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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA-2017-0001]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2017

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice

SUMMARY: By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2017 so grantees and subgrantees affected by national or regional emergencies may request temporary relief from FTA administrative and statutory requirements.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 90 Seventh Street, Ste. 15-300, San Francisco, CA 94103; phone: (202) 366-0944, fax: (415) 734-9489, or e-mail, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION:

Pursuant to title 49 CFR part 601, subpart D, FTA is establishing the Emergency Relief Docket for calendar year 2017. Subsequent to an emergency or major disaster, the docket may be opened at the request of a grantee or subgrantee, or on the FTA Administrator's own initiative.

In the event a grantee or subgrantee believes the Emergency Relief Docket should be opened and it has not been opened, that grantee or subgrantee may submit a petition to www.regulations.gov for posting in the docket (FTA-2017-0001). Alternatively, a grantee or subgrantee may submit a petition in duplicate to the FTA Administrator, via

U.S. mail or hand delivery, to: Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; via telephone, at: (202) 366-4011; via fax, at (202) 366-3472; via email, to Bonnie.Graves@dot.gov; or via U.S. mail or hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, requesting opening of the Docket for that emergency and including the information set forth below.

All petitions for relief from a provision of chapter 53 of title 49, U.S.C. or FTA administrative requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly available and can be accessed 24 hours a day, seven days a week, via the Internet at www.regulations.gov. Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA-2017-0001. Grantees and subgrantees making submissions to FTA or to the docket by mail or hand delivery should submit two copies. Grantees and subgrantees are strongly encouraged to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

In the event a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

Federal public transportation law at 49 U.S.C. 5324(d) provides that a grant awarded under Section 5324 or under 49 U.S.C. 5307 or 49 U.S.C. 5311 that is made to address an emergency shall be subject to the terms and conditions the Secretary

determines are necessary. This language allows FTA to waive statutory, as well as administrative, requirements. Therefore, grantees affected by an emergency or major disaster may request waivers of provisions of chapter 53 of title 49, U.S.C. when a grantee or subgrantee demonstrates the requirement(s) will limit a grantee's or subgrantee's ability to respond to an emergency. Grantees must follow the procedures set forth below when requesting a waiver of statutory or administrative requirements.

A petition for relief shall:

- (a) Identify the grantee or subgrantee and its geographic location;
- (b) Identify the section of chapter 53 of title 49, U.S.C., or the FTA policy statement, circular, guidance document and/or rule from which the grantee or subgrantee seeks relief;
- (c) Specifically address how a requirement in chapter 53 of title 49 U.S.C., or an FTA requirement in a policy statement, circular, agency guidance or rule will limit a grantee's or subgrantee's ability to respond to an emergency or disaster; and
- (d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

A petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA may contact the grantee

or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator.

Pursuant to 49 CFR 604.2(f) of FTA's Charter Rule, grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor, or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the emergency lasts more than 45 calendar days, the grantee or subgrantee shall follow the procedures set out in this notice.

FTA reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall

notify the grantee or subgrantee if it plans to reconsider a decision. FTA decision letters, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates.

Carolyn Flowers
Acting Administrator

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