

## PART 630—PRECONSTRUCTION PROCEDURES

■ 1. The authority citation for part 630 is revised to read as follows:

**Authority:** 23 U.S.C. 106, 109, 112, 115, 315, and 402(a); Sec. 1110, 1501, and 1503 of Pub. L. 109–59, 119 Stat. 1144; Pub. L. 105–178, 112 Stat. 193; Pub. L. 104–59, 109 Stat. 582; Pub. L. 97–424, 96 Stat. 2106; Pub. L. 90–495, 82 Stat. 828; Pub. L. 85–767, 72 Stat. 896; Pub. L. 84–627, 70 Stat. 380; Pub. L. 112–141, 126 Stat. 405, sections 1303 and 1405; and 23 CFR 1.32 and 49 CFR 1.81 and 1.85.

### Subpart H—[Removed and Reserved]

■ 2. Remove and reserve subpart H, consisting of §§ 630.801 through 630.803.

[FR Doc. 2025–09715 Filed 5–27–25; 4:15 pm]

BILLING CODE 4910-RY-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 633

[Docket No. FHWA–2025–0012]

RIN 2125–AG19

#### Rescinding Requirements Regarding Required Contract Provisions for Federal-Aid Construction Contracts (Other Than Appalachian Contracts)

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** FHWA is proposing to rescind the rule and certain regulations issued on October 2, 1987, Required Contract Provisions.

**DATES:** Comments must be received on or before June 30, 2025.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE, Washington, DC 20590, or submit electronically at [www.regulations.gov](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 may print the acknowledgment page that appears after submitting comments

electronically. Anyone is able to search the electronic form of all comments 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 [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. James DeSanto, Office of Infrastructure, (614) 357–8515, [james.desanto@dot.gov](mailto:james.desanto@dot.gov); or Mr. David Serody, Office of the Chief Counsel, (202) 366–4241, [david.serody@dot.gov](mailto:david.serody@dot.gov), Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

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##### Background

FHWA is proposing to rescind portions of the rule issued on October 2, 1987, Required Contract Provisions for Federal-Aid Construction Contracts (Other than Appalachian Contracts), via 52 FR 36920, as amended on February 13, 2004, by 69 FR 7118, amending 23 CFR part 633 subpart A. The rule proposed for rescission prescribes the method of inclusion of construction contract provisions that are required by existing statute and regulations. 23 CFR 633.101. Under these regulations, FHWA requires that Form FHWA–1273, “Required Contract Provisions, Federal-aid Construction Contracts” be physically incorporated in each Federal-aid highway construction contract, other than Appalachian construction contracts (23 CFR 633.102(b)) and any lower tier subcontracts that may be made (23 CFR 633.102(e)). We propose to rescind 23 CFR part 633, subpart A entirely and seek comment on all aspects of that proposal.

Currently, to ensure that contract provisions required by statute or regulation are included in construction contracts, FHWA requires that those

construction contracts physically incorporate Form FHWA–1273. 23 CFR 633.102(b), (e), and (f). Form FHWA–1273 itself does not impose additional requirements; it only states requirements imposed by other statutes or regulations. See 23 CFR 633.103. For example, under 29 CFR 5.5(a), Federal agencies must insert in any contract in excess of \$2,000 for certain work specific clauses. Section IV of FHWA–Form 1273 includes this language and states when it is applicable. Neither 23 CFR part 633, subpart A nor FHWA Form–1273 contains the requirement for this language to be included; instead, they only reference the requirement. The requirement still would be required to be included where applicable with or without 23 CFR part 633, subpart A. Form FHWA–1273 merely aggregates several required provisions, and 23 CFR part 633, subpart A then requires that Form FHWA–1273 be physically incorporated into construction contracts.

The FHWA finds the requirement to include Form FHWA–1273 unnecessary and is proposing to therefore remove 23 CFR part 633, subpart A. Again, to the extent that provisions under other statutes or regulations that are currently listed in Form FHWA–1273 are required to be included in a construction contract, those provisions still must be included in the contract. Further, FHWA is not proposing to eliminate Form FHWA–1273 and envisions continuing to make updates as necessary due to changes in applicable statutes or regulations. To the extent that recipients, subrecipients, and contractors elect to use Form FHWA–1273 to satisfy their obligations, FHWA intends allowing them to continue to do so. The FHWA is merely eliminating the requirement that those entities must use Form FHWA–1273 to fulfill these obligations. Those entities may choose other ways, besides incorporating Form FHWA–1273, if they find such alternatives preferable.

In short, FHWA views prescribing the use of Form FHWA–1273 as unnecessary and overly restrictive. While provisions contained in Form FHWA–1273 continue to apply, FHWA finds no reason to mandate the use of Form FHWA–1273 to ensure their inclusion. As such, FHWA is proposing to rescind the regulations in 23 CFR part 633, subpart A. The FHWA seeks comment on any reasons to rescind or not rescind these regulations.

## Rulemaking Analyses and Notices

### *A. Executive Orders 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

This proposed rule does not meet the criteria of a “significant regulatory action” under Executive Order 12866, as amended by Executive Orders 14215 and 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

This rule would remove the requirement that Form FHWA–1273, which itself contains contract provisions required by statute and regulation, be physically incorporated into construction contracts. It does not remove the requirement for contract provisions within Form FHWA–1273 that are required by statute and regulation to still be incorporated into construction contracts. As such, while FHWA is removing the requirement to use a single mechanism to ensure compliance, it is not removing the underlying requirements. For that reason, FHWA believes that any monetary benefits or costs to this rule would be minimal. The FHWA seeks comments on any impacts that could result from removing the provisions identified in this NPRM.

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 proposed rule is not an E.O. 14192 regulatory action. This rule 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 impacts of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

### *C. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (RFA) (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 proposed rescission would only rescind the requirement to incorporate Form FHWA–1273 in construction contracts. It does not add or remove any requirements referenced in Form FHWA–1273 that may continue to be applicable.

### *D. Unfunded Mandates Reform Act*

This proposed rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) for State, local and Tribal governments, or the private sector of \$100 million or more in any one year. 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. The FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The 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 Office of Management and Budget (OMB) control number. This proposed rule is deregulatory and so would not impose any additional information collection requirements.

### *G. National Environmental Policy Act*

FHWA has analyzed this rule pursuant to the 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 NPRM proposes to remove the requirement for to physically incorporate FHWA Form–1273 in construction contracts. It does not affect the requirements that are referenced in FHWA Form–1273 that may otherwise be applicable. FHWA does not anticipate any adverse environmental impacts from this proposed rule, and no unusual circumstances are present under 23 CFR 771.117(b).

### *H. Executive Order 13175 (Tribal Consultation)*

Executive Order 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 proposed rule on Indian tribes and determined that this rule would not have tribal implications that require consultation under Executive Order 13175.

## I. Regulation Identifier Number

A 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](https://www.regulations.gov), under the docket number.

## List of Subjects in 23 CFR Part 633

Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements.

Issued in Washington, DC, under authority delegated in 49 CFR 1.85.

**Gloria M. Shepherd,**

*Executive Director, Federal Highway Administration.*

■ For the reasons stated in the preamble, under the authority of 23 U.S.C. 114 and

315; 49 CFR 1.48, FHWA proposes to remove and reserve 23 Code of Federal Regulations part 633, subpart A.

[FR Doc. 2025–09728 Filed 5–27–25; 4:15 pm]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 633

[Docket No. FHWA–2025–0013]

RIN 2125–AG11

#### Rescinding Requirements Regarding Federal-Aid Contracts for Appalachian Contracts

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** FHWA is proposing to rescind the rule and regulations issued on September 30, 1974, Federal-Aid Contracts (Appalachian Contracts).

**DATES:** Comments must be received on or before June 30, 2025.

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony DeSimone, Office of Infrastructure, (317) 226–5307, [anthony.desimone@dot.gov](mailto:anthony.desimone@dot.gov); or Mr. David Serody, Office of the Chief Counsel, (202) 366–4241, [david.serody@dot.gov](mailto:david.serody@dot.gov), Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE, Washington, DC 20590, or submit electronically at [www.regulations.gov](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 may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments 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 [www.regulations.gov](http://www.regulations.gov).

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##### Background

FHWA is proposing to rescind the rule issued on September 30, 1974, Federal-Aid Contracts (Appalachian Contracts), via 39 FR 35146, as amended on October 21, 1975, by 40 FR 49084 and on March 1, 1976, by 41 FR 8769, amending 23 CFR part 633 subpart B. The rule proposed for rescission provides policies and procedures for administering projects and funds for the Appalachian Development Highway System (ADHS) and Appalachian local access roads. 23 CFR 633.201. The FHWA proposes to rescind the entire subpart B of part 633 and seek comment on all aspects of that proposal.

This subpart concerns projects for the ADHS and Appalachian local access roads. Under 40 U.S.C. 14501, the Secretary of Transportation may assist in the construction of the ADHS and local access roads serving the Appalachian region, and Congress has appropriated funds for this purpose. While such Appalachian projects have been, are being, and likely will continue to be constructed, FHWA does not find it necessary to maintain the current regulations to administer such construction. This subpart is being proposed for rescission because it is substantially outdated and duplicative of other statutory and regulatory sections. The FHWA discusses the reasons for removing each section separately below.

##### Section-by-Section Analysis

##### *Section 633.201, 633.202—Purpose and Definitions*

As detailed more below, FHWA is proposing to remove the substantive provisions within 23 CFR part 633, subpart B. With those provisions removed, FHWA finds it unnecessary to keep §§ 633.201 and 633.202.

##### *Section 633.203—Applicability of Existing Laws, Regulations, and Directives*

Section 633.203, title 23, Code of Federal Regulations states that the provisions of title 23, U.S.C. that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary of Transportation determines are not consistent with the Appalachian Regional Development Act of 1965 (Act) (Pub. L. 89–4) shall apply to the development highway system and the local access roads. This merely restates 40 U.S.C. 14501(g)(2) and is therefore unnecessary. Further, § 633.203 states that title 23 of the CFR and directives implementing applicable provisions of title 23, U.S.C., where not inconsistent with the Act, apply to the development highway system and the local access roads. Given that certain provisions of title 23, U.S.C. apply under 40 U.S.C. 14501(g)(2), FHWA believes it apparent that regulations implementing those provisions would also apply. The FHWA therefore finds this restatement unnecessary and proposes to remove § 633.203.

##### *Section 633.204—Fiscal Allocation and Obligations*

Section 633.204(a) states that Federal assistance shall not exceed 70 percent of the costs of a project. This provision is outdated; under 40 U.S.C. 14501(e), the Federal share shall not exceed 80 percent of the cost of a project.<sup>1</sup> The FHWA further does not believe it necessary to include a regulatory provision that would merely repeat 40 U.S.C. 14501(e). Similarly, § 633.204(b) states that the FHWA Division Administrator's authorization to proceed with proposed work shall establish obligation of Federal funds for a particular project. Again, FHWA finds this unnecessary to include. Per 40 U.S.C. 14501(g)(1), 23 U.S.C. 106(a) applies to the development system and the local access roads. Per 23 U.S.C. 106(a)(3), the execution of the project agreement is deemed a contractual obligation of the Federal Government. It is typical FHWA policy for authorization to proceed either through or after the execution of the project agreement. See 23 CFR 630.106(a)(2).

<sup>1</sup> Congress has further enacted separate provisions dealing with the Federal share for the ADHS under certain circumstances. See Section 1528 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141); Section 1435 of the Fixing America's Surface Transportation Act (Pub. L. 114–94). The FHWA believes this indicates the flaws in having a regulatory provision stating the Federal share, rather than relying on the underlying statutory authority.