

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Part 1**

[OST Docket No. 1 ; Amdt. 1-288]

**Organization And Delegation Of Powers And Duties; Delegation To The Administrator, Federal Highway Administration**

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Secretary of Transportation delegates to the Administrator, Federal Highway Administration, the authority to manage the Department's \$400 million loan with the Alameda Corridor Transportation Authority (ACTA). This requires a change to the Code of Federal Regulations.

**EFFECTIVE DATE:** This rule is effective May 28, 1997.

**FOR FURTHER INFORMATION CONTACT:** Gwyneth Radloff, Office of the Assistant General Counsel for Regulation and Enforcement at (202) 366-9305, Department of Transportation, 400 7th Street SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** This rule delegates to the Federal Highway Administrator the responsibility to manage the Department's \$400 million loan with the Alameda Corridor Transportation Authority (ACTA). Title V, Chapter 5 of the Act Making Omnibus Consolidated Appropriations for Fiscal Year 1997 (Act) appropriates funds for direct Federal loans not to exceed \$400 million under the authority of Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R). The reason for the 4R authorization is unrelated to DOT's institutional organization, and the Act, as well as the applicable language from Section 505, confers loan responsibility with the Secretary of Transportation. In addition to this loan, our financial participation includes Federal-Aid Highway funds administered by FHWA's California division. Delegating loan management to FHWA will assure that administrative, legal, engineering and financial aspects of this unique project are managed by a single operating administration.

This rule is being published as a final rule and is being made effective on the date of publication. It relates to departmental management, organization, procedure, and practice. For this reason, the Secretary for good cause finds, under 5 U.S.C. 553(b) B and

(d)(3), that notice and comment on it are unnecessary and that it may be made effective in fewer than 30 days after publication in the **Federal Register**.

**List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons set forth above, part 1 of title 49, Code of Federal Regulations, is amended as follows:

**PART 1—[AMENDED]**

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

**Authority:** 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.48 is amended by adding a new paragraph (kk) as follows:

**§ 1.48 Delegations to Federal Highway Administrator.**

\* \* \* \* \*

(kk) Carry out the functions vested in the Secretary of Transportation by section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, relating to the Alameda Corridor Project in consultation with the Federal Railroad Administrator.

Issued in Washington, D. C. on May 20, 1997.

**Rodney E. Slater,**

*Secretary of Transportation.*

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**BILLING CODE 4910-62-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 385**

[FHWA Docket No. MC-94-22; FHWA-97-2252]

**RIN 2125-AC 71**

**Safety Fitness Procedures; Safety Ratings**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule is being issued in response to a decision of the U.S. Court of Appeals, District of Columbia Circuit, entered on March 18, 1997. In this interim final rule, the FHWA is publishing its Safety Fitness Rating Methodology (SFRM) as Appendix B to 49 CFR 385 to be used as an interim measure until a notice of proposed rulemaking (NPRM),

published elsewhere in today's **Federal Register**, becomes final. The SFRM, which is a detailed explanation of the means by which the factors comprising a safety rating are evaluated and calculated, will be used during this interim period only to rate motor carriers that are transporting hazardous materials in quantities for which vehicle placarding is required, or transporting more than 15 passengers, including the driver. This is necessary to implement the prohibitions contained in the Motor Carrier Safety Act of 1990.

**DATES:** This rule is effective from May 28, 1997 until November 28, 1997.

Comments must be received on or before July 28, 1997.

**ADDRESSES:** Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, D.C. 20590-0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. William C. Hill, Vehicle and Operations Division, Office of Motor Carrier Research and Standards, (202) 366-4009, or Mr. Charles Medalen, Office of Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

The FHWA promulgated 49 CFR Part 385, Safety Fitness Procedures, in 1988, to determine the safety ratings of motor carriers and to establish procedures to resolve disputes. (See 53 FR 50961, December 19, 1988.)

On August 16, 1991, the FHWA issued an interim final rule implementing a provision of the Motor Carrier Safety Act of 1990, Pub.L. 101-500, § 15(b)(1), 104 Stat. 1218, 49 U.S.C. 5113, prohibiting the transportation of passengers or placardable quantities of hazardous materials by any motor carrier with an *unsatisfactory* rating (after being afforded 45 days to improve it) (56 FR 40801). At the same time, the agency announced that it was using the Safety Fitness Rating Methodology (SFRM), comprised of six rating factors and a detailed explanation of how each is calculated, to provide guidance to