

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; 20.515, 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