

Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35).

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance numbered program affected by the proposed regulation is: 93.865.

List of Subjects in 42 CFR Part 63a

Grant programs—health, Health-medical research.

Dated: May 27, 2004.

Elias A. Zerhouni,

Director, National Institutes of Health.

Approved: January 14, 2005.

Tommy G. Thompson,
Secretary.

For the reasons set forth in the preamble, we propose to amend chapter 1 of title 42 of the Code of Federal Regulations as set forth below.

PART 63a—NATIONAL INSTITUTES OF HEALTH TRAINING GRANTS

1. The authority citation of part 63a would be revised to read as follows:

Authority: 42 U.S.C. 216, 242/(b)(3), 284(b)(1)(C), 285g–10, 287c(b), 300cc–15(a)(1), 300cc–41(a)(3)(C), 7403(h)(2).

2. Section 63a.1 would be amended by revising paragraph (a)(2) to read as follows:

§ 63a.1 To what programs do these regulations apply?

* * * * *

(a) * * *

(1) * * *

(2) Grants awarded by NIH for research training with respect to the human diseases, disorders, or other aspects of human health or biomedical research for which the institute or other awarding component was established, for which fellowship support is not provided under section 487 of the Act and which is not residency training of physicians or other health professionals, as authorized by sections 405(b)(1)(C), 452G, 485B(b), 2315(a)(1), and 2354(a)(3)(C) of the Act; and

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3. Section 63a.11 would be amended by revising the 17th and 18th undesignated paragraphs to read as follows:

§ 63a.11 Other HHS regulations and policies that apply.

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“NIH Grants Policy Statement,” NIH Publication No. 99–8 (October 1998). (NOTE: this policy is subject to change, and interested persons should contact

the Extramural Outreach and Information Resources Office (EOIRO), Office of Extramural Research, 6701 Rockledge Drive, Room 6208, MSC 7910, Bethesda, Maryland 20892–7910, telephone 301–435–0714 (not a toll-free number), to obtain references to the current version and any amendments. Information may also be obtained by contacting the EOIRO via e-mail address ([nih@odrockm1.od.nih.gov](mailto:.nih@odrockm1.od.nih.gov)) and browsing the NIH Home Page site on the World Wide Web (<http://www.nih.gov>).

“Public Health Service Policy on Humane Care and Use of Laboratory Animals,” Office of Laboratory Animal Welfare (Amended August, 2002). (NOTE: This policy is subject to change, and interested persons should contact the Office of Laboratory Animal Welfare, 6705 Rockledge Drive, Suite 360, MSC 7982, Bethesda, Maryland 20892–7982, telephone 301–594–2382 (not a toll-free number), to obtain references to the current version and any amendments. Information may also be obtained by browsing the Office of Laboratory Animal Welfare Home Page site on the World Wide Web (<http://www.grants.nih.gov/grants/olaw/olaw.htm>).

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 605

[Docket No. FTA–99–5082]

RIN 2131–AA67

School Bus Operations; Amendment of Tripper Service Definition

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws the rulemaking in which the Federal Transit Administration (FTA) proposed to amend its tripper service definition to clarify which student transportation operations are inconsistent with FTA requirements. The rulemaking is being withdrawn because after consideration of the comments, FTA has concluded that no regulatory clarification is necessary.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communication software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nar>.

Background

On May 3, 1999, the Federal Transit Administration published a Notice of Proposed Rulemaking proposing to amend its tripper service definition to clarify that buses used in tripper service may not carry destination signs such as “student” or any other marking indicating that they are carrying school children. Further, the rule would have clarified that, as consistent with the current regulation, these buses may only stop at stops that are accessible to the public and that are clearly marked as available to the public. 64 FR 23590, May 3, 1999.

Discussion of Comments on the NPRM

FTA received sixty comments on its proposal to amend the definition of tripper service.

Comments Supporting the Proposed Changes

Three commenters expressed support for FTA's proposed amendment to the tripper service definition. One commenter suggested that destination signs be permitted to inform the rider where the bus route goes. Another commenter was concerned that those who opposed the changes were confusing the issue of safety of school children with the tripper service definition. The commenter stated that the issue of safety of school children on public transportation is an important one that merits its own separate rulemaking. One other commenter recommended that if FTA is not going to eliminate tripper service, it should ensure timely and aggressive enforcement of the regulations.

Comments Opposing the Proposed Changes

Stopping at Marked Public Stops

Twenty-three commenters objected to the proposed amendment to the tripper service definition that would clarify that buses may stop only at stops that are accessible to the public and that are clearly marked as available to the public. Although the law currently prohibits stops on property that is not accessible to the general public,

nineteen commenters cited the risk to student safety from not being picked up and discharged on school property as a reason for objecting to the proposed amendment.

Commenters also raised non-safety-related objections to the requirement that buses providing tripper service may only stop at marked public stops. Eight commenters objected to the requirement because buses in suburban and rural areas often stop at unmarked flag stops that are known to the public. Seven commenters stated that loading and unloading students on school property prevents impediments to traffic flow on public streets. Seven commenters noted that in other situations buses are allowed to drop-off and pickup passengers at stops to which the general public may not have access, such as secured work sites, private business parks, and college campuses. Two commenters opposed the requirement that buses providing tripper service may only stop at clearly marked stops because they thought it would impose a higher standard than that generally required of fixed route transit services.

Six commenters asserted that the proposed changes would require cities to purchase new signs to mark each stop, which would be a significant cost. The American Public Transportation Association (APTA) commented that the marked bus stop requirement would impose an undue financial burden on numerous transit authorities.

Signage and Markings on Buses

The proposal to clarify that tripper buses may not carry any signs or markings indicating the presence of school children onboard raised objections from eleven commenters, all of whom cited safety as their primary concern. Two commenters noted that without signs and markings, drivers would not be alerted to the presence of school children who may be crossing the road. One commenter also noted that without signs and markings, there would be increased public ridership, which could pose additional safety risks to children onboard. One commenter added that there was no objective evidence that existing signage regarding school children caused the public to believe that buses used for tripper service were not open to the general public.

Two commenters who did not support FTA's proposed amendment did support the prohibition on signs and markings on transit buses that indicate the presence of school children. One of these commenters stated that the public becomes confused when equipment

from yellow school buses is placed on transit buses.

Enlarge Scope To Address Safety Generally

Eleven commenters suggested that, rather than focus on one aspect of the tripper service definition, FTA should work with the school transportation and public transit communities to address the safety needs of school students on public transit vehicles. Nine of the commenters opposed the proposed amendment entirely, arguing that it is shortsighted. The National Association of State Directors of Pupil Transportation Services (NASDPTS) argued that while ensuring that tripper buses remain open to the public is an important objective of the tripper rule, providing for student safety is an equally important objective. Consequently, they argued, amending only one element of the rule at the expense of the other is "inappropriate." NASDPTS suggested that FTA "with the assistance of the school transportation community and the public transit community, develop a list of acceptable safety practices to accommodate the needs of school students." Six other commenters concurred in NASDPTS's suggestion.

One commenter, a private citizen from Altoona, Pennsylvania, noticed that tripper buses lack many of the safety features found in traditional school buses, such as forward facing seats and additional emergency exits. This difference in the level of passenger safety prompted the National Association for Pupil Transportation (NAPT) to suggest temporarily suspending tripper service altogether. NAPT suggested that tripper service be disallowed until "it is clear that children who ride a transit bus to school receive the equivalent level of operational safety as children who ride a school bus to school."

Forced Elimination or Reduction of Tripper Service

Ten commenters asserted that the proposed amendment would cost cities significant amounts of money, because to the extent that the proposed change eliminates or reduces tripper service, cities would be required to purchase and maintain a yellow bus fleet or to contract for those services.

Four commenters opposed the proposed amendments because they would either reduce or eliminate tripper service, which would increase the time that it takes students to get to and from school. Without tripper service, they asserted, some students would have to transfer buses one or more times, thus

adding to the time it takes the student to reach the school.

Agency Response

Given the comments on the proposed rulemaking, FTA has decided to withdraw this rulemaking as unnecessary. FTA believes that the proposed amendments to the regulation were merely clarifying in nature, and not necessary to the enforcement of current law and regulation. The comments received generally indicated objections to the underlying law and current regulations, rather than to the clarifying amendments, indicating that confusion about the intent of the current regulation was not the primary issue.

The proposed amendment to the destination sign language was intended only to give additional information about language that is inappropriate on a tripper service bus by specifically prohibiting use of the word "student" and adding the language "or any other marking indicating that they are carrying school children." FTA proposed this added language because it believed that grantees were interpreting the term "such as" in the existing regulation as an exclusive listing of prohibited signs, rather than a representative listing of prohibited signs that could also include other signs. However, based on the comments received, it appears that there is no general misunderstanding of the existing regulation. Indeed, commenters objected to the underlying prohibition on signs or markings that indicate the presence of school children on board, arguing that such a prohibition is unsafe. However, under the current regulation, tripper service cannot be operated in a way that would call into question its availability to the public. Moreover, FTA believes that allowing transit buses to carry such signs actually poses a greater threat to safety because the widespread use of these signs on transit buses could engender a false belief by parents or guardians that transit buses are the equivalent of school buses in terms of safety. In FTA's view, the comments opposing the prohibition on signage based on safety concerns failed to account for the fact that tripper service is intended to make ordinary transit bus service available to school children; it is not intended to substitute for school bus transportation.

Grantees that honor flag stops in suburban and rural areas expressed concern regarding the requirement that tripper buses stop only at clearly marked public bus stops. The proposed rulemaking was not intended to eliminate the use of flag stops for tripper service when such stops are generally

used for public transportation service. Commenters who opposed this clarification generally expressed concerns about student safety if buses were not allowed to stop on school property. This comment seemed to reflect a lack of clarity or misunderstanding of the proposed amendment; consistent with the current regulation, the proposed amendment would not have prohibited stops on school property, as long as those stops were clearly marked, accessible to the

general public, and included in published bus schedules.

APTA also opposed the public bus stop amendment based on the fact that FTA allows grantees to make stops on private work sites, which are generally inaccessible to the public. However, the statute singles out school bus service for special attention and the current implementing regulation requires that tripper buses stop only at clearly marked stops that are open to the public.

List of Subjects in 49 CFR Part 605

Mass transit, Grants, School bus.

■ For the reasons set forth above, FTA is withdrawing its proposed amendments to title 49 of the Code of Federal Regulations, part 605.

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Issued on: January 4, 2005.

Jennifer L. Dorn,
Administrator.

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