

**§ 613.3010 Financing for processing or marketing operations.**

(a) *Eligible borrowers.* A borrower is eligible for financing for a processing or marketing operation under titles I and II of the Act only if the borrower:

(1) Is a bona fide farmer, rancher, or producer or harvester of aquatic products who regularly produces some portion of the throughput used in the processing or marketing operation; or

(2) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own more than 50 percent of the voting stock or equity and regularly produce some portion of the throughput used in the processing or marketing operation; or

(3) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own 50 percent or less of the voting stock or equity, regularly produce some portion of the throughput used in the processing or marketing operation and:

(i) Exercise majority voting control over the legal entity; or

(ii) Exercise control over management of the legal entity, such as constituting a majority of the directors of a corporation, general partners of a limited partnership, or managing members of a limited liability company; or

(iii) Exercise the documented power and authority to directly determine and implement the policies, business practices, management, and decision-making process of the legal entity; or

(4) Is a legal entity not eligible under paragraph (a)(1) of this section in which eligible borrowers under § 613.3000(b) own at least 25 percent of the voting stock or equity and supply 20 percent or more of the throughput used in the processing or marketing operation; or

(5) Is a legal entity not eligible under paragraph (a)(1) of this section that is a direct extension or outgrowth of an eligible borrower's operation. To obtain financing for a legal entity under this paragraph, the eligible borrower must establish that:

(i) The legal entity was created and operates with the eligible borrower's active support and involvement,

(ii) The legal entity fulfills a business need and supports the operation of the eligible borrower through product branding or other value-added business activity directly related to the operations of the eligible borrower,

(iii) The legal entity and the eligible borrower coordinate to operate in a functionally integrated manner, and

(iv) The legal entity regularly processes or markets some portion of the eligible borrower's throughput.

\* \* \* \* \*

Dated: October 11, 2006.

**Roland E. Smith,**

*Secretary, Farm Credit Administration Board.*

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**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:** Notice of proposed rulemaking.

**SUMMARY:** Section 3010 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), amended section 5308 of title 49 United States Code, commonly referred to as the Clean Fuels Grant Program. SAFETEA-LU changes the program from a formula-based to a discretionary grant program. The Federal Transit Administration (FTA) proposes to amend its clean fuels grant program regulations to comport with the provisions of SAFETEA-LU.

**DATES:** Comments must be received on or before December 15, 2006. Late filed comments will be considered to the extent practicable.

**ADDRESSES:** Written comments: Submit written comments to the Docket Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. You may submit comments identified by the docket number (FTA-2006-24708) by any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

• *Mail:* Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Fax:* 1-202-493-2478.

• *Hand Delivery:* To the Docket Management System, Room PL-401 on the plaza level of the Nassif Building,

400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name (Federal Transit Administration) and Docket number (FTA-2006-24708) or Regulatory Identification Number (RIN) (2132-AA91) for this notice. Note that all comments received will be posted, without change, to <http://dms.dot.gov> including any personal identifying information. You may review DOT's complete Privacy Act Statement in the **Federal Register** notice published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

**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:****I. Background**

Section 3008 of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, June 9, 1998, established the Clean Fuels Formula Grant Program (the program) with a two-fold purpose. First, the program was developed to assist nonattainment and maintenance areas in achieving or maintaining the National Ambient Air Quality Standards for ozone and carbon monoxide (CO). Second, the program supported emerging clean fuel and advanced propulsion technologies for transit buses and markets for those technologies.

We promulgated the formula program as a final rule at 49 CFR part 624. (See 67 FR 40100, June 11, 2002 and 67 FR 41579, June 18, 2002). From its inception the program was authorized as a formula program. However, Congress did not fund the program.

**II. Overview and General Discussion of the Proposed Rule****A. Why is FTA amending the Clean Fuels Grant Program?**

Section 3010 of SAFETEA-LU, Pub. L. 109-59, 119 Stat. 1144, 1572 (2005), changed the grant program from a formula-based to a discretionary grant program; however, the program retains its two-fold purpose as noted above. We propose to revise 49 CFR part 624 to reflect the amendments made by SAFETEA-LU.

With TEA-21, Congress authorized funding levels for the program at \$100 million. Although funding was

authorized, appropriation bills for fiscal years 1999 through 2005 directed FTA to transfer and merge all allocated funding for the program to the bus and bus facilities categories of the Capital Investment Grants and Loans Program (49 U.S.C. 5309), which funds the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.

In fiscal year 2006, however, Congress provided \$17,607,150 to sixteen specific clean fuels projects and transferred the remaining balance of funds to the bus and bus facilities program of 49 U.S.C. 5309(b)(3). (See Department of Transportation Appropriations Act of 2006, Pub. L. 109–115, 119 Stat. 2396, 2417–2418 (2005)).

To ensure that procedures are in place when funding is appropriated for the program, we propose to establish criteria for the allocation of discretionary program funds in accordance with SAFETEA–LU.

#### *B. To what revisions of 49 CFR part 624 does FTA seek comments?*

SAFETEA–LU has modified the program by re-establishing it as a discretionary grant program. You are requested to comment on our proposal to implement the provisions of SAFETEA–LU by revising 49 CFR part 624 as follows:

##### Eligible Recipients

1. SAFETEA–LU amended eligible recipients to now include smaller urbanized areas with populations of less than 200,000. Accordingly, we propose to amend section 624.1 to reflect eligible applicants as follows: (1) “designated recipients,” as that term is 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” must be an entity designated to receive Federal urbanized formula funds per 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 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).

##### Eligible Activities

2. We propose to amend section 624.3 by amending paragraph (a) and removing paragraphs (c)(4) and (c)(5) to exclude repowering and retrofitting of pre-1993 buses as eligible activities. Both activities were specifically authorized as eligible projects under TEA–21; however, SAFETEA–LU repealed those provisions. Accordingly, we have determined that such activities should not be authorized under this program. In addition, we propose to 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 provisions applicable to eligible projects.

a. We propose to amend 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 will not 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. Therefore, for purposes of complying with cross-cutting provisions of 49 U.S.C. 5307, which limit the Federal share to 80 percent, we have 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 note 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 also provides for administrative discretion to determine costs attributable to such systems and related-equipment. If Congress enacts the proposal, we will address the issue in the final rule.

b. Paragraph (c)(5) reflects the congressionally mandated provision limiting available funding for “clean

diesel buses” for each fiscal year to not more than 25 percent of funds allocated by 49 U.S.C. 5338(b)(2)(C). 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 (Jan. 18, 2001)). Accordingly, FTA proposes to interpret “clean diesel” to mean diesel engines certified to meet EPA’s heavy-duty engine emissions standards for model-years 2007 and later.

c. Paragraph (c)(6) proposes to amend 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.

##### Application Process

3. Since the program is now a discretionary grant program, the pre-application included in Appendix A no longer applies. Accordingly, we propose to remove Appendix A from part 624 and revise § 624.5 to reflect that applications will be requested in a **Federal Register** notice each fiscal year that discretionary funds are appropriated by Congress for the program.

Additionally, since technological innovations continue to evolve, we believe the criteria for selecting eligible projects should be flexible. Accordingly, we propose to revise 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 appropriated by Congress for the program.

##### Certifications

4. We propose to retain the current certification process noted 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 would 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 its annual certifications and assurances. Additionally, grantees purchasing or leasing "clean diesel" buses would certify that the buses would be operated using only ultra-low-sulfur diesel fuel.

#### Statutory Cross-Cutting Requirements

5. Since the program is now a discretionary grant program, we propose to amend section 624.9 by removing the grant formula because it no longer applies. SAFETEA-LU requires that a grant under this program be subject to the applicable requirements of 49 U.S.C. 5307. Accordingly, we propose to amend section 624.9 by inserting the applicable statutory provisions of 49 U.S.C. 5307. Many of these requirements are contained in FTA Circular 9030.1C, which is available from the FTA Regional Office nearest you. The circular is also on the FTA Web site 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. The circular and the MA are located on the FTA Web site at (<http://www.fta.dot.gov>).

#### Reporting

6. We support 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, we propose to retain the reporting requirements of § 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 propose to provide administrative relief by amending the reporting requirements in § 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 continue to 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.

We will request Office of Management and Budget (OMB) 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. You are invited to comment on our information collection proposal for evaluating the operating costs of clean fuel and advanced propulsion technology vehicles. We will use the data collected to provide more accurate information to transit agencies for future clean fuel and advanced propulsion vehicle acquisitions.

### III. Regulatory Analyses and Notices

#### *Statutory/Legal Authority for This Proposed Rulemaking*

This rule is authorized pursuant to section 3010 of SAFETEA-LU, which amended section 5308 of Title 49, United States Code. We previously implemented section 5308, referred to as the Clean Fuels Grant Program, as part 624 of Title 49, Code of Federal Regulations.

#### *Executive Order 12866*

Under Executive Order 12866, the Department of Transportation (DOT) must examine whether this proposed 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 proposed rule amends an existing grant program and is not expected to impose any new compliance costs. Specifically, we propose 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 a significant rule under E.O. 12866 because it involves grant application procedures and will not cost more than \$120 million annually. Additionally, we propose to provide administrative relief in the reporting criteria by increasing the reporting period from quarterly to semiannually. For these reasons, we have determined that this proposed rule is a nonsignificant regulatory action under section 3(f) of E.O. 12866. Accordingly, it has not been reviewed by OMB.

#### *Executive Order 13132*

This proposed rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132 (Federalism). This proposed 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 proposed 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 proposed 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 proposed rule on small entities and determined that it will not have a significant effect on a substantial number of small entities. This proposal imposes no new costs because it merely modifies the application procedures for an existing grant program.

#### *Paperwork Reduction Act*

This proposed 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.

Now that Congress appropriated funding in fiscal year 2006, we will submit a new information collection request to OMB. The affected public under this proposed 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, if the proposals contained in this NPRM are adopted as final, recipients would experience a decrease in reporting because we intend to extend the reporting period from quarterly to semiannually.

We solicit comments on the proposed reporting requirements. Comments should address: whether the proposed collection of information is necessary for the proper performance of the FTA grant process; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of information on the applicants, including the use of alternative collection techniques (e.g., filing applications and reports via facsimile (fax), electronic mail or other forms of information technology).

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

This rule does not propose unfunded mandates under the Unfunded Mandates Reform Act of 1995. If the proposals are adopted into a final rule, it 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 as amended), 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 proposed 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, Mass transportation, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FTA proposes to amend 49 CFR part 624 as follows:

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

1. The authority citation for part 624 continues to read as follows:

**Authority:** 49 U.S.C. 5308; 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 paragraphs (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.

\* \* \* \* \*

(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 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 or allocated and appropriated each fiscal year to carry out the program.

(6) Any amount made available or appropriated for this section shall remain available to an eligible activity for two years after the fiscal year for which the amount is made available or appropriated. Any amount that remains unobligated at the end of the three-year-period shall be added to the amount made available 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 funds are appropriated and discretionary funding 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 administrative 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 et seq., 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.*

(1) An FTA grantee shall:

(i) Maintain control over federally funded property;

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

(iii) 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 (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 10th day of October, 2006.

**James S. Simpson,**  
*Administrator, Federal Transit Administration.*

[FR Doc. E6-17071 Filed 10-13-06; 8:45 am]

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