

announced in a **Federal Register** notice to be published at a later date.

The Commission has determined that the effective date of the Handbook is January 23, 2003, which is the date that EDIS-II will be available for electronic filing of documents. As appropriate, the Secretary will periodically revise the Handbook. Users should consult the Commission's EDIS-II website for the latest version of the Handbook.

The Commission also has determined to waive the requirement in § 201.8(g) of the rules that an on-line cover sheet at the EDIS-II website must be completed and printed out by paper filers for submission with their paper filings. Instead, paper filers have the option of (i) completing the on-line cover sheet at the EDIS-II website and printing out the cover sheet to be submitted with the filing; (ii) printing out the cover sheet at the EDIS website and completing the cover sheet by hand before submitting the cover sheet with the filing to the Secretary; or (iii) obtaining a paper copy of the cover sheet from the Office of the Secretary and completing the cover sheet by hand to be submitted with the paper filing. The Commission, however, strongly encourages paper filers to complete and print out the on-line cover sheet at the EDIS-II website for submission to the Secretary with their paper filings.

(Authority: 19 CFR 201.4(b)).

Issued: January 17, 2003.

By Order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03-1467 Filed 1-22-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 450

[FHWA Docket No. FHWA-99-5933]

FHWA RIN 2125-AE95; FTA RIN 2132-AA75

#### Statewide Transportation Planning; Metropolitan Transportation Planning

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

**ACTION:** Final rule.

**SUMMARY:** The FHWA, after consultation with the Federal Transit Administration (FTA), amends the planning regulation regarding the development of statewide plans and programs. Specifically, this action amends the planning regulation as it relates to consultation with non-metropolitan local officials. This action

implements the provisions of the Transportation Equity Act for the 21st Century (TEA-21) regarding the consultation with non-metropolitan local officials in the statewide and metropolitan planning processes.

**EFFECTIVE DATE(S):** February 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** For the FHWA: Ms. Jill Hochman, Office of Interstate and Border Planning (HEPI), (202) 366-0233, or Mr. Reid Alsop, Office of the Chief Counsel (HCC-30), (202) 366-1371. For the FTA: Mr. Paul Verchinski, Statewide Planning Division (TPL-11), (202) 366-1626, or Mr. Scott Biehl, Office of the Chief Counsel (TCC-30), (202) 366-0952. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's web page at: <http://www.access.gpo.gov/nara>.

##### Background

Section 1025 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, (December 18, 1991), amended title 23, United States Code (U.S.C.), section 135 and established a requirement for Statewide Transportation Planning and stated, "The transportation needs of non-metropolitan areas should be considered through a process that includes consultation with local elected officials with jurisdiction over transportation." Section 1204 of the TEA-21, Public Law 105-178, 112 Stat. 107 (June 9, 1998), further amended 23 U.S.C. 135, while preserving the statewide planning requirement for a continuing, comprehensive and cooperative planning process. The TEA-21 required States to consult with non-metropolitan

local officials in transportation planning and programming. This consultation with non-metropolitan local officials in transportation planning and programming is the specific subject of this final rule.

The FHWA and the FTA published a joint notice of proposed rulemaking (NPRM) on May 25, 2000 (65 FR 33922), that proposed revisions to the existing planning regulations issued on October 28, 1993, at 58 FR 58040. The May 2000 Planning NPRM included provisions regarding consultation with non-metropolitan local officials, and proposed that States establish and document a process for consultation with defined non-metropolitan local officials. The NPRM also proposed to require that this process be established jointly with non-metropolitan local officials. Comments were solicited until August 23, 2000 (later extended to September 23, 2000, by a July 7, 2000, **Federal Register** notice at 65 FR 41891).

On June 19, 2002 the FHWA published a supplemental notice of proposed rulemaking (SNPRM) (67 FR 41648), which proposed another option on non-metropolitan local official consultation in addition to that proposed in the NPRM. Generally the SNPRM proposed to allow greater flexibility for States to determine who local officials are and how to consult with them, by not proposing a definition of "non-metropolitan local official," and not proposing to require that the process for consultation be cooperatively developed. Comments were solicited until August 19, 2002 (later extended to September 19, 2002, by an August 15, 2002, **Federal Register** notice at 67 FR 53326).

On September 20, 2002, the FHWA and the FTA withdrew the May 2000 NPRM at 67 FR 59219. However, this withdrawal did not impact the NPRM and SNPRM proposals for non-metropolitan local official consultation.

##### Input to Development of the Final Rule

During the comment period on the NPRM (May 25, 2000, through September 23, 2000), the FTA and the FHWA held seven public meetings to present information on the May 2000 Planning NPRM. A summary of questions raised at the meetings and the general responses of the FHWA and the FTA presenters is included in the docket. The FHWA and the FTA also prepared a summary of all written comments, by section, which is included in the docket. During the NPRM comment period, the Senate Environment and Public Works and House Transportation and Infrastructure Committees held hearings (September

12 and 13, 2000) regarding the May 2000 Planning NPRM. The FHWA and the FTA also reviewed and considered the comments and questions raised at these hearings.

The House report that accompanied the U.S. DOT Appropriations Act for fiscal year (FY) 2002, and the conference report for the Department of Defense FY 2002 Appropriations Act, which contained several transportation issues, directed the U.S. DOT to promulgate a final rule, no later than February 1, 2002, to ensure transportation officials from rural areas are consulted in long range transportation planning and programming.

#### Discussion of Comments on the SNPRM Related to Local Official Consultation

We have carefully reviewed all comments received to the docket. We received 172 documents to the docket on the SNPRM, representing 155 discrete comments. They were from: local governments, Metropolitan Planning Organizations (MPO), Councils of Governments (COG) and regional governments, State DOTs, associations representing these organizations, tribal governments, and private citizens. They generally expressed diverse views consistent with those expressed in the docket to the May 2000 NPRM.

The makeup of commenters is in the chart below, followed by a general discussion of their comments:

Type of commenter	# Comments received (% of total comments)
Local government .....	58 (38)
MPO, COG, Regional Planning.	33 (21)
State DOT .....	21 (14)
National and Regional Associations/Advocacy Groups.	19 (12)
State and Federal Officials.	3 (2)
Tribal Government ....	5 (3)
Private Citizens .....	16 (10)

Local governments, MPOs, COGs, regional governments and the associations representing these organizations generally expressed preference for the consultation option proposed by the May 2000 NPRM. Fifty-two of these comments from local governments, MPOs, COGs and regional governments requested that a definition of non-metropolitan officials be included in the final rule. Thirty expressed the need to include a requirement for an established consultation process. Twenty-eight suggested that there be a requirement in the final rule that the consultation

process be developed jointly between States and local officials and that there be accountability in the consultation process. Forty-nine suggested that the FHWA and the FTA have the ability to consider local official participation when certifying the Statewide Transportation Improvement Program (STIP).

State DOTs generally supported the regulatory language proposed in the June 2002 SNPRM, which proposed to allow State flexibility to determine who local officials are and how to consult with them. State DOTs, however, did express concern with some provisions in the SNPRM. Sixteen focused on the definition of "consultation," with 14 suggestions for clarification and modification. Fifteen comments were on the statewide transportation planning process with a range of suggestions, from retaining the current language to modifying the language to limit consultation to transportation related activities. Sixteen expressed concern about the use of the term "effective" in the public involvement provisions. Thirteen expressed concerns about the phase-in period.

We also received comments from five tribal governments. Commenters expressed concern that the language did not go far enough in addressing tribal participation in the statewide transportation process, and suggested that each State must be compelled to develop a consultation process with tribal governments. The primary focus of this action is on consultation between State DOTs and non-metropolitan local elected officials. Therefore, specific provisions in existing regulatory language related to tribal governments are not being changed by this action, except for the change in the definition of consultation (discussed in the section-by-section analysis below).

Towards the end of the comment period, the National Association of Counties (NACO) representing local governments, the National Association of Development Organizations (NADO) representing local officials, and the American Association of State Highway and Transportation Officials (AASHTO) representing the State DOTs, jointly developed proposed regulatory language and submitted it to the docket. This language addresses many, if not most, of the comments received. The FHWA and the FTA reviewed the suggested language and find that it has merit because it comes from the organizations whose members are most impacted by the final rule. Therefore, we relied heavily on their suggested language to formulate this final rule.

#### Section-by-Section Analysis

The FHWA and the FTA carefully analyzed all the comments to the docket for both the May 2000 NPRM and the June 2002 SNPRM in formulating this final rule. We believe this rule strikes a balance among the various interests. This section-by-section analysis only addresses those sections of 23 CFR 450 that affect consultation with non-metropolitan local officials (§§ 450.104, 450.206, 450.212, 450.214, 450.216 and 450.224).

##### Section 450.104 Definitions

###### Consultation

The June 2002 SNPRM proposed a new definition of "consultation" in response to comments received to the docket that the definition proposed in the May 2000 NPRM was too formalized and burdensome.

Fifty-one discrete comments were received on the definition of "consultation" proposed in the June 2002 SNPRM. Seventeen of those comments came from State DOTs. Three supported the proposed definition.

Twelve States commented on the language "keeps that party informed." Five States were concerned that "keeps that party informed" meant individual updates to each party consulted with and requested clarification. Six States suggested modifying the language to "and informs that party about action(s) taken." The Pennsylvania DOT suggested revising the language to "and periodically informs that party about action(s) taken" to allow for greater State flexibility in meeting the requirement of the definition.

Thirty local governments, associations representing them, and advocacy groups expressed concern that a reference to an "established" consultation process was not included in the proposed definition of "consultation" in the SNPRM.

Caltrans, the California DOT, also commented on the lack of a reference to an "established" process in the definition. Caltrans pointed out that a reference to an "established" process is contained elsewhere in the SNPRM, and suggested that this inconsistency be clarified.

One private citizen supported the definition as proposed in the SNPRM.

The NACO-NADO-AASHTO proposed regulatory language included a reference to an "established" consultation process. It also modified language regarding keeping parties informed. In the NACO-NADO-AASHTO proposed definition, "Consultation means that one party confers with another identified party in accordance with an established process

and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken."

Based on the comments received, the final rule uses the definition in the NACO–NADO–AASHTO proposed regulatory language. This definition is consistent with statutory language, resolves inconsistencies, includes a reference to an established consultation process, and focuses on keeping other parties informed.

#### Non-Metropolitan Area

In the June 2002 SNPRM, we proposed adding the definition of "non-metropolitan area." The proposed definition recognized that there are a variety of local officials who serve non-metropolitan areas. This definition specified the geographic area served by non-metropolitan officials to distinguish them from local officials in metropolitan planning areas who are involved through the MPO.

We received six comments on this proposed definition in the June 2002 SNPRM. All supported the definition. The definition proposed in the SNPRM is retained in the final rule.

#### Non-Metropolitan Local Official

In the May 2000 Planning NPRM we proposed adding the definition of a "non-metropolitan local official." This definition was not included in the June 2002 SNPRM.

Over 50 commenters requested that the FHWA and the FTA include a definition for this term in the final rule. Specifically, 23 local governments, 16 regional planning organizations, 9 associations, and 3 private citizens expressed concern that the definition for this term had been removed from the SNRPM. They commented that by allowing the States sole discretion to determine which non-metropolitan local officials to consult with, many rural officials will be excluded. They also commented that this did not fulfill the Congressional intent of "enhanced consultation between States and local officials."

The NACO–NADO–AASHTO proposed regulatory language included a proposed definition for "non-metropolitan local official" as "elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation as defined in the documented consultation process in Part 450, Section 212."

After considering the comments received, the FHWA and the FTA have included a definition of "non-metropolitan local official" in the final

rule that is based on the NACO–NADO–AASHTO proposed regulatory language. The definition provides a clear statement that non-metropolitan local officials are "elected and appointed officials of general purpose local government in non-metropolitan areas with jurisdiction/responsibility for transportation."

#### Section 450.206 Statewide Transportation Planning Process: General Requirements

Section 1204 of the TEA–21 clearly emphasizes the importance of recognizing non-metropolitan transportation issues and consulting with non-metropolitan local officials. In the June 2002 SNPRM, the FHWA and the FTA proposed revising § 450.206(b) and adding a new § 450.206(c) to clarify that effective consideration of non-metropolitan transportation issues and concerns and involvement of non-metropolitan local officials can be enhanced by coordinating statewide transportation planning with related planning in non-metropolitan areas.

There were 19 comments on this provision. Four regional planning organizations supported the regulatory language proposed in the June 2002 SNPRM. Nine State DOTs suggested amending "planning activities" in § 450.206(b) to "transportation-related planning activities" because they believed that without this change, State DOTs would be required to consult on non-transportation planning activities.

This section is specific to the statewide transportation planning process, and it is self-evident that the "planning activities" referred to in this section are related to transportation. Therefore, the FHWA and the FTA are not modifying it to specify transportation-related planning activities.

Three States also suggested modifying the language such that states "consider" planning outside of the metropolitan areas to be clear that coordination with non-metropolitan local officials is not required, as it is with metropolitan local officials. These commenters stated that a coordination requirement for non-metropolitan areas would exceed statutory authority, which only requires a "consultation" relationship.

The NACO–NADO–AASHTO proposed regulatory language would require States to "consider coordination with planning activities being carried out outside of the metropolitan areas."

The FHWA and the FTA agree with comments that the requirements for metropolitan areas and non-metropolitan areas are distinctly delineated in the statute. We have taken

the NACO–NADO–AASHTO proposed regulatory language and modified it to require States to "consider coordination with planning activities in non-metropolitan areas." The final rule includes a definition for the term "non-metropolitan area." The final rule also simplifies the suggested NACO–NADO–AASHTO proposed regulatory language.

The June 2002 SNPRM proposed a new subpart 450.206(c) that says that States shall "consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government." Three State DOTs requested editorial clarification on this proposed provision. The FHWA and the FTA believe that the provision is clear and have adopted as final the regulatory language proposed in the June 2002 SNPRM.

#### Section 450.212 Public Involvement

In developing the June 2002 SNPRM, the FHWA and the FTA considered comments received to the docket on this provision in the May 2000 NPRM. In addition, the FHWA and the FTA used information from other sources, including the FHWA–FTA study on participation of non-metropolitan local officials required by the TEA–21 and ten rural listening sessions held throughout the country.<sup>1</sup> The June 2002 SNPRM proposal focused on the intended result of "effective participation" of local officials in statewide transportation planning.

Thirteen states commented that the language "effective participation" in § 450.212(h) of the June 2002 SNPRM is a subjective term that exceeds statutory language in TEA–21. Section 1204 of TEA–21 states that USDOT will not "review or approve" a State's consultation process.

The Pennsylvania DOT suggested that the regulatory language state: "that provides an opportunity for their participation" rather than "that provides for their effective participation."

The NADO–NACO–AASHTO proposed regulatory language included language identical to that proposed by Pennsylvania DOT. It also included a

<sup>1</sup> The non-metropolitan local officials report has been transmitted to Congress and has been placed in the SNPRM docket. The report and its appendices (Rural Transportation Consultation Processes, May 2000, Rural Transportation Consultation Processes: State by State Summaries, April 2001, and Rural Transportation Consultation Processes: Report of a Workshop: May 2001) will soon be available at the following URL: <http://www.fhwa.dot.gov/planning.htm>. A summary of each of the ten rural workshops held in 1998–99 (Rural Transportation Planning Workshops, Summer 1999) is available at the following URL: <http://www.fhwa.dot.gov/hep10/state.rural.html>. These reports are in the May 2000 NPRM docket.

requirement that the State's documented process for consulting with non-metropolitan officials be "separate and discrete" from the public involvement process.

The FHWA and the FTA agree that the use of the term "effective" is subjective. We included the language suggested by Pennsylvania to be more consistent with the statutory provisions in TEA-21 in this final rule. We also included language requiring that the State's process for consulting with non-metropolitan officials be separate and discrete because TEA-21 makes a clear distinction between the metropolitan and non-metropolitan officials. The new requirement is included in the final rule as subpart 450.212 (h).

We received 28 comments recommending that the State and local officials jointly develop the consultation process. Most of these comments were from local governments, regional planning organizations, associations representing them, and interest groups.

The NACO-NADO-AASHTO proposed regulatory language suggested a new subpart 450.212(i). This new subpart requires that "The State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and proposed modification within 2 years of process implementation, and thereafter at least once every 5 years. A specific request for comments shall be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials."

In addition, 49 commenters indicated that there should be accountability in the consultation process. Most of these comments came from local governments, regional planning organizations, associations representing them, and interest groups. One measure of accountability suggested by these commenters was that the FHWA and the FTA use their authority to consider local official participation when certifying the STIP.

The NACO-NADO-AASHTO proposed regulatory language includes a requirement regarding accountability. The suggestion is that "The State, in its discretion, shall be responsible for determining whether to adopt proposed modifications. If a proposed modification is not adopted, the State shall make publicly available its reasons for not accepting the proposed modifications, including notification to non-metropolitan local officials of their associations."

The FHWA and the FTA agree that the NACO-NADO-AASHTO proposed regulatory language reflects the concept of effective participation as well as accountability. The TEA-21 and the June 2002 SNPRM both focused on this type of result. Therefore, the agencies include the suggestion of the NACO-NADO-AASHTO proposed regulatory language in the final rule as a new subpart 450.212(i).

#### *Section 450.214 Statewide Transportation Plan*

Section 1204 of the TEA-21 specifically states "with respect to each non-metropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation." This language is now codified at 23 U.S.C. 135(e)(2)(B). Therefore, in the June 2002 SNPRM, the FHWA and the FTA proposed adding § 450.214(f). This was intended to reflect the intent of the statute by proposing language that required affected local officials with responsibility for transportation to be involved on a consultation basis in developing the statewide transportation plan as it relates to the non-metropolitan areas of the State.

Ten States commented on this proposal. The majority of the States supported the provision as written. Some States requested clarification that affected local officials are to be consulted only on portions of the plan that affect their areas.

The FHWA and FTA believe that it is evident that local officials are to be consulted only on those portions of the plan that affect their areas. We adopted as final the language proposed in the June 2002 SNPRM that requires the involvement of local officials with responsibility for transportation to be involved in the development of the statewide transportation plan in non-metropolitan areas of the State.

#### *Section 450.216 Statewide Transportation Improvement Program (STIP)*

Section 1204 of the TEA-21 specifically states "with respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation." This language is now codified at 23 U.S.C. 135(f)(1)(B)(ii)(I). Therefore, in the June 2002 SNPRM, the FHWA and the FTA proposed adding § 450.216(e) to reflect the intent of the statute by proposing language that requires affected local officials with responsibility for transportation to be

involved on a consultation basis in developing the STIP as it relates to the non-metropolitan areas of the State.

Eleven States commented on this provision in the SNPRM. The majority of the States supported the provision as written. Some States requested clarification that affected local officials are to be consulted only on portions of the program plan that affect their areas.

The FHWA and FTA believe that it is evident that local officials are to be consulted only on those portions of the program that affect their areas. We adopted as final the language proposed in the June 2002 SNPRM that requires the involvement of local officials with responsibility for transportation to be involved in the development of the statewide transportation improvement program in non-metropolitan areas of the State.

#### *Section 450.224 Phase-in of New Requirements*

The June 2002 SNPRM proposed a six-month phase-in period. We received 13 comments from State DOTs and 2 comments from regional planning organizations regarding this provision.

Four State DOTs and 2 regional planning organizations supported the phase-in provision as proposed in the June 2002 SNPRM. The other commenters supported a phase-in requirement but with different time frames. Three States commented that six months would not be adequate and four States commented that the phase-in requirement should accommodate the planning cycles of various States.

The NACO-NADO-AASHTO proposed regulatory language recommended a one-year phase-in period.

The FHWA and the FTA recognize the differences among the planning cycles of the States. In the final rule we have extended the phase-in period to one year (to end one year after the effective date of this rule), which will allow States additional time to implement the consultation requirements, and also accommodates the differences in the planning cycles of various States. After this period, the consultation aspects of the statewide transportation planning process will be emphasized as we assess the planning process and make the Federal planning finding required in 23 CFR 450.220(b) and 23 U.S.C. 135(f)(4).

#### **Rulemaking Analyses and Notices**

##### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA and the FTA have determined that this action is a

significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures, because of a substantial public interest. The agencies anticipate that the economic impact of this rulemaking will be minimal. This action amends a portion of the current planning regulations for which substantial financial assistance is provided to the States by both the FHWA and the FTA to support compliance with the requirements of the regulation.

This final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

#### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA and the FTA have evaluated the effects of this final rule on small entities and has determined it will not have a significant economic impact on a substantial number of small entities.

The modifications in this final rule are substantially dictated by the statutory provisions of the TEA-21 and the agencies believe that the flexibility available to the States in those provisions has been maintained. For these reasons, the FHWA and the FTA certify that this action will not have a significant economic impact on a substantial number of small entities.

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

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year.

The requirements of 23 U.S.C. 135 are supported by Federal funds administered by the FHWA and the FTA. There is a legislatively established local matching requirement for these funds of up to twenty percent of the total cost. The FHWA and the FTA believe that the cost of complying with these requirements is predominately covered by the funds they administer. The costs of compliance with the requirements of the planning program as a whole are eligible for funding; therefore, this action will not create an unfunded mandate.

Additionally, the definition of "Federal mandate" in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid highway program and the Transit program permit this type of flexibility to the States.

#### *Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the agencies have determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA and the FTA have also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Throughout the course of this rulemaking, several States raised concern about burdens imposed by the requirement to consult with non-metropolitan local officials. The ISTEA and the TEA-21 require such consultation. In this final rule the FHWA and the FTA expect that existing consultation procedures often may be used to comply with these requirements.

The agencies further note that the transportation planning activities required by the planning regulations, as amended by this final rule, are conditions for the receipt of Federal transportation financial assistance and are reimbursable expenses. Under the provisions of title 23 and title 49, chapter 53, U.S.C., the Federal government reimburses at least 80 percent of the costs to complete required transportation plans and transportation improvement programs.

#### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20515, State Planning and Research. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

#### *Paperwork Reduction Act*

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

#### *National Environmental Policy Act*

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and have determined that this action will not have any effect on the quality of environment.

#### *Executive Order 13175 (Tribal Consultation)*

The FHWA and the FTA have analyzed this action under Executive Order 13175, dated November 6, 2000. This action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### *Executive Order 13211 (Energy Effects)*

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. Although this proposal is a significant regulatory action under Executive Order 12866, we have determined that it is not a significant energy action under that order, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

#### *Executive Order 12988 (Civil Justice Reform)*

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *Executive Order 13045 (Protection of Children)*

We have analyzed this action under Executive Order 13045, protection of Children from Environmental Health Risks and Safety Risks. This action is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

#### *Executive Order 12630 (Taking of Private Property)*

This action will not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 450

Grant programs—transportation, Highways and roads, Mass transportation, Reporting and recordkeeping requirements.

Issued on: January 15, 2003.

Mary E. Peters, Federal Highway Administrator. Jennifer L. Dorn, Federal Transit Administrator.

In consideration of the foregoing, the Federal Highway Administration is amending title 23, Code of Federal Regulations, part 450, as set forth below:

PART 450—PLANNING ASSISTANCE AND STANDARDS

1. The authority citation for part 450 continues to read as follows:

Authority: 23 U.S.C. 134, 135, and 315; and 49 U.S.C. 5303–5306, 5323(l).

2. Amend § 450.104 to revise the definition of “consultation” and add, in alphabetical order, the definition for “non-metropolitan area” and “non-metropolitan local official” to read as follows:

§ 450.104 Definitions.

\* \* \* \* \*

Consultation means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party’s views and periodically informs that party about action(s) taken.

\* \* \* \* \*

Non-metropolitan area means the geographic area outside designated metropolitan planning areas, as designated under 23 U.S.C. 134 and 49 U.S.C. 5303.

Non-metropolitan local official means the elected or appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

\* \* \* \* \*

3. Amend § 450.206 to revise paragraph (b) and to add paragraph (c) as follows:

§ 450.206 Statewide transportation planning process: General requirements.

\* \* \* \* \*

(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part and shall consider coordination with planning activities in non-metropolitan areas.

(c) In carrying out statewide transportation planning, the State shall consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.

4. Amend § 450.212 by adding new paragraphs (h) and (i) to read as follows:

§ 450.212 Public involvement.

\* \* \* \* \*

(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) that is separate and discrete from the public involvement process for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that provides an opportunity for their participation in the statewide transportation planning process and development of the statewide transportation improvement program.

(i) The State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 days regarding the effectiveness of the consultation process and proposed modifications within 2 years of process implementation, and thereafter at least once every 5 years. A specific request for comments shall be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials. The State, at its discretion, shall be responsible for determining whether to adopt any proposed modifications. If a proposed modification is not adopted, the State shall make publicly available its reasons for not accepting the proposed modification, including notification to non-metropolitan local officials or their associations.

5. Amend § 450.214 by adding a paragraph (f) to read as follows:

§ 450.214 Statewide transportation plan.

\* \* \* \* \*

(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.

6. Amend § 450.216 by adding a paragraph (e) to read as follows:

§ 450.216 Statewide transportation improvement program (STIP).

\* \* \* \* \*

(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.

7. Amend § 450.224 by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 450.224 Phase-in of new requirements.

\* \* \* \* \*

(b) The State has a period of one year after February 24, 2003 to document and implement the consultation process discussed in § 450.212(h).

[FR Doc. 03–1319 Filed 1–22–03; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–022]

RIN 2115–AE47

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Houma, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the existing drawbridge operation regulation for the draw of the Bayou Dularge bridge across the Gulf Intracoastal Waterway, mile 59.9 at Houma, Terrebonne Parish, Louisiana. The rule allows for the morning closure period to be increased by 15 minutes to facilitate the movement of high volumes of vehicular traffic across the bridge during peak traffic hours.

DATES: This rule is effective February 24, 2003.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD8–02–022 and are available

(C) The Office of Defense Trade Controls Compliance and the Director, Office of Defense Trade Controls Compliance, respectively, insofar as such references relate to violations of law or regulation and compliance therewith, including references contained in parts 127, 128 and 130, of this subchapter, and including references under part 122 of this subchapter, and that portion under part 129 of this subchapter pertaining to registration;

(D) The Office of Defense Trade Controls Policy and the Director, Office of Defense Trade Controls Policy, respectively, insofar as such references relate to the general policies of defense trade, including references under this part 120 and part 126 of this subchapter.

(ii) Future amendments to the ITAR will be promulgated to reflect future realignment of responsibilities for defense trade controls.

\* \* \* \* \*

Dated: January 29, 2003.

**John R. Bolton,**

*Under Secretary, Arms Control and International Security, Department of State.*

[FR Doc. 03-2926 Filed 2-13-03; 8:45 am]

BILLING CODE 4710-25-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 450

[FHWA Docket No. FHWA-99-5933]

FHWA RIN 2125-AE95; FTA RIN 2132-AA75

#### Statewide Transportation Planning; Metropolitan Transportation Planning

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

**ACTION:** Correction to final rule.

**SUMMARY:** This document corrects the final rule on Statewide Transportation Planning; Metropolitan Transportation Planning published in the **Federal Register** on January 23, 2003 (68 FR 3176). The FHWA is correcting the definition of non-metropolitan local official by removing the word "or" and replacing it with the word "and" as stated in the preamble.

**EFFECTIVE DATE:** March 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** For the FHWA: Ms. Jill Hochman, Office of Interstate and Border Planning (HEPI), (202) 366-0233, or Mr. Reid Alsop, Office of the Chief Counsel (HCC-31), (202) 366-1371. For the FTA: Mr. Paul Verchinski, Statewide Planning Division (TPL-11), (202) 366-1626, or Mr. Scott

Biehl, Office of the Chief Counsel (TCC-30), (202) 366-0952. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

##### Background

The FHWA in consultation with the Federal Transit Administration, published a final rule on Statewide and Metropolitan Planning on January 24, 2003, at 68 FR 3176. After reviewing the final published document, the agencies realized that there was a mistake in the definition of the non-metropolitan local official. The definition indicated that a non-metropolitan local official, "means the elected or appointed officials of general purpose \* \* \*"; however, the word "or" that follows the word "elected" and precedes the word "appointed" should be an "and". In the section-by-section analysis section of the preamble, the agencies explain that the definition should read "elected and appointed officials of general purpose \* \* \*".

The language for the definition of non-metropolitan local official was jointly proposed by the National Association of Counties (NACO) representing the local governments, the National Association of Development Organizations (NADO) representing local officials and the American Association of State and Highway Transportation Officials (AASHTO) representing the State DOTs. The agencies reviewed this proposed definition and believed it had merit because it came from the organizations whose members are most impacted by the final rule. Therefore, this correction merely changes the "or" to an "and" to

accurately reflect the definition we intended to appear in the final rule.

#### Rulemaking Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA and the FTA have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures. This action merely corrects a definition used in the final rule to remove the word "or" and replace it with the word "and" as stated in the preamble to the final rule. This correction is not a substantive change to the rule, but rather, is a ministerial change necessary to accurately reflect the intent of the agencies.

#### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA and the FTA have evaluated the effects of this final rule on small entities and has determined it will not have a significant economic impact on a substantial number of small entities.

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

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub L. 104-4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year.

#### *Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the agencies have determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA and the FTA have also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

#### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20515, State Planning and Research.

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

*Paperwork Reduction Act*

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

*National Environmental Policy Act*

The FHWA and the FTA have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and have determined that this action will not have any effect on the quality of environment.

*Executive Order 13175 (Tribal Consultation)*

The FHWA and the FTA have analyzed this action under Executive Order 13175, dated November 6, 2000. This action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

*Executive Order 13211 (Energy Effects)*

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this rule is not a significant energy action under EO 11321 because this rule is not a significant regulatory action and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

*Executive Order 12988 (Civil Justice Reform)*

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

*Executive Order 13045 (Protection of Children)*

We have analyzed this action under Executive Order 13045, protection of Children from Environmental Health Risks and Safety Risks. This action is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

*Executive Order 12630 (Taking of Private Property)*

This action will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 450**

Grant programs—transportation, Highways and roads, Mass transportation, Reporting and recordkeeping requirements.

Issued on: February 10, 2003.

**Mary E. Peters,**

*Federal Highway Administrator.*

In consideration of the foregoing, the Federal Highway Administration is amending title 23, Code of Federal Regulations, part 450, as set forth below:

**PART 450—PLANNING ASSISTANCE AND STANDARDS**

1. The authority citation for part 450 continues to read as follows:

**Authority:** 23 U.S.C. 134, 135, and 315; and 49 U.S.C. 5303–5306, 5323(l).

2. Amend § 450.104 to revise the definition of “non-metropolitan local official” to read as follows:

**§ 450.104 Definitions.**

\* \* \* \* \*

*Non-metropolitan local official* means elected and appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

\* \* \* \* \*

[FR Doc. 03–3735 Filed 2–13–03; 8:45 am]

**BILLING CODE 4910–22–P**

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4022 and 4044**

**Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation’s (PBGC) regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in March 2003. Interest assumptions are also published on the PBGC’s Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATE:** March 1, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC’s regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with