

(b) You must propose a reasonable ending date for your PASS. If necessary, we can help you establish an ending date, which may be different than the ending date you propose. Once the ending date is set and you begin your PASS, we may adjust or extend the ending date of your PASS based on your progress towards your goal and earnings level reached.

(c) If your employment goal is self-employment, you must include a business plan that defines the business, provides a marketing strategy, details financial data, outlines the operational procedures, and describes the management plan.

(d) Your progress will be reviewed at least annually to determine if you are following the provisions of your plan.

[FR Doc. 05-13584 Filed 7-8-05; 8:45 am]

BILLING CODE 4191-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 630

[FHWA Docket No. FHWA-2005-20764]

RIN 2125-AF05

#### Project Authorization and Agreements

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

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** The FHWA proposes to revise its regulations relating to project authorization and agreements and the effect on obligations of Federal-aid highway funds under these requirements. The proposed changes would: (1) Require the deobligation of Federal funds that remain committed to inactive projects as well as the deobligation of unneeded or excess project funding; (2) reduce the occurrences where Federal funds are committed to inactive projects or where an obligation is in excess of the amount needed to complete the project; (3) establish a project completion date that would be annotated in all new project agreements and modifications to existing project agreements; and (4) require States to assure that third party contracts and agreements are processed and billed promptly when the work is completed. These proposed changes would also assist the States and the FHWA in monitoring Federal-aid highway projects and provide better assurance that the Federal funds obligated reflect the current estimated costs of the project. Federal funds

deobligated may then be obligated for new or other active projects needing additional funding to the extent permitted by law. The proposed changes would have no effect on obligated funds that are needed for projects that are congressionally mandated.

**DATES:** Comments must be received on or before September 9, 2005.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001, or submit electronically at <http://dmses.dot.gov/submit> or fax comments to (202) 493-2251. Alternatively, comments may be submitted via the eRulemaking Portal at <http://www.regulations.gov>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form on all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dale Gray, Federal-aid Financial Management Division, (202) 366-0978, or Mr. Steven Rochlis, Office of the Chief Counsel, (202) 366-1395, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. Acceptable formats include: MS Word, MS Word for Mac, Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect. The DMS is available 24 hours each day, 365 days each year. Electronic submission

and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded by using the internet to reach the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

#### Background

The State and FHWA must enter into a formal project agreement for each Federal-aid highway project that the State requests an authorization of work to be performed (23 CFR 630.106(a)(2)). The project agreement includes the work to be undertaken, project costs, and other conditions related to the project, and its execution constitutes a contractual obligation of the Federal government under Section 106 of Title 23 United States Code (*see also* 31 U.S.C. 1501(a)(5)(B); 23 CFR 630.106(c)).

The amount of Federal funds obligated on a Federal-aid highway project is based on a cost estimate. In some cases, as work progresses, the amount of Federal funds obligated is not revised to reflect a change in the cost estimate or to reflect an adjustment in the cost of the project. In other cases, an amount remains obligated on a project although no longer needed, sometimes for a substantial period of time after a project has been completed, and in some cases, where a project has been cancelled.

The FHWA and the States have monitored inactive projects for a number of years to identify projects where the amounts obligated could be reduced. During this time, the FHWA has issued additional guidance, and identified best practices to help validate the amounts obligated.<sup>1</sup>

Notwithstanding these practices and actions, it is apparent that inactive projects with excess obligations have not been addressed in a timely fashion.

In March 2004, the Inspector General of the Department of Transportation issued a report on inactive obligations.<sup>2</sup> The results of the Inspector General audit revealed that some amounts obligated were unneeded, primarily

<sup>1</sup> Examples of FHWA policies and guidance are available in the docket. (*See:* Federal Highway Administration National Quality Financial Management Initiative, Project Funds Management, March 1999; Financial Management Improvement Program; Project Funds Management Process Improvement Review, December 2002).

<sup>2</sup> The DOT Inspector General Report, Report Number FI-2004-039, entitled "Inactive Obligations, Federal Highway Administration," dated March 31, 2004, is available at the following URL: [http://www.oig.dot.gov/show\\_pdf.php?id=1282](http://www.oig.dot.gov/show_pdf.php?id=1282).

because they were associated with cancelled, reduced scope, or completed projects. The report stated, "the success of efforts by FHWA to ensure obligated amounts continue to represent valid liabilities is a critical measure of the effectiveness of its financial management practices. When unneeded obligations for grants are identified, the funds should be deobligated and reapplied to other projects."

The purpose of this NPRM is to revise the FHWA's regulations on project agreements, 23 CFR 630, establish a systematic process that will assist the States and the FHWA to monitor projects, provide greater assurance that the amount of Federal funds obligated on a project reflects the current cost estimate, and that funds no longer needed are timely deobligated and reapplied to other eligible projects.

The FHWA also proposes to reduce amounts obligated on inactive projects when it determines that the project is not advancing or the amount of Federal funds obligated exceeds the amount needed to complete the project. A project is considered inactive when no expenditures have been charged against Federal funds during the previous twelve months.

The FHWA proposes to require a project completion date in all new project agreements and modifications of existing projects agreements. The project completion date may be revised by the State with adequate written justification for the extension. When the project completion date occurs, the State will be required to close the project and release any unexpended obligations. If the State fails to close the project within 90 days, the FHWA shall take appropriate action to assure that the amount obligated is properly adjusted. The 90-day period is consistent with the closeout requirements in section 18.50(b) of 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments which requires a grantee to submit all financial reports within 90 days after the expiration or termination of a grant.

When a State enters into a contract or agreement with a third party to conduct certain types of work on a project, the third party must submit a billing or claim to the State as the work progresses. The State cannot receive reimbursement of Federal funds until the third party submits a billing or claim to the State for payment. Therefore, the FHWA proposes to require States to assure that third party billings are submitted and processed promptly when the work is completed.

### Proposed Changes

The FHWA proposes to revise its regulation as it relates to the project agreements and the effect on obligation of Federal funds.

In § 630.106, we propose to add paragraph (a)(3) that would require a State to (1) adjust the Federal funds obligated on any project, active or inactive, when the estimated costs decrease by more than 10 percent or \$100,000, and (2) adjust the Federal funds obligated on an inactive project when no activity is expected in the next year or the amount obligated is in excess of the funds needed to complete the project based on the estimated cost of the project as documented. An inactive project means that no expenditures were charged against Federal funds during the previous twelve months. We also propose to add paragraph (a)(4) that would allow the FHWA to revise the obligations or take other actions if a State fails to take prompt actions to reduce Federal obligations.

In § 630.108, we propose to add paragraph (b)(9) that would require a project completion date be included in the project agreement for project costs billed to FHWA. When the project completion date occurs, the State will be required to close the project and release any unexpended obligations within 90 days. A project completion date will ensure that the States engage in prompt billing and timely processing of claims of work done by a third party. We also propose to add paragraph (b)(10) that would require FHWA to reduce the Federal obligation to the amount expended unless justification is provided by the State for maintaining a certain amount of unexpended obligation necessary to complete the project.

In § 630.108, we propose to add paragraph (e) that would outline the States responsibility relating to third party contracts and agreements when inactive projects involve work done by a third party. The State is responsible for ensuring that the third party processes and submits a claim for reimbursement to the State for the work it has done in a timely manner. A delay in receiving or processing of billings or claims is not a valid reason for the State to request an extension of the project completion date.

In § 630.110, we propose to add paragraph (d) that would advise States to provide support that the remaining unexpended obligations are still needed if a revision to the project completion date is requested.

### Rulemaking Analyses and Notices

All comments received before close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to the late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has determined that this proposed rule would not be a significant regulatory action within the meaning of Executive Order 12866 nor is it significant within the meaning of the Department of Transportation regulatory policies and procedures. We anticipate that the economic impact of this rulemaking would be minimal. In fact, funds released as a result of a deobligation under the proposed rule would be credited to the same program category and would be immediately available for obligation and expenditure on eligible projects in accordance with 23 U.S.C. 118(d).

These proposed changes would 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. Consequently, a full regulatory evaluation is not required.

### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), we have evaluated the effects of this action on small entities and have determined that the action would not have a significant economic impact on a substantial number of small entities. The proposed amendment addresses obligation of Federal funds to States for Federal-aid highway projects. As such, it affects only States and States are not included in the definition of small entity set forth in 5 U.S.C. 601. Therefore, the Regulatory Flexibility Act does not apply, and the FHWA certifies that the proposed action will not have a significant economic impact on a substantial number of small entities.

### Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995) as it will not result in the expenditure by State, local, tribal governments, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532 *et seq.*).

Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the affects on State, local, and tribal governments and the private sector. 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 permits this type of flexibility.

### Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and the FHWA has determined that this proposed action would not have a substantial direct effect or sufficient federalism implications on the States. The FHWA has also determined that this proposed action would not preempt any State law or regulation or affect the States’ ability to discharge traditional State governmental functions.

### 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.

### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), the FHWA must obtain approval from the Office of Management and Budget (OMB) for each collection of information we conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain a collection of information requirement for purposes of the PRA.

### National Environmental Policy Act

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

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

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

### 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that might disproportionately affect children.

### Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. 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 dated May 18, 2001. We have determined that it is not a significant energy action under that

order since it is not a significant regulatory action under Executive Order 12866 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.

### 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 630

Reimbursement, Grant Programs—transportation, Highways and roads.

Issued on: July 1, 2005.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend part 630 of title 23, Code of Federal Regulations, as follows:

## PART 630—PRECONSTRUCTION PROCEDURES

### Subpart A—Project Authorization and Agreements

1. The authority citation for part 630 continues to read as follows:

**Authority:** 23 U.S.C. 106, 109, 115, 315, 320, and 402(a); 31 U.S.C. 1501(a)(5)(B); 23 CFR 1.32; and 49 CFR 1.48(b).

2. Amend § 630.106 by adding paragraphs (a)(3) and (4) to read as follows:

#### § 630.106 Authorization to proceed.

(a) \* \* \*

(3) The State shall monitor all projects and shall promptly revise the Federal funds obligated for a project when the cost estimate has decreased by more than ten percent or \$100,000. For inactive projects (for purposes of this subpart an “inactive project” means a project in which no expenditures have been charged against Federal funds during the past twelve consecutive months), the State shall promptly revise the Federal funds obligated for the project to reflect the amount of Federal funds expended on the project or the Federal share of the current documented cost estimate if:

(i) The project is unlikely to be advanced within the next twelve months; or

(ii) The amount obligated for the project exceeds the current estimated cost of the project.

(4) If the State fails to take prompt action to reduce Federal obligations as required in paragraph (a)(3) of this section, then FHWA shall revise the obligations or take such other action as authorized by 23 CFR 1.36.

\* \* \* \* \*

3. Amend § 630.108 by adding paragraphs (b)(9) and (10) and (e) to read as follows:

**§ 630.108 Preparation of agreement.**

(b) \* \* \*

(9) The agreement shall specify a project completion date. The project completion date will be the date when work on the project is expected to be completed. Within 90 days after the project completion date, the State shall submit a request to FHWA to close the project and release any unexpended obligations on the project.

(10) If the State does not close the project within 90 days after the project completion date, then the FHWA shall reduce the Federal obligation to the amount expended unless justification is provided by the State for maintaining a certain amount of unexpended obligation necessary to complete the project.

\* \* \* \* \*

(e) The State is responsible for assuring that third party contracts and agreements provide for the timely billing and processing of final claims following the completion of work by the third party. A delay in receiving or processing third party claims will not be justification for extending the project completion date as permitted in § 630.110(d) of this subpart unless the delay is the result of an unusual circumstance beyond the control of the State and the third party.

4. Amend § 630.110 by adding paragraph (d) to read as follows:

**§ 630.110 Modification of the original agreement.**

\* \* \* \* \*

(d) The modification may include a revised project completion date provided the State submits a revised project schedule and support that the remaining unexpended obligation amount is still needed.

[FR Doc. 05-13514 Filed 7-8-05; 8:45 am]

BILLING CODE 4910-22-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-102144-04]

RIN 1545-BD10

**Dual Consolidated Loss Regulations; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Tuesday, May 24, 2005 (70 FR 29868). The proposed regulations provide guidance regarding dual consolidated loss issues, including exceptions to the general prohibition against using a dual consolidated loss to reduce the taxable income of any other member of the affiliated group.

**FOR FURTHER INFORMATION CONTACT:** Kathryn T. Holman, (202) 622-3840 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking (REG-102144-04) that is the subject of these corrections are under sections 1503, 953 and 367 of the Internal Revenue Code.

**Need for Correction**

As published, the notice of proposed rulemaking and notice of public hearing (REG-102144-04) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG-102144-04), that was the subject of FR Doc. 05-10160, is corrected as follows:

1. On page 29869, column 1, in the preamble under the paragraph heading "Background", paragraph 3 from the top of the column, line 5, the language "as if such unit where a wholly owned" is corrected to read "as if such unit were a wholly owned"

**§ 1.1503(d)-4 [Corrected]**

2. On page 29897, column 2, "§ 1503(d)-4 (i)(1), line 6, the language, "through (ix) of this section, including" is corrected to read "through (viii) of this section, including"

**§ 1.1503(d)-5 [Corrected]**

3. On page 29903, column 2, § 1.1503(d)-5(c), paragraph (i), of *Example 34.*, the language, "its worldwide income F<sub>x</sub>, a an unrelated" is corrected to read "its worldwide income, F<sub>x</sub>, an unrelated"

**Cynthia Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 05-13381 Filed 7-8-05; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-100420-03]

RIN 1545-BB90

**Safe Harbor for Valuation Under Section 475; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Tuesday, May 24, 2005 (70 FR 29663). The proposed regulations provide guidance regarding elective safe harbor for dealers and traders in securities and commodities.

**FOR FURTHER INFORMATION CONTACT:** Marsha A. Sabin or John W. Rogers III (202) 622-3950 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking (REG-100420-03) that is the subject of these corrections is under section 475 of the Internal Revenue Code.

**Need for Correction**

The notice of proposed rulemaking (REG-100420-03) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the notice proposed rulemaking (REG-100420-03), that was the subject of FR Doc. 05-10167, is corrected as follows:

1. On page 29666, column 2, under paragraph heading Record Retention and Production; Use of Different Values, first paragraph, lines 15 through 18 from