



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 605

[Docket No. FTA-2025-0004]

RIN 2132-AB53

School Bus Operations

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Federal Transit Administration (FTA) is revising its regulations governing school bus operations to update outdated information and harmonize the regulation with current statutory language and existing practice.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

FOR FURTHER INFORMATION CONTACT: Heather Ueyama, Office of Chief Counsel, (202) 366-7374 or heather.ueyama@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Purpose and Summary of Regulatory Action

This final rule amends FTA's regulations regarding school bus operations at 49 CFR part 605. On April 1, 1976, FTA (then the Urban Mass Transportation Administration) initially adopted the regulations at part 605 (41 FR 14127). The regulations implemented section 109(a) of the National Mass Transportation Assistance Act of 1974 (NMTAA) (Pub. L. 93-503) and section 164(b) of the Federal-Aid Highway Act of 1973 (Pub. L. 93-87). These provisions directed an applicant for Federal financial

assistance for the construction or operation of facilities and equipment for use in providing public mass transportation service must agree not to engage in school bus operations, exclusively for the transportation of students and school personnel, in competition with private school bus operators, unless certain exceptions were met.

Since the regulations were first codified in 1976, the statute governing the prohibition on school bus service has been superseded by 49 U.S.C. 5323(f). However, FTA has not updated part 605 since it was initially adopted. Accordingly, FTA is revising part 605 to remove outdated provisions and bring the regulation into alignment with current statutes. These revisions will increase clarity for the public by removing obsolete language from the Code of Federal Regulations and reflect FTA's existing practice.

II. Section-by-Section Analysis

Authority citations

FTA has revised the authority citations to reflect that the statute regarding school bus operations has been superseded by 49 U.S.C. 5323(f). FTA also revised other authority citations for accuracy.

Subpart A—General

Section 605.1 Purpose

FTA revised this section to remove and replace obsolete language. This section provided a lengthy discussion of section 109(a) of NMTAA and section 164(b) of the Federal Aid Highway Act of 1973, which have been superseded by 49 U.S.C. 5323(f). FTA replaced this with current statutory language at 49 U.S.C. 5323(f).

Section 605.2 Scope

FTA revised this section to align with the current governing statute at 49 U.S.C. 5323(f). The section now states that the regulations apply to all recipients of Federal financial assistance under 49 U.S.C. chapter 53 for a capital project, or to operate public transportation equipment or a public transportation facility.

605.3 Definitions

FTA has revised this section throughout to reflect that the Federal Mass Transit Act of 1964 been superseded by 49 U.S.C. chapter 53. FTA made minor, non-substantive revisions throughout the section for clarity.

In addition, FTA revised “mass transportation” and “mass transit” to “public transportation” throughout this section to remove outdated terminology. Similarly, it revised the term “grantee” to “recipient,” and replaced the term “applicant,” with “recipient” throughout the regulation. These are non-substantive changes that reflect existing law and FTA’s existing practice. FTA made corresponding revisions throughout part 605 to reflect these terminology changes.

FTA removed several definitions from this section. It removed the definition for the term “Act,” as FTA has replaced all instances of this term throughout part 605 with relevant citations. It removed the terms “Grant contract,” and “Government,” as these terms are no longer used in the regulations and therefore are unnecessary. It removed the term “Agreement” because the meaning of this term is self-evident. It removed the term “urban area” because it is no longer used in 49 U.S.C. 5323(f).

FTA updated the definition of “incidental” to remove the reference to the Opinion of the Comptroller General from December 7, 1966. FTA included this reference as contextual information to explain how it adopted the definition pursuant to the opinion letter. However, the definition of “incidental” is found in numerous FTA Circulars, and readers can understand its meaning without referencing the letter. Furthermore, this letter references outdated terminology that FTA seeks to revise in this action, such as “mass transportation,” and relies on the now-superseded Federal Mass Transit Act of 1964. It therefore is unnecessary and superfluous to cite this letter in the definition. FTA updated the term “reasonable rates” to clarify and simplify the definition.

605.4 Public hearing requirement

FTA is removing and reserving this section. This section reflected the requirement in section 3(d) of the Federal Mass Transit Act of 1964 that imposed a public hearing requirement on recipients to take public comment, for every application for federal assistance, on the economic, social, or environmental effects of their requested Federal financial assistance. This hearing requirement is obsolete and has been superseded by procedures under the National Environmental Policy Act (NEPA) and FTA's planning requirements.

Subpart B— School Bus Agreements

605.10 Purpose

FTA is removing and reserving this section. The purpose of the subpart is self-evident, and it is unnecessary to include this section in the regulation.

605.11 Exemptions

FTA revised this section to align the list of exemptions with current statutory language in 49 U.S.C. 5323(f). It also deleted paragraph (c), as these grandfathering provisions are obsolete.

605.12 Use of project equipment

FTA made minor, non-substantive edits in this section for clarity and to update outdated terminology.

605.13 Tripper Service

FTA revised this section to cross-reference section 605.12. This edit will not change any existing requirements and will increase clarity for readers.

605.14 Agreement

FTA updated this section to reflect FTA's current practice. The agreement FTA makes with recipients regarding school bus operations is executed via FTA's annual Certifications and Assurances for Grants and Cooperative Agreements (Certifications and Assurances). Specifically, recipients must certify to Category 4 (Private Sector

Protections) in the Certifications and Assurances. This change has no substantive impact on the status quo and merely conforms the regulation to existing requirements.

605.15 Content of Agreement

FTA is removing and reserving this section. As discussed above, FTA's existing practice is to execute agreements with recipients regarding school bus operations through the annual Certifications and Assurances. The provisions in 605.15, which discuss requirements for agreements, are obsolete and do not reflect existing requirements. FTA does not rely on them and removing them from the regulation will have no substantive impact on the status quo.

605.16 Notice

FTA amended this section to remove outdated information and reflect existing practice. As noted above, FTA's practice is for recipients to certify compliance with the school bus requirements through the annual Certifications and Assurances. They do not submit this information in their applications. Accordingly, FTA has removed the reference to the recipient's application from this section and revised the term "statement" to "certification." FTA also removed the word "urban" because this term is no longer used in the statute.

FTA has removed paragraph (a)(2) and (b)(3), as the requirement to publish a statement in a newspaper of general circulation originated in section 3(d) of the Federal Mass Transit Act of 1964, which is obsolete and no longer in effect. FTA made other minor revisions for clarity and to reflect the revised numbering structure of the section.

FTA added paragraph (a)(4), which states the required notice must include a statement that private school bus operators may file written comments on a recipient's proposed or existing school bus operations. This reflects existing requirements and is not a change to the status quo.

605.17 Certification in lieu of notice

FTA edited this section to update outdated terminology and remove a reference to the recipient's application. As discussed above, these edits conform the regulation to FTA's existing practice, which is for recipients to make an agreement with FTA regarding school bus operations through the annual Certifications and Assurances. FTA also removed language regarding publishing notice in a newspaper of general circulation, as this reflects an obsolete provision from the Federal Mass Transit Act of 1964, which is no longer in effect. These edits do not impact existing requirements and merely harmonize the regulation with the status quo.

605.18 Comments by private school bus operators

FTA is removing and reserving this section. FTA has moved the requirements regarding comments by private school bus operators to section 605.16. This aligns the regulation with current practice. Under current FTA practice, a recipient must inform school bus operators that they may file written comments on the recipient's proposed or existing school bus operations via the notice required in section 605.16.

605.19 Approval of school bus operations

FTA is removing and reserving this section, as it is outdated and no longer reflects FTA's existing practice.

Subpart C Modification of Prior Agreements and Amendment of Applications for Assistance

Subpart C is removed and reserved due to sections 605.20 and 605.21 being removed.

605.20 Modification of prior agreements

FTA is removing this section, which discusses agreements that were in effect prior to the initial adoption of part 605 in 1976. These agreements are now handled through FTA's Certification and Assurances. It therefore is unnecessary to retain this section in the regulation.

605.21 Amendment of applications for assistance

FTA is removing this section, which discussed applications upon which public hearings have been held pursuant to section 3(d) of the Federal Mass Transit Act of 1964. This statutory provision is obsolete and no longer in effect. Accordingly, FTA is deleting this section as outdated.

Subpart D – Complaint Procedures and Remedies

605.30 Filing a complaint

FTA revised this section to reflect that the current governing statute is 49 U.S.C. 5323(f). It also made minor, non-substantive revisions for clarity.

605.31 Notification to the respondent

FTA made minor, non-substantive revisions to this section for clarity and to update outdated terminology.

605.32 Accumulation of evidentiary material

FTA made minor, non-substantive revisions to this section for clarity.

605.33 Adjudication

FTA made minor, non-substantive edits to paragraph (b) for clarity.

605.34 Remedy where there has been a violation of the agreement.

FTA revised this section to reflect that the current governing statute is 49 U.S.C. 5323(f). It also made minor, non-substantive revisions for clarity and to update outdated terminology.

605.35 Judicial review

FTA made minor, non-substantive revisions to this section to update outdated terminology.

Appendix A to Part 605

FTA is removing Appendix A to part 605 in its entirety. The appendix contained an Opinion of the Comptroller General from December 7, 1966. FTA included this

document as contextual information to explain its reasoning for adopting the definition of “incidental” in section 605.3. The definition of “incidental” is provided in several recent FTA Circulars, and it is not necessary to include the opinion in the regulation for a reader to understand the definition. The opinion letter also is publicly available through the Government Accountability Office’s website, so it is unnecessary to reproduce it in part 605. Furthermore, this letter references outdated terminology that FTA seeks to revise in this action, such as “mass transportation,” and relies on the now-superseded Federal Mass Transit Act of 1964. Accordingly, FTA is removing the letter from the regulation as superfluous and unnecessary.

III. Good Cause for Dispensing with Notice and Comment and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)), an agency may dispense with notice and comment if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. Additionally, 5 U.S.C. 553(d) provides that an agency may waive the 30-day delayed effective date upon finding of good cause. This rule revises part 605 to remove outdated information regarding FTA’s requirements regarding school bus operations. These changes have no substantive impact on the status quo and merely bring the regulation up to date since it was last updated nearly fifty years ago. Furthermore, the statutory references underlying part 605 have been superseded by 49 U.S.C. 5323(f). Seeking comment on obsolete provisions is unnecessary, and FTA would not be able to make any substantive changes in response to comments received on these provisions. For the same reasons, FTA finds that a delayed effective date is unnecessary. Accordingly, FTA finds good cause under 5 U.S.C. 553(b)(B) and (d)(3) to waive notice and opportunity for comment and a delayed effective date.

IV. Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Order (E.O.) 12866 (“Regulatory Planning and Review”), as supplemented by E.O. 13563 (“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits and costs of regulations and to select regulatory approaches that maximize net benefits when possible. It also directs the Office of Management and Budget (OMB) to review significant regulatory actions, including regulations with annual economic effects of \$100 million or more. OMB has determined the rule is not significant within the meaning of E.O. 12866 and has not reviewed the rule under that order.

The rule removes outdated statutory references from FTA school bus operations regulations. Although the changes do not affect requirements for regulated entities, improving the accuracy of the references may reduce the time needed for regulated entities to understand the statutory requirements, resulting in minor cost savings.

Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation Guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This proposed rule, if finalized, is expected to have total costs less than zero, and therefore is expected to be an E.O. 14192 deregulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*) requires Federal agencies to assess the impact of a regulation on small entities unless the agency

determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

FTA has determined that the rule will not have a significant effect on a substantial number of small entities. The rule removes outdated statutory references but does not change requirements for regulated entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this final rule does not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This final rule does not include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in 1995 dollars (adjusted for inflation) in any one year.

Executive Order 13132 (Federalism Assessment)

E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial direct effect 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. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Paperwork Reduction Act

FTA has analyzed this rule under the Paperwork Reduction Act and it does not impose additional information collection requirements for the purposes of the Act above and beyond existing information collection clearances from OMB.

National Environmental Policy Act

FTA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.” This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), and it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment,

if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register at 65 FR 19477 (April 11, 2000).

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this final rule with the Unified Agenda.

List of Subjects in 49 CFR Part 605

Administrative practice and procedure, Buses, Mass transportation.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5323(f) and 5334, and the delegation of authority at 49 CFR 1.91, the Federal Transit Administration revises and republishes 49 CFR part 605 to read as follows:

PART 605— SCHOOL BUS OPERATIONS

Subpart A—General

Sec.

- 605.1 Purpose.
- 605.2 Scope.
- 605.3 Definitions.
- 605.4 [Reserved]

Subpart B—School Bus Agreements

- 605.10 [Reserved]
- 605.11 Exemptions.
- 605.12 Use of project equipment.
- 605.13 Tripper service.
- 605.14 Agreement.
- 605.15 [Reserved]

605.16 Notice.
605.17 Certification in lieu of notice.
605.18-605.19 [Reserved]

Subpart C—[Reserved]

Subpart D—Complaint Procedures and Remedies

605.30 Filing a complaint.
605.31 Notification to the respondent.
605.32 Accumulation of evidentiary material.
605.33 Adjudication.
605.34 Remedy where there has been a violation of the agreement.
605.35 Judicial review.

Subpart E—Reporting and Records

605.40 Reports and information.

Authority: 49 U.S.C. 5323(f); 49 U.S.C. 5334; and 49 CFR 1.91.

Subpart A—General

§ 605.1 Purpose.

The purpose of this part is to prescribe policies and procedures to implement the prohibition in 49 U.S.C. 5323(f) regarding the provision of school bus transportation service that exclusively transports students and school personnel in competition with a private school bus operator.

§ 605.2 Scope.

These regulations apply to all recipients of Federal financial assistance under 49 U.S.C. chapter 53 for a capital project, or to operate public transportation equipment or a public transportation facility.

§ 605.3 Definitions.

(a) Except as otherwise provided, terms defined in 49 U.S.C. chapter 53 are used in this part as so defined.

(b) For purposes of this part—

Administrator means the Federal Transit Administrator or his or her designee.

Adequate transportation means transportation for students and school personnel which the Administrator determines conforms to applicable safety laws; is on time; poses a minimum of discipline problems; is not subject to fluctuating rates; and is operated efficiently and in harmony with state educational goals and programs.

Assistance means Federal financial assistance for the purchase of buses and the construction or operation of facilities and equipment for use in providing public transportation services under 49 U.S.C. chapter 53, but does not include research, development and demonstration projects.

Incidental means the transportation of school students, personnel and equipment in charter bus operations during off peak hours which does not interfere with regularly scheduled service to the public.

Interested party means an individual, partnership, corporation, association, or public or private organization that has a financial interest which is adversely affected by the act or acts of a recipient with respect to school bus operations.

Reasonable Rates means rates found by the Administrator to be fair and equitable taking into consideration the conditions in the local surrounding area.

Recipient means a recipient of assistance under 49 U.S.C. chapter 53.

School bus operations means transportation by bus exclusively for school students, personnel and equipment in Type I and Type II school vehicles as defined in Highway Safety Program Guideline No. 17.

Tripper service means regularly scheduled public transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as "school bus" or "school special." These buses may stop only at a recipient or operator's regular service stop. All routes traveled by tripper buses must be

within a recipient's or operator's regular route service as indicated in their published route schedules.

§ 605.4 [Reserved]

Subpart B—School Bus Agreements

§ 605.10 [Reserved]

§ 605.11 Exemptions.

A recipient may not engage in school bus operations in competition with private school bus operators unless it demonstrates to the satisfaction of the Administrator that:

(a) It operates a school system in the area to be served and also operates a separate and exclusive school bus program for that school system; and

(b) Private school bus operators are unable to provide adequate transportation that complies with applicable safety standards at reasonable rates.

§ 605.12 Use of project equipment.

No recipient or operator of project equipment shall engage in school bus operations using buses, facilities or equipment funded under 49 U.S.C. chapter 53. A recipient or operator may, however, use such buses, facilities and equipment for the transportation of school students, personnel and equipment in incidental charter bus operations. Such use of project equipment is subject to part 604 of this title.

§ 605.13 Tripper service.

The prohibition in § 605.12 shall not apply to tripper service.

§ 605.14 Agreement.

Except as provided in § 605.11, no assistance shall be provided under 49 U.S.C. chapter 53 unless the recipient has executed the Private Sector Protections category of the current annual Certifications and Assurances confirming that the recipient will not

engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators.

§ 605.15 [Reserved]

§ 605.16 Notice.

(a) Each recipient who engages or wishes to engage in school bus operations shall include a certification that it has provided written notice to all private school bus operators operating in the area to be served of its application for assistance and its proposed or existing school bus operations.

(b) The notice required by paragraph (a) of this section shall include the following information:

(1) A description of the area to be served by the recipient.

(2) An estimation of the number of each type of bus which will be employed on the proposed school bus operations, and the number of weekdays those buses will be available for school bus operations.

(3) A statement setting forth reasons the recipient feels it should be allowed to engage in school bus operations under § 605.11.

(4) A statement that private school bus operators may file written comments on a recipient's proposed or existing school bus operations.

(c) Copies of the application for assistance and notice required by paragraph (a) shall be available for inspection during the regular business hours at the office of the recipient.

§ 605.17 Certification in lieu of notice.

If there are no private school bus operators operating in the recipient's service area, the recipient may so certify in lieu of meeting the requirements of § 605.16.

§§ 605.18 - 605.19 [Reserved]

Subpart C—[Reserved]

Subpart D—Complaint Procedures and Remedies

§ 605.30 Filing a complaint.

Any interested party may file a complaint with the Administrator alleging a violation of 49 U.S.C. 5323(f) or the terms of an agreement under § 605.14 (“Complaint”). A complaint must be in writing, must specify in detail the action claimed to violate the agreement, and must be accompanied by sufficient evidence to enable the Administrator to make a preliminary determination as to whether there is probable cause that a violation has taken place.

§ 605.31 Notification to the respondent.

On receipt of any complaint under § 605.30, or on the Administrator’s own motion if at any time he or she shall have reason to believe that a violation may have occurred, the Administrator will provide written notification to the recipient (“Respondent”) that a violation has probably occurred. The Administrator will inform the respondent of the conduct which constitutes a probable violation of the agreement.

§ 605.32 Accumulation of evidentiary material.

The Administrator will allow the respondent not more than 30 days to show cause, by submission of evidence, why no violation occurred. A like period shall be allowed to the complainant, if any, during which the complainant may submit evidence to rebut the evidence offered by the respondent. The Administrator may undertake such further investigation, as deemed necessary, including the holding of an evidentiary hearing or hearings.

§ 605.33 Adjudication.

(a) After reviewing the results of such investigation, including hearing transcripts, if any, and all evidence submitted by the parties, the Administrator will make a written determination as to whether the respondent has engaged in school bus operations in violation of the terms of the agreement.

(b) If the Administrator determines that there has been a violation of the agreement, the Administrator will order remedial measures as deemed appropriate.

(c) The determination by the Administrator will include an analysis and explanation of his or her findings.

§ 605.34 Remedy where there has been a violation of the agreement.

If the Administrator determines, pursuant to this subpart, that there has been a violation of the terms of the agreement or 49 U.S.C. 5323(f)(2), he or she may bar a recipient or operator from the receipt of further financial assistance for public transportation.

§ 605.35 Judicial review.

The determination of the Administrator pursuant to this subpart shall be final and conclusive on all parties, but shall be subject to judicial review pursuant to 5 U.S.C. 701-706.

Subpart E—Reporting and Records

§ 605.40 Reports and information.

The Administrator may order any recipient or operator for the recipient, to file special or separate reports setting forth information relating to any transportation service rendered by such recipient or operator, in addition to any other reports required by this part.

Issued in Washington, DC, under authority delegated in 49 CFR 1.91.

Tariq Bokhari,

Acting Administrator.

