

substantial number of small entities. In any event, States are not included in the definition of "small entity" set forth in 5 U.S.C. 601. Therefore, this action will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act.

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

This action does not impose a Federal mandate resulting in the expenditure by State, local, tribal governments, in the aggregate, or by the sector, of \$100 million or more in any year. (2 U.S.C. 1531 *et seq.*)

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

This action meets applicable standards in sections 3(a) and 3(b) 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 does not involve 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, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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

This 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 action does not have a substantial direct effect or sufficient federalism implications on States that would limit policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

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

Catalog of Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of

Federal programs and activities apply to this program.

#### **Paperwork Reduction Act**

This action does not create a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### **National Environmental Policy Act**

The FHWA has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment. Therefore, an environmental impact statement is not required.

#### **Regulatory 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 number 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 140**

Accounting, Grant programs—transportation, Highways and roads.

Issued on: July 17, 2000.

**Kenneth R. Wykle,**  
*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 140, as set forth below:

#### **PART 140—REIMBURSEMENT**

1. The authority citation for part 140 continues to read as follows:

**Authority:** 23 U.S.C. 101(e), 106, 109(e), 114(a), 120(g), 121, 122, 130, and 315; and 49 CFR 1.48(b).

#### **Subpart C—[Removed and Reserved]**

2. Remove and reserve subpart C of part 140.

[FR Doc. 00-18685 Filed 7-25-00; 8:45 am]

**BILLING CODE 4910-22-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **23 CFR Part 140**

**RIN 2125-AE74**

#### **Payroll and Related Expenses of Public Employees; General Administration and Other Overhead; and Cost Accumulation Centers and Distribution Methods**

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

**ACTION:** Final rule; rescission of regulation.

**SUMMARY:** This document rescinds the regulation for payroll and related expenses of public employees; general administration and other overhead; and cost accumulation centers and distribution methods. This rescission stems from a provision in the Transportation Equity Act for the 21st Century (TEA-21) that allows for eligibility of administrative costs of a State department of transportation (State DOT). The provision permits State transportation departments to request Federal reimbursement for various indirect costs, such as administrative overhead. Previously, Federal reimbursement was only available for direct costs, such as project construction and engineering expenses. States may claim indirect costs in accordance with the provisions of Office of Management and Budget (OMB) Circular A-87.

**DATES:** This rule is effective July 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Max Inman, Federal-aid Financial Management Division, (202) 366-2853 or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366-1395, Federal Highway Administration, 400 Seventh Street SW., Room 4310, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access**

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

## Background

Section 1212(a) of the TEA-21, Public Law 105-178, 112 Stat. 107, at 193 (1998), amended 23 U.S.C. 302. Section 302 has long been interpreted to mean that a State could not claim Federal-aid highway funds for its costs associated with administering its highway department even though a State agency's indirect costs are generally allowable in accordance with directives issued by the OMB. This new provision in the TEA-21 clarifies that 23 U.S.C. 302 does not limit reimbursement of eligible indirect costs and thereby makes the Federal-aid highway program consistent with other federal programs under OMB Circular A-87, as revised May 4, 1995, and further amended on August 29, 1997. The change reduces the administrative burden caused by requiring States to develop separate accounting systems.

The OMB Circular A-87 provides principles for determining the allowable costs of programs administered by State and local governments under grants from, and contracts with, the Federal government. These principles are designed to provide the basis for a uniform determination of costs and generally to provide that federally assisted programs bear their fair share of costs.

Those States desiring to claim administrative overhead costs for the Federal-aid highway program may do so by developing an indirect cost rate proposal in accordance with the criteria provided in OMB Circular A-87, whereby the costs may be distributed to the various departments and programs in an equitable and consistent manner.

## Rulemaking Analyses and Notices

This final rule makes technical changes to existing regulations mandated by law to provide greater uniformity of treatment of indirect costs as applied to the Federal-aid highway program and reduces the burden on State and local governments. This action eliminates outdated language by rescinding the regulation for payroll and related expenses of public employees, general administration and other overhead, and cost accumulation centers and distribution methods. Rescission of the regulation is more consistent with current statutory authority under the TEA-21 that allows for eligibility of various indirect costs, such as, administrative overhead costs of a State DOT. Therefore, the FHWA finds good cause to take this action without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The DOT's regulatory policies and

procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making the rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects or clarifies existing regulations [5 U.S.C. 553(d)].

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

The FHWA has determined this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. This rulemaking action makes only technical corrections to the current regulations by rescinding a rule to eliminate outdated language due to current statutory authority under the TEA-21. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

## Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act [5 U.S.C. 601-612], the FHWA has evaluated the effects of this action on small entities. Based on the evaluation and since this rulemaking action merely removes an outdated regulation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, States are not included in the definition of "small entity" as provided in 5 U.S.C. 601.

## Executive Order 13132 (Federalism)

This 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 action does not have 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.

## 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.

## Unfunded Mandates Reform Act of 1995

This action does not impose a Federal mandate resulting in the expenditure by State, local, tribal governments, in the aggregate, or by the sector, of \$100 million or more in any year. (2 U.S.C. 1531 *et seq.*)

## Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

## 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 rule, involved here is not economically significant 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, Governmental Actions and Interference with Constitutionally Protected Property Rights.

## National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment. Therefore, an environmental impact statement is not required.

## 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 number 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 140**

Accounting, Grants programs—  
transportation, Highways and roads.

Issued on: July 18, 2000.

**Kenneth R. Wykle,**

*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 140, as set forth below:

**PART 140—[AMENDED]**

1. Revise the authority citation for part 140 to read as follows:

**Authority:** 23 U.S.C. 101(e), 106, 109(e), 114(a), 120(g), 121, 122, 130, and 315; and 49 CFR 1.48(b).

**Subpart G—[Removed and Reserved]**

2. Remove and reserve subpart G of part 140.

[FR Doc. 00-18776 Filed 7-25-00; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF JUSTICE****Parole Commission****28 CFR Part 2****Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code**

**AGENCY:** United States Parole Commission, Justice.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Parole Commission is issuing final rules for parole-eligible D.C. Code prisoners and parolees pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997. The final rules incorporate the interim rules for D.C. Code prisoners that took effect on August 5, 1998, as well as new provisions pertaining to D.C. Code parolees. This will carry out the transfer to the U.S. Parole Commission of the authority currently exercised by the D.C. Board of Parole over the parole supervision and revocation process, which the Revitalization Act requires to take place by August 5, 2000. These final rules will constitute, in amended and supplemented form, the complete parole regulations of the District of Columbia.

**DATES:** These rules are effective August 5, 2000.

**FOR FURTHER INFORMATION CONTACT:** Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase,

Maryland 20815, telephone (301) 492-5959, for information concerning these rules. For inquiries about individual cases and all other matters, please contact (301) 492-5821.

**SUPPLEMENTARY INFORMATION:** Under section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33, the U.S. Parole Commission assumed the paroling jurisdiction of the D.C. Board of Parole on August 5, 1998. Interim rules, with a request for public comment, were published at 63 FR 39172 (July 21, 1998), and were amended at 63 FR 57060 (October 26, 1998) and 64 FR 5611 (February 4, 1999). They were republished in their entirety at 65 FR 19996 (April 13, 2000) with a continued request for public comment. The Commission has determined that it is now appropriate to publish these rules as final rules.

The Revitalization Act also requires that the remaining powers and duties of the D.C. Board of Parole (concerning the supervision and revocation of parolees) be transferred to the U.S. Parole Commission by August 5, 2000. In anticipation of this transfer of authority, the Commission published proposed rules, at 65 FR 20006 (April 13, 2000) to govern the Commission's exercise of that additional authority. After careful consideration of the public comment received, the Commission has determined that these proposed rules are also ready for publication as final rules effective August 5, 2000.

Accordingly, the Commission is republishing, as a final rule, the complete Subpart C that sets forth the parole release, supervision, and revocation policies and procedures of the U.S. Parole Commission with regard to District of Columbia Code prisoners and parolees. Pursuant to D.C. Code 24-1231(a)(1), these amended and supplemented rules will replace the rules of the D.C. Board of Parole originally published at 28 D.C.M.R. section 100 *et. seq.*, and will constitute the parole regulations of the District of Columbia as described in D.C. Code 24-1231(c).

**Summary of the Public Comment**

The Commission received public comment on both the interim and proposed rules that were published on April 13, 2000, at a public hearing held by the Commission on June 19, 2000, and through the submission of written statements and letters. The public comment is summarized below, together with the Commission's views on certain of the issues raised.

**Law Student Representation**

Much of the comment from law professors and law students concerned the proposed rule at § 2.103(e) that only licensed attorneys be permitted to engage in legal advocacy at parole revocation hearings. This comment made a strong case for the Commission permitting representation by law students in a clinical practice program. Such a provision therefore appears in the final rules.

**Initial Parole Hearings**

Other comment focused on the problem of delays in initial hearings and in processing grants of parole (which have frequently occurred for prisoners housed in District prisons). Complaints were made about delays to obtain more information and about delays in receiving notices of action. Although the Commission was commended for its rule at 28 CFR 2.71 requiring that initial hearings be held 180 days prior to parole eligibility, the point was made that this deadline is not being met in practice. The complaint was also made that Department of Corrections case managers are not always providing parole application forms, and that all eligible prisoners should be placed on the docket for a hearing, whether or not there has been a waiver of parole. (This proposal appears to reflect a high level of distrust of prison staff.) The Commission was advised by the D.C. Public Defender Service to assume "full responsibility" for docketing eligible prisoners wherever confined. However, the USPC staff does not have the ability to monitor the current location and parole eligibility status of all inmates throughout the D.C. system (including contract facilities), and it therefore does not have the ability to organize parole dockets at the D.C. institutions it visits. In all likelihood, most of these problems will be resolved as more and more D.C. inmates are transferred to federal facilities prior to the December 31, 2001, deadline set by the Revitalization Act. However, some delays are made necessary by the need for the Commission to acquire the basic information that is often missing from inmates' files (*e.g.*, presentence reports). Such delays are ordered only where a responsible release decision cannot be made on the basis of the file materials furnished to the Commission by District officials.

Another complaint was that no account is taken by the Commission of the "dead time" caused by a delayed initial parole hearing when a set-off is ordered. The Commission, however, has expressly provided for situations