DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 450

Federal Transit Administration

49 CFR Part 613

[Docket No. FHWA–2017–0003]; FHWA RIN 2125–AF75; FTA RIN 2132–AB33]

Metropolitan Planning Organization Coordination and Planning Area Reform

AGENCY: Federal Highway Administration (FHWA), Federal Transit Administration (FTA); U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rulemaking rescinds certain transportation planning regulations pertaining to the establishment of the metropolitan planning area (MPA) boundaries, the designation of metropolitan planning organizations (MPO), and the coordination among MPOs. The amendments contained in this rule carry out the statutory mandate to rescind the final rule published on December 20, 2016, on this topic.

DATES: Effective on December 29, 2017.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Harlan W. Miller, Planning Oversight and Stewardship Team (HEPP–10), (202) 366–0847; or Ms. Janet Myers, Office of the Chief Counsel (HCC–30), (202) 366–2019. For FTA: Ms. Sherry Riklin, Office of Planning and Environment, (202) 366–5407; Mr. Dwayne Weeks, Office of Planning and Environment, (202) 493–0316; or Mr. Christopher Hall, Office of the Chief Counsel, (202) 366–5218. Both agencies are located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., ET for FHWA, and 9 a.m. to 5:30 p.m., ET for FTA, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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Background

Transportation planning is a cooperative, performance-driven process by which long and short-range transportation improvement priorities are determined. States, MPOs, and transit operators conduct transportation planning, with active involvement from the traveling public, the business community, community groups, environmental organizations, and freight operators. State governments, MPOs, and transit operators are essential partners in the management of the Nation's transportation system and best suited to develop and implement a continuing, cooperative, and comprehensive, or ''3–C,'' planning process for their States and metropolitan regions.

On December 20, 2016, FHWA and FTA promulgated a rule at 23 CFR part 450 and 49 CFR part 613 (81 FR 93448) (December 2016 Final Rule), which required MPOs to achieve compliance with the statutory requirement that an MPA include an entire urbanized area (UZA) and the contiguous area expected to become urbanized within a 20-year forecast period through a range of coordination options including: Adjustment of their boundaries; coordination with other MPOs within their UZA to create unified planning products for the MPA; mergers; or the receipt of an exception from the Secretary.

On May 12, 2017, the President signed Public Law 115–33 (131 Stat. 845) repealing the December 2016 Final Rule. The legislation provides that the 2016 Final Rule shall have no force or effect, and any regulation revised by that rule shall be applied as if that rule had not been issued. As a result, the amendments in this final rule carry out that statutory instruction by revising the regulations to read as if the December 2016 Final Rule had not been issued.

The FHWA and FTA will continue to evaluate their regulations and guidance to promote improvements to the planning process in the least burdensome manner.

Discussion of the Changes

This rulemaking removes the revisions made by the December 2016 Final Rule, and restores the language promulgated in the May 27, 2016, rulemaking (81 FR 34050). Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice-and-comment procedure if it finds, for good cause, that notice and comment would be impracticable, unnecessary, or contrary to the public interest. The Agencies find good cause that notice and comment for this rule is unnecessary due to the nature of the revisions (*i.e.,* the rule simply carries out the statutory language found in Public Law 115–33 without interpretation to rescind the December 2016 Final Rule). The statutory language does not require regulatory interpretation to carry out its intent. The regulatory amendments in this final rule implement the statutory language, and comments cannot alter the regulation given the explicit mandate. Accordingly, the Agencies find good cause under 5 U.S.C. 553(b)(3)(B) to waive notice and opportunity for comment.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), and DOT Regulatory Policies and Procedures

The FHWA and FTA have determined that this rulemaking is a significant regulatory action within the meaning of Executive Order (E.O.) 12866, and within the meaning of DOT regulatory policies and procedures. This action complies with E.O.s 12866, 13563, and 13771 to improve regulation.

This final rule is considered an E.O. 13771 deregulatory action. This rulemaking eliminates requirements that MPOs achieve compliance with the statutory requirement that an MPA include an entire UZA and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan by implementing one of several coordination options including: By adjusting their boundaries; by coordinating with other MPOs within their UZA to create unified planning products for the MPA; by merging; or by receiving an exception from the Secretary.

The FHWA and FTA have estimated that modifying these requirements would provide a maximum average annual cost savings of $86.3 million annually over 4 years and impose no additional costs on MPOs and States. This equates to a present value, using end of period discounting, of $330.4 million at a 3 percent discount rate and $312.8 million at a 7 percent discount rate. An indefinite horizon (*i.e.,* annuity) equivalent is approximated by the calculation $330.4 * 0.03 = $9.9 million for a 3 percent discount rate and $312.8 * 0.07 = $21.9 million for a 7 percent discount rate. This estimate is consistent with the cost estimate the

Agencies previously provided in which FHWA and FTA estimated the total costs for merging all 142 affected MPOs, and the one-time cost of developing a dispute resolution process would result in an estimated maximum average annual cost of this rule of $86.3 million over 4 years. The FHWA and FTA do not anticipate that this rule would impose any additional costs for States and MPOs to implement because it allows these entities to follow the procedures and protocols they had in place as of December 2016.

This action complies with the principles of E.O. 13563. After evaluating the costs and benefits of the rule, FHWA and FTA believe that the cost savings from this rulemaking would exceed the foregone benefits. These changes are not anticipated to adversely affect, in any material way, any sector of the economy. In addition, these changes will not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

Since the Agencies find good cause under 5 U.S.C. 553(b)(3)(B) to waive notice and opportunity for comment for this rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply. However, the Agencies evaluated the effects of this action on small entities and determined the action would not have a significant economic impact on a substantial number of small entities. The rule addresses the obligation of Federal funds to State DOTs for Federal-aid highway projects. The rule affects two types of entities: State governments and MPOs. State governments do not meet the definition of a small entity under 5 U.S.C. 601, which have a population of less than 50,000.

The MPOs are considered governmental jurisdictions, and to qualify as a small entity, they need to serve less than 50,000 people. The MPOs serve UZAs with populations of 50,000 or more. Therefore, the MPOs that might incur economic impacts under this rule do not meet the definition of a small entity.

The FHWA and FTA hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA and FTA have determined that 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 include a Federal mandate that may result in expenditures of $155.1 million or more in any single year (when adjusted for inflation) in 2012 dollars for either State, local, and Tribal governments in the aggregate, or by the private sector. In addition, 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 Federal Transit Act permit this type of flexibility.

Executive Order 13132 (Federalism Assessment)

Executive Order 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 dated August 4, 1999, and the Agencies determined this action will not have a substantial direct effect or sufficient federalism implications on the States. The Agencies also determined this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

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 and FTA have analyzed this rule under the Paperwork Reduction Act (PRA), and this rule does not impose additional information collection requirements for the purposes of the PRA above and beyond existing information collection clearances from OMB.

National Environmental Policy Act

Federal agencies are required to adopt implementing procedures for the National Environmental Policy Act (NEPA) that establish specific criteria for, and identification of, three classes of actions: (1) Those that normally require preparation of an Environmental Impact Statement, (2) those that normally require preparation of an Environmental Assessment, and (3) those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). This rule qualifies for categorical exclusions under 23 CFR 771.117(c)(20) (promulgation of rules, regulations, and directives) and 771.117(c)(1) (activities that do not involve or lead directly to construction) for FHWA, and 23 CFR 771.118(c)(4) (planning and administrative activities that do not involve or lead directly to construction) for FTA. The FHWA and FTA have evaluated whether the rule will involve unusual or extraordinary circumstances and have determined that it will not.

Executive Order 12630 (Taking of Private Property)

The FHWA and FTA have analyzed this rule under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA and FTA do not believe this rule affects a taking of private property or otherwise has taking implications under E.O. 12630.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

The FHWA and FTA have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA and FTA certify that this action will not cause an environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA and FTA have analyzed this rule under E.O. 13175, dated November 6, 2000, and believe that it 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 laws. The rule addresses obligations of Federal funds

to State DOTs for Federal-aid highway projects and will not impose any direct compliance requirements on Indian Tribal governments. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA and FTA have analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA and FTA have determined that this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12898 (Environmental Justice)

The E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) and DOT Order 5610.2(a) (77 FR 27534, May 10, 2012) (available online at *http://www.fhwa.dot.gov/environment/environmental_justice/ej_at_dot/order_56102a/index.cfm*) require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority and low-income populations. All DOT agencies must address compliance with E.O. 12898 and the DOT Order in all rulemaking activities.

The FHWA and FTA have issued additional documents relating to administration of E.O. 12898 and the DOT Order. On June 14, 2012, FHWA issued an update to its EJ order, FHWA Order 6640.23A (FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations (available online at *http://www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*)). On August 15, 2012, FTA's Circular 4703.1 became effective, which contains guidance for States and MPOs to incorporate EJ into their planning processes (available online at *http://www.fta.dot.gov/documents/FTA_EJ_Circular_7.14-12_FINAL.pdf*).

The FHWA and FTA have evaluated this action under the E.O., the DOT Order, the FHWA Order, and the FTA Circular. The EJ principles, in the context of planning, should be considered when the planning process is being implemented at the State and local level. As part of their stewardship and oversight of the federally aided transportation planning process of the States, MPOs, and operators of public transportation, FHWA and FTA encourage these entities to incorporate EJ principles into the statewide and metropolitan planning processes and documents, as appropriate and consistent with the applicable orders and the FTA Circular. When FHWA and FTA make a future funding or other approval decision on a project basis, they will consider EJ.

Nothing inherent in the rule will disproportionately impact minority or low-income populations. The rule establishes procedures and other requirements to guide future State and local decisionmaking on programs and projects. Neither the rule nor 23 U.S.C. 134 and 135 dictate the outcome of those decisions. The FHWA and FTA have determined that this action will not cause disproportionately high and adverse human health and environmental effects on minority or low-income populations.

Regulation Identifier Number

A Regulation Identifier 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 rule with the Unified Agenda.

List of Subjects

23 CFR Part 450

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

49 CFR Part 613

Grant programs—transportation, Highways and roads, Mass transportation.

Issued in Washington, DC, on November 21, 2017 under authority delegated in 49 CFR 1.85.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

K. Jane Williams,

Acting Administrator, Federal Transit Administration.

In consideration of the foregoing, FHWA and FTA amend title 23, Code of Federal Regulations, part 450, and title 49, Code of Federal Regulations, part 613, as set forth below:

Title 23—Highways

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; 42 U.S.C. 7410 *et seq.;* 49 U.S.C. 5303 and 5304; 49 CFR 1.85 and 1.90.

■ 2. Amend § 450.104 by revising the definitions for ''Metropolitan planning agreement'', ''Metropolitan planning area (MPA)'', ''Metropolitan transportation plan'', and ''Transportation improvement program (TIP)'' to read as follows:

§ 450.104 Definitions.

* * * * *

Metropolitan planning agreement means a written agreement between the MPO, the State(s), and the providers of public transportation serving the metropolitan planning area that describes how they will work cooperatively to meet their mutual responsibilities in carrying out the metropolitan transportation planning process.

Metropolitan planning area (MPA) means the geographic area determined by agreement between the MPO for the area and the Governor, in which the metropolitan transportation planning process is carried out.

* * * * *

Metropolitan transportation plan means the official multimodal transportation plan addressing no less than a 20-year planning horizon that the MPO develops, adopts, and updates through the metropolitan transportation planning process.

* * * * *

Transportation improvement program (TIP) means a prioritized listing/program of transportation projects covering a period of 4 years that is developed and formally adopted by an MPO as part of the metropolitan transportation planning process, consistent with the metropolitan transportation plan, and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. chapter 53.

* * * * *

■ 3. Amend § 450.208 by revising paragraph (a)(1) to read as follows:

§ 450.208 Coordination of planning process activities.

(a) * * *

(1) Coordinate planning carried out under this subpart with the metropolitan transportation planning activities carried out under subpart C of

this part for metropolitan areas of the State. The State is encouraged to rely on information, studies, or analyses provided by MPOs for portions of the transportation system located in metropolitan planning areas;

* * * * *

§ 450.218 [Amended]

■ 4. Amend § 450.218(b) by removing ''MPO(s)'' and adding in its place ''MPO'' in both places it appears.

§ 450.226 [Amended]

■ 5. Amend § 450.226 by removing paragraph (g).

■ 6. Amend § 450.300 as follows:

■ a. Revise paragraph (a); and

■ b. Remove from paragraph (b) the word ''Encourage'' and add in its place ''Encourages''.

The revision reads as follows:

§ 450.300 Purpose.

* * * * *

(a) Set forth the national policy that the MPO designated for each urbanized area is to carry out a continuing, cooperative, and comprehensive performance-based multimodal transportation planning process, including the development of a metropolitan transportation plan and a TIP, that encourages and promotes the safe and efficient development, management, and operation of surface transportation systems to serve the mobility needs of people and freight (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers) fosters economic growth and development, and takes into consideration resiliency needs, while minimizing transportation-related fuel consumption and air pollution; and

* * * * *

■ 7. Amend § 450.306 by removing paragraph (d)(5) and revising paragraph (i) to read as follows:

§ 450.306 Scope of the metropolitan transportation planning process.

* * * * *

(i) In an urbanized area not designated as a TMA that is an air quality attainment area, the MPO(s) may propose and submit to the FHWA and the FTA for approval a procedure for developing an abbreviated metropolitan transportation plan and TIP. In developing proposed simplified planning procedures, consideration shall be given to whether the abbreviated metropolitan transportation plan and TIP will achieve the purposes of 23 U.S.C. 134, 49 U.S.C. 5303, and this part, taking into account the complexity of the transportation problems in the area. The MPO shall develop simplified procedures in cooperation with the State(s) and public transportation operator(s).

■ 8. Amend § 450.310 by revising paragraphs (e) and (m) introductory text to read as follows:

§ 450.310 Metropolitan planning organization designation and redesignation.

* * * * *

(e) To the extent possible, only one MPO shall be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO may be designated to serve an urbanized area only if the Governor(s) and the existing MPO, if applicable, determine that the size and complexity of the urbanized area-make designation of more than one MPO appropriate. In those cases where two or more MPOs serve the same urbanized area, the MPOs shall establish official, written agreements that clearly identify areas of coordination, and the division of transportation planning responsibilities among the MPOs.

* * * * *

(m) Each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs shall, to the extent practicable, provide coordinated transportation planning for the entire MPA. The consent of Congress is granted to any two or more States to:

* * * * *

■ 9. Section 450.312 is revised to read as follows:

§ 450.312 Metropolitan Planning Area boundaries.

(a) The boundaries of a metropolitan planning area (MPA) shall be determined by agreement between the MPO and the Governor.

(1) At a minimum, the MPA boundaries shall encompass the entire existing urbanized area (as defined by the Bureau of the Census) plus the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan.

(2) The MPA boundaries may be further expanded to encompass the entire metropolitan statistical area or combined statistical area, as defined by the Office of Management and Budget.

(b) An MPO that serves an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 *et seq.*) as of August 10, 2005, shall retain the MPA boundary that existed on August 10, 2005. The MPA boundaries for such MPOs may only be adjusted by agreement of the Governor and the affected MPO in accordance with the redesignation procedures described in § 450.310(h). The MPA boundary for an MPO that serves an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 *et seq.*) after August 10, 2005, may be established to coincide with the designated boundaries of the ozone and/or carbon monoxide nonattainment area, in accordance with the requirements in § 450.310(b).

(c) An MPA boundary may encompass more than one urbanized area.

(d) MPA boundaries may be established to coincide with the geography of regional economic development and growth forecasting areas.

(e) Identification of new urbanized areas within an existing metropolitan planning area by the Bureau of the Census shall not require redesignation of the existing MPO.

(f) Where the boundaries of the urbanized area or MPA extend across two or more States, the Governors with responsibility for a portion of the multistate area, the appropriate MPO(s), and the public transportation operator(s) are strongly encouraged to coordinate transportation planning for the entire multistate area.

(g) The MPA boundaries shall not overlap with each other.

(h) Where part of an urbanized area served by one MPO extends into an adjacent MPA, the MPOs shall, at a minimum, establish written agreements that clearly identify areas of coordination and the division of transportation planning responsibilities among and between the MPOs. Alternatively, the MPOs may adjust their existing boundaries so that the entire urbanized area lies within only one MPA. Boundary adjustments that change the composition of the MPO may require redesignation of one or more such MPOs.

(i) The MPO (in cooperation with the State and public transportation operator(s)) shall review the MPA boundaries after each Census to determine if existing MPA boundaries meet the minimum statutory requirements for new and updated urbanized area(s), and shall adjust them as necessary. As appropriate, additional adjustments should be made to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes,

improves access to modal systems, and promotes efficient overall transportation investment strategies.

(j) Following MPA boundary approval by the MPO and the Governor, the MPA boundary descriptions shall be provided for informational purposes to the FHWA and the FTA. The MPA boundary descriptions shall be submitted either as a geo-spatial database or described in sufficient detail to enable the boundaries to be accurately delineated on a map.

■ 10. Section 450.314 is revised to read as follows:

§ 450.314 Metropolitan planning agreements.

(a) The MPO, the State(s), and the providers of public transportation shall cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, the State(s), and the providers of public transportation serving the MPA. To the extent possible, a single agreement between all responsible parties should be developed. The written agreement(s) shall include specific provisions for the development of financial plans that support the metropolitan transportation plan (see § 450.324) and the metropolitan TIP (see § 450.326), and development of the annual listing of obligated projects (see § 450.334).

(b) The MPO, the State(s), and the providers of public transportation should periodically review and update the agreement, as appropriate, to reflect effective changes.

(c) If the MPA does not include the entire nonattainment or maintenance area, there shall be a written agreement among the State department of transportation, State air quality agency, affected local agencies, and the MPO describing the process for cooperative planning and analysis of all projects outside the MPA within the nonattainment or maintenance area. The agreement must also indicate how the total transportation-related emissions for the nonattainment or maintenance area, including areas outside the MPA, will be treated for the purposes of determining conformity in accordance with the EPA's transportation conformity regulations (40 CFR part 93, subpart A). The agreement shall address policy mechanisms for resolving conflicts concerning transportation-related emissions that may arise between the MPA and the portion of the nonattainment or maintenance area outside the MPA.

(d) In nonattainment or maintenance areas, if the MPO is not the designated agency for air quality planning under section 174 of the Clean Air Act (42 U.S.C. 7504), there shall be a written agreement between the MPO and the designated air quality planning agency describing their respective roles and responsibilities for air quality related transportation planning.

(e) If more than one MPO has been designated to serve an urbanized area there shall be a written agreement among the MPOs, the State(s), and the public transportation operator(s) describing how the metropolitan transportation planning processes will be coordinated to assure the development of consistent metropolitan transportation plans and TIPs across the MPA boundaries, particularly in cases in which a proposed transportation investment extends across the boundaries of more than one MPA. If any part of the urbanized area is a nonattainment or maintenance area, the agreement also shall include State and local air quality agencies. The metropolitan transportation planning processes for affected MPOs should, to the maximum extent possible, reflect coordinated data collection, analysis, and planning assumptions across the MPAs. Alternatively, a single metropolitan transportation plan and/or TIP for the entire urbanized area may be developed jointly by the MPOs in cooperation with their respective planning partners. Coordination efforts and outcomes shall be documented in subsequent transmittals of the UPWP and other planning products, including the metropolitan transportation plan and TIP, to the State(s), the FHWA, and the FTA.

(f) Where the boundaries of the urbanized area or MPA extend across two or more States, the Governors with responsibility for a portion of the multistate area, the appropriate MPO(s), and the public transportation operator(s) shall coordinate transportation planning for the entire multistate area. States involved in such multistate transportation planning may:

(1) Enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(2) Establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(g) If part of an urbanized area that has been designated as a TMA overlaps into an adjacent MPA serving an urbanized area that is not designated as a TMA, the adjacent urbanized area shall not be treated as a TMA. However, a written agreement shall be established between the MPOs with MPA boundaries, including a portion of the TMA, which clearly identifies the roles and responsibilities of each MPO in meeting specific TMA requirements (*e.g.,* congestion management process, Surface Transportation Program funds suballocated to the urbanized area over 200,000 population, and project selection).

(h)(1) The MPO(s), State(s), and the providers of public transportation shall jointly agree upon and develop specific written provisions for cooperatively developing and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO (see § 450.306(d)), and the collection of data for the State asset management plan for the NHS for each of the following circumstances:

(i) When one MPO serves an urbanized area;

(ii) When more than one MPO serves an urbanized area; and

(iii) When an urbanized area that has been designated as a TMA overlaps into an adjacent MPA serving an urbanized area that is not a TMA.

(2) These provisions shall be documented either:

(i) As part of the metropolitan planning agreements required under paragraphs (a), (e), and (g) of this section; or

(ii) Documented in some other means outside of the metropolitan planning agreements as determined cooperatively by the MPO(s), State(s), and providers of public transportation.

§ 450.316 [Amended]

■ 11. Amend § 450.316 in paragraphs (b) introductory text, (c), and (d) by removing ''MPO(s)'' and adding in its place ''MPO'' wherever it occurs.

§ 450.324 [Amended]

■ 12. Amend § 450.324 as follows:
■ a. In paragraph (a), remove ''MPO(s)'' and add in its place ''MPO'' wherever it occurs;
■ b. Remove new paragraph (c);
■ c. Redesignate paragraphs (d) through (n) as paragraphs (c) through (m), respectively; and
■ d. In newly redesignated paragraphs (c), (d), (e), (f)(10), (f)(11)(iv), (g) introductory text, (j), (k), and (m),

remove ''MPO(s)'' with and add in its place ''MPO'' wherever it occurs.

■ 13. Amend § 450.326 as follows:
■ a. Revise paragraph (a); and
■ b. In paragraphs (b), (j), and (p), remove ''MPO(s)'' and add in its place ''MPO'' wherever it occurs.

The revision reads as follows:

§ 450.326 Development and content of the transportation improvement program (TIP).

(a) The MPO, in cooperation with the State(s) and any affected public transportation operator(s), shall develop a TIP for the metropolitan planning area. The TIP shall reflect the investment priorities established in the current metropolitan transportation plan and shall cover a period of no less than 4 years, be updated at least every 4 years, and be approved by the MPO and the Governor. However, if the TIP covers more than 4 years, the FHWA and the FTA will consider the projects in the additional years as informational. The MPO may update the TIP more frequently, but the cycle for updating the TIP must be compatible with the STIP development and approval process. The TIP expires when the FHWA/FTA approval of the STIP expires. Copies of any updated or revised TIPs must be provided to the FHWA and the FTA. In nonattainment and maintenance areas subject to transportation conformity requirements, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any updated or amended TIP, in accordance with the Clean Air Act requirements and the EPA's transportation conformity regulations (40 CFR part 93, subpart A).

* * * * *

§ 450.328 [Amended]

■ 14. Amend § 450.328 by removing ''MPO(s)'' and adding in its place ''MPO'' wherever it occurs.

§ 450.330 [Amended]

■ 15. Amend § 450.330 in paragraphs (a) and (c) by removing ''MPO(s)'' and adding in its place ''MPO'' wherever it occurs.

§ 450.332 [Amended]

■ 16. Amend § 450.332 in paragraphs (b) and (c) by removing ''MPO(s)'' and adding in its place ''MPO'' wherever it occurs.

§ 450.334 [Amended]

■ 17. Amend § 450.334 as follows:
■ a. In paragraph (a), remove ''MPO(s)'' and add in its place ''MPO''; and
■ b. In paragraph (c), remove ''MPO(s)'' and add in its place ''MPO's''.

§ 450.336 [Amended]

■ 18. Amend § 450.336 in paragraphs (b)(1)(i) and (ii) and (b)(2) by removing ''MPO(s)'' and adding in its place ''MPO'' wherever it occurs.

§ 450.340 [Amended]

■ 19. Amend § 450.340 as follows:
■ a. In paragraph (a), remove ''or MPOs'' wherever it occurs; and
■ b. Remove paragraph (h).

Title 49—Transportation

PART 613—METROPOLITAN AND STATEWIDE AND NONMETROPOLITAN PLANNING

■ 20. The authority citation for part 613 is revised to read as follows:

Authority: 23 U.S.C. 134, 135, and 217(g); 42 U.S.C. 3334, 4233, 4332, 7410 *et seq.;* 49 U.S.C. 5303–5306, 5323(k); and 49 CFR 1.91(a) and 21.7(a).

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

[Application Number D–11712; D–11713; D–11850]

ZRIN 1210–ZA27

18-Month Extension of Transition Period and Delay of Applicability Dates; Best Interest Contract Exemption (PTE 2016–01); Class Exemption for Principal Transactions in Certain Assets Between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016–02); Prohibited Transaction Exemption 84–24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, and Investment Company Principal Underwriters (PTE 84–24)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Extension of the transition period for PTE amendments.

SUMMARY: This document extends the special transition period under sections II and IX of the Best Interest Contract Exemption and section VII of the Class Exemption for Principal Transactions in Certain Assets between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs for 18 months. This document also delays the applicability of certain amendments to Prohibited Transaction Exemption 84–24 for the same period. The primary purpose of the amendments is to give the Department of Labor the time necessary to consider public comments under the criteria set forth in the Presidential Memorandum of February 3, 2017, including whether possible changes and alternatives to these exemptions would be appropriate in light of the current comment record and potential input from, and action by, the Securities and Exchange Commission and state insurance commissioners. The Department is granting the delay because of its concern that, without a delay in the applicability dates, consumers may face significant confusion, and regulated parties may incur undue expense to comply with conditions or requirements that the Department ultimately determines to revise or repeal. The former transition period was from June 9, 2017, to January 1, 2018. The new transition period ends on July 1, 2019, rather than on January 1, 2018. The amendments to these exemptions affect participants and beneficiaries of plans, IRA owners and fiduciaries with respect to such plans and IRAs.

DATES: This document extends the special transition period under sections II and IX of the Best Interest Contract Exemption and section VII of the Class Exemption for Principal Transactions in Certain Assets between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (82 FR 16902) to July 1, 2019, and delays the applicability of certain amendments to Prohibited Transaction Exemption 84–24 from January 1, 2018 (82 FR 16902) until July 1, 2019. See Section G of the **SUPPLEMENTARY INFORMATION** section for a list of dates for the amendments to the prohibited transaction exemptions.

FOR FURTHER INFORMATION CONTACT: Brian Shiker or Susan Wilker, telephone (202) 693–8824, Office of Exemption Determinations, Employee Benefits Security Administration.

SUPPLEMENTARY INFORMATION:

A. Procedural Background

ERISA & the 1975 Regulation

Section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), in relevant part provides that a person is a fiduciary with respect to a plan to the extent he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so. Section 4975(e)(3)(B) of the Internal Revenue Code (''Code'') has a parallel