

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 771**

RIN 2132-AA78

**Federal Transit Administration****49 CFR Part 622**

RIN 2125-AF04

**Environmental Impact and Related Procedures**

**AGENCIES:** Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This rule makes technical corrections to the regulation that governs environmental impact procedures for the FHWA and the FTA. The amendments contained herein make no substantive changes to the FHWA or the FTA regulations, policies, or procedures. This rule corrects the name of the Federal Transit Administration (FTA) from its former name, the Urban Mass Transportation Administration (UMTA); corrects a reference to "urban mass transportation"; corrects statutory references that became outdated when Federal transit laws were codified; removes the reference to a program that has been eliminated; corrects references to regulatory "part" numbers that have changed; corrects the names of offices within FHWA and FTA; and corrects a spelling error.

**DATES:** This rule is effective June 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** For FHWA, Frederick Skaer, Office of Project Development and Environmental Review, (202) 366-2065, Ms. April Marchese, Office of the Chief Counsel, (202) 366-5991. For FTA, Christopher S. Van Wyk, Office of Planning and Environment, (202) 366-4033; or Scott A. Biehl, Assistant Chief Counsel, (202) 366-4011. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590. 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**

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**Background**

This rule makes technical corrections to the regulations that govern environmental impact and related procedures for the FHWA and the FTA found at 23 CFR part 771 and 49 CFR part 622. The corrections are needed for the following reasons: (1) A statutory change in the name of the Department's transit agency from the Urban Mass Transportation Administration to the Federal Transit Administration; (2) because of various changes in statutory references due to the codification of Federal transit laws in Title 49, United States Code, Chapter 53; (3) changes in names of offices within the FHWA and the FTA; (4) changes in regulatory "part" references; and (5) a spelling error.

**Rulemaking Analyses and Notice**

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The FHWA and the FTA find that notice and comment for this rule is unnecessary and contrary to the public interest because it will have no substantive impact, is technical in nature, and relates only to management, organization, procedure, and practice. The FHWA and the FTA do not anticipate receiving meaningful comments on it. States, local governments, transit agencies, and their consultants rely upon the environmental regulations corrected by this action. These corrections will reduce confusion for these entities and should not be unnecessarily delayed. Accordingly, for the reasons listed above, the agencies find good cause under 5 U.S.C. 553(b)(B) to waive notice and opportunity for comment.

**Executive Order 12866 (Regulatory Planning and Review) and U.S. 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 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal. This

rule only entails minor corrections that will not in any way alter the regulatory effect of 23 CFR part 771 or 49 CFR part 622. Thus, 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 action on small entities and have determined that the action will not have a significant economic impact on a substantial number of small entities. This final rule will not make any substantive changes to our regulations or in the way that our regulations affect small entities; it merely corrects technical errors. For this reason, 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 does not impose any requirements on State, local, tribal governments, or the private sector and, thus, will not require those entities to expend any funds.

**Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA and the FTA 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 Numbers 20.205, Highway Planning and Construction; 20.500 *et seq.*, Federal Transit Capital Investment Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs.

**Paperwork Reduction Act**

This action does not create any new information collection requirements for which a Paperwork Reduction Act submission to the Office of Management and Budget would be needed 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 the environment.

**Executive Order 13175 (Tribal Consultation)**

The FHWA and FTA have analyzed this action under Executive Order 13175, dated November 6, 2000, and concluded that this rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government; and will not preempt tribal law. There are no requirements set forth in this rule that directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

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

This rule 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)**

Under Executive Order 13045, Protection of Children from Environmental Health and Safety Risks, this final rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionately affect children.

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

This final rule 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 13211 (Energy Effects)**

This final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA and

FTA have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

**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 RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects****23 CFR Part 771**

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and recordkeeping requirements.

**49 CFR Part 622**

Environmental impact statements, Grant programs—transportation, Mass transportation, Reporting and recordkeeping requirements.

In consideration of the foregoing, 23 CFR part 771 and 49 CFR part 622 are amended as set forth below.

Issued on: May 2, 2005.

**Mary E. Peters,**

*Federal Highway Administrator.*

**Jennifer L. Dorn,**

*Administrator, Federal Transit Administration.*

**Federal Highway Administration****Title 23—Highways****PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES [REVISED]**

■ 1. The authority citation for part 771 continues to read as follows:

**Authority:** 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 109, 110, 128, 138 and 315; 49 U.S.C. 303(c), 5301(e), 5323, and 5324; 40 CFR part 1500 *et seq.*; 49 CFR 1.48(b) and 1.51.

**§ 771.101 [Amended]**

■ 2. Amend § 771.101 as follows:

■ a. In the first sentence, remove the words “Urban Mass Transportation Administration (UMTA)” and add, in their place, the words “Federal Transit Administration (FTA)”.

■ b. In the second sentence, revise the acronym “UMTA” to read “FTA”, and remove the word “urban”.

■ c. In the third sentence, remove the citation “49 U.S.C. 303, 1602(d), 1604(h),

1604(i), 1607a, 1607a–1 and 1610” and add “49 U.S.C. 303, 5301(e), 5323(b), and 5324(b)” in its place.

**§ 771.105 [Amended]**

■ 3. Amend footnote number 1 to § 771.105(a) by revising the acronym “UMTA” to read “FTA” each place it appears, and remove the words”, “Appendices D and G”.

**§ 771.107 [Amended]**

■ 4. Amend § 771.107(b), (c), and (d) by revising the acronym “UMTA” to read “FTA” each place it appears.

**§ 771.109 [Amended]**

■ 5. Amend § 771.109, paragraph (b) by revising the acronym “UMTA” to read “FTA”, and in paragraph (c)(3) revise the words “Urban Mass Transportation Act of 1964, as amended (UMT Act),” to read “Federal transit laws (49 U.S.C. Chapter 53)”.

**§ 771.111 [Amended]**

■ 6. Amend § 771.111 as follows:

■ a. In paragraph (b), remove the words “For UMTA,” and the words “and for FHWA, the approval of the 105 program (23 U.S.C. 105)”, and revise the word “this” to read “This”.

■ b. In paragraphs (c), (i), and (j), revise the acronym “UMTA” to read “FTA” in each place it appears.

■ c. In paragraph (i), revise the citation “49 U.S.C. 1602(d), 1604(i), 1607a(f) and 1607a–1(d)” to read “49 U.S.C. 5323(b)”

■ d. In paragraph (j), revise the words “Director, Office of Planning Assistance, Urban Mass Transportation Administration” to read “Director, Office of Human and Natural Environment, Federal Transit Administration”, and revise the words “Office of Environmental Policy” to read “Office of Project Development and Environmental Review”.

**§ 771.113 [Amended]**

■ 7. Amend § 771.113(c) by revising the words “section 3(a)(4) of the UMT Act” to read “49 U.S.C. 5309(g)”, and revise the acronym “UMTA” to read “FTA” each place it appears.

**§ 771.117 [Amended]**

■ 8. Amend § 771.117 as follows:

■ a. In paragraph (c)(1), revise the words “technical studies” to read “research activities”, and remove the words “and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476;”.

■ b. In paragraph (c)(11), revise the citation “23 CFR part 480” to read “23 U.S.C. 156”.

■ c. In paragraph (d)(12), revise the citation “section 3(b) of the UMT Act” to read “49 U.S.C. 5309(b)”.

**§ 771.119 [Amended]**

■ 9. Amend § 771.119(c) by revising the acronym “UMTA” to read “FTA”.

**§ 771.123 [Amended]**

■ 10. Amend § 771.123(b), (h), and (j) by revising the acronym “UMTA” to read “FTA”.

**§ 771.125 [Amended]**

■ 11. Amend § 771.125 as follows:

■ a. In paragraph (c)(3), revise the words “UMTA’s policy on major investments

(49 FR 21284; May 18, 1984)” to read “FTA’s regulation on major capital investment projects (49 CFR part 611)”.

■ b. In paragraph (d) revise the acronym “UMTA” to read “FTA”; revise the citation “section 14 of the UMT Act” to read “49 U.S.C. 5324(b)”; and revise the citation “sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act” to read “49 U.S.C. 5323(b)”.

**§ 771.130 [Amended]**

■ 12. Amend § 771.130(e) by revising the acronym “UMTA” to read “FTA”.

**§ 771.135 [Amended]**

■ 13. Amend § 771.135(p)(5)(ii) by correcting the misspelled word “critiera” to read “criteria”, and by

revising the acronym “UMTA” to read “FTA”.

**Federal Transit Administration**

**Title 49—Transportation**

**Chapter VI**

**PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES— [AMENDED]**

■ 14. Revise the authority citation for part 622 to read as follows:

**Authority:** 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 303(c), 5301(e), 5323, and 5324; 40 CFR 1.51.

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