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Federal Highway Administration

23 CFR Part 660

[Docket No. FHWA-2025-0014]

RIN 2125-AG20

Rescinding Requirements Regarding the Forest Highway Program

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

ACTION: Final rule.

SUMMARY: FHWA is rescinding the regulations regarding the Forest Highway Program.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Corey Bobba, Office of Federal Lands Highways, (202) 366-9489, corey.bobba@dot.gov; or James Esselman, Office of the Chief Counsel, (202) 366-6181, james.esselman@dot.gov, Federal Highway Administration, 1200 New Jersey Avenue S.E., Washington, D.C. 20590. Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

An electronic copy of this document, as well as the notice of proposed rulemaking, and all comments received may be viewed online through the Federal eRulemaking portal at www.regulations.gov. An electronic copy of this document may also be downloaded from the Office of Federal Register's Website at www.federalregister.gov and the U.S. Government Publishing Office's Website at www.GovInfo.gov.

I. General Discussion

In 1958, Congress codified Title 23 of the United States Code (U.S.C.). Pub. L. No. 85-767. The Forest Highway Program was codified at 23 U.S.C. 204, along with separate categories for forest development roads and trails (23 U.S.C. 205), park roads and trails (23 U.S.C. 206), parkways (23 U.S.C. 207), Indian reservation roads (23 U.S.C. 208), and public lands highways (23 U.S.C. 209). Under the system at the time, each program received separate appropriations, which the Secretary of Transportation allocated under a previous version of 23 U.S.C. 202. Per the version of 23 U.S.C. 204 that existed at the time, the Secretary of Transportation was authorized to use funds available for forest highways to pay for the cost of construction and maintenance thereof. On May 1961, the Bureau of Public Roads, the predecessor to FHWA, issued regulations for administering the Forest Highway Program under title 23 CFR part 15. *See* 26 FR 4608. These regulations prescribed rules regarding the forest highway system, the Forest Highway Program, and surveys, construction, and maintenance of forest highways. In 1974, this part was later redesignated 23 CFR part 660, subpart A. *See* 39 FR 10429 (Mar. 20, 1974).

On January 6, 1983, Congress enacted the Surface Transportation Assistance Act of 1982 (1982 STAA) (Pub. L. No. 97-424). Section 126(b) of the 1982 STAA revised 23 U.S.C. 204, combining the previously separately codified programs for “forest highways, public lands highways, park roads, parkways, and Indian reservation roads” into a single Federal lands highway program under 23 U.S.C. 204. Under the structure of the 1982 STAA, however, Congress continued to appropriate funds for the programs separately, including for the Forest Highway Program.

On December 18, 1991, Congress enacted the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Section 1032 of ISTEA combined the Forest Highway Program with the public lands highway program; thus, instead of receiving a separate

appropriation for forest highways and public lands highways, FHWA would receive a single appropriation for public lands highways, which could then be used on forest highways. In response to these changes, FHWA revised the Forest Highway Program regulations at 23 CFR part 660, subpart A in 1994, which are the most recent revisions to this subpart. 59 FR 30296 (June 13, 1994).

Congress subsequently modified the Federal lands highway program as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. No. 112-141) (July 6, 2012). MAP-21 replaced the single Federal lands highway program under 23 U.S.C. 204 with the Tribal Transportation Program (TTP) (23 U.S.C. 202), Federal Lands Transportation Program (FLTP) (23 U.S.C. 203) and Federal Lands Access Program (FLAP) (23 U.S.C. 204). Under this new model, instead of being appropriated funds under the public lands highway category of the Federal lands highway program, Congress has appropriated funding for TTP, FLTP, and FLAP, which can then be used for certain projects on, accessing, or adjacent to Tribal and Federal public lands in accordance with each program's requirements.

As such, the regulations in 23 CFR part 660, subpart A are outdated. For instance, § 660.101 refers to forest highways "funded under the public lands highway category of the coordinated Federal Lands Highway Program," which, as noted above, no longer occurs. Similarly, § 660.107 refers to allocations of public lands highway funds for forest highways, which again is a process that no longer occurs under statute. Other regulations, including §§ 660.105 and 660.109 do not reflect the current project delivery process under TTP, FLTP, and FLAP. Finally, FHWA does not believe that regulations concerning general project delivery, such as § 660.112, 660.113, 660.115, and 660.117, are necessary specifically for forest highways. TTP, FLTP, and FLAP cover a broader range of projects than just forest highways, and FHWA has not found similar regulations necessary in those cases. Accordingly, FHWA is eliminating 23 CFR part 660, Subpart

A.

On May 30, 2025, at 90 FR 22881, FHWA published a Notice of Proposed Rulemaking (NPRM) proposing to rescind 23 CFR part 660, Subpart A and sought comment on all aspects of that proposal. FHWA received two comment submissions on its NPRM: one requesting a language clarification and one urging the elimination of the Forest Highway Program. The language clarification has been made below in the Executive Order (E.O.) 12866 section to clarify that these regulations were being removed. With regard to the second comment, as noted above, MAP-21 replaced the single Federal lands highway program under 23 U.S.C. 204 with the TTP (23 U.S.C. 202), FLTP (23 U.S.C. 203), and FLAP (23 U.S.C. 204). This change effectively eliminated the Forest Highway Program but allows for eligible expenses to be funded under TTP, FLTP, and FLAP in accordance with each program's requirements. Comments pertaining to the eligibility under these programs is outside the scope of this rulemaking. As such, FHWA adopts the proposal without change.

II. Rulemaking Analyses and Notices

A. Executive Orders 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rule does not meet the criteria of a "significant regulatory action" under E.O. 12866, as amended. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

This rulemaking would remove requirements for projects that are not currently funded. While FHWA any monetary benefits or costs to this rule would be minimal, it could reduce burdens for regulated entities because it removes irrelevant and obsolete text from the regulations. FHWA requested comments on any impacts that could result from removing the provisions identified but did not receive any additional information.

These changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This final rule is an E.O. 14192 deregulatory action. Cost-savings are not quantified.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996; 5 U.S.C. 601 *et seq.*), Agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. FHWA has concluded and hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included. This rescission removes outdated requirements regarding the Forest Highway Program, which is no longer a separate program under statute.

D. Unfunded Mandates Reform Act

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104-4, 109 Stat. 48) for State, local and Tribal governments, or the private sector of \$100 million or more in any one year, adjusted for inflation. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132. FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

F. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. This rule is deregulatory and so would not impose any additional information collection requirements.

G. National Environmental Policy Act

FHWA has analyzed this rulemaking pursuant to the National Environmental Policy Act (NEPA) and has determined that it is categorically excluded under 23 CFR 771.117(c)(2), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. This rule would rescind regulations regarding the Forest Highway Program, which is no longer a separate program under statute. FHWA does not anticipate any adverse environmental impacts from this rule, and no unusual circumstances are present under 23 CFR 771.117(b).

H. Executive Order 13175 (Tribal Consultation)

E.O. 13175 requires Federal Agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or

actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. FHWA has assessed the impact of this rule on Indian Tribes and determined that this rule would not have Tribal implications that require consultation under E.O. 13175.

I. 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 the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

J. Rulemaking Summary, 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at *regulations.gov*, under the docket number.

List of Subjects in 23 CFR Part 660

Government contracts, Grant programs—transportation, Highway safety, Highways and roads, Reporting and recordkeeping requirements, Traffic regulations.

Issued in Washington, D.C., under authority delegated in 49 CFR 1.85.

Sean McMaster,
Administrator,
Federal Highway Administration.

For the reasons stated in the preamble, FHWA amends 23 CFR part 660 as set forth below.

PART 660 – SPECIAL PROGRAMS (DIRECT FEDERAL)

1. Add an authority citation for part 660 to read as follows:

Authority: 23 U.S.C. 210, 315; 49 CFR 1.48.

Subpart A – [Removed and Reserved]

2. Remove and reserve subpart A, consisting of §§ 660.101 through 660.117.

[FR Doc. 2025-19905 Filed: 11/14/2025 8:45 am; Publication Date: 11/17/2025]