other means; * * *'' FTA has interpreted this exception as applying to the construction cost of these facilities, not their ongoing reasonable costs of maintenance. FTA will encourage public transportation agencies to negotiate shared maintenance agreements to ensure satisfactory condition and usefulness of the joint development project over its full term.

Proportion of Incidental Use—FTA is considering establishing a percentage of additional space that may be supported with transit grant funds for joint development and/or incidental use purposes. Taking as given that the primary purpose of the expenditure is a transit project—say, a bus transfer facility—how much more space would be reasonable to include for a join development activity such as a day care center, congregate meal facility, or health care facility? Is it reasonable for the physical capacity of the jointly developed improvement to exceed the transit facility in size and/or cost? This question arises particularly in the context of an intercity bus or rail station which, since its service area is likely to be considerably larger than the transit agency's, may require even more ''peak'' than the transit agency does.

Related to this issue is the question of how to treat changes in the use of joint development space after the project is complete. For example, if space was made available for a day care center but three years after the project is complete, the day care center manager moves the operation to another location. FTA seeks comment on whether the transit agency should be required to replace the day care center only with another eligible transit activity (such as a senior care or public health activity), or whether the space might be made available for lease by a public or private sector activity. FTA is considering requiring the transit agency to perform a new market analysis on the basis of replacing the initial joint development activity with a market-based joint development activity.

Finally, the public transit agency may reasonably seek to build a large enough facility to allow for future expansion. Given that such facilities may have a useful life of 40 years or more, it is reasonable to anticipate some growth in the transit agency and its service over that term. The transit agency may then wish to offer this additional space for rent on a non-interfering basis until it is needed for transit operations. FTA seeks comment on a method for determining what growth is ''reasonable'' to project in this instance. FTA is considering linking this projected growth to population forecasts for the region, as used by the Metropolitan Planning Organization for its long range plans.

Issued on: January 24, 2006.

Sandra K. Bushue,

Deputy Administrator.

[FR Doc. 06–871 Filed 1–30–06; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of random drug and alcohol testing rates.

SUMMARY: This notice announces the random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

DATES: *Effective Date:* January 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, Drug and Alcohol Program Manager for the Office of Safety and Security, (202) 366–2896 (telephone) and (202) 366–7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through the FTA World Wide Web home page at *http://www.fta.dot.gov*, click on ''Safety and Security.''

SUPPLEMENTARY INFORMATION: On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions and to begin submitting annual reports by March 15 of each year beginning in 1996. The annual report includes the number of employees who had a verified positive for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997. The testing rules were updated on August 1, 2001, and established a random testing rate for prohibited drugs and the misuse of alcohol.

The rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide that the drug random testing rate may be lowered to 25 percent if the ''positive rate'' for the entire transit industry is less than one percent for two preceding consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year (''positive rate'' means the number of positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests required by 49 CFR 655.49, divided by the total number of random drug tests, plus the number of refusals of random tests required by 49 CFR part 655).

The alcohol provisions provide that the random rate may be lowered to 10 percent if the ''violation rate'' for the entire transit industry is less than 0.5 percent for two consecutive years. It will remain at 25 percent if the ''violation rate'' is equal to or greater than 0.5 percent but less than one percent, and it will be raised to 50 percent if the ''violation rate'' is one percent or greater for any one year (''violation rate'' means the number of covered employees found during random tests given under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by 49 CFR 655.49, divided by the total reported number of random alcohol tests plus the total number of refusals of random tests required by 49 CFR part 655).

49 CFR 655.45(b) states that, ''the Administrator's decision to increase or decrease the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire industry. The information used for this determination is drawn from the drug and alcohol Management Information System (MIS) reports required by 49 CFR part 655. In determining the reliability of the data, the Administrator shall consider the quality and completeness of the reported data, may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.''

In 2005, the FTA required a random drug testing rate of 50 percent of the total number of their ''safety-sensitive'' employees for prohibited drugs based on the ''positive rate'' for random drug test data from 2002 and 2003. FTA has received and analyzed the latest available data (CY2004) from a representative sample of transit employers. Based on the data, the random drug rate was lower than 1.0 percent for the two preceding consecutive years (0.96 percent for 2003 and 0.89 percent for 2004). However,

based on additional information noted herein, the Administrator has determined that the random drug testing rate shall remain at 50 percent for 2006.

The Department has noted the proliferation of products to defraud the USDOT urine screens. Congressional hearings on these products and the GAO Report of 17 May 2005 are indicative of the potential adverse impact these products marketed as adulterate specimens may have on reported random rates and the reliability of those results.

The Secretary of Transportation's Office of Drug &Alcohol Policy & Compliance (ODAPC) has proposed to amend 49 CFR part 40 to require specimen validity tests for all urine specimens collected pursuant to part 40. The Department proposes that each DOT specimen be tested for products that can be used to adulterate and substitute a urine specimen (70 FR 209 October 31, 2005). The Department would require each HHS-certified laboratory to conduct specimen validity testing. This will have the effect of identifying more adulterated and substituted urine specimens and enhance the reliability of test results. The Department believes the safety concerns associated with random testing warrant a one year delay in order to analyze reported random rates after SVT testing has been implemented.

In 2005, the FTA retained the random alcohol testing rate of 10 percent (reduced previously from 25 percent) based on the ''positive rate'' for random alcohol test data from 2003 and 2004. Because the random alcohol violation rate was again lower than 0.5 percent for the two preceding consecutive years (0.20 percent for 2003 and 0.11 percent for 2004), the random alcohol testing rate will remain at 10 percent for 2006.

FTA detailed reports on the drug and alcohol testing data collected from transit employers may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW., Room 9301, Washington, DC 20590, (202) 366–2896 or at *http://transit-safety.volpe.dog.gov/Publications*.

Issued on: January 24, 2006.

Sandra K. Bushue,

Deputy Administrator.

[FR Doc. 06–859 Filed 1–30–06; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–23628]

Child Safety and Child Booster Seats Incentive Grants

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of grants for child safety and child booster seats.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a grant program under Section 2011 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy of Users (SAFETEA–LU) to implement programs to purchase and distribute child restraints, support enforcement of child restraint laws, train child passenger safety professionals concerning all aspects of child restraint use, and educate the public concerning the proper use and installation of child restraints. This notice solicits applications from the fifty States, the District of Columbia, and Puerto Rico.

DATES: Applications must be received by the office designated below on or before July 1 of the applicable fiscal year.

ADDRESSES: Applications must be submitted to the appropriate National Highway Traffic Safety Administration Regional Administrator.

FOR FURTHER INFORMATION CONTACT: For program issues: Judy Hammond, Injury Control Operations and Resources, NTI–200, telephone (202) 366–2121, fax (202) 366–7394. For legal issues: David Bonelli, Office of Chief Counsel, NCC–113, telephone (202) 366–1834, fax (202) 366–3820, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Incentive Grants for Child Safety Seats and Child Booster Seats

Section 2011 of SAFETEA–LU (Pub. L. 109–59) establishes an incentive grant program for child safety seats and child booster seats. To qualify for grant funds, States must ''enforc[e] a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law.'' Prior to Anton's Law, NHTSA's performance requirements for child safety seats covered children weighing only up to 50 pounds.[1] Anton's Law (Pub. L. 107–318) was enacted to improve the safety and use of child restraints for children between the ages of 4 and 8. To accomplish these purposes, Congress directed the Department of Transportation, in Section 3 of Anton's Law, to make Federal performance requirements applicable to child restraints recommended for children weighing more than 50 pounds. On June 3, 2003, pursuant to this mandate, NHTSA published a final rule setting performance requirements for child restraints recommended for children weighing up to 65 pounds.[2]

The Section 2011 grant program advances the purposes of Anton's Law by awarding funds to States that extend their child restraint laws to cover children who are too large to fit in child safety seats. Based on the final rule promulgated under Section 3 of Anton's Law, Section 2011 requires States to enforce child restraint laws whose coverage extends to children weighing up to 65 lbs.

Virtually all State child restraint laws use the age of the child as a means of specifying the children required to be secured in child restraints. However, not all State laws use the weight of the child in defining coverage. Moreover, enforcing a child restraint law based on the age of the child is likely to be more practicable for State and local enforcement officials. For these reasons, we are defining our grant criteria according to the age that correlates to a 65-pound child. According to the most recent U.S. Department of Health & Human Services (DHHS) publication on average body weight for children, the average weight of a 7-year-old child is 59.8 pounds and the average weight of an 8-year-old child is 72 pounds.[3] On the basis of this information, we have selected 7 years old as the age that is reasonably representative of a 65-pound child for the purposes of this grant program.

Minimum Requirements for a Grant

To qualify for a grant under this program, therefore, a State must enact

[1] These performance requirements were established using a 6-year-old child dummy. The weight of the dummy is 51.6 pounds. According to U.S. Department of Health & Human Services statistics, 51.7 pounds is the average weight of a 6-year-old child. Cynthia L. Ogden, Ph.D., *et al*, U.S. Department of Health and Human Services, Mean Body Weight, Height, and Body Mass Index, United States 1960–2002 (2004).

[2] The 2003 performance requirements were established using a 6-year-old child dummy modified through the addition of weight (10.4 pounds) to represent approximately the weight of an 8-year-old child.

[3] OGDEN, supra note 1, at 3.