efficient administration of the Title VI Program. We have added information relating to when a complaint will be administratively closed. FTA seeks comment on the content of this chapter.

J. Appendices

The proposed appendices are intended as tools to assist recipients in their compliance efforts. We propose adding nearly 40 pages of appendices in order to provide more clarity and examples of what should be included in a Title VI Program and the type of analysis that recipients should conduct. To begin, in Appendix A we propose using checklists for the elements recipients must include in their Title VI Programs instead of tables. Recipients can literally “check the box” as they assemble the elements of their Title VI Program.

Appendices B, C and D contain sample procedures and forms that recipients may use as provided, or that they may modify. Appendix B contains a sample Title VI Notice to the public. Appendix C contains a sample Title VI complaint procedure, and Appendix D contains a sample Title VI Complaint Form. All of these documents are “vital documents” for LEP purposes, and each appendix provides information about providing the information in other languages as appropriate.

Appendix E provides a sample form recipients may use for tracking transit-related Title VI investigations, lawsuits and complaints. Appendix F contains a sample table depicting the racial breakdown of the membership of various non-elected decisionmaking bodies.

Appendix G contains samples for reporting service standards (vehicle load, vehicle headway, on-time performance, service availability) and Appendix H contains samples for reporting service policies (vehicle assignment and transit amenities). For the service standards for vehicle load and vehicle headway, we have provided two methods of expressing the standard: in writing and in table format. Recipients should provide both the

written description and the table when they submit the information in their Title VI Program. The service standards for on-time performance and service available, as well as the service policies, require a written explanation only.

Appendix I provides sample demographic and service profile maps and charts. Appendix J provides information on reporting the requirement to monitor transit service. The appendix provides tables and maps as examples of how to assess the performance of service on minority and non-minority transit routes for each of the recipient's service standards and service policies. In addition, this appendix provides a sample methodology to determine the minority and/or low-income populations served by each bus and rail line and provides a framework for comparison. The appendix provides sample tables and written explanations for each of the service standards and policies. These tables are examples of what recipients should submit with their Title VI Programs. Unless requested to verify the information, FTA does not need the raw data generated through the monitoring process.

Appendix K provides checklists for a major service change policy, the analysis, the considerations for a service equity analysis, and considerations for a fare equity analysis. Use of these checklists will assist transit providers in ensuring they have met the requirements of analyzing major service changes and fare changes.

Appendix L provides information on the various types of recipients and the reporting requirements for each type of recipient. There are five flow charts that provide a pictorial representation of the reporting requirements. Appendix M is Chapter VI of the EJ Circular: Understanding the Similarities and Differences Between Title VI and Environmental Justice. Finally, Appendix N contains the same content as Appendix D in the current Circular. This appendix provides technical assistance resources for Title VI and Limited English Proficiency.

FTA seeks comment on the appendices and seeks suggestions for other resources that should be included.

Issued in Washington, DC this 26th day of September, 2011.

Peter Rogoff,
Administrator.

[FR Doc. 2011-25122 Filed 9-28-11; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on June 24, 2011 [76 FR 37189].

DATES: Comments must be submitted on or before October 31, 2011.

FOR FURTHER INFORMATION CONTACT:

Andrea Noel, National Highway Traffic Safety Administration, Office of Defects Investigation, 202-493-0210, 1200 New Jersey Avenue, SE., W48-221, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Consumer Complaint
OMB Number: 2127-0042.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals and households

Abstract

Under 49 U.S.C. 30166(e), NHTSA reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable (NHTSA) to decide whether the manufacturer, distributor or dealer has complied or is complying with this chapter or a regulation prescribed under this chapter.

49 U.S.C. 30118(c) requires manufacturers to notify NHTSA and owners, purchasers, and dealers if the manufacturer (1) learn that any vehicle or equipment manufactured by it contains a defect and decides in good faith that the defect relates to motor vehicle safety, or (2) decides in good faith that the vehicle or equipment does not comply with an applicable Federal motor vehicle safety standard. The only way for the agency to decide if and

when a manufacturer learned of a safety-related defect or decided in good faith that some products did not comply with an applicable Federal motor vehicle safety standard is for the agency to have access to the information available to the manufacturer.

Affected Public: Business or other-for-profit, individuals or households.

Estimated Total Annual Burden: 33,590.

Estimated Number of Respondents: 869.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on September 26, 2011.

Frank S. Borris,

Director, Office of Defects Investigation,
Office of Enforcement.

[FR Doc. 2011-25110 Filed 9-28-11; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 32 (Sub-No. 104X); Docket No. AB 355 (Sub-No. 40X)]

Boston & Maine Corporation— Abandonment Exemptions—in Rockingham, NH; Springfield Terminal Railway Company—Discontinuance of Service Exemptions—in Rockingham, NH

Boston & Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for B&M to abandon and ST to discontinue service over approximately 10 miles of railroad