

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(1)(1). These actions relate to a proposed highway project on Hazel Avenue between State Route 50 and Madison Avenue in Sacramento County, State of California. These actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(1)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 18, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Cesar Perez, Senior Project Development Engineer, Federal Highway Administration, 650 Capitol Mall, #4-100, Sacramento, CA 95814, weekdays between 7 a.m. and 4 p.m., telephone 916-498-5065, cesar.perez@fhwa.dot.gov, or John Webb, Supervisory Environmental Planner, California Department of Transportation, 2389 Gateway Oaks Dr., Sacramento, CA 95833, weekdays between 8 a.m. and 4:30 p.m., (916) 274-0588, John_Webb@dot.ca.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following highway project in the State of California. This project would improve safety and provide congestion relief on Hazel Avenue, Sacramento County, California. This would be accomplished by widening Hazel Avenue to 6 lanes with a landscaped center median from U.S. Highway 50 to Madison Avenue. The purpose of the project is to increase safety for all modes of travel. The actions by the Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment for the project. The Finding of No Significant Impact (FONSI) was approved on June 7, 2007. The Final Environmental Assessment and other documents in the FHWA administrative record file are available by contacting the FHWA or the California Department of Transportation at the addresses provided above. This notice applies to all Federal agency decisions as of the issuance date of this

notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act 42 U.S.C. 7401-7671(q).

3. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].

4. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(aa) 11]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

5. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209]; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

6. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992(k).

7. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(1)(1).

Issued on: June 13, 2007.

Maiser Khaled,

Director, Project Development & Environment, Sacramento, California.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No: FTA-2006-25471]

Safety and Security Management for Major Capital Projects: Notice of Final Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Final Circular.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site final guidance in the form of a circular to address safety and security management in capital projects covered under 49 CFR part 633, "Project Management Oversight." FTA requires a Project Management Plan (PMP) for major capital projects as defined in 49 CFR 633. In the final circular, FTA requires recipients with projects covered under 49 CFR 633 to develop a Safety and Security Management Plan (SSMP), as a chapter or plan within the PMP. In this notice, FTA provides a summary of the final circular and addresses comments received in response to the October 11, 2006 **Federal Register** Notice (71 FR 43280).

As defined in 49 CFR 633.5, the term "major capital project" means a project that "(1) involves the construction of a new fixed guideway or extension of an existing fixed guideway or (2) involves the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million." The Administrator may also designate a major capital project in circumstances where he or she determines that FTA's project management oversight (PMO) program "will benefit specifically the agency or the recipient." Typically, this means "a project that: (i) Generally is expected to have a total project cost in excess of \$100 million or more to construct; (ii) is not exclusively for the routine acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; (iii) involves new technology; (iv) is of a unique nature for the recipient; or (v) involves a recipient whose past experience indicates to the agency the appropriateness of the extension of this program." Major capital projects typically do not include projects

receiving capital investment grants under 49 U.S.C. 5309(e), more commonly referred to as "Small Starts" and "Very Small Starts" projects, unless FTA's Administrator determines that a PMP is necessary.

DATES: The effective date of this circular is August 1, 2007.

Availability of the Final Circular: You may download the circular from the Department's Docket Management System (<http://dms.dot.gov>) by entering docket number 25471 in the search field. You may also download an electronic copy of the circular from FTA's Web site, at <http://www.fta.dot.gov>. Paper copies of the circular may be obtained by calling FTA's Administrative Services Help Desk, at 202-366-4865.

FOR FURTHER INFORMATION CONTACT: For issues regarding safety and security in FTA's project development phases, please contact Carlos M. Garay, Office of Engineering, Federal Transit Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, phone: 202-366-6471, or e-mail, carlos.garay@dot.gov. For issues regarding specific safety and security management activities, please contact Levern McElveen, Office of Safety and Security, Federal Transit Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, phone: 202-366-1651, or e-mail, levern.mcelveen@dot.gov. For legal issues, please contact Shauna J. Coleman, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Avenue, SE, 5th Floor East Building, Washington, DC 20590, phone: 202-366-4063, fax: 202-366-3809, or e-mail, shauna.coleman@dot.gov.

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I. Background

On October 11, 2006, FTA published its notice of proposed circular, "Safety and Security Management for Major Capital Projects" in the **Federal Register**. This notice contained a link to the proposed circular FTA developed to implement Section 3026 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), [Pub. L. 109-59, August 10, 2005], which amended 49 U.S.C. 5327. This circular proposed to extend existing FTA requirements for SSMPs, in Chapter II, Section 6, Safety and Security Management Plan, of FTA's Full Funding Grant Agreement (FFGA) Guidance Circular 5200.1A to all major capital projects covered under 49 CFR part 633.

In the notice, FTA asked the public to comment on specific safety and security management requirements that FTA included in the proposed circular. FTA also asked the public to provide comments regarding the potential impacts of the proposed circular on recipients with projects covered by 49 CFR part 633. FTA provided a 60-day comment period, which closed December 11, 2006.

FTA received 13 comments on the notice and proposed circular from six transit agencies, four industry associations, two individuals, and one State department of transportation (State DOT). FTA reviewed and considered all comments submitted. Based upon comments, FTA revised the proposed circular. In addition, FTA also edited the proposed circular for clarity and accuracy.

FTA hereby announces issuance of the final circular, FTA Circular 5800.1, "Safety and Security Management for Major Capital Projects." This notice does not contain the final circular, but it provides a summary of the provisions found within the circular, and explains how FTA responded to comments.

You may find an electronic version of the final circular on the docket at <http://dms.dot.gov>, by entering docket number 25471 in the search field, or on FTA's Web site at <http://www.fta.dot.gov>. You may obtain paper copies of the final circular by contacting

FTA's Administrative Services Help Desk, at 202-366-4865.

II. Why Did FTA Develop the Proposed Circular?

FTA developed the proposed circular to implement Section 3026 of SAFETEA-LU, which amended 49 U.S.C. 5327. This section requires recipients with major capital projects covered by 49 CFR part 633 to include "safety and security management" as an element of their PMP. FTA also developed the proposed circular to provide additional guidance for recipients in addressing safety and security issues during the project development process.

When developing the circular, FTA reviewed its past experience regarding how recipients addressed safety and security issues in their PMPs. FTA determined that recipients typically described safety and security management strategies and controls as sub-elements of other required PMP Sections. FTA also determined that recipients performed different types of activities to address safety and security. Some recipients elected to perform safety and security certification or pre-revenue operational readiness assessments, while other recipients did not. FTA also determined that recipients did not implement consistent approaches to safety and security management.

In the notice of the proposed circular, FTA describes in detail the information FTA reviewed and considered in developing the proposed circular. Specifically, FTA explains how the following three factors guided its development of the proposed circular:

(1) FTA reviewed the results of its previous experience implementing the requirements specified in Chapter II, Section 6, Safety and Security Management Plan of FTA's FFGA Guidance Circular 5200.1A.

(2) FTA also reviewed safety and security guidance issued since 2002 by FTA, the Transit Cooperative Research Program (TCRP), the American Public Transportation Association (APTA) Rail Transit Standards Program, the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and Operation Lifesaver.

(3) Finally, FTA reviewed new Federal security requirements and programs developed by the Department of Homeland Security (DHS), the Transportation Security Administration (TSA), and the DHS Office of Grants and Training (OGT).

III. How Does the Final Circular Differ From the Proposed Circular?

While FTA retained much of the content of the proposed circular, FTA is incorporating the following changes into the final circular in response to comments received on the proposed circular:

- FTA is revising definitions in response to comments requesting consistency with 49 CFR part 659, “Rail Fixed Guideway Systems: State Safety Oversight.” Specifically, FTA is revising the definitions for “Contractor,” “Hazard,” “Passenger,” “Safety,” “Security,” “System Safety Program Plan,” and “System Security Plan” to make them more consistent with the definitions in 49 CFR 659.5. FTA also revised the final circular to use, more consistently, terminology that is used in existing FTA or U.S. Department of Transportation (DOT) directives.

- To enhance consistency with 49 CFR part 633, FTA is using the term “recipient,” as opposed to “grantee,” throughout the final circular.

- In the interest of State DOTs that may be serving as pass-through agencies for Federal funds, FTA is clarifying that the “recipient” responsible for preparing the PMP is also the “recipient” responsible for developing the SSMP.

- To address commenter questions regarding the applicability of the proposed circular to different types of projects covered under 49 CFR part 633 during different project phases, FTA explains that the SSMP requirements specified in the final circular will not be applied to major capital projects with approved PMPs in place—as of August 1, 2007—with one exception. FTA will apply the SSMP requirements in this final circular to major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway—in preliminary engineering or earlier phases—as of August 1, 2007. FTA will also apply the SSMP requirements in the final circular to all major capital projects initiated after August 1, 2007. For the specific types of major capital projects, as defined in 49 CFR 633.5, FTA clarifies the applicability of the SSMP requirements in the final circular as follows:

- Recipients with major capital projects involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million with approved PMPs in place—as of August 1, 2007—are exempt from the requirement to develop an SSMP. However, for these projects, FTA reiterates its commitment

to work with the appropriate State oversight agencies and FRA to ensure that these recipients are addressing existing provisions for safety and security certification specified in their System Safety Program Plans (SSPPs) and System Security Plans.

- Recipients with major capital projects involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million—initiated after August 1, 2007—are required to develop SSMPs, meeting the terms of this final circular, as part of their initial PMPs submitted to FTA.

- Recipients with major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway—in final design or later phases as August 1, 2007—are exempt from the requirement to develop an SSMP meeting the terms of this circular. However, FTA clarifies that these recipients must continue to comply with the original safety and security management guidance, provided in Chapter II, Section 6, Safety and Security Management Plan of FTA’s FFGA Circular 5200.1A.

- Recipients with major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway—in preliminary engineering or earlier phases as of August 1, 2007—are required to develop SSMPs meeting the terms of this circular, as part of the PMPs they submit to FTA.

- Recipients with major capital projects designated by the Administrator with approved PMPs—as of August 1, 2007—are not required to develop SSMPs meeting the terms of this circular. However, where applicable, FTA clarifies that these recipients must continue to comply with the original safety and security management guidance, provided in Chapter II, Section 6, Safety and Security Management Plan of FTA’s FFGA Circular 5200.1A.

- Recipients with major capital projects designated by the Administrator—initiated after August 1, 2007—are required to develop SSMPs meeting the terms of this circular, as part of the PMPs they submit to FTA.

- FTA also clarifies that major capital projects typically do not include projects receiving capital investment grants under 49 U.S.C. 5309(e), more commonly referred to as “Small Starts” and “Very Small Starts” projects. Therefore, unless FTA’s Administrator determines that a PMP is necessary, recipients with these projects are not required to develop SSMPs.

- To address comments regarding the applicability of specific SSMP Sections to specific projects, FTA is amending Chapter III, Paragraph 2 of the proposed circular to clarify that, if recipients have questions regarding the applicability of specific SSMP Sections to their projects, these recipients must meet with their FTA Regional Offices and the Project Management Oversight Consultants (PMOCs) assigned to their projects. During this meeting, recipients must explain why they believe specific SSMP Sections, as identified in Chapter IV of the final circular, are not applicable to their projects. If FTA agrees, then FTA will not require these recipients to address these sections in their SSMPs.

- Finally, to address requests for additional guidance, FTA is revising the final circular to include an Appendix Checklist that provides more information regarding the level of detail recipients must include in each SSMP Section for different types of projects during different project development phases.

IV. How Did FTA Involve the Public in the Circular Revision?

FTA is responding to the 13 comments received on the proposed circular in the following order: (A) General Comments and Questions and (B) Section-by-Section Discussion.

A. General Comments and Questions

1. Applicability of Circular to Major Capital Projects

Eight commenters asked FTA to clarify whether the proposed circular applied to their projects. Four commenters with major capital projects involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million requested that FTA exempt their projects from the requirement to develop an SSMP. These commenters pointed out that their projects had been planned and budgeted before FTA issued the proposed circular. These commenters felt that it was unfair for FTA to impose new requirements on their existing projects. Furthermore, these commenters explained that they believed that their existing programs adequately addressed the circular’s requirements.

Four commenters with major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway asked FTA to determine the applicability of the circular to their projects. Two of these commenters had already developed SSMPs in compliance with Chapter II, Section 6 of FTA Circular 5200.1A.

These commenters requested that FTA exempt their projects from the new requirements in the proposed circular.

FTA Response: Based on these comments, FTA is amending the applicability of the final circular. FTA agrees that recipients with major capital projects involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million—initiated before August 1, 2007—did not have the opportunity to budget resources to address the SSMP requirement in their projects. Therefore, FTA will be exempting these projects—initiated before August 1, 2007—from the requirement to develop an SSMP.

However, FTA believes that recipients with major capital projects involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million—initiated after August 1, 2007—will have ample opportunity to budget resources to address the safety and security requirements in the final circular. Therefore, FTA will require recipients with these projects—initiated after August 1, 2007—to develop SSMPs.

FTA also changed the proposed circular's applicability for recipients with major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway. FTA determined that the final circular will be applicable to these projects in preliminary engineering or earlier project development phases as of August 1, 2007. During the initial development or next update to the PMP, these recipients must include SSMPs meeting the terms of this circular as part of their PMPs. For all other recipients with major capital projects involving the construction of a new fixed guideway or extension of an existing fixed guideway (*i.e.*, those in final design or later project phases as of August 1, 2007), FTA decided that the terms of the original guidance in Chapter II, Section 6 of Circular 5200.1A will remain in effect.

For recipients with major capital projects designated by the Administrator with approved PMPs—as of August 1, 2007—FTA will not require SSMPs meeting the terms of this circular. However, FTA clarifies that, if applicable, these recipients must continue to comply with the original safety and security management guidance provided in Chapter II, Section 6, Safety and Security Management Plan of FTA's FFGA Circular 5200.1A. Major capital projects designated by the Administrator—initiated after August 1, 2007—will be required to include SSMPs meeting the terms of the

circular, as part of the PMPs they submit to FTA.

2. Relationship of Circular to Other SAFETEA-LU Provisions

In its notice of proposed circular, FTA reserved “the right to make page changes to the circular regarding updates to other provisions, without subjecting the entire circular to public comment.” One commenter felt that FTA should clarify in the final notice or circular that FTA will “offer any proposed changes for public comment when the changes affect any binding obligations on recipients.”

FTA Response: FTA agrees with this commenter. FTA appreciates that other activities to fully implement SAFETEA-LU provisions are still on-going and could potentially affect implementation of this circular. In the event that FTA initiates a rulemaking that impacts this circular or its implementation, FTA will provide the public with the opportunity to comment on such changes through the appropriate rulemaking process. If necessary, FTA will amend this circular based on the outcome of the rulemaking process.

By reserving the right to make changes to referenced guidance and regulations without public comment, FTA is not attempting to deny the public the opportunity to comment on elements of the circular that may be affected by other FTA initiatives to implement SAFETEA-LU. FTA is merely asserting the need to keep the circular up-to-date with the current versions of referenced rules and guidance.

3. Coordination With Existing Safety and Security Requirements

Six commenters questioned how FTA will coordinate its SSMP requirements with respect to State oversight agencies and safety and security requirements specified in 49 CFR part 659. Specifically, these commenters asked FTA: (1) To clarify how its existing safety and security certification requirements for rail transit agencies covered under 49 CFR part 659 would be addressed in the SSMP and in the FTA PMOC process to review SSMPs, and (2) to clarify how conflicts will be avoided between FTA PMOCs and State oversight agencies.

FTA Response: In addressing the safety and security of major capital projects undertaken by recipients at existing rail transit agencies as defined in 49 CFR 659.5, FTA recognizes that there is a potential for conflict between State oversight agencies and FTA's Regional Offices and PMOCs. FTA notes, however, Section 9 of Chapter IV

of the final circular, requires recipients to explain their process for coordination with the State oversight agencies and to identify any specific requirements they must address.

If the State oversight agency has implemented specific requirements affecting the safety and security certification process carried out by the recipient, then these requirements should be identified or referenced in Section 9 of the SSMP. FTA Regional Offices and PMOCs will then be aware of these requirements, and will work closely with the recipient and the State oversight agency to coordinate activities and to avoid conflicts from the beginning of the project.

On the topic of clarifying how FTA will incorporate existing safety and security certification requirements mandated by FTA in 49 CFR part 659 into this circular, FTA notes that, before establishing the 11 SSMP Sections in Chapter IV of this circular, FTA carefully reviewed all existing requirements to minimize the possibility for conflict. For rail transit agencies as defined in 49 CFR 659.5, FTA coordinated the required activities in this circular with the activities currently required in FTA 49 CFR part 659.

For example, in 49 CFR 659.19(h), FTA requires the SSPP developed by rail transit agencies and reviewed and approved by State oversight agencies to include “a description of the safety certification process required by the rail transit agency to ensure that safety concerns and hazards are adequately addressed prior to the initiation of passenger operations for New Starts and subsequent major projects to extend, rehabilitate, or modify an existing system, or to replace vehicles and equipment.” FTA includes a similar requirement for security in 49 CFR 659.23(b), which states that the rail transit agency, in its System Security Plan, must “document the rail transit agency's process for managing threats and vulnerabilities during operations, and for major projects, extensions, new vehicles and equipment, including integration with the safety certification process.”

These requirements make it clear that existing rail transit agencies, as defined in 49 CFR 659.5, must perform safety and security certification for major projects at their systems. However, in 49 CFR part 659, FTA did not specify the types of projects for which this certification must be performed, the elements to be included in this certification, or the project thresholds triggering specific safety and security management activities.

Because FTA left the specific details of complying with these requirements up to the individual rail transit agencies, FTA believes, if these rail transit agencies choose to be recipients of major capital projects covered by 49 CFR part 633, then these rail transit agencies must prepare SSMPs for the major capital project, as specified in the final circular. FTA has been careful to ensure that the requirements specified in the final circular conform both to existing guidance provided for States and rail transit agencies implementing 49 CFR part 659 and to FTA's "Handbook for Transit Safety and Security Certification," (2002).

On the topic of coordinating oversight activities between FTA PMOCs and the State oversight agencies, FTA recognizes that both State oversight agencies and FTA PMOCs may be reviewing a recipient's compliance with the sections specified in Chapter IV of the final circular. In this activity, of course, there is the potential for FTA PMOCs and the State oversight agencies or their contractors to make different and potentially conflicting findings.

FTA recognizes the important role State oversight agencies have in ensuring that a viable safety and security certification process is in place at the rail transit agencies in their jurisdictions, and FTA encourages their participation in the PMOC process. Since December 2002, FTA, through its PMOCs, has coordinated with State oversight agencies regarding how their requirements for safety and security certification are addressed by recipients who must comply with Chapter II, Section 6 of FTA's Circular 5200.1A. FTA learned a great deal from this coordination.

FTA now invites State oversight agency representatives to attend Quarterly Review Meetings and to work with FTA Headquarters, Regional Offices, and PMOCs regarding areas of shared interest. In every PMOC Monthly Report, PMOCs document information regarding the recipient's compliance with State oversight agency requirements. FTA PMOCs also work closely with many State oversight agencies to ensure consistent review and evaluation of relevant project documents, plans, and procedures. In certain cases, representatives from State oversight agencies attend PMOC monthly on-site visits.

In a few cases, State oversight agencies have implemented rules that require formal safety and security certification be delivered to them, and reviewed and approved by them, prior to the initiation of a capital project into revenue service. In these instances, FTA

and its PMOCs incorporate this required review and approval into their project monitoring activities.

In the majority of cases, FTA and its PMOCs work with the State oversight agencies to ensure that identified safety and security management activities, as specified in the rail transit agency's SSPP and System Security Plan, are carried out for all projects covered under 49 CFR part 633. In many instances, State oversight agencies encourage FTA and its PMOCs to take the lead in this process.

Over the last five years, FTA has built a sound partnership with the State oversight agencies, and FTA believes this strong partnership will continue into the future. FTA hosts an annual meeting with the all of the State oversight agency program managers where critical issues, including issues of coordination between FTA Regional Offices and PMOCs, are discussed. As part of the audit program for 49 CFR part 659, FTA also works with the State oversight agencies to assess their implementation of 49 CFR 659.19(h) and 49 CFR 659.23(b) and to identify and resolve any coordination issues between the State oversight agency and FTA PMOCs. Finally, FTA's Office of Safety and Security routinely works with State oversight agencies and FTA Regional Offices to effectively resolve coordination issues.

FTA is committed to ensuring any issues with the potential for conflict are identified and addressed as quickly as possible. Any recipient or State oversight agency representative anticipating a potential conflict should notify the Safety Team Leader at FTA's Office of Safety and Security immediately. In the event of such a conflict, FTA's Office of Safety and Security will work with the FTA Regional Office and State oversight agency to ensure timely resolution.

4. FRA Approval of the SSMP

One commenter asked FTA to clarify "which agency ultimately has oversight and approval authority over safety and security management plans developed for commuter railways or other New Starts or expanded rail systems regulated by the FRA."

FTA Response: Only FTA reviews and approves the SSMP. However, FTA recognizes that FRA has requirements for safety and security certification similar to those issued by FTA in 49 CFR part 659. These requirements can be found in Section 6 of the "Manual for the Development of System Safety Program Plans for Commuter Railroads" (2006), published by APTA and adopted by commuter railroads to address FRA

requirements for an SSPP as specified in FRA's Emergency Order 20 (1996). FRA addresses security certification in "Element 17" of this Manual.

In its safety and security certification activities, FRA typically focuses on the performance of specific hazard analysis during design and engineering and compliance with FRA regulations (49 CFR parts 200 to 265). Until the project demonstrates compliance with these regulations, FRA will not grant authority to operate on the general railroad system.

For commuter rail projects and light rail project with shared track waivers, FTA Regional Offices and PMOCs work closely with FRA to ensure compliance with FRA requirements and regulations. FTA believes that compliance with FRA requirements and regulations is a critical component of the safety and security management program established for the project. Therefore, FTA Regional Offices and PMOCs, as part of their monthly monitoring functions, track recipients' compliance with FRA requirements.

5. Confusion Regarding How the SSMP Can Be Part of the PMP

One commenter asked FTA to clarify how the SSMP could be part of the PMP. This commenter wanted to know how a separate plan could be developed and referenced as part of the PMP.

FTA Response: In Chapter II, Section 5, Project Management Plan, of FTA's FFGA Circular 5200.1A, FTA explains that the PMP, as required in 49 CFR part 633, refers not only to the actual PMP itself, but also to supporting plans developed to implement the PMP, such as the Quality Assurance/Quality Control (QA/QC) plan and the SSMP, which may be included as chapters in the PMP or referenced as separate plans by the PMP. For more clarification, FTA encourages this commenter to review Chapter II of FTA's Circular 5200.1A and Chapters I and II of FTA's "Update to the Project and Construction Management Guidelines" (2003 Update).

6. SSMP Requirement for Mature Transit Agencies

Eight commenters asked FTA to explain why it requires the SSMP for existing transit agencies with mature safety and security programs, when these agencies already develop Safety and Security Certification Plans for projects covered under 49 CFR part 633. These commenters felt that FTA should not require mature agencies to develop SSMPs, and urged FTA simply to review their existing safety and security programs related to project development

instead. In addition, these commenters felt that FTA should only request an SSMP if the project was a unique project for an existing transit agency or the construction of a new fixed guideway system for a new agency.

FTA Response: FTA recognizes that existing transit agencies have programs and plans in place that cover some, or even most, of the requirements specified in Chapter IV of the proposed circular. However, based on its experience, FTA does not believe that these existing programs provide an integrated and coherent listing of all safety and security management activities for the projects covered under 49 CFR part 633.

FTA encourages recipients at mature agencies to use the 11 Sections in Chapter IV of the final circular as a checklist for identifying the minimum safety and security management activities FTA requires. In the event a recipient has an existing program or plan in place that addresses requirements specified one or more of the 11 Sections specified in Chapter IV of this circular, FTA encourages the recipient to state this fact in the applicable section of the SSMP, and to reference the applicable supporting document, including the chapter and page numbers where the program or plan can be located. In this instance, FTA only requires the recipient to provide sufficient information in this section to direct FTA and its PMOCs to these documents.

When a recipient addresses the majority of the circular's requirements in other existing documents, FTA intends for the SSMP to present an integrated, coherent approach for the project's safety and security management program that can direct all involved project participants to the applicable supporting documents. In this situation, FTA believes that the SSMP will enhance the recipient's ability to communicate the elements of its safety and security program with project team members, project leadership, other employees and contractors, FTA and its PMOCs, and other involved agencies (i.e., State oversight agencies, FRA, DHS/TSA).

7. Applicability of SSMP Sections to all Projects

Eight commenters expressed their concern that the proposed circular appeared to take a "one-size-fits-all" or "cookie-cutter" approach. Specifically, these commenters asked FTA to clarify how it would apply the SSMP circular to different types of projects during different project phases. These commenters also asked FTA to provide additional detail regarding how FTA

would determine whether a project had to address specific SSMP Sections.

FTA Response: In its proposed circular, FTA intended for recipients to reference their existing programs, plans, and applicable supporting documentation in their SSMPs for FTA review. However, FTA recognizes that commenters need more information on referencing provisions and how FTA will determine whether a project must address specific SSMP Sections.

On the topic of the applicability of the circular's requirements to different types of projects, FTA is revising Chapter III of the proposed circular to include a provision in the final circular that enables recipients to work with the FTA Regional Offices and the PMOCs assigned to their projects to determine which of the 11 Sections specified in Chapter IV of the final circular are applicable. Also, in the Appendix to the final circular, FTA is including additional information regarding the level of detail FTA requires recipients to provide for different types of projects in different development phases.

On the topic of how FTA will determine whether a recipient has to address specific SSMP Sections, FTA directs commenters to the Appendix Checklist and to the evaluation criteria specified in Chapter II of the final circular. Using these tools, the FTA Regional Offices and PMOCs can coordinate with recipients, following the communication and document submission and review protocols FTA established for the PMO Program, to determine the applicability of specific Sections. If recipients have specific questions, comments, or concerns regarding the applicability of particular SSMP Sections to their projects, FTA encourages them to contact FTA's Office of Safety and Security, their FTA Regional Office, or their PMOCs.

8. Impact of Addressing Safety and Security Earlier

Eight commenters identified the importance of addressing safety and security earlier in the project development process, particularly for new fixed guideway systems. One commenter expressed appreciation for FTA's circular, stating that it "will bring the requirement for an SSMP by applicant transit agencies into the project process much earlier than is currently required." This commenter identified the benefits gained from linking system design and construction to operational safety from early in project development. This commenter further commented that "considering the importance of safety and security as projects evolve from conceptual

engineering through final design, construction, and implementation by incorporating these elements into the PMP should result in improved system design and cost savings."

Other commenters appreciated FTA's efforts in creating the circular and recognized that recipients must use a consistent, verifiable, and systematic approach to ensure that safety and security are integrated into all aspects of projects. However, six commenters expressed concern that the proposed circular "front-load[ed] too much analysis and study into the earliest stages of project planning and introduce[d] unnecessary soft costs and delay into processes already dogged by too much of both." These commenters noted that expanding the breadth of FTA review of projects at the earliest stages may invite practical difficulties and encourage PMOCs to engage in overly extensive analysis of potential hazards and vulnerabilities, particularly for projects in early planning and engineering phases. These commenters further noted that because no oversight contractor would want "to be seen as lax on safety or security," the PMOC may tend to "to err on the side of caution," which may lead to "unnecessary expense and delay."

These commenters asked FTA to further clarify the specific activities it would require recipients with major capital projects involving new fixed guideways or extensions to existing fixed guideways to perform during preliminary engineering and final design. These commenters also encouraged FTA to require the initial SSMP later in the project development process. For example, three commenters recommended that FTA require the initial SSMP no earlier than at 60 percent final design.

FTA Response: FTA understands commenters' concerns regarding the potential for additional expense and delay resulting from FTA oversight of safety and security in projects beginning with the request to enter preliminary engineering. However, based on its past experience with major capital projects covered under Chapter II, Section 6 of FTA's FFGA Circular 5200.1A, FTA believes recipients should submit the SSMP with their request to enter preliminary engineering, and not at a later time.

On the topic of the expanded breadth of FTA safety and security oversight earlier in the process, FTA appreciates commenters' concerns that PMOCs may tend to err on the side of caution. FTA is committed to working through the Regional Offices and PMOCs to ensure that application of this circular does not

result in unnecessary delays or costs to projects requesting to enter preliminary engineering or final design. FTA does not want to waste valuable project resources and schedule on unnecessary analyses or assessments. FTA Headquarters and Regional Office personnel will not be directing PMOCs to demand extensive safety and security assessments as part of a recipient's SSMP with the request to enter preliminary engineering.

To clarify FTA's expectations for SSMPs submitted with the request to enter preliminary engineering, FTA is including an Appendix to this final circular that provides a checklist for recipients and PMOCs regarding the application of the 11 sections in Chapter IV of this final circular to different types of projects and different project phases. FTA believes this approach will ensure that safety and security are adequately addressed during the early project phases without imposing a substantial burden on recipients.

To ensure consistency in the review of SSMPs, FTA is also developing PMO program guidance. FTA will share this guidance with recipients when it is available. FTA encourages recipients to meet with their Regional Offices and PMOCs to request copies of this guidance, and to discuss concerns they may have regarding the PMOCs' activities to review SSMPs developed at request to enter preliminary engineering and final design.

9. The Circular's Financial and Administrative Burden

Ten commenters expressed concern that the proposed circular would impose financial and administrative burdens on FTA recipients. These commenters stated that the proposed requirements may necessitate additional staff and/or contractors, additional training for project personnel, and additional coordination with FTA and the PMOCs, which would increase the cost of their major capital projects, and perhaps, extend the project schedule. These commenters urged FTA to acknowledge the potential increase in capital and operating costs for projects resulting from implementation of the proposed circular.

FTA Response: FTA acknowledges that recipients may have to expend additional resources up-front to address safety and security concerns to conform to the terms of the final circular. However, based on past experience, FTA believes these costs will be recovered in smoother implementation of later project phases, fewer change orders during construction and testing, and fewer accidents and injuries while

in revenue service. Further, FTA reminds commenters that expenses associated with implementing the final circular are eligible expenses under FTA's Section 5309 funding programs.

B. Section-by-Section Discussion

In the notice of proposed circular, FTA asked specific questions related to each chapter of the proposed circular. This section summarizes the provisions that were subject to comment, the nature of the comment, and FTA's response.

1. Chapter I—Introduction and Background

This chapter provides a general introduction to FTA that FTA is including in all new and revised program circulars for the orientation of readers new to FTA programs. Chapter I also includes definitions. One party submitted comments on this chapter.

This commenter, representing several State DOTs that participate in FTA's State oversight program, requested that FTA revise the definitions in Chapter I to parallel the definitions in 49 CFR part 659. FTA agrees, and has incorporated definitions for "Contractor," "Hazard," "Passenger," "Safety," "Security," "System Safety Program Plan," and "System Security Plan" as specified in 49 CFR 659.5.

In the interest of State DOTs that may be serving as pass-through agencies for Federal funds, this commenter also requested that FTA clearly define who was the responsible party for preparing the SSMP. FTA agrees, and added a definition of "recipient" to the final circular. In the final circular, FTA clarifies that the recipient responsible for preparing the SSMP is also the recipient responsible for preparing the PMP. Therefore, recipients should address any issues involving the roles and responsibilities of different project participants following the protocols established in the PMP.

This commenter also requested that FTA clarify the applicability of the circular in cases where the project does not receive Federal funding during the design and construction phases, but where the project will receive Federal funds during operations. Because the circular only applies to major capital projects, which by definition, must receive Federal funds during design and construction, FTA clarifies that the final circular does not apply in cases where the project receives funds during operations.

2. Chapter II—Authority, Activities, FTA Evaluation Criteria, and Protection of Sensitive Security Information

Chapter II of the proposed circular described the specific safety and security management activities to be performed by recipients with projects covered by 49 CFR part 633. Chapter II also identified criteria FTA would use in evaluating the performance of these activities. Finally, Chapter II discussed the protocols FTA and PMOCs would use in protecting Sensitive Security Information (SSI).

FTA received comments from eight commenters on this chapter. These commenters generally agreed with the appropriateness of the safety and security management activities that FTA identified in Chapter II of the proposed circular. However, five commenters were concerned that they may not be able to address every activity FTA identified in Chapter II. For example, one commenter asked whether a program for emergency exercises and drills was necessary for a major capital project involving the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million.

FTA intended for this concern to be addressed through the use of referencing. In the example above, for instance, FTA expects that, in the SSMP, the recipient would prepare a paragraph or two referencing its existing emergency exercise and drill program and any changes that may result because of the project (*i.e.*, new emergency procedures or protocols). If no changes are anticipated, then the recipient should state, in the appropriate SSMP section, that the project will have no impacts on the existing emergency exercise and drill program.

FTA received several comments on the proposed evaluation criteria. These commenters appreciated the level of detail in this section because it clearly indicated to recipients the safety and security areas FTA considers to be of primary importance. However, six commenters also believed the proposed evaluation criteria were cumbersome, particularly for recipients submitting SSMPs at the request to enter preliminary engineering.

Three commenters stated that they could easily address some of the evaluation criteria in the SSMP they developed for the request to enter preliminary engineering. For example, these commenters felt they could provide the project budget and schedule for safety and security activities with the request to enter preliminary engineering. These commenters also

indicated that they could address management commitment/philosophy and provide a general discussion of how they would integrate safety and security into the project development process.

However, these commenters also felt they could not address the majority of the evaluation criteria FTA proposed in Chapter II at the request to enter preliminary engineering. For example, one commenter questioned how recipients developing SSMPs at the request to enter preliminary engineering could explain their programs for "ensuring that safety and security are addressed in technical specifications and contract documents," when the recipients had not yet developed them.

FTA is concerned some commenters may have misinterpreted FTA's intention in this section. As anticipated in the proposed circular, FTA will apply the evaluation criteria in Chapter II over the entire lifecycle of the recipient's project development process. FTA does not expect a recipient preparing an SSMP at the request to enter preliminary engineering to have developed comprehensive programs for each evaluation criterion.

For example, at the request to enter preliminary engineering, FTA will not evaluate a recipient on the quality of its process for "ensuring that safety and security are addressed in technical specifications and contracts documents." However, at this phase, FTA expects the recipient to identify that this activity is a necessary step in ensuring that safety and security will be appropriately addressed over the course of the project.

One commenter recommended that FTA clearly identify in the final circular, either by text or chart, which safety and security activities FTA requires recipients to perform during specific project phases. FTA agrees and is revising the proposed circular to include an Appendix that identifies the specific activities FTA expects recipients to perform for different types of major capital projects during each project development phase. FTA also is revising the text introducing this section of the proposed circular to clarify that these criteria will be applied over the life of the project, and not each time FTA requires the recipient to submit the SSMP.

Three commenters asked whether FTA would be willing to consider differences between small and large agencies and mature versus new agencies when it applies the evaluation criteria. Another commenter recommended that FTA exclude the procurement of bus vehicles and bus-related equipment from the SSMP

requirement, or that FTA provide a different set of criteria for evaluating how safety and security are addressed in these projects. FTA requires all recipients implementing projects covered by 49 CFR part 633 to be held to the same minimum requirements. Therefore, as proposed, FTA will apply the evaluation criteria consistently for all recipients with these projects, regardless of their size, project type, or level of experience.

Two commenters requested that FTA tailor its evaluation criteria by providing special considerations for recipients that are not able to allocate staff and contractor resources for their safety and security programs. FTA requires, as part of its technical capacity requirement, any recipient undertaking a project covered by 49 CFR part 633 to have sufficient resources in place to address the requirements in the final circular.

One commenter stated that because transit authorities and their facilities, infrastructure, vehicles, operations, riders, and local jurisdictions are all unique, FTA should allow flexibility in the application of its evaluation criteria. This commenter recommended FTA, to the extent possible, use performance-based rather than process-based evaluation criteria. Based on its considerable experience, FTA believes the process-based approach FTA specified in the proposed circular allows FTA and its PMOCs to monitor recipient activities in the most effective manner throughout the phases of the project development process. FTA retains the process-based approach in the final circular.

Four commenters requested additional information on the PMOC procedures used to implement the circular. One commenter noted that FTA is in the process of updating its PMO program procedures. Three commenters felt FTA should reference the specific PMOC procedures FTA will use to evaluate SSMPs in the final circular. These commenters felt if FTA referenced these procedures in the final circular, then FTA could provide recipients with a better understanding of how FTA will apply the evaluation criteria. FTA agrees that the appropriate PMOC guidance should be shared with recipients. As a matter of policy, FTA does not publish PMOC guidance in circulars, and therefore, FTA will not publish the PMOC guidance in the final circular. However, FTA expects FTA Regional Offices to share this guidance with recipients upon request. FTA urges recipients to meet with their FTA Regional Offices and PMOCs regarding any issues they may have with the

implementation of FTA's evaluation criteria.

FTA received four comments on the topic of SSI. These four commenters stated that implementation of SSI requirements worked well overall. One commenter requested additional details regarding the level of security that FTA anticipates for various types of projects. In response to this commenter, FTA expects the individual recipients to determine the security requirements and design criteria for their projects, and FTA only requires recipients follow a process that is viable, implemented, and being integrated, as appropriate, into the overall project management process.

Another commenter indicated that FTA does not need to know the types of safety and security analysis that recipients perform or their detailed plans regarding operations and maintenance training and procedures. This commenter felt this information could be exploited by those wishing to do harm if FTA failed to protect it. For the same reason, this commenter further stated that FTA does not need to know the details of the verification process used by the recipients to ensure that safety and security requirements have been addressed, or the details of construction safety and security plans.

FTA disagrees with this commenter because understanding these details is critical to FTA's oversight of their implementation. However, FTA appreciates the commenter's concerns regarding the potential for the inappropriate release of SSI, and reminds this commenter that FTA staff and PMOCs are obligated to follow the provisions specified in 49 CFR part 15 and the SSI policy established by recipients. Further, as explained in 49 CFR part 15, any SSI information that a recipient submits to FTA, and, by extension, its PMOCs, is exempted from being available to the public under the Freedom of Information Act (FOIA). Therefore, FTA retains the language addressing SSI as proposed in the circular.

3. Chapter III—Process for Preparing the SSMP

Chapter III of the proposed circular explained the approach FTA requires for developing and updating SSMPs. In the notice accompanying the proposed circular, FTA asked recipients whether they required additional guidance on the contents of the SSMP for different project development phases.

Eight commenters stated that they needed additional guidance regarding FTA requirements for recipients developing SSMPs with the request to enter preliminary engineering. Four of

these commenters felt that FTA's statement that the level of detail in the SSMP submitted for entry into preliminary engineering should contain "a level of detail commensurate with the level of detail in other PMP Sections" was vague and subjective.

FTA appreciates these comments. Accordingly, FTA is adding an Appendix to the final circular that provides additional detail on the information FTA requires recipients to include in SSMPs during different project phases.

4. Chapter IV—Required SSMP Contents

In Chapter IV of the proposed circular, FTA listed the 11 Sections the recipient must include in the SSMP. In the notice accompanying the proposed circular, FTA asked whether the proposed Sections were reasonable, and if FTA should add other requirements. FTA also asked if recipients needed additional guidance from FTA on the required contents of the 11 Sections.

Eight commenters expressed the opinions that while some of FTA's proposed SSMP Sections in Chapter IV were appropriate, some of them were redundant and unnecessary because recipients at mature agencies already address these activities in other documents or programs.

One commenter provided a detailed review of Chapter IV of the circular and recommended FTA eliminate several of the 11 Sections FTA proposed for inclusion in the SSMP. This commenter recommended FTA eliminate the requirement for the identification of "key personnel by name, title, department, and affiliation" in Section 3 of the SSMP. This commenter also felt that FTA should not require recipients to identify "the distinct types of safety and security analysis" they will perform in Section 4 of the SSMP. This commenter also felt that Sections 5, 6, and 7 of the SSMP, as proposed by FTA, were "redundant and should be eliminated as their requirements are already addressed as part of required safety-certification process."

FTA understands that existing transit agencies currently develop numerous plans that address safety and security management issues for projects covered by 49 CFR part 633. FTA appreciates, with so many documents, the overall requirements for safety and security can be difficult to understand and communicate effectively to employees and external agencies. FTA recognizes that requiring recipients to add one more safety and security plan will not improve the situation. However, FTA has provided oversight for a number of major capital projects where safety and

security issues were not adequately addressed. As a result, FTA firmly believes that the requirement to develop and maintain SSMPs will ensure recipients develop an integrated and centralized listing of all activities to be performed for safety and security for their projects.

For instance, FTA has experienced several situations in which recipients placed Full Funding Grant Agreements (FFGAs) in jeopardy because they had not addressed fundamental safety and security issues. For example, some recipients had not developed procedures to explain decision-making regarding critical safety and security issues, could not explain to FTA which positions or committees had responsibility for overseeing contractors or for resolving disputes related to safety and security issues, and/or made decisions regarding safety-critical items without consulting the safety function. Furthermore, some recipients could not explain whether the QA/QC function or the safety function would be responsible for performing specific verification activities related to safety certification. To address these concerns, FTA added Sections 2 and 3 to Chapter IV of the proposed circular, and retains them in the final circular.

FTA also noted some recipients with FFGA applications under review had not performed preliminary hazard analysis or threat and vulnerability analysis for their projects. In other instances, FTA observed that recipients had required contractors to perform safety and security analysis, but that recipients had not integrated the results of this analysis into their overall approach for identifying, managing, and tracking hazards. To address these issues, FTA included Section 4 in Chapter IV of the proposed circular, and retains it in the final circular.

Moreover, FTA noted a number of instances where recipients with approved FFGAs had failed to adequately identify safety and security requirements and design criteria early in the project. FTA observed that this failure caused these recipients to implement costly change orders during construction to ensure that transit facilities met municipal, county, and State fire/life safety codes and could receive required sign-offs from local inspectors and fire marshals. FTA has also observed situations where recipients did not perform independent verification of safety and security requirements and design criteria because they assumed other design review functions had performed it. To address these concerns, FTA included Section 5 in Chapter IV of the proposed

circular, and retains it in the final circular.

FTA also observed a few projects where recipients failed to train personnel adequately to perform vehicle burn-in and systems integration testing. In addition, FTA observed instances where recipients failed to conduct emergency response drills and to test the readiness of maintenance personnel prior to the initiation of revenue service. To address these issues, FTA included Section 6 in Chapter IV of the proposed circular, and retains it in the final circular.

FTA also observed that a few recent projects were delayed from initiating revenue service because the recipients could not complete safety and security certification. FTA determined that these delays occurred because the recipients did not pay sufficient attention to safety and security issues earlier in the project development process. FTA also observed that the recipients had not clarified roles and responsibilities for safety and security certification to be carried out by the recipient staff, the General Engineering Consultant (GEC), the construction and systems installation contractors, and the resident engineers. In each of these instances, FTA believes that had the recipients paid more attention to safety and security earlier on in the project, then the recipients' safety and security certification processes would have moved forward much more effectively. Therefore, FTA included Section 7 in Chapter IV of the proposed circular, and retains it in the final circular.

FTA has required recipients to address construction safety in their PMPs for many years. In Section 8 of Chapter IV of the proposed circular, FTA consolidated these requirements and extended them to include construction site security. One commenter stated that "construction safety and security may be overlooked in its importance to transit security. Examples of elements that should be considered during this phase, as well as key considerations that should be part of hazard and vulnerability assessments, should be included in the text of the circular." This commenter recommended that FTA further expand these requirements. While FTA appreciates this commenter's concern, FTA decided not to incorporate this commenter's suggestion into the final circular because FTA will address these issues in future guidance and training developed to implement the circular.

In Sections 9, 10, and 11 of Chapter IV of the proposed circular, FTA required recipients to explain their approaches for ensuring coordination

with State oversight agencies, FRA and DHS, respectively and as appropriate for their projects. FTA recognizes that recipients may have documented this information in other plans and procedures. In addressing these SSMP Sections, FTA encourages recipients to reference these other documents. In other sections of this notice, FTA explains that when recipients clearly identify these requirements, it will help to minimize potential conflicts between FTA/PMOCs and State oversight agencies, FRA, and DHS.

Finally, in response to Chapter IV of the proposed circular, three commenters requested FTA provide additional guidance and/or training on how to implement the circular. FTA agrees with these commenters. FTA will develop training on this circular targeted at recipients with major capital projects within the next two years.

Issued in Washington, DC, this 14th day of June, 2007.

James S. Simpson,

Administrator, Federal Transit Administration.

[FR Doc. E7-11970 Filed 6-20-07; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2007-28104]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on a previously approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before August 20, 2007.

ADDRESSES: You may submit comments [identified by DOT Docket No. NHTSA-

2007-28104] by any of the following methods:

- **Web Site:** <http://dms.dot.gov>.

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

- **Fax:** 1-202-493-2251.

• **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• **Hand Delivery:** 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.

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

Instructions: All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to 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.

FOR FURTHER INFORMATION CONTACT:

Complete copies of each request for collection of information may be obtained at no charge from Ms. Deborah Mazyck, NHTSA, 400 Seventh Street, SW., Room 5320, Washington, DC 20590. Ms. Mazyck's telephone number is (202 366-4139). Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following previously approved collection of information:

Title: 49 CFR Part 583—Automobile Parts Content Labeling.

OMB Control Number: 2127-0573.

Form Number: None.

Affected Public: Vehicle manufacturers.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: Part 583 establishes requirements for the disclosure of information relating to the countries of origin of the equipment of new passenger motor vehicles. This information will be used by NHTSA to determine whether manufacturers are complying with the American Automobile Labeling Act (49 U.S.C. 32304). The American Automobile Labeling Act requires all new passenger motor vehicles (including passenger cars, certain small buses, all light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less), to bear labels providing information about domestic and foreign content of their equipment. With the affixed label on the new passenger motor vehicles, it serves as an aid to potential purchasers in the selection of new passenger motor vehicles by providing them with information about the value of the U.S./Canadian and foreign parts of each vehicle, the countries of origin of the engine and transmission, and the site of the vehicle's final assembly.

NHTSA anticipates approximately 20 vehicle manufacturers will be affected by these reporting requirements. NHTSA does not believe that any of these 20 manufacturers are a small business (i.e., one that employs less than 500 persons) since each manufacturer employs more than 500 persons. Manufacturers of new passenger motor vehicles, including passenger cars, certain small buses, and light trucks with a gross vehicle weight rating of