

certain sections of already promulgated requirements.

#### *E. Executive Order 13132 (Federalism)*

This action does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action merely stays certain sections of an already promulgated regulation.

#### *F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000) EPA may not issue a regulation that has Tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments, or EPA consults with Tribal officials early in the process of developing the proposed regulation and develops a Tribal summary impact statement. This proposed rule will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law.

In the State of Florida, there are two Indian Tribes, the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida, with lakes and flowing waters. Both Tribes have been approved for treatment in the same manner as a State (TAS) status for CWA sections 303 and 401 and have federally approved WQS in their respective jurisdictions. These Tribes are not subject to this proposed rule. This rule will not impact the Tribes because it merely stays certain sections of already promulgated requirements.

#### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866 and because the Agency does not believe this action includes environmental health risks or safety risks that would present a risk to children.

#### *H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22,

2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order (E.O.) 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This action is not subject to E.O. 12898 because this action merely stays certain sections of already promulgated requirements.

#### **List of Subjects in 40 CFR Part 131**

Environmental protection, Florida, Nitrogen/phosphorus pollution, Nutrients, Water quality standards.

Dated: November 30, 2012.

**Lisa P. Jackson,**  
Administrator.

For the reasons set out in the preamble, 40 CFR part 131 is proposed to be amended as follows:

#### **PART 131—WATER QUALITY STANDARDS**

1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

#### **Subpart D—Federally Promulgated Water Quality Standards**

2. Effective [DATE OF PUBLICATION IN THE FEDERAL REGISTER OF FINAL RULE], 40 CFR 131.43(a)—(d) are stayed until November 15, 2013.

[FR Doc. 2012–29800 Filed 12–13–12; 8:45 am]

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#### **DEPARTMENT OF TRANSPORTATION**

#### **Federal Transit Administration**

#### **49 CFR Part 665**

[Docket No. FTA–2011–0015]

**RIN 2132–AB01**

#### **Bus Testing: Calculation of Average Passenger Weight and Test Vehicle Weight**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of withdrawal.

**SUMMARY:** This action withdraws a notice of proposed rulemaking (NPRM) that would have amended the Federal Transit Administration’s (FTA’s) bus testing regulation to increase the assumed average passenger weight value used for ballasting test buses from the current value of 150 pounds to a new value of 175 pounds. This increase was proposed to better reflect the actual weight of the average American adult and to provide accurate information to the transit agencies that purchase such vehicles. In light of recent legislation directing FTA to establish new pass/fail standards that require a more comprehensive review of its overall bus testing program, FTA is withdrawing the rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For technical information, Gregory Rymarz, Bus Testing Program Manager, Office of Research, Demonstration, and Innovation (TRI), (202) 366–6410, [Gregory.rymarz@dot.gov](mailto:Gregory.rymarz@dot.gov). For legal information, Richard Wong, Office of the Chief Counsel (TCC), (202) 366–0675, [richard.wong@dot.gov](mailto:richard.wong@dot.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 317 of the Surface Transportation and Uniform Relocation Act of 1987 (Pub. L. 100–17), now codified at 49 U.S.C. 5318, FTA established a bus testing program to ensure that buses procured with FTA financial assistance could endure the rigors of daily transit service.

In a 2009 rulemaking, FTA established a procedure by which transit

vehicles would be tested with a full load of seated and standing passengers, even if that number exceeded the vehicle's Gross Vehicle Weight Rating (GVWR) (74 FR 51083, October 5, 2009). The testing procedure simulated a 150 lb. weight for each seated passenger and a 150 lb. weight for every 1.5 square foot of clear floor space. Given the upward trend in passenger weight estimations then underway by the Federal Aviation Administration and the United States Coast Guard, FTA published a second NPRM in 2011 proposing to change the average passenger weight from 150 lbs. to 175 lbs. and to change the floor space occupied per standing passenger from 1.5 to 1.75 square feet (76 FR 13850, March 14, 2011).

Subsequent to the NPRM, on July 6, 2012, Congress passed the Moving Ahead for Progress in the 21st Century

Act (MAP-21) (Pub. L. 112-141). Section 20014 of MAP-21 amended 49 U.S.C. 5318 to require FTA to work with bus manufacturers and transit agencies to establish a new pass/fail standard for the bus testing program, which must include new safety performance standards established by FTA pursuant to 49 U.S.C. 5329(b) (as amended by MAP-21). Accordingly, in view of the mandate to establish a new pass/fail standard which requires a more comprehensive overall review of the bus testing program that satisfies both bus manufacturers and bus buyers, the proposed rule is hereby withdrawn.

#### **Regulatory Impact**

Because this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore it is not covered under

Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act, or the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

#### **List of Subjects in 49 CFR Part 665**

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

Accordingly, the notice of proposed rulemaking, Docket FTA-2011-0015, published in the **Federal Register** on March 14, 2011 (76 FR 13580), is withdrawn.

Issued in Washington, DC, on December 10, 2012.

**Peter Rogoff,**  
*Administrator.*

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**BILLING CODE P**