

Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves changes to state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves changes to state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000), nor will it 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 (64 FR 43255, August 10, 1999), because it merely approves changes to state law implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997), because it finalizes approval of a state rule implementing a Federal Standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a (major rule) (as defined by 5 U.S.C. section 804(2)).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 20, 2007.

**Wayne Nastri,**

*Regional Administrator, Region 9.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraphs (c)(133) and (c)(134) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(133) The following statute and plan were submitted on December 23, 2005 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Revised Statutes.

(1) Section 49-542 as amended in section 1 of the Arizona House Bill 2357, 47th Legislature, 1st Regular Session (2005) and approved by the Governor on April 13, 2005.

(ii) Additional material.

(A) Arizona Department of Environmental Quality.

(1) Final Arizona State Implementation Plan Revision, Basic and Enhanced Vehicle Emissions Inspection/Maintenance Programs (December 2005), adopted by the Arizona Department of Environmental Quality on December 23, 2005, excluding appendices.

(134) The following plan was submitted on October 3, 2006 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) September 2006 Supplement to Final Arizona State Implementation Plan Revision, Basic and Enhanced Vehicle Emissions Inspection/Maintenance Programs, December 2005, adopted by the Arizona Department of Environmental Quality on October 3, 2006, excluding appendices.

[FR Doc. E7-5558 Filed 3-29-07; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 624

[Docket No. FTA-2006-24708]

RIN 2132-AA91

#### Clean Fuels Grant Program

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

**ACTION:** Final rule.

**SUMMARY:** On June 9, 1998, the Transportation Equity Act for the 21st Century (TEA-21) was enacted requiring the Federal Transit Administration (FTA) to establish the Clean Fuels Formula Grant Program (the program). The program was developed to assist non-attainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). Additionally, the program supports emerging clean fuel and advanced propulsion technologies

for transit buses and markets for those technologies. Although the program was authorized as a formula grant program from its inception, Congress did not fund the program. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) changed the grant program from a formula-based to a discretionary grant program. The program, however, retains its initial purpose. FTA is publishing this final rule to revise the existing regulations to reflect the amendments made by SAFETEA-LU.

**DATES:** This rule is effective April 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** For program issues, Kimberly Sledge, Office of Program Management, (202) 366-2053 (telephone); (202) 366-7951 (fax); or [Kimberly.Sledge@dot.gov](mailto:Kimberly.Sledge@dot.gov) (e-mail). For legal issues, Scheryl Portee, Office of the Chief Counsel, (202) 366-4011 (telephone); (202) 366-3809 (fax); or [Scheryl.Portee@dot.gov](mailto:Scheryl.Portee@dot.gov) (e-mail).

**SUPPLEMENTARY INFORMATION:**

**Availability of the Final Rule**

You may download this rule from the Department's Docket Management System (<https://dms.dot.gov>) by entering docket number 24708 in the search field or from the Government Printing Office's **Federal Register** Main Page at <http://www.gpoaccess.gov/fr/index.html>. Users may also download an electronic copy of this document using a modem and suitable communications software from the GPO Electronic Bulletin Board Service at (202) 512-1661.

**I. Background**

The Clean Fuels Formula Grant Program is a transit grant program established pursuant to Section 3008 of the Transportation Equity Act for the 21st Century (TEA-21) as amended, Public Law 105-178, and codified at 49 U.S.C. 5308. This legislation established the basic parameters of the program. Section 3010 of SAFTEA-LU, Public Law 109-59, (2005) changed the grant program from a formula-based to a discretionary grant program.

In SAFETEA-LU, Congress earmarked approximately \$18 million in FY 2006 graduating to approximately \$22 million in FY 2009 for specific projects. However, during the FY 2006 and FY 2007 appropriations process, Congress transferred the remaining clean fuels program funds not earmarked pursuant to SAFETEA-LU to the Bus and Bus Facilities Program. Thus, there are no discretionary funds available for the Clean Fuels Program to date. The focus

of this rulemaking is to revise 49 CFR Part 624 to reflect the amendments made by SAFETEA-LU establishing a discretionary program and ensuring procedures are in place when funding is provided for the program. This final rule also addresses criteria for the allocation of discretionary program funds, issues raised in the NPRM and the comments made in response to the NPRM.

**II. Discussion of Comments**

FTA received a total of two comments to this rulemaking. We discuss the comments received and explain any changes made to the regulations in the following paragraphs. FTA considered all comments filed. Each commenter expressed support for the rulemaking while offering recommendations to improve this statutory program. A written copy of each comment is available at the DOT Docket Manager's Web site: <http://www.dms.dot.gov>.

1. American Public Transportation Association (APTA) indicates that it agrees with FTA's approach to flexible eligibility and selection criteria for implementation of the regulation. APTA suggested that FTA publish proposed annual criteria in conjunction with the annual "apportionment and allowances notice," which includes FTA programmatic changes. APTA believed that such a procedure would allow public comment on the criteria prior to the **Federal Register** Notice of Funding Availability, thus permitting the latter announcement to be limited to solicitation of grant applications based on already publicly vetted criteria.

2. Metro Regional Transit Authority of Akron, Ohio (Metro) expresses support for the majority of the proposed changes to the Clean Fuels Grant Program as an improvement to the overall initiative. Metro recommends that the total project cost should be an eligible federal expense for those projects that have an evaluation and dissemination component, in order to encourage additional research and development of alternative fuels. Metro recommends that FTA only fund truly alternative energy sources such as hydrogen fuel cells stating that other projects will continue dependence on fossil fuel and foreign oil.

Metro believes that "clean diesel buses" are not an appropriate expenditure for this program and that these buses should be purchased with Congestion Mitigation Air Quality or section 5307 funds. The Clean Fuels program should focus its limited resources on projects that can be replicated or advance the technology for buses. Another recommendation by Metro is that FTA consider the reporting

evaluation proposal as part of the grant process, including a pure science component for each funded project.

**III. Section by Section Analysis**

In this section, FTA provides a section by section analysis and comments in response where applicable.

*A. Eligible Recipients*

As noted in the NPRM, SAFETEA-LU amended the term "recipient" to now include smaller urbanized areas with populations of less than 200,000. Accordingly, we are amending section 624.1 to define eligible applicants as (1) designated recipients, as defined in 49 U.S.C. 5307(a)(2); and (2) recipients in urbanized areas with populations of less than 200,000.

A "designated recipient" is an entity designated to receive Federal urbanized formula funds under 49 U.S.C. 5307, in accordance with the applicable metropolitan and statewide transportation planning processes, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation. For an urbanized area with a population of less than 200,000, however, SAFETEA-LU requires the smaller urbanized area's respective State to act as the recipient.

Further, all recipients must meet one of the following criteria: (1) Be designated as an ozone or carbon monoxide (CO) nonattainment area as established by section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or (2) be designated as a maintenance area for ozone or CO. A maintenance area is a previously designated nonattainment area that has been redesignated to attainment status by the U.S. Environmental Protection Agency (EPA).

*B. Eligible Activity*

A commenter indicated that additional criteria not found in the statute should also be considered. FTA is not permitted to expand the selection criteria beyond that found in the statute. For similar reasons, FTA may not restrict vehicles that use clean diesel as an eligible activity as recommended by the commenter. Further, a commenter suggested that an experimental project should receive Federal funds at the 100% level. FTA has no statutory authority to support 100% funding of total project costs of eligible activities. The final rule contains the funding share for eligible projects that complies with the requirements of 49 U.S.C. 5308 and the Clean Air Act.

FTA is amending section 624.3 in paragraph (a) and removes paragraphs (c)(4) and (c)(5) to exclude repowering and retrofitting of pre-1993 buses. Both activities were specifically authorized as eligible projects under TEA-21; however, SAFETEA-LU repealed those provisions. Accordingly, we have determined that such activities cannot be authorized under this program. In addition, we amend paragraph (c) by renumbering the current paragraph (c)(6) as a new (c)(3), and adding new paragraphs (c)(4), (5), and (6) to reflect SAFETEA-LU amendments applicable to eligible projects.

a. We are amending paragraph (a) to reflect the provisions in 49 U.S.C. 5323(i), which SAFETEA-LU amended to include facilities as well as vehicles. Accordingly, the Federal share for eligible projects cannot exceed 90 percent of the net cost to comply with or maintain compliance with the Clean Air Act. Further, the Administrator is authorized to administratively determine the net cost of such equipment or facilities attributable to compliance with the Clean Air Act. FTA has administratively determined that the composite Federal share for vehicles and vehicle related equipment shall be 83 percent. For facilities, however, the 90 percent share would apply to the actual incremental costs of improvements for compliance with the Clean Air Act and recipients would be requested to provide supporting documentation.

We noted in the NPRM that the President's Budget for Fiscal Year 2007 proposed that FTA grants awarded during Fiscal Years 2007 and 2008 should reflect 100 percent of the net capital costs of factory-installed or retrofitted hybrid-electric propulsion systems and any equipment related to such systems. This budget proposal provided for administrative discretion to determine costs attributable to such systems and related-equipment. This provision was not included in the FY 2007 appropriations legislation, and therefore not authorized.

Paragraph (c)(5) of section 624.3 is amended to reflect the statutory mandate under section 5308(c) that not more than 25 percent of the funds available to carry out the clean fuels program each fiscal year may be made available to fund clean diesel buses. On January 18, 2001, EPA published a final rule establishing a comprehensive national control program to regulate heavy-duty vehicles and its fuel as a single system. As part of this program, new emission standards will start to take effect in model year 2007, and will apply to heavy-duty highway engines

and vehicles. These standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. The EPA standards are codified at 40 CFR Parts 69, 80, and 86. (See 66 FR 5001 (January 18, 2001).). Accordingly, FTA interprets "clean diesel" to mean diesel engines certified to meet EPA's heavy-duty engine emissions standards for model-years 2007 and later.

The final rule amends paragraph (c)(6) of section 624.3 to reflect that funds designated for eligible projects will remain available for obligation for three fiscal years, which includes the year of appropriation plus two additional fiscal years.

#### C. Application Process

Since the program is now a discretionary grant program, the pre-application included in Appendix A no longer applies. Accordingly, we are removing Appendix A from Part 624 and revising section 624.5 to reflect that applications will be requested in a **Federal Register** notice each fiscal year that discretionary funds are provided by Congress for the program. FTA considered a comment to change the procedures but determined that since technological innovations continue to evolve, we believe the criteria for selecting eligible projects should be flexible. Accordingly, we are revising section 624.5 to reflect general criteria for selection of eligible projects. More specific selection criteria may be published in the **Federal Register** with a Notice of Funding Availability each fiscal year that discretionary funding is provided by Congress for the program.

#### D. Certifications

We retain the current certification process in section 624.7. Each vehicle purchased with a grant under this program will be operated by the grantee using only clean fuels. The certification will be included with the **Federal Register** notice announcing our annual certifications and assurances. This is consistent with our policy of one-stop filing for all required certifications and assurances. Transit operators planning to apply for the Clean Fuels Grant Program would indicate compliance with this certification when submitting the annual certifications and assurances. Additionally, grantees purchasing or leasing "clean diesel" buses must certify that the buses would be operated using only ultra-low-sulfur diesel fuel.

#### E. Statutory Cross-Cutting Requirements

Since the program is now a discretionary grant program, we are

amending section 624.9 by removing the grant formula because it no longer applies. Section 5308, as amended by SAFETEA-LU, requires that a grant under this program be subject to the applicable requirements of 49 U.S.C. 5307. Accordingly, we are amending section 624.9 by inserting the applicable statutory requirements from 49 U.S.C. 5307. Many of these requirements are also contained in FTA Circular 9030.1C, which is available on the FTA website at (<http://www.fta.dot.gov>).

Further, all FTA grants provided under chapter 53 of title 49 of the United States Code are subject to applicable requirements of the FTA Master Agreement (MA), which is incorporated by reference in the grant agreement. Additional project management guidelines and requirements may also be found in FTA Circular 5010.1C. This Circular and the MA are also available on the FTA Web site at (<http://www.fta.dot.gov>).

#### F. Reporting

With respect to the comment on reporting as part of the grant process, FTA is interested in program level evaluation. We will use these reporting components to analyze national programmatic effects. However, we encourage local areas to use criteria that best suits their local needs.

As FTA supports the development and deployment of clean fuel and advanced propulsion technologies for transit buses, we remain interested in collecting relevant information on the operations and performance of these clean fuel technology buses to help assess the reliability, benefits, and costs of certain technologies compared to conventional vehicle technologies. Accordingly, FTA retains the reporting requirements in section 624.11, which require grantees receiving program funds for hybrid electric, battery electric, and fuel cell vehicles to provide information to us on the operations, performance, and maintenance of those vehicles purchased or leased with program funds.

We have determined, however, that semiannual instead of quarterly reporting for the first three years of the useful life of the vehicle is sufficient for this objective; thus, we are providing administrative relief by extending the reporting requirements in section 624.11 from quarterly to semiannually. Submission of data on the operation of the vehicle beyond the three-year period would continue to be voluntary.

Likewise, we encourage transit agencies acquiring other types of alternative fuel buses (e.g., compressed

natural gas (CNG), liquefied natural gas (LNG), liquefied petroleum gas (LPG), etc.) to voluntarily report similar information. However, recipients acquiring clean diesel vehicles are not required to report the data requested under section 624.11 because we believe that sufficient information about this technology has been compiled.

FTA will be requesting from the Office of Management and Budget (OMB) under the Paperwork Reduction Act approval to collect information from recipients receiving Federal financial assistance under the Clean Fuels program. We intend to collect information such as vehicle miles traveled, fuel costs, vehicle fuel/energy consumption and oil consumption, road calls or breakdowns resulting from clean fuel and advanced propulsion technology systems, and maintenance costs associated with these systems. Data collected will be used to provide more accurate information to transit agencies for future clean fuel and advanced propulsion vehicle acquisitions.

#### IV. Regulatory Analyses and Notices

##### *Executive Order 12866*

Under Executive Order 12866, the Department of Transportation (DOT) must examine whether this rule is a "significant regulatory action." A significant regulatory action is subject to OMB review and the requirements of the Executive Order (E.O.). E.O. 12866 defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$120 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This rule amends an existing grant program and is not expected to impose any new compliance costs. Specifically, we are amending the existing program from a formula program to a discretionary grant program in accordance with section 3010 of SAFETEA-LU. We believe that the industry costs and benefits of the Clean Fuels Grant Program do not warrant

designating this as a significant rule under E.O. 12866 because it involves grant application procedures and will not cost more than \$120 million annually. Additionally, we provide administrative relief in the reporting criteria by decreasing the reporting period from quarterly to semiannually. For these reasons, we have determined that this rule is a no significant regulatory action under section 3(f) of E.O. 12866. Accordingly, it has not been reviewed by OMB.

##### *Executive Order 13132*

This rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132 (Federalism). This rule does not include any provisions that have substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of E.O. 13132 do not apply because this rule only sets forth application procedures for an existing formula grant program that has been statutorily amended to a discretionary grant program.

##### *Executive Order 13175*

This rule has been analyzed in accordance with the principles and criteria of E.O. 13175 (Consultation and Coordination with Indian Tribal Governments). Because the proposal does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of E.O. 13175 do not apply.

##### *Executive Order 13272 and the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612), requires each agency to analyze regulations and proposals to assess their impact on small businesses and other small entities to determine whether the rule or proposal will have a significant economic impact on a substantial number of small entities.

We evaluated the effects of this rule on small entities and determined that it will not have a significant effect on a substantial number of small entities. This rule imposes no new costs because it merely modifies the application procedures for an existing grant program.

##### *Paperwork Reduction Act*

This rule includes information collection requirements subject to the Paperwork Reduction Act. OMB

previously approved our information collection request under the Clean Fuels Formula Grant Program, 2132–0560. However, that approval expired on August 31, 2003, because funding was not allocated for the program.

Since Congress may provide funding in future fiscal years, we will submit a new information collection request to OMB. The affected public under this rulemaking remains public transportation providers who apply for Federal funds under this program. Our new information collection request will not include any new reporting requirements. In fact, the rule decreases reporting because we modify the reporting period from quarterly to semiannually.

##### *Unfunded Mandates Reform Act of 1995*

This rule does not propose unfunded mandates under the Unfunded Mandates Reform Act of 1995. The rule will not result in costs of \$100 million or more (adjusted for inflation), in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

##### *National Environmental Policy Act*

The National Environmental Policy Act of 1969, (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. Since this rule promotes the use of clean fuels in vehicles used for public transportation, it potentially may have a positive impact on the environment. Alternatively, there are no significant environmental impacts associated with this proposed rule.

##### **List of Subjects in 49 CFR Part 624**

Grant Programs—Transportation, Public transportation, Reporting and record keeping requirements.

■ For the reasons set forth in the preamble, FTA amends 49 CFR part 624 as follows:

##### **PART 624—CLEAN FUELS GRANT PROGRAM**

■ 1. The authority citation for part 624 is revised to read as follows:

**Authority:** 49 U.S.C. 5308; 49 U.S.C. 5334(a); 49 CFR 1.51.

■ 2. The heading to part 624 is revised to read as set forth above.

■ 3. Revise § 624.1 to read as follows:

##### **§ 624.1 Eligible applicant.**

(a) An eligible applicant is:

(1) A designated recipient (designated recipient has the same meaning as in 49 U.S.C. 5307(a)(2)); or

(2) A recipient for an urbanized area with a population of less than 200,000 (smaller urbanized area). The State in which the smaller urbanized area is located shall act as the recipient.

(b) An eligible applicant, as defined in paragraph (a) of this section, shall operate in an area that is either:

(1) An ozone or carbon monoxide nonattainment area as specified under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) A maintenance area for ozone or carbon monoxide.

■ 4. Amend § 624.3 by revising paragraph (a) and (c) (3) through (6) to read as follows:

**§ 624.3 Eligible activities.**

(a) Eligible activities include purchasing or leasing clean fuel buses and constructing new or improving existing public transportation facilities to accommodate clean fuel buses.

\* \* \* \* \*

(c) \* \* \*

(3) At the discretion of the Administrator, projects relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

(4) The Federal share for eligible activities undertaken for the purpose of complying with or maintaining compliance with the Clean Air Act under this program shall be limited to 90 percent of the net (incremental) cost of the activity.

(i) The Administrator may exercise discretion and determine the percentage of the Federal share for eligible activities to be less than 90 percent.

(ii) An administrative determination per this subsection will be published in accordance with § 624.5(a).

(5) Funding for clean diesel buses shall be limited to not more than 25 percent of the amount made available each fiscal year to carry out the program.

(6) Any amount made available for this section shall remain available to an eligible activity for two years after the fiscal year for which the amount is provided. Any amount that remains unobligated at the end of the three-year-period shall be added to the amount made available to carry out the program in the following fiscal year.

■ 5. Revise § 624.5 to read as follows:

**§ 624.5 Application process.**

(a) FTA shall publish a Notice of Funding Availability in the **Federal**

**Register** each fiscal year that funding is made available for the Clean Fuels program. The notice shall provide the criteria by which the eligible projects will be evaluated for selection and the Administrator's determination of the net Federal share for projects funded under this Part.

(b) The Administrator shall determine the criteria for selecting proposed projects for funding, which may include, but are not limited to the following factors:

(1) Whether the proposed project is a transportation control measure in an approved State Implementation Plan;

(2) The benefits of the proposed project in reducing transportation-related pollutants;

(3) Consistency with the recipient's fleet management plan;

(4) The applicant's ability to implement the project and facilities to maintain and fuel the proposed vehicles;

(5) The applicant's coordination of the proposed project with other public transportation entities or other related projects within the applicant's Metropolitan Planning Organization or the geographic region within which the proposed project will operate.

(6) The proposed project's ability to support emerging clean fuels technologies or advanced technologies for transit buses.

■ 6. Revise § 624.9 to read as follows:

**§ 624.9 Grant requirements.**

A grant under this section shall be subject to the following requirements of 49 U.S.C. 5307(d):

(a) *General.* All recipients shall maintain and report financial and operating information on an annual basis, as prescribed in 49 CFR part 630, and the most recent National Transit Database Reporting Manual.

(b) *Labor standards.* As a condition of financial assistance under 49 U.S.C. 5308, the interests of employees affected by the assistance shall be protected under arrangements that the Secretary of Labor concludes are fair and equitable.

(c) *Satisfactory continuing control.* An FTA grantee shall:

(1) Maintain control over federally funded property;

(i) Ensure that it is used in transit service; and

(ii) Dispose of it in accordance with Federal requirements.

(2) Under this paragraph (c), if the grantee leases federally funded property to another party, the lease must provide the grantee satisfactory continuing control over the use of that property as determined in two areas: real property (land) and facilities; and personal

property (equipment and rolling stock, both revenue and non-revenue).

(d) *Maintenance.* The grant applicant shall certify annually that pursuant to 49 U.S.C. 5307(d)(1)(C), it will maintain (federally funded) facilities and equipment. In addition, the grantee shall keep equipment and facilities acquired with Federal assistance in good operating order, which includes maintenance of rolling stock (revenue and non-revenue), machinery and equipment, and facilities.

(e) *Rates charged elderly and persons with disabilities during nonpeak hours.* In accordance with 49 U.S.C. 5307(d)(1)(D), the grant applicant shall certify that the rates charged the elderly and persons with disabilities during nonpeak hours for fixed-route transportation using facilities and equipment financed with Federal assistance from FTA will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation is by the applicant or by another entity under lease or otherwise.

(f) *Use of competitive procurements.* Pursuant to 49 U.S.C. 5307(d)(1)(E), the grant applicant shall certify that it will use competitive procurements and will not use procurements employing exclusionary or discriminatory specifications.

(g) *Compliance with Buy America provisions.* The grant applicant shall certify that in carrying out a procurement authorized for this program, the applicant will comply with applicable Buy America laws.

(h) *Certification that local funds are available for the project.* The grant applicant shall certify that the local funds are or will be available to carry out the project.

(i) *Compliance with national policy concerning elderly persons and individuals with disabilities.* The grant applicant shall certify that it will comply with the requirements of 49 U.S.C. 5301(d) concerning the rights of elderly persons and persons with disabilities.

(j) *FTA Master Agreement.* The grant applicant shall comply with applicable provisions of the FTA Master Agreement which is incorporated by reference in the grant agreement.

■ 7. Amend § 624.11 by revising paragraph (a) introductory text and paragraph (c) to read as follows:

**§ 624.11 Reporting.**

(a) Recipients of financial assistance under 49 U.S.C. 5308 who purchase or lease hybrid electric, battery electric and fuel cell vehicles shall report semiannually the following information to the appropriate FTA Regional Office

for the first three years of the useful life of the vehicle:

\* \* \* \* \*

(c) Recipients of financial assistance under 49 U.S.C. 5308 that purchase or lease clean diesel vehicles are not required to report information beyond FTA grant reporting requirements for capital projects.

#### Appendix A to Part 624 [Removed]

#### ■ 8. Remove Appendix A to Part 624.

Issued in Washington, DC, this 26th day of March 2007.

**James S. Simpson,**

*Administrator.*

[FR Doc. E7-5879 Filed 3-29-07; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070213032-7032-01; I.D. 032607F]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2007 total allowable catch (TAC) of pollock for Statistical Area 620 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 27, 2007, through 1200 hrs, A.l.t., August 25, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2007 TAC of pollock in Statistical Area 620 of the GOA is 8,924 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007). In accordance with § 679.20(a)(5)(iv)(B) the Administrator, Alaska Region, NMFS (Regional Administrator), hereby increases the B season pollock allowance by 1,785 mt, the remaining amount of the A season allowance for pollock in Statistical Area 620. Therefore, the revised B season allowance of the pollock TAC in Statistical Area 620 is therefore 10,709 mt (8,924 mt plus 1,785 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2007 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,659 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 26, 2007.

The AA also finds good cause to waive the 30 day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: March 26, 2007.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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