

start of work. This would provide the State an opportunity to involve the contractor in the development of the TOP.

In § 630.1012(b)(2)(iii) we outline the requirements for a Public Information and Outreach Plan (PIOP). We propose to include the development of PIOPs as part of the TMP for projects. We propose that States would include a PIOP in the TMP, if recommended by the results of the work zone impacts analysis. A PIOP would consist of project level communications that would ensure that affected road users, the general public, residences and businesses, and the appropriate public entities are informed about the project, the expected work zone impacts, and the changing conditions of the project. Through the PIOP we propose to encourage States to provide adequate (*i.e.*, frequent, current, and near-real-time where appropriate) information for the affected parties to make informed travel decisions that help alleviate the work zone impacts of the project.

We propose to identify that the scope of the PIOP would be determined by the public information and outreach requirements identified in the work zone impacts analysis. We propose that the State may choose to include the PIOP in the P.S.&E.s. This would provide the State the flexibility to contract the PIOP as part of the overall contract for the project, or hire a separate contractor for implementing the PIOP. We also propose that alternatively, States may choose to include provisions in the P.S.&E.s for contractors to develop a PIOP, approved by the State, prior to the start of work. This would provide the State an opportunity to involve the contractor in the development of the PIOP.

In § 630.1012(b)(3) we propose to amend the requirements for "Pay Items." This is an existing requirement, with proposed changes that would allow both method based and performance based specifications for procurement, and emphasize the need for unit pay items in the case of method based procurement for TCPs. It also proposes to allow the State flexibility in including the other TMP components in the P.S.&E. package.

In § 630.1012(b)(4) we propose to amend the requirements for "Responsible Persons." This is an existing requirement, with proposed changes that would require a responsible person at the project level from the contractor, in addition to the responsible person from the State.

Compliance Date

We propose that the compliance date be 3 years after the effective date of the final rule. This would allow States time to implement the proposed requirements.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. We will file comments received after the comment closing date in the docket and will consider later comments to the extent practicable. We may, however, issue a final rule at any time after the close of the comment period. In addition to late comments, we will also continue to file, in the docket, relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has determined that the proposed rule would not be a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this action would be minimal.

These proposed changes are not anticipated to adversely affect, in a material way, any sector of the economy. In addition, these changes are not likely to interfere with any action taken or planned by another agency or to materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Based upon the information received in response to this NPRM, the FHWA intends to carefully consider the costs and benefits associated with this rulemaking. Accordingly, comments, information, and data are solicited on the economic impact of the changes described in this document or any alternative proposal submitted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), we have evaluated the effects of this rule on small entities. This rule applies to State departments of transportation in the execution of their highway program with respect to work zones. The implementation of the proposed provisions in this rule will

therefore not affect the economic viability or sustenance of small entities. Accordingly, the FHWA certifies that the proposed action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed action 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). The actions proposed in this NPRM would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined that this proposed action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation or affects 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. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations.

The FHWA has determined that this proposed rule contains a requirement for data and information to be collected and maintained in the support of design, construction, and operational decisions that affect the safety and