Revised as of April 1, 2001

Highways

Containing a codification of documents of general applicability and future effect

As of April 1, 2001

With Ancillaries

Published by
Office of the Federal Register
National Archives and Records Administration

A Special Edition of the Federal Register
# Table of Contents

<table>
<thead>
<tr>
<th>Explanation</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>v</td>
<td></td>
</tr>
</tbody>
</table>

## Title 23:

- Chapter I—Federal Highway Administration, Department of Transportation  
  ........................................................................................................ 3
- Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation  
  ........................................................................................................ 413
- Chapter III—National Highway Traffic Safety Administration, Department of Transportation  
  ........................................................................................................ 453

## Finding Aids:

- Subject Index  
  ................................................................. 489
- Material Approved for Incorporation by Reference  
  ................................................................. 507
- Table of CFR Titles and Chapters  
  ................................................................. 509
- Alphabetical List of Agencies Appearing in the CFR  
  ................................................................. 527
- List of CFR Sections Affected  
  ................................................................. 537
Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 23 CFR 1.1 refers to title 23, part 1, section 1.
Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16..............................................................as of January 1
Title 17 through Title 27 .................................................................as of April 1
Title 28 through Title 41.................................................................as of July 1
Title 42 through Title 50.............................................................as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, April 1, 2001), consult the “List of CFR Sections Affected (LSA),” which is issued monthly, and the “Cumulative List of Parts Affected,” which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cutoff date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request.
Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBsolete Provisions

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1986, consult either the List of CFR Sections Affected, 1949-1963, 1964–1972, or 1973–1985, published in seven separate volumes. For the period beginning January 1, 1986, a “List of CFR Sections Affected” is published at the end of each CFR volume.

Incorporation by Reference

What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR part 51 are met. Some of the elements on which approval is based are:

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington DC 20408, or call (202) 536–4534.

CFR indexes and Tabular Guides

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of “Title 3—The President” is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the “Contents” entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.
REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES

For a legal interpretation or explanation of any regulation in this volume, contact the issuing agency. The issuing agency’s name appears at the top of odd-numbered pages.

For inquiries concerning CFR reference assistance, call 202–523–5227 or write to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

SALES

The Government Printing Office (GPO) processes all sales and distribution of the CFR. For payment by credit card, call 202–512–1800, M–F, 8 a.m. to 4 p.m. e.s.t. or fax your order to 202–512–2250, 24 hours a day. For payment by check, write to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. For GPO Customer Service call 202–512–1803.

ELECTRONIC SERVICES


The Office of the Federal Register also offers a free service on the National Archives and Records Administration’s (NARA) World Wide Web site for public law numbers, Federal Register finding aids, and related information. Connect to NARA’s web site at www.nara.gov/fedreg. The NARA site also contains links to GPO Access.

RAYMOND A. MOSLEY,

Director,

Office of the Federal Register.

April 1, 2001.
Title 23—Highways is composed of one volume. The contents of this volume represent the current regulations of the National Highway Traffic Safety Administration and the Federal Highway Administration, Department of Transportation, issued under this title of the CFR as of April 1, 2001.

A subject index to the Federal Highway Administration regulations, in chapters I and II, appears in the back of this volume.
Would you like to know...

If any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the Federal Register Index, or both.

LSA
The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $31 per year.

Federal Register Index
The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $28 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Superintendent of Documents Subscription Order Form

Order Processing Code: [5421] YES, send me the following indicated subscriptions for one year:

__ LSA (List of CFR Sections Affected), (LCS) for $31 per year.
__ Federal Register Index (FRSU) $28 per year.

The total cost of my order is $ ______

Price is subject to change. International customers please add 25%.

Company or personal name

Street address

City, State, ZIP code

Daytime phone with area code

Purchase order No. (optional)

Fax your orders (202) 512–2250
Phone your orders (202) 512–1800

(Includes regular shipping and handling.)

For privacy check box below:

☐ Do not make my name available to other mailers

Check method of payment:

☐ Check payable to Superintendent of Documents

☐ GPO Deposit Account ________

☐ VISA ☐ MasterCard ________ (expiration date)

Credit card No. (must be 20 digits)

Thank you for your order!

Authorizing signature ________

Mail To: Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250–7954

x
Title 23—Highways

CHAPTER I—Federal Highway Administration, Department of Transportation ............................................................... 1

CHAPTER II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation .......................................................... 1200

CHAPTER III—National Highway Traffic Safety Administration, Department of Transportation ............................... 1313

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

<table>
<thead>
<tr>
<th>Subchapter A—General Management and Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subchapter B—Payment Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>140</td>
</tr>
<tr>
<td>172</td>
</tr>
<tr>
<td>180</td>
</tr>
<tr>
<td>190</td>
</tr>
<tr>
<td>192</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subchapter C—Civil Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>200</td>
</tr>
<tr>
<td>230</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subchapter D—National Highway Institute</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>260</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subchapter E—Planning and Research</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>420</td>
</tr>
<tr>
<td>450</td>
</tr>
<tr>
<td>460</td>
</tr>
<tr>
<td>470</td>
</tr>
<tr>
<td>476</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subchapter F—Transportation Infrastructure Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>500</td>
</tr>
</tbody>
</table>
511  [Reserved]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

620  Engineering ............................................................. 139
625  Design standards for highways ................................ 141
626  Pavement policy ..................................................... 144
627  Value engineering .................................................. 144
630  Preconstruction procedures ................................. 145
633  Required contract provisions .................................. 152
635  Construction and maintenance ............................. 169
637  Construction inspection and approval .................... 194
640  Certification acceptance ......................................... 196
645  Utilities .................................................................. 199
646  Railroads ................................................................. 216
650  Bridges, structures, and hydraulics ....................... 225
652  Pedestrian and bicycle accommodations and projects ............................................................. 238
655  Traffic operations .................................................. 241
656  Carpool and vanpool projects .............................. 246
657  Certification of size and weight enforcement ....... 248
658  Truck size and weight, route designations—length, width and weight limitations ............................................................. 253
660  Special programs (Direct Federal) ......................... 312
661  Indian Reservation Road Bridge Program .............. 318
667  [Reserved]
668  Emergency relief program ..................................... 323
669  Enforcement of heavy vehicle use tax .................. 330

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

710  Right-of-way and real estate ................................. 333
750  Highway beautification .......................................... 346
751  Junkyard control and acquisition .......................... 365
752  Landscape and roadside development .................... 369
771  Environmental impact and related procedures ...... 373
772  Procedures for abatement of highway traffic noise and construction noise ......................................... 390
Federal Highway Administration, DOT

<table>
<thead>
<tr>
<th></th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>777</td>
<td>Mitigation of environmental impacts to privately owned wetlands</td>
<td>395</td>
</tr>
<tr>
<td></td>
<td>SUBCHAPTER I—PUBLIC TRANSPORTATION</td>
<td></td>
</tr>
<tr>
<td>810</td>
<td>Mass transit and special use highway projects</td>
<td>400</td>
</tr>
<tr>
<td></td>
<td>SUBCHAPTER J—HIGHWAY SAFETY</td>
<td></td>
</tr>
<tr>
<td>924</td>
<td>Highway safety improvement program</td>
<td>406</td>
</tr>
<tr>
<td></td>
<td>SUBCHAPTER K—INTELLIGENT TRANSPORTATION SYSTEMS</td>
<td></td>
</tr>
<tr>
<td>940</td>
<td>Intelligent transportation system architecture and standards</td>
<td>409</td>
</tr>
</tbody>
</table>
SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 1—GENERAL

Sec.
1.1 Purpose.
1.2 Definitions.
1.3 Federal-State cooperation; authority of State highway departments.
1.5 Information furnished by State highway departments.
1.7 Urban area boundaries.
1.4 [Reserved]
1.9 Limitation on Federal participation.
1.11 Engineering services.
1.23 Rights-of-way.
1.27 Maintenance.
1.28 Diversion of highway revenues.
1.32 Issuance of directives.
1.33 Conflicts of interest.
1.35 Bonus program.
1.36 Compliance with Federal laws and regulations.

SOURCE: 25 FR 4162, May 11, 1960, unless otherwise noted.

§ 1.1 Purpose.
The purpose of the regulations in this part is to implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways.

§ 1.2 Definitions.
(a) Terms defined in 23 U.S.C. 101(a), shall have the same meaning where used in the regulations in this part, except as modified herein.
(b) The following terms where used in the regulations in this part shall have the following meaning:
Administrator. The Federal Highway Administrator.
Advertising standards. The “National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways” promulgated by the Secretary (part 20 of this chapter).
Latest available Federal census. The latest available Federal decennial census, except for the establishment of urban area.
Project. An undertaking by a State highway department for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.
Secretary. The Secretary of Transportation.
State. Any State of the United States, the District of Columbia and Puerto Rico.
Urban area. An area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available published official Federal census, decennial or special, within boundaries to be fixed by a State highway department, subject to the approval of the Administrator.


§ 1.3 Federal-State cooperation; authority of State highway departments.
The Administrator shall cooperate with the States, through their respective State highway departments, in the construction of Federal-aid highways. Each State highway department, maintained in conformity with 23 U.S.C. 302, shall be authorized, by the laws of the State, to make final decisions for the State in all matters relating to, and to enter into, on behalf of the State, all contracts and agreements for projects and to take such other actions on behalf of the State as may be necessary.
§ 1.5 Information furnished by State highway departments.

At the request of the Administrator the State highway department shall furnish to him such information as the Administrator shall deem desirable in administering the Federal-aid highway program.

§ 1.7 Urban area boundaries.

Boundaries of an urban area shall be submitted by the State highway department and be approved by the Administrator prior to the inclusion in a program of any project wholly or partly in such area involving funds authorized for and limited to urban areas.

§ 1.8 [Reserved]

§ 1.9 Limitation on Federal participation.

(a) Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable Federal and State law, the regulations in this title, and policies and procedures prescribed by the Administrator. Federal funds shall not be paid on account of any cost incurred prior to authorization by the Administrator to the State highway department to proceed with the project or part thereof involving such cost.

(b) Notwithstanding the provisions of paragraph (a) of this section the Administrator may, upon the request of a State highway department, approve the participation of Federal-aid funds in a previously incurred cost if he finds:

(1) That his approval will not adversely affect the public,

(2) That the State highway department has acted in good faith, and that there has been no willful violation of Federal requirements,

(3) That there has been substantial compliance with all other requirements prescribed by the Administrator, and full compliance with requirements mandated by Federal statute,

(4) That the cost to the United States will not be in excess of the cost which it would have incurred had there been full compliance, and

(5) That the quality of work undertaken has not been impaired.

(c) Any request submitted under paragraph (b) of this section shall be accompanied by a detailed description of the relevant circumstances and facts, and shall explain the necessity for incurring the costs in question.

[38 FR 18368, July 10, 1973]

§ 1.11 Engineering services.

(a) Federal participation. Costs of engineering services performed by the State highway department or any instrumentality or entity referred to in paragraph (b) of this section may be eligible for Federal participation only to the extent that such costs are directly attributable and properly allocable to specific projects. Expenditures for the establishment, maintenance, general administration, supervision, and other overhead of the State highway department, or other instrumentality or entity referred to in paragraph (b) of this section shall not be eligible for Federal participation.

(b) Governmental engineering organizations. The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of other governmental instrumentalities for making surveys, preparing plans, specifications and estimates, and for supervising the construction of any project.

(c) Railroad and utility engineering organizations. The State highway department may utilize, under its supervision, the services of well-qualified and suitably equipped engineering organizations of the affected railroad companies for railway-highway crossing projects and of the affected utility companies for projects involving utility installations.

(d) [Reserved]
(e) Responsibility of the State highway department. The State highway department is not relieved of its responsibilities under Federal law and the regulations in this part in the event it utilizes the services of any engineering organization under paragraphs (b), (c) or (d) of this section.


§1.23 Rights-of-way.

(a) Interest to be acquired. The State shall acquire rights-of-way of such nature and extent as are adequate for the construction, operation and maintenance of a project.

(b) Use for highway purposes. Except as provided under paragraph (c) of this section, all real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes. No project shall be accepted as complete until this requirement has been satisfied. The State highway department shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments, except (1) those approved under paragraph (c) of this section; (2) those which the Administrator approves as constituting a part of a highway or as necessary for its operation, use or maintenance for public highway purposes and (3) informational sites established and maintained in accordance with §1.35 of the regulations in this part.

(c) Other use or occupancy. Subject to 23 U.S.C. 111, the temporary or permanent occupancy or use of right-of-way, including air space, for nonhighway purposes and the reservation of subsurface mineral rights within the boundaries of the rights-of-way of Federal-aid highways, may be approved by the Administrator, if he determines that such occupancy, use or reservation is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic thereon.

§1.27 Maintenance.

The responsibility imposed upon the State highway department, pursuant to 23 U.S.C. 116, for the maintenance of projects shall be carried out in accordance with policies and procedures issued by the Administrator. The State highway department may provide for such maintenance by formal agreement with any adequately equipped county, municipality or other governmental instrumentality, but such an agreement shall not relieve the State highway department of its responsibility for such maintenance.

§1.28 Diversion of highway revenues.

(a) Reduction in apportionment. If the Secretary shall find that any State has diverted funds contrary to 23 U.S.C. 126, he shall take such action as he may deem necessary to comply with said provision of law by reducing the first Federal-aid apportionment of primary, secondary and urban funds made to the State after the date of such finding. In any such reduction, each of these funds shall be reduced in the same proportion.

(b) Furnishing of information. The Administrator may require any State to submit to him such information as he may deem necessary to assist the Secretary in carrying out the provisions of 23 U.S.C. 126 and paragraph (a) of this section.

§1.32 Issuance of directives.

(a) The Administrator shall promulgate and require the observance of policies and procedures, and may take other action as he deems appropriate or necessary for carrying out the provisions and purposes of Federal laws, the policies of the Federal Highway Administration, and the regulations of this part.

(b) The Administrator or his delegated representative, as appropriate, is authorized to issue the following type of directives:

(1) Federal Highway Administration Regulations are issued by the Administrator or his delegate, as necessary, to implement and carry out the provisions of title 23 U.S.C., relating to the administration of Federal aid for highways, direct Federal programs and State and community safety programs; and title 49 U.S.C., relating to motor carrier safety; and other applicable laws and programs under his jurisdiction.
§ 1.33 Notices

(2) Notices are temporary issuances transmitting one-time or short-term instructions or information which is expected to remain in effect for less than 90 days or for a predetermined period of time normally not to exceed one year.

(3) Orders are directives limited in volume and contain permanent or longlasting policy, instructions, and procedures. FHWA Orders are to be used primarily as internal FHWA directives.

(4) Joint Interagency Orders and Notices are used by FHWA and the National Highway Traffic Safety Administration (NHTSA) to issue joint policies, procedures, and information pertaining to the joint administration of the State and Community Highway Safety Program. Where necessary, other joint directives may be issued with other modal administrations within the Department of Transportation.

(5) Manuals are generally designed for use in issuing permanent or longlasting detailed policy and procedure. Some of the major manuals recognized by the FHWA Directives System follow:

(i) The Federal-Aid Highway Program Manual has been established to assemble and organize program material of the type previously contained in the Policy and Procedure and Instructional Memoranda which will continue in effect until specifically revoked or published in the new manual. Regulatory material is printed in italics in the manual and also appears in this code. Nonregulatory material is printed in delegate type.

(ii) The Administrative Manual covers all internal FHWA administrative support functions.

(iii) The Highway Planning Program Manual covers the methods and procedures necessary to conduct the highway planning functions.


(v) The External Audit Manual provides guidance to FHWA auditors in their review of State programs and processes.


(vii) The BMCS Operations Manual provides program guidance for all field employees assigned to the motor carrier safety program.

(viii) The Highway Safety Program Manual, issued jointly by FHWA and NHTSA, contains volumes relating to the joint administration of the program.

(6) Handbooks are internal operating instructions published in book form where, because of the program area covered, it is desirable to provide greater detail of administrative and technical instructions.

(7) Transmittals identify and explain the original issuance or page change, provide background information, and provide filing instructions for insertion of new pages and removal of changed pages, or both.

(49 U.S.C. 1655)

[39 FR 1512, Jan. 10, 1974]

§ 1.33 Conflicts of interest.

No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired
§ 1.36 Compliance with Federal laws and regulations.

If the Administrator determines that a State has violated or failed to comply with the Federal laws or the regulations in this part with respect to a project, he may withhold payment to the State of Federal funds on account of such project, withhold approval of further projects in the State, and take such other action that he deems appropriate under the circumstances, until compliance or remedial action has been accomplished by the State to the satisfaction of the Administrator.
SUBCHAPTER B—PAYMENT PROCEDURES

PART 140—REIMBURSEMENT

Subpart A [Reserved]

Subpart B—Construction Engineering Costs

Sec.

140.201 Purpose.
140.203 Policy.
140.205 Limitation.
140.207 Application of limitation.

Subparts C–D [Reserved]

Subpart E—Administrative Settlement Costs—Contract Claims

140.501 Purpose.
140.503 Definition.
140.505 Reimbursable costs.

Subpart F—Reimbursement for Bond Issue Projects

140.601 Purpose.
140.602 Requirements and conditions.
140.603 Programs.
140.604 Reimbursable schedule.
140.605 Approval actions.
140.606 Project agreements.
140.607 Construction.
140.608 Reimbursable bond interest costs of Interstate projects.
140.609 Progress and final vouchers.
140.610 Conversion from bond issue to funded project status.
140.611 Determination of bond retirement.
140.612 Cash management.

APPENDIX TO SUBPART F—REIMBURSABLE SCHEDULE FOR CONVERTED "E" (BOND ISSUE) PROJECTS (OTHER THAN INTERSTATE PROJECTS)

Subpart G [Reserved]

Subpart H—State Highway Agency Audit Expense

140.801 Purpose.
140.803 Policy.
140.805 Definitions.
140.807 Reimbursable costs.

Subpart I—Reimbursement for Railroad Work

140.900 Purpose.
140.902 Applicability.
140.904 Reimbursement basis.
140.906 Labor costs.
140.907 Overhead and indirect construction costs.
140.908 Materials and supplies.

AUTHORITY: 23 U.S.C. 101(e), 106, 109(e), 114(a), 120(g), 121, 122, 130, and 315; and 49 CFR 1.48(b).

Subpart A [Reserved]

Subpart B—Construction Engineering Costs

SOURCE: 58 FR 39143, July 22, 1993, unless otherwise noted.

§ 140.201 Purpose.

The purpose of this subpart is to prescribe policies for claiming reimbursement for eligible construction engineering (CE) costs.

§ 140.203 Policy.

(a) State highway agencies (SHA) may be reimbursed for the Federal share of CE costs incurred as described in §140.703.

(b) Reimbursement for CE costs for Federal-aid construction projects shall be subject to the limitation set forth in §140.205.

§ 140.205 Limitation.

(a) The estimated CE costs for a SHA for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, exclusive of the costs of rights-of-way, preliminary engineering, and CE.

(b) For control purposes, a SHA’s estimated CE costs percentage will be determined by the ratio of the total amount obligated for CE to the total amount obligated for all projects financed with Federal-aid highway funds during the fiscal year, after excluding from such totals, the obligations for rights-of-way, preliminary engineering,
and CE. This percentage shall not exceed 15 percent at the end of the fiscal year. The CE limitation may be applied on either a Federal or State fiscal year basis.

(1) Amounts to be included in the determination for CE will be the aggregate total of all obligations of CE, including original project obligations at the authorization stage, all subsequent adjustments during the fiscal year, and all adjustments (debits or credits) to projects authorized in previous fiscal years.

(2) The CE limitation determination for each fiscal year will be treated separately and may not be adjusted after the end of that fiscal year.

(c) Projects which are closed (final voucher processed) as of December 18, 1991, may be reopened to accept adjustments and additional eligible project charges. All obligation/deobligation adjustments must be included in the current fiscal year calculation. However, the CE cost for each of these projects shall be limited to 15 percent of each project construction cost in accordance with the provisions in effect prior to December 18, 1991.

(d) If the SHA claims CE costs as an average percentage of the actual construction costs in accordance with 23 U.S.C. 120(g), the average rate shall be determined based upon reimbursable CE costs and shall not exceed 15 percent, exclusive of the costs of rights-of-way, preliminary engineering, and CE.

§ 140.207 Application of limitation.

The limitation applies to all projects financed with Federal-aid highway funds.

Subparts C–D [Reserved]

Subpart E—Administrative Settlement Costs—Contract Claims

§ 140.501 Purpose.

This regulation establishes the criteria for eligibility for reimbursement of administrative settlement costs in defense of contract claims on projects performed by a State under Federal-aid procedures.

§ 140.503 Definition.

Administrative settlement costs are costs related to the defense and settlement of contract claims including, but not limited to, salaries of a contracting officer or his/her authorized representative, attorneys, and/or members of State boards of arbitration, appeals boards, or similar tribunals, which are allocable to the findings and determinations of contract claims, but not including administrative or overhead costs.

§ 140.505 Reimbursable costs.

(a) Federal funds may participate in administrative settlement costs which are:

(1) Incurred after notice of claim,
(2) Properly supported,
(3) Directly allocable to a specific Federal-aid or Federal project,
(4) For employment of special counsel for review and defense of contract claims, when

(i) Recommended by the State Attorney General or State Highway Agency (SHA) legal counsel and
(ii) Approved in advance by the FHWA Division Administrator, with advice of FHWA Regional Counsel, and
(5) For travel and transportation expenses, if in accord with established policy and practices.

(b) No reimbursement shall be made if it is determined by FHWA that there was negligence or wrongdoing of any kind by SHA officials with respect to the claim.

Subpart F—Reimbursement for Bond Issue Projects

§ 140.601 Purpose.

To prescribe policies and procedures for the use of Federal funds by State highway agencies (SHAs) to aid in the retirement of the principal and interest of bonds, pursuant to 23 U.S.C. 122 and the payment of interest on bonds of eligible Interstate projects.
§ 140.602 Requirements and conditions.

(a) An SHA that uses the proceeds of bonds issued by the State, a county, city or other political subdivision of the State, for the construction of projects on the Federal-aid primary or Interstate system, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under 23 U.S.C. 103(e)(4), may claim payment of any portion of such sums apportioned to it for expenditures on such system to aid in the retirement of the principal of bonds at their maturities, to the extent that the proceeds of bonds have actually been expended in the construction of projects.

(b) Any interest earned and payable on bonds, the proceeds of which were expended on Interstate projects after November 6, 1978, is an eligible cost of construction. The amount of interest eligible for participation will be based on (1) the date the proceeds were expended on the project, (2) amount expended, and (3) the date of conversion to a regularly funded project. As provided for in section 115(c), Pub. L. 95–599, November 6, 1978, interest on bonds issued in any fiscal year by a State after November 6, 1978, may be paid under the authority of 23 U.S.C. 122 only if such SHA was eligible to obligated Interstate Discretionary funds under the provisions of 23 U.S.C. 118(b) during such fiscal year, and the Administrator certifies that such eligible SHA has utilized, or will utilize to the fullest extent possible during such fiscal year, its authority to obligate funds under 23 U.S.C. 118(b).

(c) The Federal share payable at the time of conversion, as provided for in §140.610 shall be the legal pro rata in effect at the time of execution of the project agreement for the bond issue project.

(d) The authorization of a bond issue project does not constitute a commitment of Federal funds until the project is converted to a regular Federal-aid project as provided for in §140.610.

(e) Reimbursements for the redemption of bonds may not precede, by more than 60 days, the scheduled date of the retirement of the bonds.

(f) Federal funds are not eligible for payment into sinking funds created and maintained for the subsequent retirement of bonds.

§ 140.603 Programs.

Programs covering projects to be financed from the proceeds of bonds shall be subject to a 36-month reimbursable schedule upon conversion to regular Federal-aid financing (See appendix). FHWA will consider requests for waiver of this provision at the time of conversion action. Waivers are subject to the availability of liquidating cash.

§ 140.604 Reimbursable schedule.

Projects to be financed from other than Interstate funds shall be subject to a 36-month reimbursable schedule upon conversion to regular Federal-aid financing (See appendix). FHWA will consider requests for waiver of this provision at the time of conversion action. Waivers are subject to the availability of liquidating cash.

§ 140.605 Approval actions.

(a) Authorization to proceed with preliminary engineering and acquisition of rights-of-way shall be issued in the same manner as for regularly financed Federal-aid projects.

(b) Authorization of physical construction shall be given in the same manner as for regularly financed Federal-aid projects. The total cost and Federal funds required, including interest, shall be indicated in the plans, specifications, and estimates.

(c) Projects subject to the reimbursable schedule shall be identified as an “E” project when the SHA is authorized to proceed with all or any phase of the work.

(d) Concurrence in the award of contracts shall be given.

§ 140.606 Project agreements.

Project Agreements, Form PR–2, shall be prepared and executed. Agreement provision 8 on the reverse side of Form PR–2¹ shall apply for bond issue projects.

¹The text of FHWA Form PR–2 is found in 23 CFR part 630, subpart C, appendix A.
§ 140.607 Construction.

Construction shall be supervised by the SHA in the same manner as for regularly financed Federal-aid projects. The FHWA will make construction inspections and reports.

§ 140.608 Reimbursable bond interest costs of Interstate projects.

(a) Bond interest earned on bonds actually retired may be reimbursed on the Federal pro rata basis applicable to such projects in accordance with § 140.602(b) and (c).

(b) No interest will be reimbursed for bonds issued after November 6, 1978, used to retire or otherwise refinance bonds issued prior to that date.

§ 140.609 Progress and final vouchers.

(a) Progress vouchers may be submitted for the Federal share of bonds retired or about to be retired, including eligible interest on Interstate Bond Issue Projects, the proceeds of which have actually been expended for the construction of the project.

(b) Upon completion of a bond issue project, a final voucher shall be submitted by the SHA. After final review, the SHA will be advised as to the total cost and Federal fund participation for the project.

§ 140.610 Conversion from bond issue to funded project status.

(a) At such time as the SHA elects to apply available apportioned Federal-aid funds to the retirement of bonds, including eligible interest earned and payable on Interstate Bond Projects, subject to available obligational authority, its claim shall be supported by appropriate certifications as follows:

I hereby certify that the following bonds, (list), the proceeds of which have been actually expended in the construction of bond issue projects authorized by title 23 U.S.C., section 122; (1) have been retired on ———, or (2) mature and are scheduled for retirement on ———, which is ——— days in advance of the maturity date of ———.

Eligible interest claimed on Interstate Bond Projects shall be shown for each bond and the certification shall include the statement:

I also certify that interest earned and paid or payable for each bond listed has been determined from the date on and after which the respective bond proceeds were actually expended on the project.

(b) The SHA’s request for full conversion of a completed project(s), or partial conversion of an active or completed project(s), may be made by letter, inclusive of the appropriate certification as described in § 140.610(a) making reference to any progress payments received or the final voucher(s) previously submitted and approved in accordance with § 140.609.

(c) Approval of the conversion action shall be by the Division Administrator.

(d) The SHA’s request for partial conversion of an active or completed bond issue project shall provide for: (1) Conversion to funded project status of the portion to be financed out of the balance of currently available apportioned funds, and (2) retention of the unfunded portion of the project in the bond program.

(e) Where the SHA’s request involves the partial conversion of a completed bond issue project, payment of the Federal funds made available under the conversion action shall be accomplished through use of Form PR–20, Voucher for Work Performed under Provisions of the Federal-aid and Federal Highway Acts, prepared in the division office and appropriately cross-referenced to the Bond Issue Project final voucher previously submitted and approved. The final voucher will be reduced by the amount of the approved reimbursement.

§ 140.611 Determination of bond retirement.

Division Administrators shall be responsible for the prompt review of the SHA’s records to determine that bonds issued to finance the projects and for which reimbursement has been made, including eligible bond interest expense, have been retired pursuant to the State’s certification required by § 140.610(a), and that such action is documented in the project file.

§ 140.612 Cash management.

By July 1 of each year the SHA will provide FHWA with a schedule, including the anticipated claims for reimbursement, of bond projects to be converted during the next two fiscal years.
The data will be used by FHWA in determining liquidating cash required to finance such conversions.

APPENDIX TO SUBPART F—REIMBURSABLE SCHEDULE FOR CONVERTED ‘E’ (BOND ISSUE) PROJECTS (OTHER THAN INTERSTATE PROJECTS)

<table>
<thead>
<tr>
<th>Time in months following conversion from “E” (bond issue) project to regular project</th>
<th>Cumulative amount reimbursable (percent of Federal funds obligated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>11</td>
</tr>
<tr>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>23</td>
<td>23</td>
</tr>
<tr>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>26</td>
<td>26</td>
</tr>
<tr>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>29</td>
<td>29</td>
</tr>
<tr>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>32</td>
<td>32</td>
</tr>
<tr>
<td>33</td>
<td>33</td>
</tr>
<tr>
<td>34</td>
<td>34</td>
</tr>
<tr>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>37</td>
<td>37</td>
</tr>
<tr>
<td>38</td>
<td>38</td>
</tr>
<tr>
<td>39</td>
<td>39</td>
</tr>
<tr>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>41</td>
<td>41</td>
</tr>
<tr>
<td>42</td>
<td>42</td>
</tr>
<tr>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>44</td>
<td>44</td>
</tr>
<tr>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>46</td>
<td>46</td>
</tr>
<tr>
<td>47</td>
<td>47</td>
</tr>
<tr>
<td>48</td>
<td>48</td>
</tr>
<tr>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>51</td>
<td>51</td>
</tr>
<tr>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>53</td>
<td>53</td>
</tr>
<tr>
<td>54</td>
<td>54</td>
</tr>
<tr>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>56</td>
<td>56</td>
</tr>
<tr>
<td>57</td>
<td>57</td>
</tr>
<tr>
<td>58</td>
<td>58</td>
</tr>
<tr>
<td>59</td>
<td>59</td>
</tr>
<tr>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>61</td>
<td>61</td>
</tr>
<tr>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>63</td>
<td>63</td>
</tr>
<tr>
<td>64</td>
<td>64</td>
</tr>
<tr>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td>66</td>
<td>66</td>
</tr>
<tr>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>69</td>
<td>69</td>
</tr>
<tr>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td>71</td>
<td>71</td>
</tr>
<tr>
<td>72</td>
<td>72</td>
</tr>
<tr>
<td>73</td>
<td>73</td>
</tr>
<tr>
<td>74</td>
<td>74</td>
</tr>
<tr>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>76</td>
<td>76</td>
</tr>
<tr>
<td>77</td>
<td>77</td>
</tr>
<tr>
<td>78</td>
<td>78</td>
</tr>
<tr>
<td>79</td>
<td>79</td>
</tr>
<tr>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>81</td>
<td>81</td>
</tr>
<tr>
<td>82</td>
<td>82</td>
</tr>
<tr>
<td>83</td>
<td>83</td>
</tr>
<tr>
<td>84</td>
<td>84</td>
</tr>
<tr>
<td>85</td>
<td>85</td>
</tr>
<tr>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>87</td>
<td>87</td>
</tr>
<tr>
<td>88</td>
<td>88</td>
</tr>
<tr>
<td>89</td>
<td>89</td>
</tr>
<tr>
<td>90</td>
<td>90</td>
</tr>
<tr>
<td>91</td>
<td>91</td>
</tr>
<tr>
<td>92</td>
<td>92</td>
</tr>
<tr>
<td>93</td>
<td>93</td>
</tr>
<tr>
<td>94</td>
<td>94</td>
</tr>
<tr>
<td>95</td>
<td>95</td>
</tr>
<tr>
<td>96</td>
<td>96</td>
</tr>
<tr>
<td>97</td>
<td>97</td>
</tr>
<tr>
<td>98</td>
<td>98</td>
</tr>
<tr>
<td>99</td>
<td>99</td>
</tr>
<tr>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Subpart G [Reserved]

Subpart H—State Highway Agency Audit Expense

Source: 49 FR 45373, Nov. 19, 1984, unless otherwise noted.

§ 140.801 Purpose.

To establish the reimbursement criteria for Federal participation in project related audit expenses.

§ 140.803 Policy.

Project related audits performed in accordance with generally accepted auditing standards (as modified by the Comptroller General of the United States) and applicable Federal laws and regulations are eligible for Federal participation. The State highway agency (SHA) may use other State, local public agency, and Federal audit organizations as well as licensed or certified public accounting firms to augment its audit force.

§ 140.805 Definitions.

(a) Project related audits. Audits which directly benefit Federal-Aid highway projects. Audits performed in accordance with the requirements of 23 CFR part 12, audits of third party contract costs, and other audits providing assurance that a recipient has complied with FHWA regulations are all considered project related audits. Audits benefiting only nonfederal projects, those performed for SHA management use only, or those serving similar nonfederal purposes are not considered project related.

(b) Third party contract costs. Project related costs incurred by railroads, utilities, consultants, governmental instrumentalities, universities, nonprofit organizations, construction contractors (force account work), and organizations engaged in right-of-way studies, planning, research, or related activities where the terms of a proposal or contract (including lump sum) necessitate an audit. Construction contracts (except force account work) are not included in this group.

§ 140.807 Reimbursable costs.

(a) Federal funds may be used to reimburse an SHA for the following types of project related audit costs:

(1) Salaries, wages, and related costs paid to public employees in accordance with subpart G of this part.

(2) Payments by the SHA to any Federal, State, or local public agency audit organization, and

(3) Payments by the SHA to licensed or certified public accounting firms.

(b) Audit costs incurred by an SHA shall be equitably distributed to all benefiting parties. The portion of these costs allocated to the Federal-Aid Highway Program which are not directly related to a specific project or projects shall be equitably distributed.
Federal Highway Administration, DOT

as a minimum, to the major FHWA funding categories in that State.

Subpart I—Reimbursement for Railroad Work

SOURCE: 40 FR 16057, Apr. 9, 1975, unless otherwise noted.

§ 140.900 Purpose.

The purpose of this subpart is to prescribe policies and procedures on reimbursement to the States for railroad work done on projects undertaken pursuant to the provisions of 23 CFR part 646, subpart B.

§ 140.902 Applicability.

This subpart, and all references hereinafter made to "projects," applies to Federal-aid projects involving railroad facilities, including projects for the elimination of hazards of railroad-highway crossings, and other projects which use railroad properties or which involve adjustments required by highway construction to either railroad facilities or facilities that are jointly owned or used by railroad and utility companies.

§ 140.904 Reimbursement basis.

(a) General. On projects involving the elimination of hazards of railroad-highway crossings, and on other projects where a railroad company is not obligated to move or to change its facilities at its own expense, reimbursement will be made for the costs incurred by the State in making changes to railroad facilities as required in connection with a Federal-aid highway project, in accordance with the provisions of this subpart.

(b) Eligibility. To be eligible, the costs must be:

(1) For work which is included in an approved statewide transportation improvement program.

(2) Incurred subsequent to the date of authorization by the Federal Highway Administration (FHWA).

(3) Incurred in accordance with the provisions of 23 CFR, part 646, subpart B, and

(4) Properly attributable to the project.

(40 FR 16057, Apr. 9, 1975, as amended at 53 FR 16276, May 23, 1988; 62 FR 45328, Aug. 27, 1997)

§ 140.906 Labor costs.

(a) General. (1) Salaries and wages, at actual or average rates, and related expenses paid by a company to individuals, for the time they are working on the project, are reimbursable when supported by adequate records. This shall include labor costs associated with preliminary engineering, construction engineering, right-of-way, and force account construction.

(2) Salaries and expenses paid to individuals who are normally part of the overhead organization of the company may be reimbursed for the time they are working directly on the project, such as for accounting and bill preparation, when supported by adequate records and when the work performed by such individuals is essential to the project and could not have been accomplished as economically by employees outside the overhead organization.

(3) Amounts paid to engineers, architects and others for services directly related to projects may be reimbursed.

(b) Labor surcharges. (1) Labor surcharges include worker compensation insurance, public liability and property damage insurance, and such fringe benefits as the company has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the company or a company may, at its option, use an additive rate or other similar technique in lieu of actual costs provided that (i) the rate is based on historical cost data of the company, (ii) such rate is representative of actual costs incurred, (iii) the rate is adjusted at least annually taking into consideration known anticipated changes and correcting for any over or under applied costs for the preceding period, and (iv) the rate is approved by the SHA and FHWA.

(2) Where the company is a self-insurer there may be reimbursement:

(i) At experience rates properly developed from actual costs, not to exceed the rates of a regular insurance
§ 140.907 Overhead and indirect construction costs.

(a) A State may elect to reimburse the railroad company for its overhead and indirect construction costs.

(b) The FHWA will participate in these costs provided that:

1. The costs are distributed to all applicable work orders and other functions on an equitable and uniform basis in accordance with generally accepted accounting principles;

2. The costs included in the distribution are limited to costs actually incurred by the railroad;

3. The costs are eligible in accordance with the Federal Acquisition Regulation (48 CFR), part 31, Contract Cost Principles and Procedures, relating to contracts with commercial organizations;

4. The costs are considered reasonable;

5. Records are readily available at a single location which adequately support the costs included in the distribution, the method used for distributing the costs, and the basis for determining additive rates;

6. The rates are adjusted at least annually taking into consideration any overrecovery or underrecovery of costs; and

7. The railroad maintains written procedures which assure proper control and distribution of the overhead and indirect construction costs.

[53 FR 18276, May 23, 1988]

§ 140.908 Materials and supplies.

(a) Procurement. Materials and supplies, if available, are to be furnished from company stock, except they may be obtained from other sources near the project site when available at less cost. Where not available from company stock, they may be purchased either under competitive bids or existing continuing contracts, under which the lowest available prices are developed. Minor quantities and proprietary products are excluded from these requirements. The company shall not be required to change its existing standards for materials used in permanent changes to its facilities.

(b) Costs. (1) Materials and supplies furnished from company stock shall be billed at current stock price of such new or used material at time of issue.

(2) Materials and supplies not furnished from company stock shall be billed at actual costs to the company delivered to the point of entry on the railroad company’s line nearest the source of procurement.

(c) Materials recovered. (1) Materials recovered from temporary use and accepted for reuse by the company shall be credited to the project at prices charged to the job, less a consideration for loss in service life at 10 percent for rails, angle bars, tie plates and metal turnout materials and 15 percent for all other materials. Materials recovered from the permanent facility of the company that are accepted by the company for return to stock shall be credited to the project at current stock prices of such used material.

(2) Materials recovered and not accepted for reuse by the company, if determined to have a net sale value, shall be sold by the State or railroad following an opportunity for State inspection and appropriate solicitation for bids, to the highest bidder; or if the company practices a system of periodic disposal by sale, credit to the project shall be at the going prices supported by the records of the company. Where applicable, credit for materials recovered from the permanent facility in length or quantities in excess of that being placed should be reduced to reflect any increased cost of railroad operation resulting from the adjustment.
§ 140.914 Credits for improvements.

(a) Credit shall be made to the project for additions or improvements which provide for higher quality or increased service capability of the operating facility and which are provided solely for the benefit of the company. Where buildings and other depreciable structures of a company which are integral to operation of rail traffic must be replaced, credit shall be made to the project as set forth in 23 CFR 636.216(c)(2).

(b) Where buildings and other depreciable structures of a company which are integral to operation of rail traffic must be replaced, credit shall be made to the project as set forth in 23 CFR 636.216(c)(2).

(c) No credit is required for additions or improvements which are:

(1) Necessitated by the requirements of the highway project.

(2) Replacements which, although not identical, are of equivalent standard.

(3) Replacements of devices or materials no longer regularly manufactured and the next highest grade or size is used.

§ 140.912 Transportation.

(a) Employees. The company’s cost of necessary employee transportation and subsistence directly attributable to the project, which is consistent with overall policy of the company, is reimbursable.

§ 140.910 Equipment.

(a) Company owned equipment. Cost of company-owned equipment may be reimbursed for the average or actual cost of operation, light and running repairs, and depreciation, or at industry rates representative of actual costs as agreed to by the railroad, SHA, and FHWA. Reimbursement for company-owned vehicles may be made at average or actual costs or at rates of recorded use per mile which are representative of actual costs and agreed to by the company, SHA, and FHWA.

(b) Other equipment. Where company owned equipment is not available, reimbursement will be limited to the amount of rental paid (1) to the lowest qualified bidder, (2) under existing continuing contracts at reasonable cost, or (3) as an exception, by negotiation where (b) (1) and (2) are impractical due to project location or schedule.

[40 FR 16057, Apr. 9, 1975, as amended at 47 FR 33955, Aug. 5, 1982]
§ 140.916 Protection.

The cost of essential protective services which, in the opinion of a railroad company, are required to ensure safety to railroad operations during certain periods of the construction of a project, is reimbursable provided an item for such services is incorporated in the State-railroad agreement or in a work order issued by the State and approved by FHWA.

§ 140.918 Maintenance and extended construction.

The cost of maintenance and extended construction is reimbursable to the extent provided for in 23 CFR 646.216(d)(4), and where included in the State-Railroad Agreement or otherwise approved by the State and FHWA.

§ 140.920 Lump sum payments.

Where approved by FHWA, pursuant to 23 CFR 646.216(d)(3), reimbursement may be made as a lump sum payment, in lieu of actual costs.

§ 140.922 Billings.

(a) After the executed State-Railroad Agreement has been approved by FHWA, the company may be reimbursed on progress billings of incurred costs. Costs for materials stockpiled at the project site or specifically purchased and delivered to the company for use on the project may be reimbursed on progress billings following approval of the executed State-Railroad Agreement or the written agreement under 23 CFR 646.218(c).

(b) The company shall provide one final and complete billing of all incurred costs, or of the agreed-to lump sum, within one year following completion of the reimbursable railroad work. Otherwise, previous payments to the company may be considered final, except as agreed to between the SHA and the railroad.

(c) All company cost records and accounts relating to the project are subject to audit by representatives of the State and/or the Federal Government for a period of three years from the date final payment has been received by the company.

(d) A railroad company must advise the State promptly of any outstanding obligation of the State’s contractor for services furnished by the company such as protective services.


PART 172—ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICE CONTRACTS

Subpart A—Procurement Procedures

Sec. 172.1 Purpose and applicability.
172.23 Evaluation and selection.
172.25 Funding.


SOURCE: 56 FR 19802, Apr. 30, 1991, unless otherwise noted.

Subpart A—Procurement Procedures

§ 172.1 Purpose and applicability.

(a) To prescribe policies and procedures for contracting to ensure that a qualified consultant is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner, at a reasonable cost.

(b) This regulation applies to all engineering and design related service contracts financed with Federal-aid highway funds. Agencies with approved Certification Acceptance Plans (CA), Secondary Road Plans (SRP) and/or Combined Road Plans (CRP) shall submit for the Federal Highway Administration’s (FHWA) approval, procedures
consistent with this regulation if they intend to utilize Federal-aid highway funds for any of the above contract types. The use of procedures codified in State statutes to select consultant firms is also acceptable. Other types of negotiated contracts should be administered under the requirements of the common grant management rule, 49 CFR 18.

§ 172.3 Definitions.

As used in this part:


Consultant. The individual or firm providing engineering and design related services as a party to the contract.

Contract modification. An agreement modifying the existing contract, such as an agreement to accomplish work beyond the scope of the original contract.

Contracting agency. The State highway agency or local governmental agencies which have responsibility for the procurement.

Engineering and design services. Program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services.

Extra work. Any services or actions required of the consultant above and beyond the obligations of the original or modified contract.

Fixed fee. A dollar amount established to cover the consultant’s profit and business expenses not allocable to overhead.

Prenegotiation audit. An examination of a consultant’s records made in accordance with generally accepted auditing standards.

Private sector engineering and design firms. Any individual or private firm (including small business concerns and small businesses owned and controlled by socially and economically disadvantaged individuals as defined in 49 CFR part 23) contracting with a State to provide engineering and design services.

Scope of work. All services and actions required of the consultant by the obligations of the contract.


§ 172.5 General principles.

(a) Need for consultant services in management roles. When Federal-aid highway funds participate in the contract, the contracting agency shall receive approval from the FHWA before hiring a consultant to act in a “management” role for the contracting agency. This concept should be limited to situations where unique or unusual circumstances exist and where the contracting agency has provided adequate justification to explain its reason for using a consultant in this role and the reason it cannot perform the work.

(b) Written procedures. The contracting agency shall prepare written procedures for each method of procurement it proposes to utilize. These procedures and all revisions shall be approved by the FHWA and describe, as appropriate to the particular method of procurement, each step used:

(1) In preparing a scope of work, evaluation factors and cost estimate for selecting a consultant,

(2) In soliciting proposals from prospective consultants,

(3) In the evaluation of proposals and the ranking/selection of a consultant,

(4) In negotiation of the reimbursement to be paid to the selected consultant,

(5) In monitoring the consultant’s work and in preparing a consultant’s performance evaluation when completed, and

(6) In determining the extent to which the consultant, who is responsible for the professional quality, technical accuracy, and coordination of services, may be reasonably liable for costs resulting from errors or deficiencies in design furnished under its contract.

(c) Prenegotiation audits. The contracting agencies shall prepare prenegotiation audits to provide the necessary data to assure that the consultant has an acceptable accounting
§ 172.7 Methods of procurement.

This regulation addresses three methods of procurement for the hiring of consultants to perform engineering and design related services specified in 23 U.S.C. 112(b)(2). These methods are: competitive negotiations which follow qualifications-based selection procedures or another selection procedure permitted by State statutes; small purchase procedures for small dollar value contracts; and non-competitive negotiations where specific conditions exist allowing negotiations to take place with a single firm.

(a) Competitive negotiation. Competitive negotiation should be used for the selection of a consultant to provide engineering and design related services. The following procedures shall apply to the competitive negotiation process:

(1) Scope, evaluation factors and cost estimate development. The contracting agency shall prepare:

(i) A scope of work before issuing a Request for Proposal that reflects a clear, accurate, and detailed description of the technical requirements for the services to be rendered and a list identifying the evaluation factors and their relative importance.

(ii) A detailed cost estimate, except for contracts awarded under small purchase procedures, with an appropriate breakdown of specific types of labor required, work hours, and an estimate of the consultant’s fixed fee (considering the risk and complexity of the project) for use during negotiations.

(b) Solicitation proposals—(1) Solicitation. The solicitation process shall be by advertisement (project, task or service), by mailing Requests for Proposals to certified/prequalified consultants, or any other method that ensures qualified in-State and out-of-State consultants are given the opportunity to be considered for award of a contract. It shall include a process where either:

(A) General interest is solicited for performing the work; responding consultants are ranked based on an evaluation of their qualification statements (submitted with their letters of interest or on file with the contracting agency).
agency); and proposals are requested from three or more firms starting with the highest ranked firm, or
(B) Proposals are solicited from all consultants that are interested in being considered for the work.
(ii) Request for proposal. The request for proposal shall:
(A) Provide a description of the scope of work and identification of the evaluation factors including their relative importance as included in paragraph (a)(1) of this section.
(B) Specify the method(s) of payment (lump sum, cost plus a fixed fee, cost per unit of work, or specific rate(s) of compensation).
(C) Request the submission of a proposal. Priced proposals may be used in the selection phase if allowed for under a State statute, but shall not be used in the selection phase when qualifications-based procedures are used.
(D) Allow sufficient time for the consultant to prepare and submit the proposal.
(3) Analysis and selection—(i) The consultants’ proposals, containing the information required by paragraph (a)(2) of this section, shall be evaluated and ranked by the contracting agency. This process shall include an analysis of the proposals in comparison to the evaluation factors. In addition, the consultants’ applicable work experience, present workload, past performance, staffing capabilities, etc., should be evaluated and included in the ranking process.
(ii) The award of engineering and design related services shall:
(A) Utilize qualifications-based procedures that either comply with the provisions of Title IX of the Federal Property and Administrative Services Act of 1949 (Pub. L. 92-582, 86 Stat. 1278 (1972), as amended) or utilize equivalent State qualifications-based procedures, or
(B) Utilize a formal procurement procedure that is established by State statute or is subsequently established by State statute.
(iii) The contracting agency shall retain acceptable documentation of the proposal, evaluation and selection of the consultant. Records shall be maintained in accordance with the provisions of 49 CFR 18.42.
(4) Negotiation responsibilities. (i) The negotiator shall use all resources available to conduct effective negotiations, including but not limited to, the refined scope of work, the evaluation factors and their relative importance, the agency’s cost estimate as required in paragraph (a)(1) of this section and the audit opinion issued as a result of the prenegotiation audit required in §172.5(c) of this part.
(ii) The negotiator shall separately negotiate the dollar amounts for elements of cost and a fixed fee except for services normally negotiated on a per unit (includes costs and fees) cost.
(iii) The contracting agency shall maintain records of negotiations to document negotiation activities and set forth the resources considered by the negotiator. Records shall be maintained in accordance with the provisions of 49 CFR 18.42.
(5) Execution of contracts. The proposed contract including the agreed upon cost figures shall be submitted to the FHWA for approval prior to its execution.
(b) Small purchases. Contracting agencies may use small purchase procedures for the procurement of engineering and design related services when the contract cost does not exceed $25,000.
(c) Noncompetitive negotiation. Noncompetitive negotiation may be used to obtain engineering and design related services when the award of a contract is not feasible under small purchase or competitive negotiation procedures. The contracting agency shall submit justification and receive approval from the FHWA before using this form of contracting when Federal-aid highway funds are used in the contract.
(1) Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:
(i) The service is available only from a single source, or
(ii) There is an emergency which will not permit the time necessary to conduct competitive negotiations, or
(iii) After solicitation of a number of sources, competition is determined inadequate.
§ 172.9 Compensation.

(a) Contracting agencies may establish cost principles for determining the reasonableness and allowability of costs. Federal reimbursement shall be limited to the Federal share of the costs allowable under the cost principles in 48 CFR part 31 (Federal Acquisition Regulations). Any references included in 48 CFR part 31 to other parts of 48 CFR do not apply to these contracts.

(b) Applicable cost principles shall be referenced in each contractual document.

(c) Methods of payment. (1) The method of payment to compensate the consultant for all work required shall be set forth in the original contract and in any contract modifications thereto. It may be a single method for all work or may involve different methods for different elements of work. The methods of payment which shall be used are: lump sum, cost plus fixed fee, cost per unit of work or specific rates of compensation.

(2) Compensation based on cost plus a percentage of cost or percentage of construction cost shall not be used.

(3) When the method of payment is other than a lump sum, the contract shall specify a maximum amount payable which shall not be exceeded unless adjusted by a contract modification.

(4) The lump sum method shall not be used to compensate a consultant for construction engineering and inspection services except when the agency has established the extent, scope, complexity, character and duration of the work to be required to a degree that fair and reasonable compensation including a fixed fee can be determined.

(d) Fixed fees. (1) The determination of the amount of the fixed fee shall take into account the size, complexity, duration, and degree of risk involved in the work. The establishment of the fixed fee shall be project specific.

(2) Fixed fees normally range from 6 to 15 percent of the total direct and indirect cost. Subject to the approval of the FHWA, a fixed fee over 15 percent may be justified when exceptional circumstances exist.

§ 172.11 Contract modifications.

(a) Contract modifications are required for any modification in the terms of the original contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed.

(b) A contract modification shall clearly outline the changes made and determine a method of compensation. FHWA approval of contract modifications shall be obtained prior to beginning the work except as discussed in paragraph (d) of this section.

(c) Overruns in the costs of the work shall not warrant an increase in the fixed fee portion of a cost plus fixed fee contract. Significant changes to the Scope of Work may require adjustment of the fixed fee portion in a cost plus fixed fee contract or in a lump sum contract.

(d) In unusual circumstances, the consultant may be authorized to proceed with work prior to agreement on the amount of compensation and execution of the contract modification, provided the FHWA has previously approved the work and has concurred that additional compensation is warranted.

§ 172.13 Monitoring the contract work.

(a) A public employee qualified to ensure that the work being pursued is complete, accurate and consistent with the terms, conditions, and specifications of the contract shall be in responsible charge of each contract or project. The employee’s responsibilities include:
§172.23  Evaluation and selection.

(a) When funds are appropriated for this program, the FHWA will invite States to submit applications to participate in the program. The FHWA will use the applications to make the program allocations under the program.

(b) The FHWA will make a comparison of the applicants based on the amount of Federal-aid highway funds each State has expended on contracts for engineering and design services. In assessing the amount of funds a State spent in procuring engineering and design services, the FHWA will also consider the amounts expended by States.
on 100 percent State-funded engineering and design services contracts involving projects to be constructed with Federal-aid highway funds to the extent the State provides such information with its application.

(c) The FHWA will select not less than three States each fiscal year to receive funds under this program.

(1) Selection of the States to receive funding under this program will be made by determining which States were the most effective in increasing the percentage of funds expended on engineering and design services contracts in the year preceding the fiscal year in which funds are to be allocated. In the selection process, the FHWA will evaluate each State’s program of contracting for engineering and design services. The evaluation will primarily consider such information as the amount and percentage of Federal-aid highway funds and State funds expended on engineering and design services contracts, the number of contracts awarded for such services, the relative size of the State’s Federal-aid highway program and the increases in use of private sector firms during the preceding year and the preceding five years.

(2) Upon the FHWA’s request for applications, each State interested in being considered should submit its application through its appropriate FHWA Division Office. The application may be in letter form and should include current information on the extent of the State’s use of consultants for engineering and design on Federal-aid highway projects. In addition, the State may provide data on the amount of 100 percent State-funded engineering and design services contracts involving projects to be built with Federal-aid highway funds and any other information demonstrating the State’s effectiveness in increasing the percentage of funds expended on engineering and design services contracts in the past five years.

§ 172.25 Funding.

(a) Funds received by a State under this program may only be used for awarding engineering and design services contracts with the private sector. These contracts shall carry out services and activities eligible for Federal-aid funding under title 23, United States Code.

(b) The Federal share of any project obligated with funds allocated under this program shall be the same as the Federal share applicable to the type of work or project being developed or the system on which the project is located. Funds allocated under this program shall remain available until expended.

(c) Funds will be allocated to the States each fiscal year from 1995 through 1997 to the extent funds are appropriated.

PART 180—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS


SOURCE: 64 FR 29750, June 2, 1999, unless otherwise noted.

§ 180.1 Cross-reference to credit assistance.


PART 190—INCENTIVE PAYMENTS FOR CONTROLLING OUTDOOR ADVERTISING ON THE INTERSTATE SYSTEM

Sec.
190.1 Purpose.
190.3 Agreement to control advertising.
190.5 Bonus project claims.
190.7 Processing of claims.

AUTHORITY: 23 U.S.C. 131(j) and 315; 49 CFR 1.48(b).

SOURCE: 43 FR 42742, Sept. 21, 1978, unless otherwise noted.

§ 190.1 Purpose.

The purpose of this regulation is to prescribe project procedures for making the incentive payments authorized by 23 U.S.C. 131(j).
§ 190.3 Agreement to control advertising.

To qualify for the bonus payment, a State must have entered into an agreement with the Secretary to control outdoor advertising. It must fulfill, and must continue to fulfill its obligations under such agreement consistent with 23 CFR 750.101.

§ 190.5 Bonus project claims.

(a) The State may claim payment by submitting a form PR–20 voucher, supported by strip maps which identify advertising control limits and areas excluded from the claim and form FHWA–1175, for the one-half percent bonus claim.

(b) The bonus payment computation is based on projects or portions thereof for which (1) the section of highway on which the project is located has been opened to traffic, and (2) final payment has been made. A bonus project may cover an individual project, a part thereof, or a combination of projects, on a section of an Interstate route.

(c) The eligible system mileage to be shown for a bonus project is that on which advertising controls are in effect. The eligible system mileage reported in subsequent projects on the same Interstate route section should cover only the additional system mileage not previously reported. Eligible project cost is the total participating cost (State and Federal share of approved preliminary engineering (PE), right-of-way (R–O–W), and construction) exclusive of any ineligible costs. The amount of the bonus payment is to be based on the eligible total costs of the supporting projects included in each claim.

(d) Progress vouchers for route sections on which additional one-half percent bonus payments are to be claimed are to be so identified, and the final claim for each route section is to be identified as the final voucher.

§ 190.7 Processing of claims.

Audited and approved PR–20 vouchers with form FHWA–1175 shall be forwarded to the regional office for submission to the Finance Division, Washington Headquarters, for payment. The associated strip maps shall be retained with the division office copies of the PR–20 vouchers.

PART 192—DRUG OFFENDER’S DRIVER’S LICENSE SUSPENSION

§ 192.3 Definitions.

As used in this part:

(a) Convicted includes adjudicated under juvenile proceedings.

(b) Driver’s license means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(c) Drug offense means:

(1) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

(2) The operation of a motor vehicle under the influence of such a substance.
§ 192.4 Adoption of drug offender’s driver’s license suspension.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23 of the United States Code on the first day of fiscal years 1994 and 1995 if the States does not meet the requirements of this section on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23 of the United States Code on the first day of fiscal year 1996 and any subsequent fiscal year if the State does not meet the requirements of this section on that date.

(c) A State meets the requirements of this section if:

(1) The State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception:

(i) The revocation, or suspension for at least 6 months, of the driver’s license of any individual who is convicted, after the enactment of such law, of

(A) Any violation of the Controlled Substances Act, or
(B) Any drug offense, and
(ii) A delay in the issuance or reinstatement of a driver’s license to such an individual for at least 6 months after the individual otherwise would have been eligible to have a driver’s license issued or reinstated if the individual does not have a driver’s license, or the driver’s license of the individual is suspended, at the time the individual is so convicted, or
(2) The Governor of the State:

(i) Submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State’s legislature which begins after November 5, 1990, a written certification stating that he or she is opposed to the enactment or enforcement in the State of a law described in paragraph (c)(1) of this section relating to the revocation, suspension, issuance, or reinstatement of driver’s licenses to convicted drug offenders; and

(ii) Submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in paragraph (c)(1) of this section.

(d) A State that makes exceptions for compelling circumstances must do so in accordance with a State law, regulation, binding policy directive or Statewide published guidelines establishing the conditions for making such exceptions and in exceptional circumstances specific to the offender.

§ 192.5 Certification requirements.

(a) Each State shall certify to the Secretary of Transportation by April 1, 1993 and by January 1 of each subsequent year that it meets the requirements of 23 U.S.C. 159 and this regulation.

(b) If the State believes it meets the requirements of 23 U.S.C. 159 and this regulation on the basis that it has enacted and is enforcing a Drug Offender’s Driver’s License Suspension law that conforms to 23 U.S.C. 159(a)(3)(A), the certifying statement may be worded as follows: I, (Name of Governor), Governor of the (State or Commonwealth) of ________, do hereby certify that the (State or Commonwealth) of ________, has enacted is enforcing a Drug Offender’s Driver’s License Suspension law that conforms to section 23 U.S.C. 159(a)(3)(A).
§ 192.6 Period of availability of withheld funds.

(a) Funds withheld under §1212.4 from apportionment to any State on or before September 30, 1995, will remain available for apportionment as follows:

(1) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(A) but for this section, the funds will remain available until the end of the fiscal year for which the funds are authorized to be appropriated.

(2) If the funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for this section, the funds will remain available until the end of the second fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(3) If the funds would have been apportioned under 23 U.S.C. 104(b)(1) or 104(b)(3) but for this section, the funds will remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under §1212.4 from apportionment to any State after September 30, 1995 will not be available for apportionment to the State.
§ 192.7 Apportionment of withheld funds after compliance.
Funds withheld under §1212.4 from apportionment, which remain available for apportionment under §1212.6(a), will be made available to any State that conforms to the requirements of §1212.4 before the last day of the period of availability as defined in §1212.6(a).

§ 192.8 Period of availability of subsequently apportioned funds.
(a) Funds apportioned pursuant to §1212.7 will remain available for expenditure as follows:
(1) Funds originally apportioned under 23 U.S.C. 104(b)(5)(A) will remain available until the end of the fiscal year succeeding the fiscal year in which the funds are apportioned.
(2) Funds originally apportioned under 23 U.S.C. 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) will remain available until the end of the third fiscal year succeeding the fiscal year in which the funds are apportioned.
(b) Sums apportioned to a State pursuant to §1212.7 and not obligated at the end of the periods defined in §1212.8(a), shall lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

§ 192.9 Effect of noncompliance.
If a State has not met the requirements of 23 U.S.C. 159(a)(3) at the end of the period for which funds withheld under §1212.4 are available for apportionment to a State under §1212.6, then such funds shall lapse or, in the case of funds withheld from apportionment under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

§ 192.10 Procedures affecting States in noncompliance.
(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 159, based on FHWA’s preliminary review of its statutes, will be advised of the funds expected to be withheld under §1212.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.
(b) If FHWA determines that the State is not in compliance with 23 U.S.C. 159 based on the agencies’ preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.
(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 159(a)(3), based on FHWA’s final determination, will receive notice of the funds being withheld under §1212.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

PART 200—TITLE VI PROGRAM AND RELATED STATUTES—IMPLEMENTATION AND REVIEW PROCEDURES

Sec. 200.1 Purpose.
200.3 Application of this part.
200.5 Definitions.
200.7 FHWA Title VI policy.
200.9 State highway agency responsibilities.
200.11 Procedures for processing Title VI reviews.
200.13 Certification acceptance.


SOURCE: 41 FR 53982, Dec. 10, 1976, unless otherwise noted.

§ 200.1 Purpose.
To provide guidelines for: (a) Implementing the Federal Highway Administration (FHWA) Title VI compliance program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations, and (b) Conducting Title VI program compliance reviews relative to the Federal-aid highway program.

§ 200.3 Application of this part.
The provisions of this part are applicable to all elements of FHWA and provide requirements and guidelines for State highway agencies to implement the Title VI Program requirements. The related civil rights laws and regulations are listed under §200.5(p) of this part. Title VI requirements for 23 U.S.C. 402 will be covered under a joint FHWA/NHTSA agreement.

§ 200.5 Definitions.
The following definitions shall apply for the purpose of this part:
(a) Affirmative action. A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future non-discriminatory practices.
(b) Beneficiary. Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocatees, impacted citizens, communities, etc.
(c) Citizen participation. An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.
(d) Compliance. That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.
(e) Deficiency status. The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.
(f) Discrimination. That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under title 23 U.S.C.
(g) Facility. Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.
(h) Federal assistance. Includes:
(1) Grants and loans of Federal funds,
(2) The grant or donation of Federal property and interests in property,
(3) The detail of Federal personnel,
(4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
§ 200.7  FHWA Title VI policy.

It is the policy of the FHWA to ensure compliance with Title VI of the Civil Rights Act of 1964, and related statutes and regulations.

§ 200.9  State highway agency responsibilities.

(a) State assurances in accordance with Title VI of the Civil Rights Act of 1964.

(1) Title 49, CFR part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied...
the benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives Federal assistance from the Department of Transportation, including the Federal Highway Administration.

(2) Section 162a of the Federal-Aid Highway Act of 1973 (section 324, title 23 U.S.C.) requires that there be no discrimination on the ground of sex. The FHWA considers all assurances here-tofore received to have been amended to include a prohibition against discrimination on the ground of sex. These assurances were signed by the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. The State highway agency shall submit a certification to the FHWA indicating that the requirements of section 162a of the Federal-Aid Highway Act of 1973 have been added to its assurances.

(3) The State highway agency shall take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. The head of the State highway agency shall be held responsible for implementing Title VI requirements.

(4) The State program area officials and Title VI Specialist shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels.

(b) State actions. (1) Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the State highway agency. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.

(2) Adequately staff the civil rights unit to effectively implement the State civil rights requirements.

(3) Develop procedures for prompt processing and disposition of Title VI and Title VIII complaints received directly by the State and not by FHWA. Complaints shall be investigated by State civil rights personnel trained in compliance investigations. Identify each complainant by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information. Each recipient (State) processing Title VI complaints shall be required to maintain a similar log. A copy of the complaint, together with a copy of the State’s report of investigation, shall be forwarded to the FHWA division office within 60 days of the date the complaint was received by the State.

(4) Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in, and beneficiaries of State highway programs, i.e., relocatees, impacted citizens and affected communities.

(5) Develop a program to conduct Title VI reviews of program areas.

(6) Conduct annual reviews of special emphasis program areas to determine the effectiveness or program area activities at all levels.

(7) Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.

(8) Review State program directives in coordination with State program officials and, where applicable, include Title VI and related requirements.

(9) The State highway agency Title VI designee shall be responsible for conducting training programs on Title VI and related statutes for State program and civil rights officials.

(10) Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year.

(11) Beginning October 1, 1976, each State highway agency shall annually submit an updated Title VI implementing plan to the Regional Federal Highway Administrator for approval or disapproval.

(12) Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
§ 200.11 Establishing procedures for pregrant and postgrant approval reviews of State programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the State.

(14) Establish procedures to identify and eliminate discrimination when found to exist.

(15) Establishing procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.

§ 200.11 Procedures for processing Title VI reviews.

(a) If the regional Title VI review report contains deficiencies and recommended actions, the report shall be forwarded by the Regional Federal Highway Administrator to the Division Administrator, who will forward it with a cover letter to the State highway agency for corrective action.

(b) The division office, in coordination with the Regional Civil Rights Officer, shall schedule a meeting with the recipient, to be held not later than 30 days from receipt of the deficiency report.

(c) Recipients placed in a deficiency status shall be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

(d) The Division Administrator shall seek the cooperation of the recipient in correcting deficiencies found during the review. The FHWA officials shall also provide the technical assistance and guidance needed to aid the recipient to comply voluntarily.

(e) When a recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Division Administrator shall submit to the Regional Administrator two copies of the case file and a recommendation that the State be found in noncompliance.

(f) The Office of Civil Rights shall review the case file for a determination of concurrence or nonconcurrency with a recommendation to the Federal Highway Administrator. Should the Federal Highway Administrator concur with the recommendation, the file is referred to the Department of Transportation, Office of the Secretary, for appropriate action in accordance with 49 CFR.

§ 200.13 Certification acceptance.

Title VI and related statutes requirements apply to all State highway agencies. States and FHWA divisions operating under certification acceptance shall monitor the Title VI aspects of the program by conducting annual reviews and submitting required reports in accordance with guidelines set forth in this document.

PART 230—EXTERNAL PROGRAMS

Subpart A—Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)

Sec.
230.101 Purpose.
230.103 Definitions.
230.105 Applicability.
230.107 Policy.
230.111 Implementation of special requirements for the provision of on-the-job training.
230.113 Implementation of supportive services.
230.115 Special contract requirements for “Hometown” or “Imposed” Plan areas.
230.117 Reimbursement procedures (Federal-aid highway construction projects only).
230.119 Monitoring of supportive services.
230.121 Reports.

APPENDIX A TO SUBPART A—SPECIAL PROVISIONS

APPENDIX B TO SUBPART A—TRAINING SPECIAL PROVISIONS

APPENDIX C TO SUBPART A—FEDERAL-AID HIGHWAY CONTRACTORS ANNUAL EEO REPORT (FORM PR-1391)

APPENDIX D TO SUBPART A—FEDERAL-AID HIGHWAY CONSTRUCTION SUMMARY OF EMPLOYMENT DATA (FORM PR-1392)

APPENDIXES E-F TO SUBPART A [RESERVED]

APPENDIX G TO SUBPART A—SPECIAL REPORTING REQUIREMENTS FOR “HOMETOWN” OR “IMPOSED” PLAN AREAS

Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

Sec.
230.201 Purpose.
230.203 Policy.
Federal Highway Administration, DOT

§ 230.103 Definitions.

For purposes of this subpart—

Administrator means the Federal Highway Administrator.

Areawide Plan means an affirmative action plan to increase minority utilization of crafts in a specified geographical area pursuant to Executive Order 11246, and taking the form of either a “Hometown” or an “Imposed” plan.

Bid conditions means contract requirements which have been issued by OFCC for purposes of implementing a Hometown Plan.

Division Administrator means the chief Federal Highway Administration (FHWA) official assigned to conduct FHWA business in a particular State, the District of Columbia, or the Commonwealth of Puerto Rico.

Division Equal Opportunity Officer means an individual with staff level responsibilities and necessary authority by which to operate as an Equal Opportunity Officer in a Division office. Normally the Equal Opportunity Officer will be a full-time civil rights specialist serving as staff assistant to the Division Administrator.

Hometown Plan means a voluntary areawide plan which was developed by representatives of affected groups (usually labor unions, minority organizations, and contractors), and subsequently approved by the Office of Federal Contract Compliance (OFCC), for purposes of implementing the equal employment opportunity requirements pursuant to Executive Order 11246, as amended.

Imposed Plan means an affirmative action requirement for a specified geographical area made mandatory by OFCC and, in some areas, by the courts.

Journeyman means a person who is capable of performing all the duties within a given job classification or craft.

State highway agency means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State should be considered equivalent to State highway agency.
§ 230.105 Suggested minimum annual training goals means goals which have been assigned to each State highway agency annually for the purpose of specifying training positions on selected Federal-aid highway construction projects.

Supportive services means those services provided in connection with approved on-the-job training programs for highway construction workers and highway contractors which are designed to increase the overall effectiveness of training programs through the performance of functions determined to be necessary in connection with such programs, but which are not generally considered as comprising part of actual on-the-job craft training.

Trainee means a person who received on-the-job training, whether through an apprenticeship program or other programs approved or accepted by the FHWA.

[40 FR 28053, July 3, 1975, as amended at 41 FR 3080, Jan. 21, 1976]

§ 230.105 Applicability.

(a) Federal-aid highway construction projects. This subpart applies to all Federal-aid highway construction projects and to Appalachian highway construction projects and other State supervised cooperative highway construction projects except:

(1) Federal-aided highway construction projects being constructed pursuant to 23 U.S.C. 117; and

(2) Those projects located in areas where the Office of Federal Contract Compliance has implemented an "Imposed" or a "Hometown" Plan, except for those requirements pertaining to specific provisions involving on-the-job training and those provisions pertaining to supportive services and reporting requirements.

(b) Direct Federal highway construction projects. This subpart applies to all direct Federal highway construction projects except:

(1) For those provisions relating to the special requirements for the provision of supportive services; and

(2) For those provisions relating to implementation of specific equal employment opportunity requirements in areas where the Office of Federal Contract Compliance has implemented an "Imposed" or "Hometown" plan.

§ 230.107 Policy.

(a) Direct Federal and Federal-aid highway construction projects. It is the policy of the FHWA to require that all direct Federal and Federal-aid highway construction contracts include the same specific equal employment opportunity requirements. It is also the policy to require that all direct Federal and Federal-aid highway construction subcontracts of $10,000 or more (not including contracts for supplying materials) include these same requirements.

(b) Federal-aid highway construction projects. It is the policy of the FHWA to require full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry. Moreover, it is the policy of the Federal Highway Administration to encourage the provision of supportive services which will increase the effectiveness of approved on-the-job training programs conducted in connection with Federal-aid highway construction projects.


(a) Federal-aid highway construction projects. The special provisions set forth in appendix A shall be included in the advertised bidding proposal and made part of the contract for each contract and each covered Federal-aid highway construction subcontract.

(b) Direct Federal highway construction projects. Advertising, award and contract administration procedures for direct Federal highway construction contracts shall be as set forth in Federal Acquisition Regulations (48 CFR, chapter 1, section 22.803(c)). In order to obtain information required by 48 CFR, chapter 1, §22.804–2(c), the following requirement shall be included at the end of the bid schedule in the proposal and contract assembly:

I expect to employ the following firms as subcontractors on this project: (Naming subcontractors at this time does not constitute a binding commitment on the bidder to retain such subcontractors, nor will failure to enter names affect the contract award).

Name
§ 230.111 Implementation of special requirements for the provision of on-the-job training.

(a) The State highway agency shall determine which Federal-aid highway construction contracts shall include the "Training Special Provisions" (appendix B) and the minimum number of trainees to be specified therein after giving appropriate consideration to the guidelines set forth in §230.111(c). The "Training Special Provisions" shall supersede section 7(b) of the Special Provisions (appendix A) entitled "Specific Equal Employment Opportunity Responsibilities." Minor wording revisions will be required to the "Training Special Provisions" in areas having "Hometown" or "Imposed Plan" requirements.

(b) The Washington Headquarters shall establish and publish annually suggested minimum training goals. These goals will be based on the Federal-aid apportioned amounts and the minority population. A State will have achieved its goal if the total number of training slots on selected federally aided highway construction contracts which have been awarded during each 12-month period equals or exceeds the State's suggested minimum annual goal. In the event a State highway agency does not attain its goal during a calendar year, the State highway agency at the end of the calendar year shall inform the Administrator of the reasons for its inability to meet the standards set forth in §230.111(c).

(c) The following guidelines shall be utilized by the State highway agency in selecting projects and determining the number of trainees to be provided training therein:

1. Availability of minorities, women, and disadvantaged for training.

2. The potential for effective training.

3. Duration of the contract.

4. Dollar value of the contract.

5. Total normal work force that the average bidder could be expected to use.

6. Geographic location.

7. Type of work.

8. The need for additional journeymen in the area.

9. Recognition of the suggested minimum goal for the State.

10. A satisfactory ratio of trainees to journeymen expected to be on the contractor's work force during normal operations (considered to fall between 1:10 and 1:4).

(d) Training programs which are established shall be approved only if they meet the standards set forth in appendix B with regard to:

1. The primary objectives of training and upgrading minority group workers, women and disadvantaged persons.

2. The development of full journeymen.

3. The minimum length and type of training.

4. The minimum wages of trainees.

5. Trainees certifications.

6. Keeping records and furnishing reports.

(e)(1) Training programs considered by a State highway agency to meet the standards under this directive shall be submitted to the FHWA division Administrator with a recommendation for approval.

(2) Employment pursuant to training programs approved by the FHWA division Administrator will be exempt from the minimum wage rate provisions of section 113 of title 29 U.S.C. Approval, however, shall not be given to training programs which provide for employment of trainees at wages less than those required by the Special Training Provisions. (Appendix B.)

(f)(1) Apprenticeship programs approved by the U.S. Department of Labor as of the date of proposed use by
§ 230.113 Implementation of supportive services.

(a) The State highway agency shall establish procedures, subject to the availability of funds under 23 U.S.C. 140(b), for the provision of supportive services in support of training programs approved under this directive. Funds made available to implement this paragraph shall not be used to finance the training of State highway agency employees or to provide services in support of such training. State highway agencies are not required to match funds allocated to them under this section.

(b) In determining the types of supportive services to be provided which will increase the effectiveness of approved training programs, State highway agencies shall give preference to the following types of services in the order listed:

(1) Services related to recruiting, counseling, transportation, physical examinations, remedial training, with special emphasis upon increasing training opportunities for members of minority groups and women;

(2) Services in connection with the administration of on-the-job training programs being sponsored by individual Federal-aid highway contractor or subcontractor need not be formally approved by the State highway agency or the FHWA division Administrator. Such programs, including their minimum wage provisions, are acceptable for use, provided they are administered in a manner reasonably calculated to meet the equal employment opportunity obligations of the contractor.

(2) Other training programs approved by the U.S. Department of Labor as of the date of proposed use by a Federal-aid highway contractor or subcontractor are also acceptable for use without the formal approval of the State highway agency or the division Administrator provided:

(i) The U.S. Department of Labor has clearly approved the program aspects relating to equal employment opportunity and the payment of trainee wage rates in lieu of prevailing wage rates.

(ii) They are reasonably calculated to qualify the average trainees for journeyman status in the classification concerned by the end of the training period.

(iii) They are administered in a manner calculated to meet the equal employment obligations of the contractors.

(g) The State highway agencies have the option of permitting Federal-aid highway construction contractors to bid on training to be given under this directive. The following procedures are to be utilized by those State highway agencies that elect to provide a bid item for training:

(1) The number of training positions shall continue to be specified in the Special Training Provisions. Furthermore, this number should be converted into an estimated number of hours of training which is to be used in arriving at the total bid price for the training item. Increases and decreases from the estimated amounts would be handled as overruns or underruns;

(2) A section concerning the method of payment should be included in the Special Training Provisions. Some off-site training is permissible as long as the training is an integral part of an approved training program and does not comprise a substantial part of the overall training. Furthermore, the trainee must be concurrently employed on a federally aided highway construction project subject to the Special Training Provisions attached to this directive. Reimbursement for offsite training may only be made to the contractor where he does one or more of the following: Contributes to the cost of the training, provides the instruction to the trainee, or pays the trainee's wages during the offsite training period;

(3) A State highway agency may modify the special provisions to specify the numbers to be trained in specific job classifications;

(4) A State highway agency can specify training standards provided any prospective bidder can use them, the training standards are made known in the advertised specifications, and such standards are found acceptable by FHWA.
Federal Highway Administration, DOT

§ 230.113

or groups of contractors and/or minority groups and women’s groups;

(3) Services designed to develop the capabilities of prospective trainees for undertaking on-the-job training;

(4) Services in connection with providing a continuation of training during periods of seasonal shutdown;

(5) Followup services to ascertain outcome of training being provided.

(c) State highway agencies which desire to provide or obtain supportive services other than those listed above shall submit their proposals to the Federal Highway Administration for approval. The proposal, together with recommendations of the division and regional offices shall be submitted to the Administrator for appropriate action.

(d) When the State highway agency provides supportive services by contract, formal advertising is not required by the FHWA, however, the State highway agency shall solicit proposals from such qualified sources as will assure the competitive nature of the procurement. The evaluation of proposals by the State highway agency must include consideration of the proposer’s ability to effect a productive relationship with contractors, unions (if appropriate), minority and women groups, minority and women trainees, and other persons or organizations whose cooperation and assistance will contribute to the successful performance of the contract work.

(e) In the selection of contractors to provide supportive services, State highway agencies shall make conscientious efforts to search out and utilize the services of qualified minority or women organizations, or minority or women business enterprises.

(f) As a minimum, State highway agency contracts to obtain supportive services shall include the following provisions:

(1) A statement that a primary purpose of the supportive services is to increase the effectiveness of approved on-the-job training programs, particularly their effectiveness in providing meaningful training opportunities for minorities, women, and the disadvantaged on Federal-aid highway projects;

(2) A clear and complete statement of the services to be provided under the contract, such as services to construction contractors, subcontractors, and trainees, for recruiting, counseling, remedial educational training, assistance in the acquisition of tools, special equipment and transportation, followup procedures, etc.;

(3) The nondiscrimination provisions required by Title VI of the Civil Rights Act of 1964 as set forth in FHWA Form PR–1273, and a statement of nondiscrimination in employment because of race, color, religion, national origin or sex;

(4) The establishment of a definite period of contract performance together with, if appropriate, a schedule stating when specific supportive services are to be provided;

(5) Reporting requirements pursuant to which the State highway agency will receive monthly or quarterly reports containing sufficient statistical data and narrative content to enable evaluation of both progress and problems;

(6) A requirement that the contractor keep track of trainees receiving training on Federal-aid highway construction projects for up to 6 months during periods when their training is interrupted. Such contracts shall also require the contractor to conduct a 6 month followup review of the employment status of each graduate who completes an on-the-job training program on a Federal-aid highway construction project subsequent to the effective date of the contract for supportive services.

(7) The basis of payment;

(8) An estimated schedule for expenditures;

(9) The right of access to contractor and subcontractor records and the right to audit shall be granted to authorize State highway agency and FHWA officials;

(10) Noncollusion certification;

(11) A requirement that the contractor provide all information necessary to support progress payments if such are provided for in the contract;

(12) A termination clause.

(g) The State highway agency is to furnish copies of the reports received under paragraph (b)(8) of this section, to the division office.

[40 FR 28053, July 3, 1975, as amended at 41 FR 3080, Jan. 21, 1976]
§ 230.115 Special contract requirements for “Hometown” or “Imposed” Plan areas.

Direct Federal and Federal-aid contracts to be performed in “Hometown” or “Imposed” Plan areas will incorporate the special provision set forth in appendix G.

§ 230.117 Reimbursement procedures (Federal-aid highway construction projects only).

(a) On-the-job special training provisions. State highway agencies will be reimbursed on the same pro-rata basis as the construction costs of the Federal-aid project.

(b) Supportive services. (1) The State highway agency must keep a separate account of supportive services funds since they cannot be interchanged with regular Federal-aid funds. In addition, these funds may not be expended in a manner that would provide for duplicate payment of Federal or Federal-aid funds for the same service.

(2) Where a State highway agency does not obligate all its funds within the time specified in the particular year’s allocation directive, the funds shall revert to the FHWA Headquarters Office to be made available for use by other State highway agencies, taking into consideration each State’s need for and ability to use such funds.

§ 230.119 Monitoring of supportive services.

Supportive services procured by a State highway agency shall be monitored by both the State highway agency and the division office.

§ 230.121 Reports.

(a) Employment reports on Federal-aid highway construction contracts not subject to “Hometown” or “Imposed” plan requirements.

(1) Paragraph 10c of the special provisions (appendix A) sets forth specific reporting requirements. FHWA Form PR-1391, Federal-Aid Highway Construction Contractors Annual EEO Report, (appendix C) and FHWA Form PR 1392, Federal-Aid Highway Construction Summary of Employment Data (including minority breakdown) for all Federal-Aid Highway Projects for month ending July 31st, 19—, (appendix D) are to be used to fulfill these reporting requirements.

(2) Form PR 1391 is to be completed by each contractor and each subcontractor subject to this part for every month of July during which work is performed, and submitted to the State highway agency. A separate report is to be completed for each covered contract or subcontract. The employment data entered should reflect the work force on board during all or any part of the last payroll period preceding the end of the month. The State highway agency is to forward a single copy of each report to the FHWA division office.

(3) Form PR 1392 is to be completed by the State highway agencies, summarizing the reports on PR 1391 for the month of July received from all active contractors and subcontractors. Three (3) copies of completed Forms PR 1392 are to be forwarded to the division office.

(b) Employment reports on direct Federal highway construction contracts not subject to “Hometown” or “Imposed” plan requirements. Forms PR 1391 (appendix C) and PR 1392 (appendix D) shall be used for reporting purposes as prescribed in §230.121(a).

(c) Employment reports on direct Federal and Federal-aid highway construction contracts subject to “Hometown” or “Imposed” plan requirements.

(1) Reporting requirements for direct Federal and Federal-aid highway construction projects located in areas where “Hometown” or “Imposed” plans are in effect shall be in accordance with those issued by the U.S. Department of Labor, Office of Federal Contract Compliance.

(2) In order that we may comply with the U.S. Senate Committee on Public Works’ request that the Federal Highway Administration submit a report annually on the status of the equal employment opportunity program, Form PR 1391 is to be completed annually by each contractor and each subcontractor holding contracts or subcontracts exceeding $10,000 except as otherwise provided for under 23 U.S.C. 117. The employment data entered should reflect the work force on board...
during all or any part of the last pay-roll period preceding the end of the month of July.

(d) [Reserved]

(e) Reports on supportive services contracts. The State highway agency is to furnish copies of the reports received from supportive services contractors to the FHWA division office which will furnish a copy to the regional office.


APPENDIX A TO SUBPART A OF PART 230—SPECIAL PROVISIONS

SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General. a. Equal employment opportunity requirements are not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract, Provisions (Form FR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to section 140 of title 23 U.S.C., as established by section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b. The contractor will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and review of his/her activities under the contract.

c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of $10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in volume 6, chapter 4, section 1, subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of $10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy. The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and on-the-job training.

3. Equal Employment Opportunity Officer. The contractor will designate and make known to the State highway agency contracting officers and equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy. a. All members of the contractor’s staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor’s equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

   (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor’s equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

   (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the contractor’s equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

   (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor’s procedures for locating and hiring minority group employees.

b. In order to make the contractor’s equal employment opportunity policy known to all
employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

1. Notices and posters setting forth the contractor’s equal employment opportunity policy shall be displayed in areas readily accessible to employees, applicants for employment and potential employees.

2. The contractor’s equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment. a. When advertising for employees, the contractor will include in all advertisements for employees the notation: “An Equal Opportunity Employer.” All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor’s compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions. Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

7. Training and Promotion. a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor’s work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions. If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such
Federal Highway Administration, DOT

unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor’s association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the State highway agency.

9. Subcontracting. a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontracts with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway agency personnel.

b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports. a. The contractor will keep such records as are necessary to determine compliance with the contractor’s equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

(1) The number of minority and non-minority group members and women employed in each work classification on the project.

(2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and

(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.

c. The contractors will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA 1409. (40 FR 28053, July 3, 1975, as amended at 43 FR 13938, May 5, 1978. Correctly redesignated at 46 FR 21156, Apr. 9, 1981)

APPENDIX B TO SUBPART A OF PART 230—TRAINING SPECIAL PROVISIONS

This Training Special Provision supersedes subparagraph 7b of the Special Provision entitled “Specific Equal Employment Opportunity Responsibilities,” (Attachment 1), and is in implementation of 23 U.S.C. 140(a).

As part of the contractor’s equal employment opportunity affirmative action program training shall be provided as follows:

The contractor shall provide on-the-job training aimed at developing full journeymen in the type of trade or job classification involved.

The number of trainees to be trained under the special provisions will be (amount to be filled in by State highway department).

In the event that a contractor subcontracts a portion of the contract work, he shall determine how many, if any, of the
trainees are to be trained by the subcontractor, provided, however, that the contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The contractor shall also insure that this training special provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices in each occupation shall be in their first year of apprenticeship or training.

The number of trainees shall be distributed among the work classifications on the basis of the contractor’s needs and the availability of journeymen in the various classifications within a reasonable area of recruitment. Prior to commencing construction, the contractor shall submit to the State highway agency for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeymen status is a primary objective of this Training Special Provision. Accordingly, the contractor shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The contractor will be responsible for demonstrating the steps that he has taken in pursuance thereof, prior to a determination as to whether the contractor is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which he has successfully completed a training course leading to journeyman status or in which he has been employed as a journeyman. The contractor shall satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used the contractor’s records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the State highway agency and the Federal Highway Administration. The State highway agency and the Federal Highway Administration shall approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the contractor and to qualify the average trainee for journeyman status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the division office. Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

Except as otherwise noted below, the contractor shall be reimbursed 80 cents per hour of training given an employee on this contract in accordance with an approved training program. As approved by the engineer, reimbursement will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the contractor receive additional training program funds from other sources, provided such other does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for offsite training indicated above may only be made to the contractor where he does one or more of the following and the trainees are concurrently employed on a Federal-aid project; contributes to the cost of the training, provides the instruction to the trainee or pays the trainee’s wages during the offsite training period.

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyman, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his training on the project as soon
as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his work classification or until he has completed his training program. It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his responsibilities under this Training Special Provision if he has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

Trainees will be paid at least 60 percent of the appropriate minimum journeyman’s rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent for the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Departments of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provision.

The contractor shall furnish the trainee a copy of the program he will follow in providing the training. The contractor shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The contractor will provide for the maintenance of records and furnish periodic reports documenting his performance under this Training Special Provision.

[40 FR 28053, July 3, 1975. Correctly redesignated at 46 FR 21156, Apr. 9, 1981]
### APPENDIX C TO SUBPART A OF PART 230

#### EMPLOYMENT DATA

<table>
<thead>
<tr>
<th>Table A</th>
<th>Table B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JOB CATEGORIES</strong></td>
<td><strong>TOTAL EMPLOYEES</strong>&lt;br&gt;<strong>TOTAL MINORITIES</strong>&lt;br&gt;<strong>BLACK Not of Hispanic Origin</strong>&lt;br&gt;<strong>HISPANIC</strong>&lt;br&gt;<strong>AMERICAN INDIAN OR ALASKAN NATIVE</strong>&lt;br&gt;<strong>ASIAN OR PACIFIC ISLANDER</strong>&lt;br&gt;<strong>WHITE Not of Hispanic Origin</strong>&lt;br&gt;<strong>APPRENTICES</strong>&lt;br&gt;<strong>ON THE JOB TRAINEES</strong></td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>OFFICIALS (Managers)</td>
<td></td>
</tr>
<tr>
<td>SUPERVISORS</td>
<td></td>
</tr>
<tr>
<td>CLERICAL</td>
<td></td>
</tr>
<tr>
<td>EQUIPMENT OPERATORS</td>
<td></td>
</tr>
<tr>
<td>MECHANICS</td>
<td></td>
</tr>
<tr>
<td>TRUCK DRIVERS</td>
<td></td>
</tr>
<tr>
<td>IRONWORKERS</td>
<td></td>
</tr>
<tr>
<td>CARPENTERS</td>
<td></td>
</tr>
<tr>
<td>CEMENT MASONS</td>
<td></td>
</tr>
<tr>
<td>ELECTRICIANS</td>
<td></td>
</tr>
<tr>
<td>PIPE FITTERS, PLUMBERS</td>
<td></td>
</tr>
<tr>
<td>PAINTERS</td>
<td></td>
</tr>
<tr>
<td>LABORERS, SEMISKILLED</td>
<td></td>
</tr>
<tr>
<td>LABORERS, UNSKILLED</td>
<td></td>
</tr>
</tbody>
</table>

#### TOTAL

| **APPRENTICES**<br>**ON THE JOB TRAINEES** | **M** | **F** | **M** | **F** |
|---------|---------|
|         |         |         |         |       |

11 PREPARED BY: (Signature and Title of Contractor Representative) DATE

12 REVIEWED BY: (Signature and Title of State Highway Official) DATE

This report is required by law and regulation (23 U.S.C. 149h and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.
This form is to be developed from the "Contractor's Annual EEO Report." This data is to be compiled by the State and submitted annually. It should reflect the total employment on all Federal-Aid Highway Projects in the State as of July 31st. The staffing figures to be reported should represent the project work force on board in all or any part of the last payroll period preceding the end of July.
The staffing figures to be reported in Table A should include journey-level men and women, apprentices, and on-the-job trainees. Staffing figures to be reported in Table B should include only apprentices and on-the-job trainees as indicated.

Entries made for “Job Categories” are to be confined to the listing shown. Miscellaneous job classifications are to be incorporated in the most appropriate category listed on the form. All employees on projects should thus be accounted for. This information will be useful in complying with the U.S. Senate Committee on Public Works request that the Federal Highway Administration submit a report annually on the status of the Equal Employment Opportunity Program, its effectiveness, and progress made by the States and the Administration in carrying out section 22(A) of the Federal-Aid Highway Act of 1968. In addition, the form should be used as a valuable tool for States to evaluate their own programs for ensuring equal opportunity.

It is requested that States submit this information annually to the FHWA Divisions no later than September 25.

Line 01—State & Region Code. Enter the 4-digit code from the list below.

<table>
<thead>
<tr>
<th>State Code</th>
<th>State Name</th>
<th>Code Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>01-04</td>
<td>Montana</td>
</tr>
<tr>
<td>Alaska</td>
<td>02-10</td>
<td>Nebraska</td>
</tr>
<tr>
<td>Arizona</td>
<td>04-09</td>
<td>Nevada</td>
</tr>
<tr>
<td>Arkansas</td>
<td>05-06</td>
<td>New Hampshire</td>
</tr>
<tr>
<td>California</td>
<td>06-09</td>
<td>New Jersey</td>
</tr>
<tr>
<td>Colorado</td>
<td>08-08</td>
<td>New Mexico</td>
</tr>
<tr>
<td>Delaware</td>
<td>10-03</td>
<td>North Carolina</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>11-03</td>
<td>North Dakota</td>
</tr>
<tr>
<td>Florida</td>
<td>12-04</td>
<td>Ohio</td>
</tr>
<tr>
<td>Georgia</td>
<td>13-04</td>
<td>Oklahoma</td>
</tr>
<tr>
<td>Hawaii</td>
<td>14-05</td>
<td>Oregon</td>
</tr>
<tr>
<td>Idaho</td>
<td>15-09</td>
<td>Pennsylvania</td>
</tr>
<tr>
<td>Illinois</td>
<td>16-10</td>
<td>Puerto Rico</td>
</tr>
<tr>
<td>Iowa</td>
<td>17-05</td>
<td>South Carolina</td>
</tr>
<tr>
<td>Kansas</td>
<td>18-07</td>
<td>South Dakota</td>
</tr>
<tr>
<td>Kentucky</td>
<td>20-07</td>
<td>Tennessee</td>
</tr>
<tr>
<td>Louisiana</td>
<td>21-04</td>
<td>Texas</td>
</tr>
<tr>
<td>Maine</td>
<td>22-06</td>
<td>Utah</td>
</tr>
<tr>
<td>Maryland</td>
<td>23-01</td>
<td>Vermont</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>24-03</td>
<td>Virginia</td>
</tr>
<tr>
<td>Michigan</td>
<td>25-01</td>
<td>Washington</td>
</tr>
<tr>
<td>Minnesota</td>
<td>27-05</td>
<td>West Virginia</td>
</tr>
<tr>
<td>Mississippi</td>
<td>29-04</td>
<td>Wisconsin</td>
</tr>
<tr>
<td>Missouri</td>
<td>29-07</td>
<td>Wyoming</td>
</tr>
</tbody>
</table>

(23 U.S.C. sec. 140(a), 315, 49 CFR 1.48(b))


APPENDIXES E–F TO SUBPART A OF PART 230 [RESERVED]

APPENDIX G TO SUBPART A OF PART 230—SPECIAL REPORTING REQUIREMENTS FOR “HOMETOWN” OR “IMPOSED” PLAN AREAS

In addition to the reporting requirements set forth elsewhere in this contract, the contractor and the subcontractors holding subcontracts, not including material suppliers, of $10,000 or more, shall submit for every month of July during which work is performed, employment data as contained under Form PR-1391 (appendix C to 23 CFR part 230) and in accordance with the instructions included thereon.


Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

SOURCE: 50 FR 51243, Dec. 16, 1985, unless otherwise noted.

§ 230.201 Purpose.

To prescribe the policies, procedures, and guidance to develop, conduct, and administer supportive services assistance programs for minority, disadvantaged, and women business enterprises.

§ 230.202 Definitions.

(a) Minority Business Enterprise, as used in this subpart, refers to all small businesses which participate in the
Federal Highway Administration, DOT

§ 230.204

Federal-aid highway program as a minority business enterprise (MBE), women business enterprise (WBE), or disadvantaged business enterprise (DBE), all defined under 49 CFR part 23. This expanded definition is used only in this subpart as a simplified way of defining the firms eligible to benefit from this supportive services program.

(b) Supportive Services means those services and activities provided in connection with minority business enterprise programs which are designed to increase the total number of minority businesses active in the highway program and contribute to the growth and eventual self-sufficiency of individual minority businesses so that such businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts.

(c) State highway agency means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State is considered equivalent to State highway agency if the context so implies.

§ 230.203 Policy.

Based on the provisions of Pub. L. 97–424, dated January 6, 1983, it is the policy of the Federal Highway Administration (FHWA) to promote increased participation of minority business enterprises in Federal-aid highway contracts in part through the development and implementation of cost effective supportive services programs through the State highway agencies.

§ 230.204 Implementation of supportive services.

(a) Subject to the availability of funds under 23 U.S.C. 140(c), the State highway agency shall establish procedures to develop, conduct, and administer minority business enterprise training and assistance programs specifically for the benefit of women and minority businesses. Supportive services funds allocated to the States shall not be used to finance the training of State highway agency employees or to provide services in support of such training. State highway agencies are not required to match funds allocated to them under this section. Individual States are encouraged to be actively involved in the provision of supportive services. Such involvement can take the form of staff, funding, and/or direct assistance to augment the supportive services efforts financed by Federal-aid funds.

(b) State highway agencies shall give preference to the following types of services:

1. Services relating to identification, prequalification, and certification assistance, with emphasis on increasing the total number of legitimate minority business enterprises participating in the Federal-aid highway program;

2. Services in connection with estimating, bidding, and technical assistance designed to develop and improve the capabilities of minority businesses and assist them in achieving proficiency in the technical skills involved in highway construction;

3. Services designed to develop and improve the immediate and long-term business management, recordkeeping, and financial accounting capabilities;

4. Services to assist minority business enterprises to become eligible for and to obtain bonding and financial assistance;

5. Services relating to verification procedures to ensure that only bona fide minority business enterprises are certified as eligible for participation in the Federal-aid highway program;

6. Follow-up services to ascertain the outcome of training and assistance being provided; and

7. Other services which contribute to long-term development, increased opportunities, and eventual self-sufficiency of minority business enterprises.

(c) A detailed work statement of the supportive services which the State highway agency considers to meet the guidance under this regulation and a program plan for meeting the requirements of paragraph (b) of this section and accomplishing other objectives shall be submitted to the FHWA for approval.

(d) State highway agencies which desire to provide or obtain services other than those listed in paragraph (b) of this section shall submit their proposals to the FHWA for approval.
§ 230.205 Supportive services funds obligation.

Supportive services funds shall be obligated in accordance with the procedures set forth in §230.117(b) of this part. The point of obligation is defined as that time when the FHWA has approved a detailed work statement for the supportive services.

§ 230.206 Monitoring supportive services.

Supportive services programs shall be continually monitored and evaluated by the State highway agency so that needed improvements can be identified and instituted. This requires the documentation of valid effectiveness.

1Form FHWA–1273 is available for inspection and copying at the locations given in 49 CFR part 7, appendix D, under Document Inspection Facilities, and at all State highway agencies.
measures by which the results of program efforts may be accurately assessed.

§ 230.207 Sources of assistance.

It is the policy of the FHWA that all potential sources of assistance to minority business enterprises be utilized. The State highway agency shall take actions to ensure that supportive services contracts reflect the availability of all sources of assistance in order to maximize resource utilization and avoid unnecessary duplication.

Subpart C—State Highway Agency Equal Employment Opportunity Programs

Source: 41 FR 28270, July 9, 1976, unless otherwise noted.

§ 230.301 Purpose.

The purpose of the regulations in this subpart is to set forth Federal Highway Administration (FHWA) Federal-aid policy and FHWA and State responsibilities relative to a State highway agency’s internal equal employment opportunity program and for assuring compliance with the equal employment opportunity requirements of federally-assisted highway construction contracts.

§ 230.303 Applicability.

The provisions of this subpart are applicable to all States that receive Federal financial assistance in connection with the Federal-aid highway program.

§ 230.305 Definitions.

As used in this subpart, the following definitions apply:

(a) Affirmative Action Plan means:

(1) With regard to State highway agency work forces, a written document detailing the positive action steps the State highway agency will take to assure internal equal employment opportunity (internal plan).

(2) With regard to Federal-aid construction contract work forces, the Federal equal employment opportunity bid conditions, to be enforced by a State highway agency in the plan areas established by the Secretary of Labor and FHWA special provisions in nonplan areas (external plan).

(b) Equal employment opportunity program means the total State highway agency program, including the affirmative action plans, for ensuring compliance with Federal requirements both in State highway agency internal employment and in employment on Federal-aid construction projects.

(c) Minority groups. An employee may be included in the minority group to which he or she appears to belong, or is regarded in the community as belonging. As defined by U.S. Federal agencies for employment purposes, minority group persons in the U.S. are identified as Blacks (not of Hispanic origin), Hispanics, Asian or Pacific Islanders, and American Indians or Alaskan Natives.

(d) Racial/ethnic identification. For the purpose of this regulation and any accompanying report requirements, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one racial/ethnic category. The following group categories will be used:

(1) The category White (not of Hispanic origin): All persons having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian Subcontinent.

(2) The category Black (not of Hispanic origin): All persons having origins in any of the Black racial groups.

(3) The category Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(4) The category Asian or Pacific Islanders: All persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(5) The category American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America.

(e) State means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.
§ 230.307 Policy.

Every employee and representative of State highway agencies shall perform all official equal employment opportunity actions in an affirmative manner, and in full accord with applicable statutes, executive orders, regulations, and policies enunciated thereunder, to assure the equality of employment opportunity, without regard to race, color, religion, sex, or national origin both in its own work force and in the work forces of contractors, subcontractors, and material suppliers engaged in the performance of Federal-aid highway construction contracts.

§ 230.309 Program format.

It is essential that a standardized Federal approach be taken in assisting the States in development and implementation of EEO programs. The format set forth in appendix A provides that standardized approach. State equal employment opportunity programs that meet or exceed the prescribed standards will comply with basic FHWA requirements.

§ 230.311 State responsibilities.

(a) Each State highway agency shall prepare and submit an updated equal employment opportunity program, one year from the date of approval of the preceding program by the Federal Highway Administrator, over the signature of the head of the State highway agency, to the Federal Highway Administrator through the FHWA Division Administrator. The program shall consist of the following elements:

(1) The collection and analysis of internal employment data for its entire work force in the manner prescribed in part II, paragraph III of appendix A; and

(2) The equal employment opportunity program, including the internal affirmative action plan, in the format and manner set forth in appendix A.

(b) In preparation of the program required by §230.311(a), the State highway agency shall consider and respond to written comments from FHWA regarding the preceding program.

§ 230.313 Approval procedure.

After reviewing the State highway agency equal employment opportunity program and the summary analysis and recommendations from the FHWA regional office, the Washington Headquarters Office of Civil Rights staff will recommend approval or disapproval of the program to the Federal Highway Administrator. The State highway agency will be advised of the Administrator's decision. Each program approval is effective for a period of one year from date of approval.

APPENDIX A TO SUBPART C OF PART 230—STATE HIGHWAY AGENCY EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Each State highway agency's (SHA) equal employment opportunity (EEO) program shall be in the format set forth herein and shall address Contractor Compliance (part I) and SHA Internal Employment (part II), including the organizational structure of the SHA total EEO Program (internal and external).

PART I—CONTRACTOR COMPLIANCE

A. Statehighway agency EEO Coordinator (External) and staff support. 1. Describe the organizational location and responsibilities of the State highway agency EEO Coordinator. (Provided organization charts of the State highway agency and of the EEO staff.)

2. Indicate whether full or part-time; if part-time, indicate percentage of time devoted to EEO.

3. Indicate length of time in position, civil rights experience and training, and supervision.

4. Indicate whether compliance program is centralized or decentralized.

5. Identify EEO Coordinator's staff support (full- and part-time) by job title and indicate areas of their responsibilities.

6. Identify any other individuals in the central office having a responsibility for the implementation of this program and describe their respective roles and training received in program area.

B. District or division personnel. 1. Describe the responsibilities and duties of any district
EEO personnel. Identify to whom they report.
2. Explain whether district EEO personnel are full-time or have other responsibilities such as labor compliance or engineering.
3. Describe training provided for personnel having EEO compliance responsibility.

C. Project personnel. Describe the EEO role of project personnel.

II. Compliance procedures. A. Applicable directives. 1. FHWA Contract Compliance Procedures.
2. EEO Special Provisions (FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 2, Attachment 1)\(^1\)
3. Training Special Provisions (FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 2, Attachment 2)\(^1\)
4. FHWA Federal-Aid Highway Program Manual, vol. 6, chap. 4, sec. 1, subsec. 6 (Contract Procedures), and subsec. 8 (Minority Business Enterprise).\(^1\)

B. Implementation. 1. Describe process (methods) of incorporating the above FHWA directives into the SHA compliance program.
2. Describe the methods used by the State to familiarize State compliance personnel with all FHWA contract compliance directives. Indicate frequency of work shops, training sessions, etc.
3. Describe the procedure for advising the contractor of the EEO contract requirements at any preconstruction conference held in connection with a Federal-aid contract.

III. Accomplishments. Describe accomplishments in the construction EEO compliance program during the past fiscal year.

A. Regular project compliance review program. This number should include at least all of the following items:
1. Number of compliance reviews conducted.
2. Number of contractors reviewed.
3. Number of contractors found in compliance.
4. Number of contractors found in noncompliance.
5. Number of show cause notices issued.
6. Number of show cause notices rescinded.
7. Number of show cause actions still under conciliation and unresolved.
8. Number of followup reviews conducted.
(Note: In addition to information requested in items 4-8 above, include a brief summary of total show cause and followup activities—findings and achievements.)

B. Consolidated compliance reviews. 1. Identify the target areas that have been reviewed since the inception of the consolidated com-

---

1 The Federal-Aid Highway Program Manual is available for inspection and copying at the Federal Highway Administration (FHWA), 400 7th St., SW., Washington, DC 20590, or at FHWA offices listed in 49 CFR part 7, appendix D.
proper and reasonable distribution among appropriate craft.
B. Describe the State’s procedures for identifying the number of minorities and women who have completed training programs.
C. Describe the extent of participation by women in construction training programs.
D. Describe the efforts made by the State to locate and use the services of qualified minority and female supportive service consultants. Indicate if the State’s supportive service contractor is a minority or female owned enterprise.
E. Describe the extent to which reports from the supportive service contractors provide sufficient data to evaluate the status of training programs, with particular reference to minorities and women.

VIII. Minority business enterprise program.
FHPM 6–4–1–8 sets forth the FHWA policy regarding the minority business enterprise program. The implementation of this program should be explained by responding to the following:
A. Describe the method used for listing of minority contractors capable of, or interested in, highway construction contracting or subcontracting. Describe the process used to circulate names of appropriate minority firms and associations to contractors obtaining contract proposals.
B. Describe the State’s procedure for insuring that contractors take action to affirmatively solicit the interest, capability, and prices of potential minority subcontractors.
C. Describe the State’s procedure for insuring that contractors have designated liaison officers to administer the minority business enterprise program in an effective manner. Specify resource material, including contracts, which the State provides to liaison officers.
D. Describe the action the State has taken to meet its goals for prequalification or licensing of minority business. Include dollar goals established for the year, and describe what criteria or formula the State has previously adopted for setting such goals. If it is different from the previous year, describe in detail.
E. Outline the State’s procedure for evaluating its prequalification/licensing requirements.
F. Identify instances where the State has waived prequalification for subcontractors on Federal-aid construction work or for prime contractors on Federal-aid contracts with an estimated dollar value lower than $100,000.
G. Describe the State’s methods of monitoring the progress and results of its minority business enterprise efforts.

IX. Liaison. Describe the liaison established by the State between public (State, county, and municipal) agencies and private organizations involved in EEO programs. How is the liaison maintained on a continuing basis?

X. Innovative programs. Identify any innovative EEO programs or management procedures initiated by the State and not previously covered.

PART II—STATE HIGHWAY AGENCY EMPLOYMENT

I. General. The State highway agency’s (SHA) internal program is an integral part of the agency’s total activities. It should include the involvement, commitment and support of executives, managers, supervisors and all other employees. For effective administration and implementation of the EEO Program, an affirmative action plan (AAP) is required. The scope of an EEO program and an AAP must be comprehensive, covering all elements of the agency’s personnel management policies and practices. The major part of an AAP must be recognition and removal of any barriers to equal employment opportunity, identification of problem areas and of persons unfairly excluded or held back and action enabling them to compete for jobs on an equal basis. An effective AAP not only benefits those who have been denied equal employment opportunity but will also greatly benefit the organization which often has overlooked, screened out or underutilized the great reservoir of untapped human resources and skills, especially among women and minority groups.

Set forth are general guidelines designed to assist the State highway agencies in implementing internal programs, including the development and implementation of AAP’s to ensure fair and equal treatment for all persons, regardless of race, color, religion, sex or national origin in all employment practices.

II. Administration and implementation. The head of each State highway agency is responsible for the overall administration of the internal EEO program, including the total integration of equal opportunity into all facets of personnel management. However, specific program responsibilities should be assigned for carrying out the program at all management levels.

To ensure effectiveness in the implementation of the internal EEO program, a specific and realistic AAP should be developed. It should include both short and long-range objectives, with priorities and target dates for achieving goals and measuring progress, according to the agency’s individual need to overcome existing problems.

A. State Highway Agency Affirmative Action Officer (internal). 1. Appointment of Affirmative Action Officer. The head of the SHA should appoint a qualified Affirmative Action (AA) Officer (Internal EEO Officer) with responsibility and authority to implement the internal EEO program. In making the selection, the following factors should be considered:
Federal Highway Administration, DOT

Pt. 230, Subpt. C, App. A

a. The person appointed should have proven ability to accomplish major program goals.

b. Managing the internal EEO program requires a major time commitment; it cannot be added on to an existing full-time job.

c. Appointing qualified minority and/or female employees to head or staff the program may offer good role models for present and potential employees and add credibility to the programs involved. However, the most essential requirements for such position(s) are sensitivity to varied ways in which discrimination limits job opportunities, commitment to program goals and sufficient status and ability to work with others in the agency to achieve them.

2. Responsibilities of the Affirmative Action Officer. The responsibilities of the AA Officer should include, but not necessarily be limited to:

a. Developing the written AAP.

b. Publicizing its content internally and externally.

c. Assisting managers and supervisors in collecting and analyzing employment data, identifying problem areas, setting goals and timetables and developing programs to achieve goals. Programs should include specific remedies to eliminate any discriminatory practices discovered in the employment system.

d. Handling and processing formal discrimination complaints.

e. Designing, implementing and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where further action is needed.

f. Reporting, at least quarterly, to the head of the SHA on progress and deficiencies of each unit in relation to agency goals.

g. In addition, consider the creation of:
   (1) An EEO Advisory Committee, whose membership would include top management officials.
   (2) An EEO Employee Committee, whose membership would include rank and file employees, with minority and female representatives from various job levels and departments to meet regularly with the AA officer; and
   (3) An EEO Counseling Program to attempt informal resolution of discrimination complaints.

B. Contents of an affirmative action plan. The Affirmative Action Plan (AAP) is an integral part of the SHA’s EEO program. Although the style and format of AAP’s may vary from one SHA to another, the basic substance will generally be the same. The essence of the AAP should include, but not necessarily be limited to:

1. Inclusion of a strong agency policy statement of commitment to EEO.

2. Assignment of responsibility and authority for program to a qualified individual.

3. A survey of the labor market area in terms of population makeup, skills, and availability for employment.

4. Analyzing the present work force to identify jobs, departments and units where minorities and females are underutilized.

5. Setting specific, measurable, attainable hiring and promotion goals, with target dates, in each area of underutilization.

6. Making every manager and supervisor responsible and accountable for meeting these goals.

7. Reevaluating job descriptions and hiring criteria to assure that they reflect actual job needs.

8. Finding minorities and females who are qualified or qualifiable to fill jobs.

9. Getting minorities and females into upward mobility and relevant training programs where they have not had previous access.

10. Developing systems to monitor and measure progress regularly. If results are not satisfactory to meet goals, determine the reasons and make necessary changes.

11. Developing a procedure whereby employees and applicants may process allegations of discrimination to an impartial body without fear of reprisal.

C. Implementation of an affirmative action plan. The written AAP is the framework and management tool to be used at all organizational levels to actively implement, measure and evaluate program progress on the specific action items which represent EEO program problems or deficiencies. The presence of a written plan alone does not constitute an EEO program, nor is it, in itself, evidence of an ongoing program. As a minimum, the following specific actions should be taken:

1. Issue written equal employment opportunity policy statement and affirmative action commitment. To be effective, EEO policy provisions must be enforced by top management, and all employees must be made aware that EEO is basic agency policy. The head of the SHA (1) should issue a firm statement of personal commitment, legal obligation and the importance of EEO as an agency goal, and (2) assign specific responsibility and accountability to each executive, manager and supervisor.

   The statement should include, but not necessarily be limited to, the following elements:

   a. EEO for all persons, regardless of race, color, religion, sex or national origin as a fundamental agency policy.

   b. Personal commitment to and support of EEO by the head of the SHA.

   c. The requirement that special affirmative action be taken throughout the agency to overcome the effects of past discrimination.

   d. The requirement that the EEO program be a goal setting program with measurement
and evaluation factors similar to other major agency programs.

e. Equal opportunity in all employment practices, including (but not limited to) recruiting, hiring, transfers, promotions, training, compensation, benefits, recognition (awards), layoffs, and other terminations.

f. Responsibility for positive affirmative action in the discharge of EEO programs, including performance evaluations of managers and supervisors in such functions, will be expected of and shared by all management personnel.

g. Accountability for action or inaction in the area of EEO by management personnel.

2. Publicize the affirmative action plan. a. Internally: (1) Distribute written communications from the head of the SHA.

(2) Include the AAP and the EEO policy statement in agency operations manual.

(3) Hold individual meetings with managers and supervisors to discuss the program, their individual responsibilities and to review progress.

(4) Place Federal and State EEO posters on bulletin boards, near time clocks and in personnel offices.

(5) Publicize the AAP in the agency newsletters and other publications.

(6) Present and discuss the AAP as a part of employee orientation and all training programs.

(7) Invite employee organization representatives to cooperate and assist in developing and implementing the AAP.

b. Externally: Distribute the AAP to minority groups and women’s organizations, community action groups, appropriate State agencies, professional organizations, etc.

3. Develop and implement specific programs to eliminate discriminatory barriers and achieve goals. a. Job structuring and upward mobility: The AAP should include specific provisions for:

(1) Periodic classification plan reviews to correct inaccurate position descriptions and to ensure that positions are allocated to the appropriate classification.

(2) Plans to ensure that all qualification requirements are closely job related.

(3) Efforts to restructure jobs and establish entry level and trainee positions to facilitate progression within occupational areas.

(4) Career counseling and guidance to employees.

(5) Creating career development plans for lower grade employees who are underutilized or who demonstrate potential for advancement.

(6) Widely publicizing upward mobility programs and opportunities within each work unit and within the total organizational structure.

b. Recruitment and placement. The AAP should include specific provisions for, but not necessarily limited to:

(1) Active recruitment efforts to support and supplement those of the central personnel agency or department, reaching all appropriate sources to obtain qualified employees on a nondiscriminatory basis.

(2) Maintaining contacts with organizations representing minority groups, women, professional societies, and other sources of candidates for technical, professional and management level positions.

(3) Ensuring that recruitment literature is relevant to all employees, including minority groups and women.

(4) Reviewing and monitoring recruitment and placement procedures so as to assure that no discriminatory practices exist.

(5) Cooperating with management and the central personnel agency on the review and validation of written tests and other selection devices.

(6) Analyzing the flow of applicants through the selection and appointment process, including an analytical review of reasons for rejections.

(7) Monitoring the placement of employees to ensure the assignment of work and workplace on a nondiscriminatory basis.

c. Promotions. The AAP should include specific provisions for, but not necessarily limited to:

1. Establishing an agency-wide merit promotion program, including a merit promotion plan, to provide equal opportunity for all persons based on merit and without regard to race, color, religion, sex or national origin.

2. Monitoring the operation of the merit promotion program, including a review of promotion actions, to assure that requirements procedures and practices support EEO program objectives and do not have a discriminatory impact in actual operation.

3. Establishing skills banks to match employee skills with available job advancement opportunities.

4. Evaluating promotion criteria (supervisory evaluations, oral interviews, written tests, qualification standards, etc.) and their use by selecting officials to identify and eliminate factors which may lead to improper “selection out” of employees or applicants, particularly minorities and women, who traditionally have not had access to better jobs. It may be appropriate to require selecting officials to submit a written justification when well qualified persons are passed over for upgrading or promotion.

5. Assuring that all job vacancies are posted conspicuously and that all employees are encouraged to bid on all jobs for which they feel they are qualified.

6. Publicizing the agency merit promotion program by highlighting breakthrough promotions, i.e. advancement of minorities and women to key jobs, new career heights, etc.
Federal Highway Administration, DOT

Pl. 230, Subpt. C, App. A

1. Other personnel actions. The AAP should include specific provisions for, but not necessarily limited to:
   (1) Assuring that information on EEO counseling and grievance procedures is easily available to all employees.
   (2) A system for processing complaints alleging discrimination because of race, color, religion, sex or national origin to an impartial body.
   (3) A system for processing grievances and appeals (i.e., disciplinary actions, adverse actions, adverse action appeals, etc).
   (4) Including in the performance appraisal system a factor to rate manager’s and supervisors’ performance in discharging the EEO program responsibilities assigned to them.
   (5) Reviewing and monitoring the performance appraisal program periodically to determine its objectivity and effectiveness.
   (6) Ensuring the equal availability of employee benefits to all employees.

2. Program evaluation. An internal reporting system to continually audit, monitor and evaluate programs is essential for a successful AAP. Therefore, a system providing for the AAP should be reviewed and evaluated at least annually. The review and evaluation procedures should include, but not be limited to, the following:
   (1) Each bureau, division or other major component of the agency should make annual and such other periodic reports as are needed to provide an accurate review of the operations of the AAP in that component.
   (2) The AA Officer should make an annual report to the head of the SHA, containing the overall status of the program, results achieved toward established objectives, identity of any particular problems encountered and recommendations for corrective actions needed.
   e. Specific, numerical goals and objectives should be established and implemented.

3. Employment statistical data. A. As a minimum, furnish the most recent data on the following:
   1. The total population in the State,

   d. Training. The AAP should include specific provisions for, but not necessarily limited to:
      (1) Requiring managers and supervisors to participate in EEO seminars covering the AAP, the overall EEO program and the administration of the policies and procedures incorporated therein, and on Federal, State and local laws relating to EEO.
      (2) Training in proper interviewing techniques of employees who conduct employment selection interviews.
      (3) Training and education programs designed to provide opportunities for employees to advance in relation to the present and projected manpower needs of the agency and the employees’ career goals.
      (4) The review of profiles of training course participants to ensure that training opportunities are being offered to all eligible employees on an equal basis and to correct any inequities discovered.

   e. Layoffs, recalls, discharges, demotions, and disciplinary actions. The standards for deciding when a person shall be terminated, demoted, disciplined, laid off or recalled should be the same for all employees, including minorities and females. Seemingly neutral practices should be reexamined to see if they have a disparate effect on such groups. For example, if more minorities and females are being laid off because they were the last hired, then, adjustments should be made to assure that the minority and female ratios do not decrease because of these actions.
      (1) When employees, particularly minorities and females, are disciplined, laid off, discharged or downgraded, it is advisable that the actions be reviewed by the AA Officer before they become final.
      (2) Any punitive action (i.e. harassment, terminations, demotions), taken as a result of employees filing discrimination complaints, is illegal.
      (3) The following records should be kept to monitor this area of the internal EEO program:
          On all terminations, including layoffs and discharges: indicate total number, name, (home address and phone number), employment date, termination date, recall rights, sex, racial/ethnic identification (by job category), type of termination and reason for termination.
          On all demotions: indicate total number, name, (home address and phone number), demotion date, sex, racial/ethnic identification (by job category), and reason for demotion.
          On all recalls: indicate total number, name, (home address and phone number) recall date, sex, and racial/ethnic identification (by job category).

   Exit interviews should be conducted with employees who leave the employment of the SHA.
2. The total labor market in State, with a breakdown by racial/ethnic identification and sex, and
3. An analysis of (1) and (2) above, in connection with the availability of personnel and jobs within SHA’s.

B. State highway agencies shall use the EEO-4 Form in providing current work force data. This data shall reflect only State department of transportation/State highway department employment.
D EMPLOYMENT DATA AS OF JUNE 30
(Do not include elected/appointed officials. Blanks will be counted as zero)

<table>
<thead>
<tr>
<th>ANNUAL SALARY (in thousands of dollars)</th>
<th>MALE</th>
<th>FEMALE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>WHITE</td>
<td>BLACK</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11-20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21-30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31-40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>41-50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>51-60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>61-70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>71-80</td>
<td></td>
<td></td>
</tr>
<tr>
<td>81-90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>91-100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>101-150</td>
<td></td>
<td></td>
</tr>
<tr>
<td>151-200</td>
<td></td>
<td></td>
</tr>
<tr>
<td>201-250</td>
<td></td>
<td></td>
</tr>
<tr>
<td>251-300</td>
<td></td>
<td></td>
</tr>
<tr>
<td>301-350</td>
<td></td>
<td></td>
</tr>
<tr>
<td>351-400</td>
<td></td>
<td></td>
</tr>
<tr>
<td>401-450</td>
<td></td>
<td></td>
</tr>
<tr>
<td>451-500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>501-550</td>
<td></td>
<td></td>
</tr>
<tr>
<td>551-600</td>
<td></td>
<td></td>
</tr>
<tr>
<td>601-650</td>
<td></td>
<td></td>
</tr>
<tr>
<td>651-700</td>
<td></td>
<td></td>
</tr>
<tr>
<td>701-750</td>
<td></td>
<td></td>
</tr>
<tr>
<td>751-800</td>
<td></td>
<td></td>
</tr>
<tr>
<td>801-850</td>
<td></td>
<td></td>
</tr>
<tr>
<td>851-900</td>
<td></td>
<td></td>
</tr>
<tr>
<td>901-950</td>
<td></td>
<td></td>
</tr>
<tr>
<td>951-1000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
D. EMPLOYMENT DATA AS OF JUNE 30 (Cont.)

(Do not include elected/appointed officials. Blanks will be counted as zero)

<table>
<thead>
<tr>
<th>JOB CATEGORY</th>
<th>TOTAL EARNINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MALE</td>
</tr>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. OTHER THAN FULL TIME EMPLOYEES (Include temporary employees)

<table>
<thead>
<tr>
<th>JOB CATEGORY</th>
<th>TOTAL EARNINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MALE</td>
</tr>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. NEW HIRES DURING FISCAL YEAR  Permanent full time only JULY 1 - JUNE 30

<table>
<thead>
<tr>
<th>JOB CATEGORY</th>
<th>TOTAL EARNINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MALE</td>
</tr>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[41 FR 28270, July 9, 1976, as amended at 41 FR 46294, Oct. 20, 1976]
Subpart D—Construction Contract Equal Opportunity Compliance Procedures

Source: 41 FR 34239, Aug. 13, 1976, unless otherwise noted.

§ 230.401 Purpose.

The purpose of the regulations in this subpart is to prescribe policies and procedures to standardize the implementation of the equal opportunity contract compliance program, including compliance reviews, consolidated compliance reviews, and the administration of areawide plans.

§ 230.403 Applicability.

The procedures set forth hereinafter apply to all nonexempt direct Federal and Federal-aid highway construction contracts and subcontracts, unless otherwise specified.

§ 230.405 Administrative responsibilities.

(a) Federal Highway Administration (FHWA) responsibilities. (1) The FHWA has the responsibility to ensure that contractors meet contractual equal opportunity requirements under E.O. 11246, as amended, and title 23 U.S.C., and to provide guidance and direction to States in the development and implementation of a program to assure compliance with equal opportunity requirements.

(2) The Federal Highway Administrator or a designee may inquire into the status of any matter affecting the FHWA equal opportunity program and, when considered necessary, assume jurisdiction over the matter, proceeding in coordination with the State concerned. This is without derogation of the authority of the Secretary of Transportation, Department of Transportation (DOT), the Director, DOT Departmental Office of Civil Rights (OCR) or the Director, Office of Federal Contract Compliance Programs (OFCCP), Department of Labor.

(3) Failure of the State highway agency (SHA) to discharge the responsibilities stated in §230.405(b)(1) may result in DOT's taking any or all of the following actions (see appendix A to 23 CFR part 630, subpart C “Federal-aid project agreement”):
   (i) Cancel, terminate, or suspend the Federal-aid project agreement in whole or in part;
   (ii) Refrain from extending any further assistance to the SHA under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the SHA; and
   (iii) Refer the case to an appropriate Federal agency for legal proceedings.

(b) State responsibilities. (1) The SHA's, as contracting agencies, have a responsibility to assure compliance by contractors with the requirements of Federal-aid construction contracts, including the equal opportunity requirements, and to assist in and cooperate with FHWA programs to assure equal opportunity.

(2) The corrective action procedures outlined herein do not preclude normal contract administration procedures by the States to ensure the contractor's completion of specific contract equal opportunity requirements, as long as such procedures support, and sustain the objectives of E.O. 11246, as amended. The State shall inform FHWA of any actions taken against a contractor under normal State contract administration procedures, if that action is precipitated in whole or in part by noncompliance with equal opportunity contract requirements.

§ 230.407 Definitions.

For the purpose of this subpart, the following definitions shall apply, unless the context requires otherwise:

(a) Actions, identified by letter and number, shall refer to those items identified in the process flow chart. (Appendix D);

(b) Affirmative Action Plan means a written positive management tool of a total equal opportunity program indicating the action steps for all organizational levels of a contractor to initiate
and measure equal opportunity program progress and effectiveness. (The Special Provisions [23 CFR part 230 A, appendix A] and areawide plans are Affirmative Action Plans.);

(c) Affirmative Actions means the efforts exerted towards achieving equal opportunity through positive, aggressive, and continuous result-oriented measures to correct past and present discriminatory practices and their effects on the conditions and privileges of employment. These measures include, but are not limited to, recruitment, hiring, promotion, upgrading, demotion, transfer, termination, compensation, and training;

(d) Areawide Plan means an Affirmative Action Plan approved by the Department of Labor to increase minority and female utilization in crafts of the construction industry in a specified geographical area pursuant to E.O. 11246, as amended, and taking the form of either a “Hometown” or an “Imposed” Plan.

(1) Hometown Plan means a voluntary areawide agreement usually developed by representatives of labor unions, minority organizations, and contractors, and approved by the OFCCP for the purpose of implementing the equal employment opportunity requirements pursuant to E.O. 11246, as amended, and taking the form of either a “Hometown” or an “Imposed” Plan.

(2) Imposed Plan means mandatory affirmative action requirements for a specified geographical area issued by OFCCP and, in some areas, by the courts;

(e) Compliance Specialist means a Federal or State employee regularly employed and experienced in civil rights policies, practices, procedures, and equal opportunity compliance review and evaluation functions;

(f) Consolidated Compliance Review means a review and evaluation of all significant construction employment in a specific geographical (target) area;

(g) Construction shall have the meanings set forth in 41 CFR 60-1.3(e) and 23 U.S.C. 101(a). References in both definitions to expenses or functions incidental to construction shall include preliminary engineering work in project development or engineering services performed by or for a SHA;

(h) Corrective Action Plan means a contractor's unequivocal written and signed commitment outlining actions taken or proposed, with time limits and goals, where appropriate to correct, compensate for, and remedy each violation of the equal opportunity requirements as specified in a list of deficiencies. (Sometimes called a conciliation agreement or a letter of commitment.);

(i) Contractor means, any person, corporation, partnership, or unincorporated association that holds a FHWA direct or federally assisted construction contract or subcontract regardless of tier;

(j) Days shall mean calendar days;

(k) Discrimination means a distinction in treatment based on race, color, religion, sex, or national origin;

(l) Equal Employment Opportunity means the absence of partiality or distinction in employment treatment, so that the right of all persons to work and advance on the basis of merit, ability, and potential is maintained;

(m) Equal Opportunity Compliance Review means an evaluation and determination of a nonexempt direct Federal or Federal-aid contractor’s or subcontractor’s compliance with equal opportunity requirements based on:

(1) Project work force—employees at the physical location of the construction activity;

(2) Area work force—employees at all Federal-aid, Federal, and non-Federal projects in a specific geographical area determined under §230.409(b)(9); or

(3) Home office work force—employees at the physical location of the corporate, company, or other ownership headquarters or regional managerial offices, including “white collar” personnel (managers, professionals, technicians, and clericals) and any maintenance or service personnel connected thereto;

(n) Equal Opportunity Requirements is a general term used throughout this document to mean all contract provisions relative to equal employment opportunity (EEO), subcontracting, and training;

(o) Good Faith Effort means affirmative action measures designed to implement the established objectives of an Affirmative Action Plan;

(p) Show Cause Notice means a written notification to a contractor based
on the determination of the reviewer (or in appropriate cases by higher level authority) to be in noncompliance with the equal opportunity requirements. The notice informs the contractor of the specific basis for the determination and provides the opportunity, within 30 days from receipt, to present an explanation why sanctions should not be imposed;

(q) State highway agency (SHA) means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State should be considered equivalent to State highway agency. With regard to direct Federal contracts, references herein to SHA’s shall be considered to refer to FHWA regional offices, as appropriate.

§ 230.409 Contract compliance review procedures.

(a) General. A compliance review consists of the following elements:

1. Review Scheduling (Actions R–1 and R–2).

2. Contractor Notification (Action R–3).


4. Onsite Verification and Interviews (Phase II) (Action R–5).

5. Exit Conference (Action R–6).


The compliance review procedure, as described herein and in appendix D provides for continual monitoring of the employment process. Monitoring officials at all levels shall analyze submissions from field offices to ensure proper completion of procedural requirements and to ascertain the effectiveness of program implementation.

(b) Review scheduling. (Actions R–1 and R–2). Because construction work forces are not constant, particular attention should be paid to the proper scheduling of equal opportunity compliance reviews. Priority in scheduling equal opportunity compliance reviews shall be given to reviewing those contractor’s work forces:

1. Which hold the greatest potential for employment and promotion of minorities and women (particularly in higher skilled crafts or occupations);

2. Working in areas which have significant minority and female labor forces within a reasonable recruitment area;

3. Working on projects that include special training provisions; and

4. Where compliance with equal opportunity requirements is questionable. (Based on previous PR–1391’s (23 CFR part 230, subpart A, appendix C) Review Reports and Hometown Plan Reports).

In addition, the following considerations shall apply:

5. Reviews specifically requested by the Washington Headquarters shall receive priority scheduling;

6. Compliance Reviews in geographical areas covered by areawide plans would normally be reviewed under the Consolidated Compliance Review Procedures set forth in §230.415.

7. Reviews shall be conducted prior to or during peak employment periods.

8. No compliance review shall be conducted that is based on a home office work force of less than 15 employees unless requested or approved by Washington Headquarters; and

9. For compliance reviews based on an area work force (outside of areawide plan coverage), the Compliance Specialist shall define the applicable geographical area by considering:
   (i) Union geographical boundaries;
   (ii) The geographical area from which the contractor recruits employees, i.e., reasonable recruitment area;
   (iii) Standard Metropolitan Statistical Area (SMSA) or census tracts; and
   (iv) The county in which the Federal or Federal-aid project(s) is located and adjacent counties.

(c) Contractor notification (Action R–3). (1) The Compliance Specialist should usually provide written notification to the contractor of the pending compliance review at least 2 weeks prior to the onsite verification and interviews. This notification shall include the scheduled date(s), an outline of the mechanics and basis of the review, requisite interviews, and documents required.

(2) The contractor shall be requested to provide a meeting place on the day
§ 230.409

of the visit either at the local office of the contractor or at the jobsite.

(3) The contractor shall be requested to supply all of the following information to the Compliance Specialist prior to the onsite verification and interviews.
   (i) Current Form PR–1391 developed from the most recent payroll;
   (ii) Copies of all current bargaining agreements;
   (iii) Copies of purchase orders and subcontracts containing the EEO clause;
   (iv) A list of recruitment sources available and utilized;
   (v) A statement of the status of any action pertaining to employment practices taken by the Equal Employment Opportunity Commission (EEOC) or other Federal, State, or local agency regarding the contractor or any source of employees;
   (vi) A list of promotions made during the past 6 months, to include race, national origin, and sex of employee, previous job held, job promoted into; and corresponding wage rates;
   (vii) An annotated payroll to show job classification, race, national origin and sex;
   (viii) A list of minority- or female-owned companies contacted as possible subcontractors, vendors, material suppliers, etc.; and
   (ix) Any other necessary documents or statements requested by the Compliance Specialist for review prior to the actual onsite visit.

(4) For a project review, the prime contractor shall be held responsible for ensuring that all active subcontractors are present at the meeting and have supplied the documentation listed in § 230.409(c)(3).

(d) Preliminary analysis (Phase I) (Action R–4). Before the onsite verification and interviews, the Compliance Specialist shall analyze the employment patterns, policies, practices, and programs of the contractor to determine whether or not problems exist by reviewing information relative to:
   (1) The contractor’s current work force;
   (2) The contractor’s relationship with referral sources, e.g., unions, employment agencies, community action agencies, minority and female organizations, etc.;
   (3) The minority and female representation of sources;
   (4) The availability of minorities and females with requisite skills in a reasonable recruitment area;
   (5) Any pending EEOC or Department of Justice cases or local or State Fair Employment Agency cases which are relevant to the contractor and/or the referral sources; and
   (6) The related projects (and/or contractor) files of FHWA regional or division and State Coordinator’s offices to obtain current information relating to the status of the contractor’s project(s), value, scheduled duration, written corrective action plans, PR–1391 or Manpower Utilization Reports, training requirements, previous compliance reviews, and other pertinent correspondence and/or reports.

(e) Onsite verification and interviews (Phase II) (Action R–5). (1) Phase II of the review consists of the construction or home office site visit(s). During the initial meeting with the contractor, the following topics shall be discussed:
   (i) Objectives of the visit;
   (ii) The material submitted by the contractor, including the actual implementation of the employee referral source system and any discrepancies found in the material; and
   (iii) Arrangements for the site tour(s) and employee interviews.

(2) The Compliance Specialist shall make a physical tour of the employment site(s) to determine that:
   (i) EEO posters are displayed in conspicuous places in a legible fashion;
   (ii) Facilities are provided on a non-segregated basis (e.g. work areas, washroom, timeclocks, locker rooms, storage areas, parking lots, and drinking fountains);
   (iii) Supervisory personnel have been oriented to the contractor’s EEO commitments;
   (iv) The employee referral source system is being implemented;
   (v) Reported employment data is accurate;
   (vi) Meetings have been held with employees to discuss EEO policy, particularly new employees; and
Federal Highway Administration, DOT

§ 230.409

(vii) Employees are aware of their right to file complaints of discrimination.

(3) The Compliance Specialist should interview at least one minority, one nonminority, and one woman in each trade, classification, or occupation. The contractor’s superintendent or home office manager should also be interviewed.

(4) The Compliance Specialist shall, on a sample basis, determine the union membership status of union employees on the site (e.g. whether they have permits, membership cards, or books, and in what category they are classified [e.g., A, B, or C]).

(5) The Compliance Specialist shall also determine the method utilized to place employees on the job and whether equal opportunity requirements have been followed.

(6) The Compliance Specialist shall determine, and the report shall indicate the following:

(i) Is there reasonable representation and utilization of minorities and women in each craft, classification or occupation? If not, what has the contractor done to increase recruitment, hiring, upgrading, and training of minorities and women?

(ii) What action is the contractor taking to meet the contractual requirement to provide equal opportunity opportunity?

(iii) Are the actions taken by the contractor acceptable? Could they reasonably be expected to result in increased utilization of minorities and women?

(iv) Is there impartiality in treatment of minorities and women?

(v) Are affirmative action measures of an isolated nature or are they continuing?

(vi) Have the contractor’s efforts produced results?

(f) Exit conference (Action R—6). (1) During the exit conference with the contractor, the following topics shall be discussed:

(i) Any preliminary findings that, if not corrected immediately or not corrected by the adoption of an acceptable voluntary corrective action plan, would necessitate a determination of noncompliance;

(ii) The process and time in which the contractor shall be informed of the final determination (15 days following the onsite verification and interviews); and

(iii) Any other matters that would best be resolved before concluding the onsite portion of the review.

(2) Voluntary corrective action plans may be negotiated at the exit conference, so that within 15 days following the exit portion of the review, the Compliance Specialist shall prepare the review report and make a determination of either:

(i) Compliance, and so notify the contractor; or

(ii) Noncompliance, and issue a 30-day show cause notice.

The acceptance of a voluntary corrective action plan at the exit conference does not preclude a determination of noncompliance, particularly if deficiencies not addressed by the plan are uncovered during the final analysis and report writing. (Action R—7) A voluntary corrective action plan should be accepted with the understanding that it only address those problems uncovered prior to the exit conference.

(g) Compliance determinations (Action R—8). (1) The evidence obtained at the compliance review shall constitute a sufficient basis for an objective determination by the Compliance Specialist conducting the review of the contractor’s compliance or noncompliance with contractual provisions pursuant to E.O. 11246, as amended, and FHWA EEO Special Provisions implementing the Federal-Aid Highway Act of 1968, where applicable.

(2) Compliance determinations on contractors working in a Hometown Plan Area shall reflect the status of those crafts covered by part II of the plan bid conditions. Findings regarding part I crafts shall be transmitted through channels to the Washington Headquarters, Office of Civil Rights.

(3) The compliance status of the contractor will usually be reflected by positive efforts in the following areas:

(i) The contractor’s equal employment opportunity (EEO) policy;

(ii) Dissemination of the policy and education of supervisory employees concerning their responsibilities in implementing the EEO policy;
(iii) The authority and responsibilities of the EEO officer;
(iv) The contractor's recruitment activities, especially establishing minority and female recruitment and referral procedures;
(v) The extent of participation and minority and female utilization in FHWA training programs;
(vi) The contractor's review of personnel actions to ensure equal opportunities;
(vii) The contractor's participation in apprenticeship or other training;
(viii) The contractor's relationship (if any) with unions and minority and female union membership;
(ix) Effective measures to assure non-segregated facilities, as required by contract provisions;
(x) The contractor's procedures for monitoring subcontractors and utilization of minority and female subcontractors and/or subcontractors with substantial minority and female employment; and
(xi) The adequacy of the contractor's records and reports.

(4) A contractor shall be considered to be in compliance (Action R-9) when the equal opportunity requirements have been effectively implemented, or there is evidence that every good faith effort has been made toward achieving this end. Efforts to achieve this goal shall be result-oriented, initiated and maintained in good faith, and emphasized as any other vital management function.

(5) A contractor shall be considered to be in noncompliance (Action R-10) when:

(i) The contractor has discriminated against applicants or employees with respect to the conditions or privileges of employment; or
(ii) The contractor fails to provide evidence of every good faith effort to provide equal opportunity.

(h) Show cause procedures—(1) General. Once the onsite verification and exit conference (Action R-9) have been completed and a compliance determination made, (Action R-8), the contractor shall be notified in writing of the compliance determination. (Action R-11 or R-12) This written notification shall be sent to the contractor within 15 days following the completion of the onsite verification and exit conference. If a contractor is found in noncompliance (Action R-10), action efforts to bring the contractor into compliance shall be initiated through the issuance of a show cause notice (Action R-12). The notice shall advise the contractor to show cause within 30 days why sanctions should not be imposed.

(2) When a show cause notice is required. A show cause notice shall be issued when a determination of noncompliance is made based upon:

(i) The findings of a compliance review;
(ii) The results of an investigation which verifies the existence of discrimination; or
(iii) Areawide plan reports that show an underutilization of minorities (based on criteria of U.S. Department of Labor's Optional Form 66 "Manpower Utilization Report") throughout the contractor's work force covered by part II of the plan bid conditions.

(3) Responsibility for issuance. (i) Show cause notices will normally be issued by SHA's to federally assisted contractors when the State has made a determination of noncompliance, or when FHWA has made such a determination and has requested the State to issue the notice.

(ii) When circumstances warrant, the Regional Federal Highway Administrator or a designee may exercise primary compliance responsibility by issuing the notice directly to the contractor.

(iii) The Regional Federal Highway Administrators in Regions 8, 10, and the Regional Engineer in Region 15, shall issue show cause notices to direct Federal contractors found in noncompliance.

(4) Content of show cause notice. The show cause notice must: (See sample—appendix A of this subpart)

(i) Notify the contractor of the determination of noncompliance;
(ii) Provide the basis for the determination of noncompliance;
(iii) Notify the contractor of the obligation to show cause within 30 days why formal proceedings should not be instituted;
(iv) Schedule (date, time, and place) a compliance conference to be held approximately 15 days from the contractor's receipt of the notice;

(v) Advise the contractor that the conference will be held to receive and discuss the acceptability of any proposed corrective action plan and/or correction of deficiencies; and

(vi) Advise the contractor of the availability and willingness of the Compliance Specialist to conciliate within the time limits of the show cause notice.

(5) Preparing and processing the show cause notice. (i) The State or FHWA official who conducted the investigation or review shall develop complete background data for the issuance of the show cause notice and submit the recommendation to the head of the SHA or the Regional Federal Highway Administrator, as appropriate.

(ii) The recommendation, background data, and final draft notice shall be reviewed by appropriate State or FHWA legal counsel.

(iii) Show cause notices issued by the SHA shall be issued by the head of that agency or a designee.

(iv) The notice shall be personally served to the contractor or delivered by certified mail, return receipt requested, with a certificate of service or the return receipt filed with the case record.

(v) The date of the contractor's receipt of the show cause notice shall begin the 30-day show cause period. (Action R–13).

(vi) The 30-day show cause notice shall be issued directly to the noncompliant contractor or subcontractor with an informational copy sent to any concerned prime contractors.

(6) Conciliation efforts during show cause period. (i) The Compliance Specialist is required to attempt conciliation with the contractor throughout the show cause time period. Conciliation and negotiation efforts shall be directed toward correcting contractor program deficiencies and initiating corrective action which will maintain and assure equal opportunity. Records shall be maintained in the State, FHWA division, or FHWA regional office's case files, as appropriate, indicating actions and reactions of the contractor, a brief synopsis of any meetings with the contractor, notes on verbal communication and written correspondence, requests for assistance or interpretations, and other relevant matters.

(ii) In instances where a contractor is determined to be in compliance after a show cause notice has been issued, the show cause notice will be rescinded and the contractor formally notified (Action R–17). The FHWA Washington Headquarters, Office of Civil Rights, shall immediately be notified of any change in status.

(7) Corrective action plans. (i) When a contractor is required to show cause and the deficiencies cannot be corrected within the 30-day show cause period, a written corrective action plan may be accepted. The written corrective action plan shall specify clear unequivocal action by the contractor with time limits for completion. Token actions to correct cited deficiencies will not be accepted. (See Sample Corrective Action Plan—appendix B of this subpart)

(ii) When a contractor submits an acceptable written corrective action plan, the contractor shall be considered in compliance during the plan's effective implementation and submission of required progress reports. (Action R–15 and R–17).

(iii) When an acceptable corrective action plan is not agreed upon and the contractor does not otherwise show cause as required, the formal hearing process shall be recommended through appropriate channels by the compliance specialist immediately upon expiration of the 30-day show cause period. (Action R–16, R–18, R–19).

(iv) When a contractor, after having submitted an acceptable corrective action plan and being determined in compliance is subsequently determined to be in noncompliance based upon the contractor's failure to implement the corrective action plan, the formal hearing process must be recommended immediately. There are no provisions for reinstituting a show cause notice.

(v) When, however, a contractor operating under an acceptable corrective action plan carries out the provisions of the corrective action plan but the actions do not result in the necessary
§ 230.411 Guidance for conducting reviews.

(a) Extensions of time. Reasonable extensions of time limits set forth in these instructions may be authorized by the SHA’s or the FHWA regional office, as appropriate. However, all extensions are subject to Washington Headquarters approval and should only be granted with this understanding. The Federal Highway Administrator shall be notified of all time extensions granted and the justification therefor. In sensitive or special interest cases, simultaneous transmittal of reports and other pertinent documents is authorized.

(b) Contract completion. Completion of a contract or seasonal shutdown shall not preclude completion of the administrative procedures outlined herein or the possible imposition of sanctions or debarment.

(c) Home office reviews outside regions. When contractor’s home offices are located outside the FHWA region in which the particular contract is being performed, and it is determined that the contractors’ home offices should be reviewed, requests for such reviews shall be forwarded through appropriate

(3) SHA’s through FHWA regional and division offices, will be advised of decisions and directions affecting contractors by the FHWA Washington Headquarters, Office of Civil Rights, for the Department of Transportation.

(k) Responsibility determinations. (1) In instances where requests for formal hearings are pending OFCCP approval, the contractor may be declared a nonresponsible contractor for inability to comply with the equal opportunity requirements.

(2) SHA’s shall refrain from entering into any contract or contract modification subject to E.O. 11246, as amended, with a contractor who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to E.O. 11246, as amended.
§ 230.413 Review reports.

(a) General. (1) The Compliance Specialist shall maintain detailed notes from the beginning of the review from which a comprehensive compliance review report can be developed.

(2) The completed compliance review report shall contain documentary evidence to support the determination of a contractor’s or subcontractor’s compliance status.

(3) Findings, conclusions, and recommendations shall be explicitly stated and, when necessary, supported by documentary evidence.

(4) The compliance review report shall contain at least the following information.1 (Action R-20)

(i) Complete name and address of contractor.

(ii) Project(s) identification.

(iii) Basis for the review, i.e. area work force, project work force, home office work force, and target area work force.

(iv) Identification of Federal or Federal-aid contract(s).

(v) Date of review.

(vi) Employment data by job craft, classification, or occupation by race and sex in accordance with (iii) above. This shall be the data verified during the onsite.

(vii) Identification of local unions involved with contractor, when applicable.

(viii) Determination of compliance status; compliance or noncompliance.

(ix) Copy of show cause notice or compliance notification sent to contractor.

1The Federal Highway Administration will accept completed Form FHWA-86 for the purpose. The form is available at the offices listed in 49 CFR part 7, appendix D.
(x) Name of the Compliance Specialist who conducted the review and whether that person is a State, division or regional Compliance Specialist.

(xi) Concurrences at appropriate levels.

(5) Each contractor (joint venture is one contractor) will be reported separately. When a project review is conducted, the reports should be attached, with the initial report being of that of the prime contractor followed by the reports of each subcontractor.

(6) Each review level is responsible for ensuring that required information is contained in the report.

(7) When a project review is conducted, the project work force shall be reported. When an area wide review is conducted (all Federal-aid, Federal, and non-Federal projects in an area), then area wide work force shall be reported. When a home office review is conducted, only home office work force shall be reported. Other information required by regional offices shall be detached before forwarding the reports to the Washington Headquarters, OCR.

(8) The Washington Headquarters, OCR, shall be provided all of the following:

(i) The compliance review report required by §230.413(a)(4).

(ii) Corrective action plans.

(iii) Show cause notices or compliance notifications.

(iv) Show cause recissions.

While other data and information should be kept by regional offices (including progress reports, correspondence, and similar review backup material), it should not be routinely forwarded to the Washington Headquarters, OCR.

(b) Administrative requirements—(1) State conducted reviews. (i) Within 15 days from the completion of the onsite verification and exit conference, the State Compliance Specialist will:

(A) Prepare the compliance review report, based on information obtained;

(B) Determine the contractor’s compliance status;

(C) Notify the contractor of the compliance determination, i.e., send the contractor either notification of compliance or show cause notice; and

(D) Forward three copies of the compliance review report, and the compliance notification or show cause notice to the FHWA Division EEO Specialist.

(ii) Within 10 days of receipt, the FHWA Division EEO Specialist shall:

(A) Analyze the State’s report, ensure that it is complete and accurate;

(B) Resolve nonconcurrency, if any;

(C) Indicate concurrence, and, where appropriate, prepare comments; and

(D) Forward two copies of the compliance review report, and the compliance notification or show cause notice to the Regional Civil Rights Director.

(iii) Within 15 days of receipt, the FHWA Regional Civil Rights Director shall:

(A) Analyze the report, ensure that it is complete and accurate;

(B) Resolve nonconcurrency, if any;

(C) Indicate concurrence, and, where appropriate, prepare comments; and

(D) Forward one copy of the compliance review report, and the compliance notification or show cause notice to the Washington Headquarters, OCR.

(2) FHWA division conducted reviews. (i) Within 15 days from the completion of the onsite verification and exit conference, the division EEO Specialist shall:

(A) Prepare compliance review report, based on information obtained;

(B) Determine the contractor’s compliance status;

(C) Notify the State to send the contractor the compliance determination, i.e. either notification of compliance or show cause notice; and

(D) Forward two copies of the compliance review report and the compliance notification or show cause notice to the Regional Civil Rights Director.

(ii) Within 15 days of receipt, the FHWA Regional Civil Rights Director will take the steps outlined in §230.413(b)(1)(iii).

(3) FHWA region conducted reviews. (i) Within 15 days from the completion of the onsite verification and exit conference the regional EEO Specialist shall:

(A) Prepare the compliance review report, based on information obtained;

(B) Determine the contractor’s compliance status;

(C) Inform the appropriate division to notify the State to send the contractor...
§ 230.415 Consolidated compliance reviews.

(a) General. Consolidated compliance reviews shall be implemented to determine employment opportunities on an areawide rather than an individual project basis. The consolidated compliance review approach shall be adopted and directed by either Headquarters, region, division, or SHA, however, consolidated reviews shall at all times remain a cooperative effort.

(b) OFCCP policy requires contracting agencies to ensure compliance, in hometown or imposed plan areas, on an areawide rather than a project basis. The consolidated compliance review approach facilitates implementation of this policy.

(c) Methodology—(1) Selection of a target area. In identifying the target area of a consolidated compliance review (e.g. SMSA, hometown or imposed plan area, a multicounty area, or an entire State), consideration shall at least be given to the following facts:
   (i) Minority and female work force concentrations;
   (ii) Suspected or alleged discrimination in union membership or referral practices by local unions involved in highway construction;
   (iii) Present or potential problem areas;
   (iv) The number of highway projects in the target area; and
   (v) Hometown or imposed plan reports that indicate underutilization of minorities or females.

(2) Determine the review period. After the target area has been selected, the dates for the actual onsite reviews shall be established.

(3) Obtain background information. EEO-3’s Local Union Reports, should be obtained from regional offices of the EEOC. Target area civilian labor force statistics providing percent minorities and percent females in the target area shall be obtained from State employment security agencies or similar State agencies.

(4) Identify contractors. Every non-exempt federally assisted or direct Federal contractor and subcontractor in the target area shall be identified. In order to establish areawide employment patterns in the target area, employment data is needed for all contractors and subcontractors in the area. However, only those contractors with significant work forces (working prior to peak and not recently reviewed) may need to be actually reviewed onsite. Accordingly, once all contractors are identified, those contractors which will actually be reviewed onsite shall be determined. Compliance determinations shall only reflect the status of crafts covered by part II of plan bid conditions. Employment data of crafts covered by part I of the plan bid conditions shall be gathered and identified as such in the composite report, however, OFCCP has reserved the responsibility for compliance determinations on crafts covered by part I of the plan bid conditions.

(5) Contractor notification. Those contractors selected for onsite review shall be sent a notification letter as outlined in §230.409(c) along with a request for current workforce data for completion.

2The Consolidated Workforce Questionnaire is convenient for the purpose and appears as attachment 4 to volume 2, chapter 2.
§ 230.415  
and submission at the onsite review. Those contractors in the target area not selected for onsite review shall also be requested to supply current workforce data as of the onsite review period, and shall return the data within 15 days following the onsite review period.

(6) **Onsite reviews.** Compliance reviews shall then be conducted in accordance with the requirements set forth in §230.409. Reviewers may use Form FHWA–86, Compliance Data Report, if appropriate. It is of particular importance during the onsite reviews that the review team provide for adequate coordination of activities at every stage of the review process.

(7) **Compliance determinations.** Upon completion of the consolidated reviews, compliance determinations shall be made on each review by the reviewer. Individual show cause notices or compliance notifications shall be sent (as appropriate) to each reviewed contractor.

The compliance determination shall be based on the contractor’s target area workforce (Federal, Federal-aid and non-Federal), except when the target area is coincidental with hometown plan area, compliance determinations must not be based on that part of a contractor’s workforce covered by part I of the plan bid conditions, as previously set forth in this regulation. For example: ABC Contracting, Inc. employs carpenters, operating engineers, and cement masons. Carpenters and operating engineers are covered by part II of the plan bid conditions, however, cement masons are covered by part I of the plan bid conditions. The compliance determination must be based only on the contractor’s utilization of carpenters and operating engineers.

(d) **Reporting.**—(1) **Composite report.** A final composite report shall be submitted as a complete package to the Washington Headquarters, OCR, within 45 days after the review period and shall consist of the following:

   (i) Compliance review report, for each contractor and subcontractor with accompanying show cause notice or compliance notification.

   (ii) Work force data to show the aggregate employment of all contractors in the target area.

   (iii) A narrative summary of findings and recommendations to include the following:

   (A) A summary of highway construction employment in the target area by craft, race, and sex. This summary should explore possible patterns of discrimination or underutilization and possible causes, and should compare the utilization of minorities and females on contractor’s workforce to the civilian labor force percent for minorities and females in the target area.

   (B) If the target area is a plan area, a narrative summary of the plan’s effectiveness with an identification of part I and part II crafts. This summary shall discuss possible differences in minority and female utilization between part I and part II crafts, documenting any inferences drawn from such comparisons.

   (C) If applicable, discuss local labor unions’ membership and/or referral practices that impact on the utilization of minorities and females in the target area. Complete and current copies of all collective bargaining agreements and copies of EEO–3, Local Union Reports, for all appropriate unions shall accompany the composite report.

   (D) Any other appropriate data, analyses, or information deemed necessary for a complete picture of the area-wide employment.

   (E) Considering the information compiled from the summaries listed above, make concrete recommendations on possible avenues for correcting problems uncovered by the analyses.

(2) **Annual planning report.** The proper execution of consolidated compliance reviews necessitates scheduling, along with other fiscal program planning. The Washington Headquarters, OCR, shall be notified of all planned consolidated reviews by August 10 of each year and of any changes in the target area or review periods, as they become known. The annual consolidated planning report shall indicate:

   (1) Selected target areas:
Federal Highway Administration, DOT

(ii) The basis for selection of each area; and
(iii) The anticipated review period (dates) for each target area.

APPENDIX A TO SUBPART D OF PART 230—SAMPLE SHOW CAUSE NOTICE

Certified Mail, Return Receipt Requested Date Contractor’s Name Address City, State, and Zip Code.

DEAR CONTRACTOR: As a result of the review of your (Project Number) project located at (Project Location) conducted on (Date) by (Reviewing Agency), it is our determination that you are not in compliance with your equal opportunity requirements and that good faith efforts have not been made to meet your equal opportunity requirements in the following areas:

List of Deficiencies
1. 
2. 
3. 

Your failure to take the contractually required affirmative action has contributed to the unacceptable level of minority and female employment in your operations, particularly in the semiskilled and skilled categories of employees.

The Department of Labor regulations (41 CFR 60) implementing Executive Order 11246, as amended, are applicable to your Federal-aid highway construction contract and are controlling in this matter (see Required Contract Provisions, Form PR–1273, Clause II). Section 60-1.20(b) of these regulations provides that when equal opportunity deficiencies exist, it is necessary that you make a commitment in writing to correct such deficiencies before you may be found in compliance. The commitment must include the specific action which you propose to take to correct each deficiency and the date of completion of such action. The time period allotted shall be no longer than the minimum period necessary to effect the necessary correction. In accordance with instructions issued by the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, your written commitment must also provide for the submission of monthly progress reports which shall include a head count of minority and female representation at each level of each trade and a list of minority and female representation in the following trade categories:

APPENDIX A TO SUBPART D OF PART 230—SAMPLE CORRECTIVE ACTION PLAN

Commitment: We have developed a system of written job applications at our home office which readily identifies minority applicants. In addition to this, as a minimum, we will contact the National Association for the Advancement of Colored People (NAACP), League of Latin American Citizens (LULAC), Urban League, and the Employment Security Office within 20 days to establish a referral system for minority group applicants and expand our recruitment base. We are in the process of identifying other community organizations and associations that may be able to provide minority applicants and will submit and discuss your written commitment. If your written commitment is acceptable and if the commitment is sufficient to achieve compliance, you will be found in compliance during the effective implementation of that commitment. You are cautioned, however, that our determination is subject to review by the Federal Highway Administration, the Department of Transportation, and OFCCP and may be disapproved if your written commitment is not considered sufficient to achieve compliance.

If you indicate either directly or by inaction that you do not wish to participate in the scheduled conference and do not otherwise show cause within 30 days from receipt of this notice why enforcement proceedings should not be instituted, this agency will commence enforcement proceedings under Executive Order 11246, as amended.

If your written commitment is accepted and it is subsequently found that you have failed to comply with its provisions, you will be advised of this determination and formal sanction proceedings will be instituted immediately.

In the event formal sanction proceedings are instituted and the final determination is that a violation of your equal opportunity contract requirements has taken place, any Federal-aid highway construction contracts or subcontracts which you hold may be canceled, terminated, or suspended, and you may be debarred from further such contracts or subcontracts. Such other sanctions as are authorized by Executive Order 11246, as amended, may also be imposed.

We encourage you to take whatever action is necessary to resolve this matter and are anxious to assist you in achieving compliance. Any questions concerning this notice should be addressed to (Name, Address, and Phone).

Sincerely yours,

[41 FR 32495, Aug. 13, 1976]

APPENDIX B TO SUBPART D OF PART 230—SAMPLE CORRECTIVE ACTION PLAN

Deficiency 1: Sources likely to yield minority employees have not been contacted for recruitment purposes.

Commitment: We have developed a system of written job applications at our home office which readily identifies minority applicants. In addition to this, as a minimum, we will contact the National Association for the Advancement of Colored People (NAACP), League of Latin American Citizens (LULAC), Urban League, and the Employment Security Office within 20 days to establish a referral system for minority group applicants and expand our recruitment base. We are in the process of identifying other community organizations and associations that may be able to provide minority applicants and will
submit an updated listing of recruitment sources and evidence of contact by _____________(Date).

Deficiency 2: There have been inadequate efforts to locate, qualify, and increase skills of minority and female employees and applicants for employment.

Commitment: We will set up an individual file for each apprentice or trainee by _____________(Date) in order to carefully screen the progress, ensure that they are receiving the necessary training, and being promoted promptly upon completion of training requirements. We have established a goal of at least 50 percent of our apprentices and trainees will be minorities and 15 percent will be female. In addition to the commitment made to deficiency number 1, we will conduct a similar identification of organizations able to supply female applicants. Based on our projected personnel needs, we expect to have reached our 50 percent goal for apprentices and trainees by _____________(Date).

Deficiency 3: Very little effort to assure subcontractors have meaningful minority group representation among their employees.

Commitment: In cooperation with the Regional Office of Minority Business Enterprise, Department of Commerce, and the local NAACP, we have identified seven minority-owned contractors that may be able to work on future contracts we may receive. These contractors (identified in the attached list) will be contacted prior to our bidding on all future contracts. In addition, we have scheduled a meeting with all subcontractors currently working on our contracts. This meeting will be held to inform the subcontractors of our intention to monitor their reports and require meaningful minority representation. This meeting will be held on _____________(Date) and we will summarize the discussions and current posture of each subcontractor for your review by _____________(Date) Additionally, as requested, we will submit a PR-1391 on _____________(Date). Finally, we have committed ourselves to maintaining at least 20 percent minority and female representation in each trade during the time we are carrying out the above commitments. We plan to have completely implemented all the provisions of these commitments by _____________(Date).

[41 FR 34245, Aug. 13, 1976]

APPENDIX C TO SUBPART D OF PART 230—SAMPLE SHOW CAUSE RESCISSION

Certified Mail, Return Receipt Requested

Date
Contractor
Address
City, State, and Zip Code

DEAR CONTRACTOR: On _____________(Date) you received a 30-day show cause notice from this office for failing to implement the required contract requirements pertaining to equal employment opportunity.

Your corrective action plan, discussed and submitted at the compliance conference held on _____________(Date), has been reviewed and determined to be acceptable. Your implementation of your corrective action plan shows that you are now taking the required affirmative action and can be considered in compliance with Executive Order 11246, as amended. If it should later be determined that your corrective action plan is not sufficient to achieve compliance, this Rescission shall not preclude a subsequent finding of noncompliance.

In view of the above, this letter is to inform you that the 30-day show cause notice of _____________(Date) is hereby rescinded. You are further advised that if it is found that you have failed to comply with the provisions of your corrective action plan, formal sanction proceedings will be instituted immediately.

Sincerely,
APPENDIX D TO SUBPART D OF PART 230—EQUAL OPPORTUNITY COMPLIANCE REVIEW PROCESS FLOW CHART

EQUAL OPPORTUNITY COMPLIANCE REVIEW PROCESS FLOW CHART

<table>
<thead>
<tr>
<th>Reports thru Monitors</th>
<th>Compliance Review Action</th>
<th>Time Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1</td>
<td>Contractor or Project(s) Selected for Review</td>
<td>At least 2 weeks</td>
</tr>
<tr>
<td>R-2</td>
<td>Review Scheduled</td>
<td></td>
</tr>
<tr>
<td>R-3</td>
<td>Contractor Notification</td>
<td></td>
</tr>
<tr>
<td>R-4</td>
<td>Preliminary Analysis</td>
<td></td>
</tr>
<tr>
<td>R-5</td>
<td>Onsite Verification and Interviews</td>
<td></td>
</tr>
<tr>
<td>R-6</td>
<td>Exit Conference</td>
<td></td>
</tr>
<tr>
<td>R-7</td>
<td>Information Analyzed and Report Prepared</td>
<td></td>
</tr>
<tr>
<td>R-8</td>
<td>Determination of Compliance</td>
<td></td>
</tr>
<tr>
<td>R-9</td>
<td>In Compliance</td>
<td></td>
</tr>
<tr>
<td>R-10</td>
<td>Noncompliance</td>
<td></td>
</tr>
<tr>
<td>R-11</td>
<td>Contractor notified of Determination</td>
<td></td>
</tr>
<tr>
<td>R-12</td>
<td>Show Cause Issued</td>
<td></td>
</tr>
<tr>
<td>R-13</td>
<td>Contractor Receives Show Cause Notice</td>
<td></td>
</tr>
<tr>
<td>R-14</td>
<td>Compliance Conference</td>
<td>NTE 30 Days</td>
</tr>
<tr>
<td>R-15</td>
<td>Corrective Action Plan Accepted</td>
<td></td>
</tr>
<tr>
<td>R-16</td>
<td>Corrective Action Plan not accepted</td>
<td></td>
</tr>
<tr>
<td>R-17</td>
<td>Show Cause Rescinded</td>
<td></td>
</tr>
<tr>
<td>R-18</td>
<td>No Response or Response unacceptable</td>
<td></td>
</tr>
<tr>
<td>R-19</td>
<td>Request for Hearing</td>
<td>NTE 5 Days</td>
</tr>
<tr>
<td>R-20</td>
<td>Review report forwarded (PHWA-86) and Compliance Notice or Show Cause Notice</td>
<td></td>
</tr>
<tr>
<td>R-21</td>
<td>Corrective Action Plan and Show Cause Notice forwarded</td>
<td></td>
</tr>
<tr>
<td>R-22</td>
<td>Request forwarded</td>
<td></td>
</tr>
</tbody>
</table>

[41 FR 34245, Aug. 13, 1976]
§ 260.101 Purpose.
To establish policy for the Federal Highway Administration (FHWA) Fellowship and Scholarship Programs as administered by the National Highway Institute (NHI).

§ 260.103 Definitions.
As used in this regulation, the following definitions apply:
(a) Candidate. One who meets the eligibility criteria set forth in §260.107, and who has completed and submitted the necessary forms and documents in order to be considered for selection for a fellowship or scholarship.

(b) Direct educational expenses. Those expenses directly related to attending school including tuition, student fees, books, and expendable supplies but excluding travel expenses to and from the school.

(c) Employing agency. The agency for which the candidate works. This may be either a State or local highway/transportation agency or the FHWA.

(d) Fellowship. The grant presented to the recipient’s school and administered by the school to assist the candidate financially during the period of graduate study.

(e) Living stipend. The portion of the fellowship or scholarship grant remaining after the direct educational expenses have been deducted.

(f) Local highway/transportation agency. The agency or metropolitan planning organization with the responsibility for initiating and carrying forward a highway program or public transportation program utilizing highways at the local level, usually the city or county level.

(g) National Highway Institute (NHI). The organization located within the FHWA responsible for the administration of the FHWA fellowship and scholarship grant programs.

(h) Recipient. The successful candidate receiving a fellowship or scholarship.

(i) Scholarship. The grant presented to the recipient’s school and administered by the school to assist the candidate financially during the period of post-secondary study.

(j) State highway/transportation agency. The agency with the responsibility for initiating and carrying forward a highway program or public transportation program utilizing highways at the State level.
development of more effective transportation programs at all levels of government. These programs shall provide financial support for up to 24 months of either full-time or part-time study in the field of highway transportation. The programs for each year shall be announced by FHWA notices.1 These notices shall contain an application form and shall announce the number of grants to be awarded and their value.


§ 260.107 Eligibility.

(a) Prior recipients of FHWA scholarships or fellowships are eligible if they will have completed all specific work commitments before beginning study under the programs for which applications are made.

(b) Candidates for the fellowship program shall have earned bachelor’s or comparable college-level degrees prior to beginning advanced studies under the program.

(c) Candidates shall submit evidence of acceptance, or probable acceptance, for study in programs that will enhance their contributions to their employers. Evidence of probable acceptance may be a letter from the department chairman or other school official.

(d) Candidates shall agree to pursue certain minimum study loads as determined by the FHWA and designated in the FHWA notices announcing the programs each year.

(e) FHWA employees who receive awards will be required to execute continued service agreements, consistent with the Government Employees Training Act requirements, which obligate the employees to continue to work for the agency for three times the duration of the training received.

(f) Candidates who are students or employees of State or local highway/transportation agencies shall agree in writing to work on a full-time basis in public service with State or local highway/transportation agencies for a specified period of time after completing study under the program. The FHWA notices announcing the programs each year shall specify the time period of the work commitment.

(g) Candidates shall agree to respond to brief questionnaires designed to assist the NHI in program evaluation both during and following the study period.

(h) Recipients of awards for full-time shall agree to limit their part-time employment as stipulated in the FHWA notice announcing the programs.

(i) Candidates shall not profit financially from FHWA grants. Where acceptance of the living stipend portion of the grant would result in a profit to the candidate, as determined by comparing the candidate’s regular full-time salary with the candidate’s part-time salary and employer salary support plus living stipend, the grant amount will be reduced accordingly. In cases where a candidate must relocate and maintain two households, exceptions to this condition will be considered.

(j) Candidates shall be citizens, or shall declare their intent to become citizens of the United States.

§ 260.109 Selection.

(a) Candidates shall be rated by a selection panel appointed by the Director of the NHI. Members of the panel shall represent the highway transportation interests of government, industry, and the academic community. The factors considered by the selection panel are weighed in accordance with specific program objectives.

(b) The major factors to be considered by the panel are:

(1) Candidate’s potential to contribute to a public agency’s highway transportation program,

(2) Relevance of a candidate’s study program to the objectives of the fellowship or scholarship program,

(3) Relevant experience, and

(4) Academic and professional achievements.

(c) Using ratings given by the selection panel, the Director of the NHI shall select candidates for awards and designate alternates.

(d) The FHWA may designate in the FHWA notices announcing the programs the maximum number of awards.

1The Federal Highway Administration notices are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
§ 260.111 Responsibilities of educational institutions.

(a) The college or university chosen by the grant recipient shall enter into an appropriate agreement with the FHWA providing for the administration of the grant by the college or university.

(b) The college or university chosen by the recipient shall designate a faculty advisor prior to the commitment of funds by the FHWA. The faculty advisor will be requested to submit reports of the recipient’s study progress following completion of each study period. These reports are oriented toward total program evaluation. To assure the recipient’s rights to privacy, the FHWA will obtain appropriate advance concurrences from the recipient.

§ 260.113 Responsibilities of employing agencies.

(a) A candidate’s employing agency is responsible for furnishing a statement of endorsement and information concerning the relevancy of the candidate’s study to agency requirements. The agency is encouraged to identify educational and training priorities and to provide backup to support its priority candidates for these programs.

(b) Employing agencies are encouraged to give favorable consideration to the requests of candidates for educational leave and salary support for the study period to facilitate the candidates’ applications. Agency decisions involving salary support and educational leave that will affect the acceptance of awards by recipients should be made at the earliest possible date to provide adequate time for the FHWA to select alternates to replace candidates that decline their awards.

(c) Agencies are responsible for negotiations with their candidates concerning conditions of reinstatement and the candidates’ commitments to return to work.

(d) Employing agencies are encouraged to publicize the availability of these grants throughout the agencies, to implement procedures for internal evaluation of applications, and to forward the applications to the FHWA division office in their State.

(e) Employing agencies that choose to process their employees’ applications are responsible for observing the cutoff date for the FHWA to receive applications. This date will be stipulated in the Notices announcing the program for each academic year.

§ 260.115 Equal opportunity.

(a) Consistent with the provisions of the Civil Rights Act of 1964 and Title VI, assurances executed by each State, 23 U.S.C. 324, and 29 U.S.C. 794, no applicant, including otherwise qualified handicapped individuals, shall on the grounds of race, color, religion, sex, national origin, or handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under this program.

(b) In accordance with Executive Order 11141, no individual shall be denied benefits of this program because of age.

(c) Agencies should make information on this program available to all eligible employees, including otherwise qualified handicapped individuals, so as to assure nondiscrimination on the grounds of race, color, religion, sex, national origin, age, or handicap.

§ 260.117 Application procedures.

(a) The FHWA notices announcing each year’s programs and containing the application form may be obtained from FHWA regional and division offices, State highway agencies, metropolitan planning organizations, Governors’ highway safety representatives, Urban Mass Transportation Administration regional directors, major transit authorities and from colleges and universities. Forms may also be obtained from the NHI, HHI–3, FHWA, Washington, DC 20590.

(b) In order to become a candidate, the applicant shall complete and forward the application form according to the instructions in the FHWA notice announcing the programs. The cutoff date for submitting the application stipulated in the notices should be observed.

Subparts B–C [Reserved]
Federal Highway Administration, DOT

Subpart D—State Education and Training Programs

Authority: 23 U.S.C. 315, 321 (b) and (c); 49 CFR 1.48(b).

Source: 43 FR 35477, Aug. 10, 1978, unless otherwise noted.

§ 260.401 Purpose.

To prescribe policy and implement procedures for the administration of Federal-aid funds for education and training of State and local highway department employees.

§ 260.403 Policy.

It is the policy of the Federal Highway Administration (FHWA) to provide continuing education of State and local highway agency employees engaged or to be engaged in Federal-aid highway work. To carry out this policy, States are encouraged to fully utilize the authority contained in 23 U.S.C. 321(b) and 321(c).

§ 260.405 Application and approval procedures.

The State may apply for education and training funds by submitting a signed agreement designating the desired Federal-aid funds, not to exceed the limits in 23 U.S.C. 321(b). The FHWA’s approval of the agreement will constitute obligation of funds and authorization for work to proceed.

§ 260.407 Implementation and reimbursement.

(a) After execution of the fiscal agreement, the State may make grants and contracts with public and private agencies, institutions, individuals, and the National Highway Institute to provide highway-related training and education. The principal recipients of this training shall be employees who are engaged or likely to be engaged, in Federal-aid highway work.

(b) Claims for Federal-aid reimbursement of costs incurred may be submitted following established procedures to cover 75 percent of the cost of tuition and direct educational expenses (including incidental training, equipment, and program materials) exclusive of travel, subsistence, or salary of trainees.

(c) As provided in 23 U.S.C. 321(c), education and training for subject areas that are identified by the FHWA as Federal program responsibilities, shall be provided at no cost to State and local governments.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>APPENDIX A TO PART 260</strong></td>
<td></td>
</tr>
<tr>
<td><strong>U.S. DEPARTMENT OF TRANSPORTATION</strong></td>
<td><strong>STATE</strong></td>
</tr>
<tr>
<td><strong>FEDERAL HIGHWAY ADMINISTRATION</strong></td>
<td><strong>DATE OF REQUEST</strong></td>
</tr>
<tr>
<td><strong>REQUEST FOR USE OF FEDERAL AID HIGHWAY</strong></td>
<td><strong>PROJECT NO.</strong></td>
</tr>
<tr>
<td><strong>FUNDS FOR EDUCATION OR TRAINING</strong></td>
<td></td>
</tr>
<tr>
<td><strong>(NATIONAL HIGHWAY INSTITUTE)</strong></td>
<td></td>
</tr>
<tr>
<td>4. NAME OF AGENCY SPONSORING COURSE</td>
<td>5. CO-SPOONOR (if any)</td>
</tr>
<tr>
<td>6. COURSE TITLE</td>
<td></td>
</tr>
<tr>
<td>7. DATE OF PROGRAM</td>
<td></td>
</tr>
<tr>
<td>7A. BEGINNING</td>
<td>7B. ENDING</td>
</tr>
<tr>
<td>8. ESTIMATED ATTENDANCE</td>
<td></td>
</tr>
<tr>
<td>9. PURPOSE AND EDUCATIONAL OBJECTIVES OF THE PROGRAM (be as specific as possible)</td>
<td></td>
</tr>
<tr>
<td>10. PROPOSED COURSE OUTLINE (Attach a copy of the course outline including a list of the subjects to be presented, the sequence of their presentation, the proposed speakers, and the amount of time allotted to each subject. Also include the source material upon which the course is based, and the textbook and collateral references to be used.)</td>
<td></td>
</tr>
<tr>
<td>11. PROPOSED COURSE SCHEDULE (Provide information on the length of the course, including number of days, days of the week, and hours per day.)</td>
<td></td>
</tr>
<tr>
<td>12. TOTAL HOURS OF INSTRUCTION</td>
<td></td>
</tr>
<tr>
<td>13. CRITERIA FOR ELIGIBILITY OF PARTICIPANTS (Include organizational affiliation)</td>
<td></td>
</tr>
<tr>
<td>14. WHERE WILL COURSE BE HELD?</td>
<td></td>
</tr>
<tr>
<td>15. IS THIS PROGRAM A REPEAT OF A COURSE PREVIOUSLY GIVEN? (If yes, fill in 15A.)</td>
<td></td>
</tr>
<tr>
<td>☐ YES ☐ NO</td>
<td>15A. WHEN WAS IT LAST HELD?</td>
</tr>
<tr>
<td>16. IS THIS PROGRAM RECURRING? (If yes, fill in 16A.)</td>
<td></td>
</tr>
<tr>
<td>☐ YES ☐ NO</td>
<td>16A. GIVING FREQUENCY</td>
</tr>
<tr>
<td>☐ SEMESTER ☐ QUARTER</td>
<td>☐ OTHER (Specify)</td>
</tr>
<tr>
<td>17. NAME AND TITLE OF TECHNICAL DIRECTOR (Responsible for technical content)</td>
<td></td>
</tr>
<tr>
<td>18. NAME AND TITLE OF COORDINATOR (Responsible for arrangements)</td>
<td></td>
</tr>
</tbody>
</table>

Form FHWA-1462 (Rev. 07/98) PREVIOUS EDITIONS WILL NOT BE USED
<table>
<thead>
<tr>
<th>EXPENDITURES</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. TEXT BOOKS</td>
<td>$</td>
</tr>
<tr>
<td>B. NOTEBOOKS AND SUPPLIES</td>
<td>$</td>
</tr>
<tr>
<td>C. PRINTING</td>
<td>$</td>
</tr>
<tr>
<td>D. COMMUNICATIONS</td>
<td>$</td>
</tr>
<tr>
<td>E. SECRETARIAL</td>
<td>$</td>
</tr>
<tr>
<td>F. AUDIO/VISUAL</td>
<td>$</td>
</tr>
<tr>
<td>G. PHOTOGRAPHS</td>
<td>$</td>
</tr>
<tr>
<td>H. BUSES</td>
<td>$</td>
</tr>
<tr>
<td>I. MEETING ROOM RENTAL</td>
<td>$</td>
</tr>
<tr>
<td>J. COSTS OF SPONSORING AGENCY'S STAFF TIME SPENT</td>
<td>$</td>
</tr>
<tr>
<td>IN PREPARATION AND CONDUCT OF COURSE</td>
<td>$</td>
</tr>
<tr>
<td>K. COSTS OF CO-SPONSOR'S STAFF TIME SPENT IN PREPARATION AND</td>
<td>$</td>
</tr>
<tr>
<td>CONDUCT OF COURSE</td>
<td>$</td>
</tr>
<tr>
<td>L. HONORARIA PAID TO OUTSIDE INSTRUCTOR</td>
<td>$</td>
</tr>
<tr>
<td>M. INCIDENTALS</td>
<td>$</td>
</tr>
<tr>
<td>N. OTHER ITEMS (Specify)</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL ESTIMATED COSTS</td>
<td>$</td>
</tr>
<tr>
<td>(Excluding travel, subsistence and salaries of attendees)</td>
<td>$</td>
</tr>
<tr>
<td>20. COST PER ATTENDEE</td>
<td>$</td>
</tr>
<tr>
<td>21. AMOUNT TO BE PAID OUT OF 7½% FEDERAL-AID FUNDS</td>
<td>$</td>
</tr>
<tr>
<td>22. REMARKS</td>
<td></td>
</tr>
</tbody>
</table>

| 23. APPROVAL                                                               |        |
| REQUEST INITIATED BY (State Representative, Name and Title)               | DATE   |
| APPROVED (Director, Administrator, Federal Highway Administration)       | DATE   |
SUBCHAPTER E—PLANNING AND RESEARCH

PART 420—PLANNING AND RESEARCH PROGRAM ADMINISTRATION

Subpart A—Administration of FHWA Planning and Research Funds

Sec.
420.101 Purpose and applicability.
420.103 Definitions.
420.105 Policy.
420.107 SPR minimum research, development, and technology transfer expenditure.
420.109 Distribution of PL funds.
420.111 Work program.
420.113 Eligibility of costs.
420.115 Approval and authorization procedures.
420.117 Program monitoring and reporting.
420.119 Fiscal procedures.
420.121 Other requirements.

Subpart B—Research, Development and Technology Transfer Program Management

420.201 Purpose and applicability.
420.203 Definitions.
420.205 Policy.
420.207 Conditions for grant approval.
420.209 State work program.
420.211 Eligibility of costs.
420.213 Certification requirements.
420.215 Procedure for withdrawal of approval.

AUTHORITY: 23 U.S.C. 103(i), 104(f), 115, 120, 133(b), 134(n), 157(c), 303(g), 307, and 315; and 49 CFR 1.48(b).

SOURCE: 59 FR 37357, July 22, 1994, unless otherwise noted.

Subpart A—Administration of FHWA Planning and Research Funds

§ 420.101 Purpose and applicability.

This part prescribes the Federal Highway Administration (FHWA) policies and procedures for the administration of activities undertaken by States and their subrecipients, including Metropolitan Planning Organizations (MPOs), with FHWA planning and research funds. It applies to activities and studies funded as part of a recipient’s or subrecipient’s work program or as separate Federal-aid projects that are not included in a work program. This subpart also is applicable to the approval and authorization of research, development, and technology transfer (RD&T) work programs; additional policies and procedures regarding administration of RD&T programs are contained in subpart B of this part. The requirements in this part supplement those in 49 CFR Part 18 which are applicable to administration of these funds.

§ 420.103 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

Grant agreement means a legal instrument between an awarding agency and recipient where the principal purpose is to provide funds to the recipient to carry out a public purpose of support or stimulation authorized by law.

FHWA planning and research funds means:

(1) State planning and research (SPR) funds (the 2 percent funds authorized under 23 U.S.C. 307(c)(1));

(2) Metropolitan planning (PL) funds (the 1 percent funds authorized under 23 U.S.C. 104(f) to carry out the provisions of 23 U.S.C. 134(a));

(3) National highway system (NHS) funds authorized under 23 U.S.C. 104(b)(1) used for transportation planning in accordance with 23 U.S.C. 134 and 135, highway research and planning in accordance with 23 U.S.C. 307, highway-related technology transfer activities, or development and establishment of management systems under 23 U.S.C. 303;

(4) Surface transportation program (STP) funds authorized under 23 U.S.C. 104(b)(3) used for highway and transit research and development and technology transfer programs, surface transportation planning programs, or development and establishment of management systems under 23 U.S.C. 303; and

(5) Minimum allocation funds authorized under 23 U.S.C. 157(c) used for carrying out, respectively, the provisions
§ 420.105 Policy.

(a) Within the limitations of available funding and with the understanding that planning activities of national significance, identified in paragraph (b) of this section, and the requirements of 23 U.S.C. 134, 135, 303, and 307(c) are being adequately addressed, the FHWA will allow STAs and their subrecipients:

(1) Maximum possible flexibility in the use of FHWA planning and research funds to meet highway and multimodal transportation planning and RD&T needs at the national, State, and local levels while ensuring legal use of such funds and avoiding unnecessary duplication of efforts; and

(2) To determine which eligible planning and RD&T activities they desire to support with FHWA planning and research funds and at what funding level.

(b) The STAs shall provide data that support the FHWA's responsibilities to the Congress and to the public. These data include, but are not limited to, information required for: Preparing proposed legislation and reports to the Congress; evaluating the extent, performance, condition, and use of the Nation's transportation systems; analyzing existing and proposed Federal-aid funding methods and levels and the assignment of user cost responsibility; maintaining a critical information base on fuel availability, use, and revenues generated; and calculating apportionment factors.

(The information collection requirements in paragraph (b) of § 420.105 have been approved by the Office of Management and Budget (OMB) under control numbers 2125–0028 and 2125–0032.)

§ 420.107 SPR minimum research, development, and technology transfer expenditure.

(a) In accordance with the provisions of 23 U.S.C. 307(c), not less than 25 percent of the SPR funds apportioned to a State for a fiscal year shall be expended for RD&T activities relating to highway, public transportation, and intermodal transportation systems, unless the State certifies, and the FHWA accepts the State's certification, that total expenditures by the State during the fiscal year for transportation planning under 23 U.S.C. 134 and 135 will exceed 75 percent of the amount apportioned for the fiscal year.

(b) Prior to submitting a request for an exception to the 25 percent requirement, the State shall ensure that:

(1) The additional planning activities are essential and there are no other
reasonable options available for funding these planning activities (including the use of National Highway System, Surface Transportation Program, or Federal Transit Administration Section 26(a)(2) funds or by deferment of lower priority planning activities);

(2) The planning activities have a higher priority than RD&T activities in overall needs of the State for a given year; and

(3) The total level of effort by the State in RD&T (using both Federal and State funds) is adequate.

(c) If the State chooses to pursue an exception, the request, along with supporting justification, shall be sent to the FHWA Division Administrator for action by the FHWA Associate Administrator for Research and Development. The Associate Administrator's decision shall be based upon the following considerations:

(1) Whether the State has a process for identifying RD&T needs and for implementing a viable RD&T program.

(2) Whether the State is contributing to cooperative RD&T programs or activities, such as the National Cooperative Highway Research Program, the Transportation Research Board, the implementation of products of the Strategic Highway Research Program, and pooled-fund studies.

(3) Whether the State is using SPR funds for technology transfer and for transit or intermodal research and development to help meet the 25 percent minimum requirement.

(4) The percentage or amount of the State's FHWA planning and research funds that were used for RD&T prior to enactment of the 25 percent requirement and whether the percentage or amount will increase if the exception is approved.

(5) If an exception is approved for the fiscal year, whether the State can demonstrate that it will meet the requirement or substantially increase its RD&T expenditures over a multi-year period.

(6) Whether the amount of Federal funds needed for planning for the program period exceeds the total of the 75 percent limit for the fiscal year and any unexpended (including unused funds that can be released from completed projects) funds for planning from previous apportionments.

(d) If the State's request for an exception is approved, the exception will be valid only for the fiscal year in which the exception is approved. A new request must be submitted in subsequent fiscal years.

§ 420.109 Distribution of PL funds.

(a) States shall make all PL funds authorized by 23 U.S.C. 104(f) available to the MPOs in accordance with a formula developed by the State, in consultation with the MPOs, and approved by the FHWA. The State shall not use any PL funds for grant or subgrant administration.

(b) In developing the formula for distributing PL funds, the State shall consider population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of 23 U.S.C. 134 and other applicable requirements of Federal law.

(c) As soon as practicable after PL funds have been apportioned by the FHWA to the States, the STAs shall inform the MPOs and the FHWA of the amounts allocated to each MPO.

(d) If the STA, in a State receiving the minimum apportionment of PL funds under the provisions of 23 U.S.C. 104(f)(2), determines that the share of funds to be allocated to any MPO results in the MPO receiving more funds than necessary to carry out the provisions of 23 U.S.C. 134(a), the STA may, after considering the views of the affected MPOs and with the approval of the FHWA, use these funds to finance transportation planning outside of metropolitan planning areas.

(e) In accordance with the provisions of 23 U.S.C. 134(n), any PL funds not needed for carrying out the metropolitan planning provisions of 23 U.S.C. 134 may be made available by the MPOs to the State for funding statewide planning activities under 23 U.S.C. 135, subject to approval by the FHWA.

(f) Any State PL fund distribution formula that does not meet the requirements of paragraphs (a) or (b) of this section shall be brought into conformance with such requirements as
soon as possible, but no later than in time for distribution of PL funds apportioned to the State for the first Federal fiscal year beginning after August 22, 1994.

§ 420.111 Work program.

(a) Proposed use of FHWA planning and research funds shall be documented by the STAs and subrecipients in a work program(s) acceptable to the FHWA. Statewide, metropolitan, other transportation planning activities, and transportation RD&T activities may be administered as separate programs, paired in various combinations, or brought together as a single work program. Similarly, these transportation planning and RD&T activities may be authorized for fiscal purposes as one combined Federal-aid project or as separate Federal-aid projects. The expenditure of PL funds for transportation planning outside of metropolitan planning areas under § 420.109(d) may be included in the work program for statewide transportation planning activities or in a separate work program submitted by the STA.

(b) Work program(s) that document transportation planning activities shall include a description of work to be accomplished and cost estimates for each activity. Additional information on metropolitan planning area work programs is contained in 23 CFR 450.314. Additional information on research, development, and technology transfer work program content and format is contained in subpart B of this part.

(c) The STAs that use separate Federal-aid projects in accordance with § 420.111(a) shall submit, in addition to the financial information specified below for each program, one overall summary showing the funding for the entire FHWA funded planning, research, development, and technology transfer effort. Each work program shall include a financial summary that shows:

(1) Federal share by type of fund;
(2) Matching rate by type of fund;
(3) State and/or local matching share; and
(4) Other State or local funds.

(d) The STAs and MPOs also are encouraged to include cost estimates for transportation planning, research, development, and technology transfer related activities funded with other Federal or State and/or local funds; particularly for producing the FHWA-required data specified in paragraph (b) of § 420.105, for planning for other transportation modes, and for air quality planning activities in areas designated as nonattainment for transportation-related pollutants in their work programs. The MPOs in Transportation Management Areas shall include such information in their work programs in accordance with the provisions of 23 CFR part 450.

(The information collection requirements in §§ 420.111(a), (b), and (c), and 420.117(b) and (c) for metropolitan planning areas have been approved by the OMB and assigned control number 2132–0529.)

§ 420.113 Eligibility of costs.

(a) Costs will be eligible for FHWA participation provided that the costs:

(1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
(2) Are verifiable from the STA’s or the subrecipient’s records;
(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR 18.22;
(4) Are included in the approved budget, or amendment thereto; and
(5) Were not incurred prior to FHWA authorization.

(b)(1) Except as specified in paragraph (b)(2) of this section, indirect costs of an STA are not eligible for reimbursement with FHWA planning and research funds.

(2) Salaries for services rendered by STA employees who are generally classified as administrative are eligible for reimbursement for a transportation planning unit, RD&T unit, or other unit performing eligible work with FHWA planning and research funds (including development, establishment, and implementation of the management and monitoring systems required by 23 U.S.C. 303 and 23 CFR part 500) in...
the ratio of time spent on the participating portion of work in the unit to the total unit's working hours.

(c) Indirect costs of MPOs and local governments are allowable if supported by a cost allocation plan and indirect cost proposal approved in accordance with the provisions of OMB Circular A–87. An initial plan and proposal must be submitted to the Federal cognizant or oversight agency for negotiation and approval prior to recovering any indirect costs. The cost allocation plan and indirect cost proposal shall be updated annually and retained by the MPO or local government, unless requested to be resubmitted by the Federal cognizant or oversight agency, for review at the time of the audit required in accordance with 49 CFR Part 90. If the MPO or local government’s indirect cost rate varies significantly from the rate approved for the previous year, or if the MPO or local government changes its accounting system and affects the previously approved indirect cost allocation plan and proposal or rate and its basis of application, the indirect cost allocation plan and proposal shall be resubmitted for negotiation and approval. In either case, a rate shall be negotiated and approved for billing purposes until a new plan and proposal are approved.

(d) Indirect costs of other STA sub-recipients, including other State agencies, are allowable if supported by a cost allocation plan and indirect cost proposal prepared, submitted, and approved by the cognizant or oversight agency in accordance with the OMB requirements applicable to the sub-recipient.

§ 420.115 Approval and authorization procedures.

(a) The STA and its sub-recipients shall obtain work program approval and authorization to proceed prior to beginning work on activities in the work program. Such approvals and authorizations should be based on final work program documents. The STA and its sub-recipients also shall obtain prior approval for budget and programmatic changes as specified in 49 CFR 18.40 and for those items of allowable costs which require prior approval in accordance with the applicable cost principles specified in 49 CFR 18.22.

(b) Except for advance construction, authorization to proceed with the work program(s) in whole or in part shall be deemed a contractual obligation of the Federal Government pursuant to 23 U.S.C. 106 and shall require that appropriate funds be available for the full Federal share of the cost of work authorized. Those STAs that do not have sufficient FHWA planning and research funds or obligation authority available to obligate the full Federal share of the entire work program(s) may utilize the advance construction provisions of 23 U.S.C. 115(a) in accordance with the requirements of 23 CFR Part 630, subpart G. The STAs that do not meet the advance construction provisions, or do not wish to utilize them, may request authorization to proceed with that portion of the work program(s) for which FHWA planning and research funds are available. In the latter case, authorization to proceed may be given for either selected work activities or for a portion of the program period, but such authorization shall not constitute a commitment by the FHWA to fund the remaining portion of the work program(s) should additional funds become available.

(c) A project agreement shall be executed by the STA and FHWA Division Office for each statewide transportation planning, metropolitan planning area transportation planning, or RD&T work program, individual activity or study, or any combination administered as a single Federal-aid project. The project agreement shall be executed after the authorization has been given by the FHWA to proceed with the work in whole or in part. In the event that the project agreement is executed for only part of the work program, the project agreement shall be amended when authorization is given to proceed with additional work.

§ 420.117 Program monitoring and reporting.

(a) In accordance with 49 CFR 18.40, the STA shall monitor all activities, including those of its sub-recipients, supported by FHWA planning and research funds to assure that the work is
being managed and performed satisfactorily and that time schedules are being met.

(b)(1) The STA shall submit performance and expenditure reports, including a report from each subrecipient, that contain as a minimum:

(i) Comparison of actual performance with established goals;

(ii) Progress in meeting schedules;

(iii) Status of expenditures in a format compatible with the work program, including a comparison of budgeted (approved) amounts and actual costs incurred;

(iv) Cost overruns or underruns;

(v) Approved work program revisions; and

(vi) Other pertinent supporting data.

(2) Additional information on reporting requirements for individual RD&T studies is contained in subpart B of this part.

(c) The frequency of reports required by paragraph (b) of this section shall be annual unless more frequent reporting is determined to be necessary by the FHWA; but in no case will reports be required more frequently than quarterly. These reports are due 90 days after the end of the reporting period for annual and final reports and no later than 30 days after the end of the reporting period for other reports.

(d) Events that have significant impact on the work program(s) shall be reported as soon as they become known. The type of events or conditions that require reporting include: problems, delays, or adverse conditions that will materially affect the ability to attain program objectives. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(e) A provision of the Federal-Aid Project Agreement requires both the preparation of suitable reports to document the results of activities performed with FHWA planning and research funds and FHWA approval prior to publishing such reports. The STA may request a waiver of the requirement for prior approval. The FHWA’s approval constitutes acceptance of such reports as evidence of work performed but does not imply endorsement of a report’s findings or recommendations. Reports prepared for FHWA funded work shall include appropriate credit references and disclaimer statements.

(The information collection requirements in §§420.117(b) and (c) for metropolitan planning areas have been approved by the OMB and assigned control number 2132–0529.)

§ 420.119 Fiscal procedures.

(a) SPR funds shall be administered and accounted for as a single fund regardless of the category of Federal-aid highway funds from which they are derived.

(b) PL funds shall be administered and accounted for as a single fund.

(c) Optional funds authorized under 23 U.S.C. 104(b)(1), 104(b)(3), and 157(c) used for eligible planning and RD&T purposes shall be identified separately in the work program(s) and shall be administered and accounted for separately for fiscal purposes. The statewide and, if appropriate, metropolitan transportation improvement program provisions of 23 CFR Part 450 must be met for the use of NHS, STP, or minimum allocation funds for planning or RD&T purposes.

(d) The maximum rate of Federal participation with funds identified in paragraphs (a) through (c) of this section shall be as prescribed in title 23, U.S.C., for the specific class of funds; unless, for funds identified under paragraph (a) or (b) of this section, the FHWA determines that the interests of the Federal-aid highway program would be best served without such match in accordance with 23 U.S.C. 307(c)(3) or 23 U.S.C. 104(f)(3). The FHWA also may waive the requirement for matching funds if national or regional high priority planning or RD&T problems can be more effectively addressed if several States and/or MPOs pool their funds. Requests for 100 percent Federal funding must be submitted to the FHWA Division Office for approval by the Associate Administrator for Program Development (for planning activities) or the Associate Administrator Research and Development (for RD&T activities).

(e) The provisions of 49 CFR 18.24 are applicable to any necessary matching of FHWA planning and research funds.
(f) Payment shall be made in accordance with the provisions of 49 CFR 18.21.

§ 420.121 Other requirements.

(a) The financial management systems of the STAs and their subrecipients shall be in accordance with the provisions of 49 CFR 18.20(a).

(b) Program income, as defined in 49 CFR 18.25(b), shall be shown and deducted to determine the net costs on which the FHWA share will be based, unless an alternative method for using program income is specified in the Federal-Aid Project Agreement.

(c) Audits shall be performed in accordance with 49 CFR 18.26 and 49 CFR Part 90.

(d) Acquisition, use, and disposition of equipment purchased by the STAs and their subrecipients with FHWA planning and research funds shall be in accordance with 49 CFR 18.32(b).

(e) Acquisition and disposition of supplies acquired by the STAs and their subrecipients with FHWA planning and research funds shall be in accordance with 49 CFR 18.33.

(f) In accordance with 49 CFR 18.34, STAs and their subrecipients may copyright any books, publications, or other copyrightable materials developed in the course of the FHWA planning and research funded project. The FHWA reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

(g) Procedures for the procurement of property and services with FHWA planning and research funds by the STAs and their subrecipients shall be in accordance with 49 CFR 18.36(a) and, if applicable, 18.36(t). The STAs and their subrecipients shall not use FHWA funds for procurements from persons (as defined in 49 CFR 29.105) who have been debarred or suspended in accordance with the provisions of 49 CFR Part 29, subparts A through E.

(h) The STAs shall follow State laws and procedures when awarding and administering subgrants to MPOs and local governments and shall ensure that the requirements of 49 CFR 18.37(a) have been satisfied. STAs shall have primary responsibility for administering FHWA planning and research funds passed through to subrecipients, for ensuring that such funds are expended for eligible activities, and for ensuring that the funds are administered in accordance with this part, 49 CFR Part 18, and applicable cost principles.

(i) Recordkeeping and retention requirements shall be in accordance with 49 CFR 18.42.

(j) The STAs and their subrecipients are subject to the provisions of 37 CFR Part 401 governing patents and inventions and shall include, or incorporate by reference, the standard patent rights clause at 37 CFR 401.14, except for §401.14(g), in all subgrants or contracts. In addition, STAs and their subrecipients shall include the following clause, suitably modified to identify the parties, in all subgrants or contracts, regardless of tier, for experimental, developmental or research work: “The subgrantee or contractor will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subgrant or contract, obtain rights in the subgrantee’s or contractor’s subject inventions.”

(k) In accordance with the provisions of 49 CFR Part 29, subpart F, STAs shall certify to the FHWA that they will provide a drug free workplace. This requirement can be satisfied through the annual certification for the Federal-aid highway program.

(l) The provisions of 49 CFR Part 20 regarding restrictions on influencing certain Federal activities are applicable to all tiers of recipients of FHWA planning and research funds.

(m) The nondiscrimination provisions of 23 CFR Parts 200 and 230 and 49 CFR Part 21, with respect to Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, apply to all programs and activities of recipients, subrecipients, and contractors receiving FHWA planning and research funds whether or not those programs or activities are federally funded.

(n) The STAs shall administer the transportation planning and RD&T programs(s) consistent with their overall efforts to implement section 1003(b)
Federal Highway Administration, DOT

§ 420.203 Purpose and applicability.

The purpose of this subpart is to implement the provisions of 23 U.S.C. 307 and to prescribe Federal assistance requirements for research, development, and technology transfer (RD&T) activities, programs, and studies undertaken by States with FHWA planning and research funds. The requirements of this subpart and subpart A of this part are applicable to work performed by the States and their subrecipients with FHWA planning and research funds.

§ 420.203 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) and Part 420, subpart A, are applicable to this subpart. As used in this subpart:

Applied research means the study of phenomena relating to a specific known need in connection with the functional characteristics of a system; the primary purpose of this kind of research is to answer a question or solve a problem.

Basic research means the study of phenomena whose specific application has not been identified; the primary purpose of this kind of research is to increase knowledge.

Cooperatively funded study means an RD&T study or activity, administered by the FHWA, a lead State, or other agency, that is funded by some combination of a State’s contribution of FHWA planning and research funds, FHWA administrative contract funds, 100 percent State funds, or funds from other Federal agencies.

Development means the translation of basic or applied research results into prototype materials, devices, techniques, or procedures for the practical solution of a specific problem in transportation.

Final report means a report documenting a completed RD&T study or activity.

Intermodal RD&T means research, development, and technology transfer activities involving more than one mode of transportation including transfer facilities between modes.

National Cooperative Highway Research Program (NCHRP) means the cooperative RD&T program directed toward solving problems of national or regional significance identified by States and the FHWA, and administered by the Transportation Research Board, National Academy of Sciences.

Peer review means a review conducted by persons who are knowledgeable of the management and operation of RD&T programs. This may include but is not limited to representatives of another State, the FHWA, American Association of State Highway and Transportation Officials, Transportation Research Board (TRB), universities or the private sector.

RD&T activity means a basic or applied research, development, or technology transfer project or study.

Research means a systematic controlled inquiry involving analytical and experimental activities which primarily seek to increase the understanding of underlying phenomena. Research can be basic or applied.

Technology transfer means those activities that lead to the adoption of a new technique or product by users and involves dissemination, demonstration, training, and other activities that lead to eventual innovation.

Transportation Research Information Services (TRIS) means the TRB-maintained computerized storage and retrieval system for abstracts of ongoing
§ 420.205 Policy.

(a) It is the FHWA’s policy to administer the RD&T program activities utilizing FHWA planning and research funds consistent with the policy specified in §420.105 and the following general principles in paragraphs (b) through (g) of this section.

(b) State transportation agencies shall provide information necessary for peer reviews.

(c) States are encouraged to develop, establish, and implement an RD&T program, funded with Federal and State resources, that anticipates and addresses transportation concerns before they become critical problems. To promote effective utilization of available resources, States are encouraged to cooperate with other States, the FHWA, and other appropriate agencies to achieve RD&T objectives established at the national level and to develop a technology transfer program to promote and use those results.

(d) States will be allowed the authority and flexibility to manage and direct their RD&T activities as presented in their work programs, and to initiate RD&T activities supported by FHWA planning and research funds, subject to the limitation of Federal funds and to compliance with program conditions set forth in subpart A of this part and §420.207.

(e) States will have primary responsibility for managing RD&T activities supported with FHWA planning and research funds carried out by other State agencies and organizations and for ensuring that such funds are expended for purposes consistent with this subpart.

(f) Each State shall develop, establish, and implement a management process that ensures effective use of available FHWA planning and research funds for RD&T activities on a statewide basis. Each State is permitted to tailor its management process to meet State or local needs; however, the process must comply with the minimum requirements and conditions of this subpart.

(g) States are encouraged to make effective use of the FHWA Division, Regional, and Headquarters office expertise in developing and carrying out their RD&T activities. Participation of the FHWA on advisory panels and in program review meetings is encouraged.

§ 420.207 Conditions for grant approval.

(a) As a condition for approval of FHWA planning and research funds for RD&T activities, a State shall implement a program of RD&T activities for planning, design, construction, and maintenance of highways, public transportation, and intermodal transportation systems. Not less than 25 percent of the State’s apportioned SPR funds shall be spent on such activities, unless waived by the FHWA, in accordance with the provisions of §420.107. In addition the State shall develop, establish, and implement a management process that identifies and implements RD&T activities expected to address highest priority transportation issues, and includes:

(1) An interactive process for identification and prioritization of RD&T activities for inclusion in an RD&T work program;

(2) Utilization, to the maximum extent possible, of all FHWA planning and research funds set aside for RD&T activities either internally or for participation in national, regional pooled, or cooperatively funded studies;

(3) Procedures for tracking program activities, schedules, accomplishments, and fiscal commitments;

(4) Support and use of the TRIS database for program development, reporting of active RD&T activities, and input of the final report information;

(5) Procedures to determine the effectiveness of the State’s management process in implementing the RD&T program, to determine the utilization of the State’s RD&T outputs, and to facilitate peer reviews of its RD&T Program on a periodic basis and;

(6) Procedures for documenting RD&T activities through the preparation of final reports. As a minimum, the documentation shall include the data collected, analyses performed, conclusions, and recommendations.
Federal Highway Administration, DOT

§ 420.213 Certification requirements.

(a) Each State shall certify to the FHWA Division Administrator before June 30, 1995, that it is complying with the requirements of this subpart. For those States unable to meet full compliance by June 30, 1995, the FHWA Division Administrator may grant conditional approval of the State’s RD&T management process. A conditional approval shall cite those areas of the State’s management process that are deficient. All deficiencies must be corrected by January 1, 1996. A copy of the certification shall be submitted with each work program. A new certification will be required if the State significantly revises its management process for the RD&T program.

(b) The certification shall consist of a statement signed by the Administrator, or an official designated by the Administrator, of the State transportation agency certifying as follows: I (name of certifying official), (position title), of the State (Commonwealth) of ______, do hereby certify that the State (Commonwealth) is in compliance with all requirements of 23 U.S.C. 307 and its implementing regulations with respect to the research, development and technology transfer program,
§ 420.215 Procedure for withdrawal of approval.

(a) If a State is not complying with the requirements of this subpart, or is not performing in accordance with its RD&I management process, the FHWA Division Administrator shall issue a written notice of proposed determination of noncompliance to the State. The notice shall set forth the reasons for the proposed determination and inform the State that it may reply in writing within 30 calendar days from the date of the notice. The State’s reply should address the deficiencies cited in the notice and provide documentation as necessary.

(b) If the State and Division Administrator cannot resolve the differences set forth in the determination of nonconformity, the State may appeal to the Federal Highway Administrator.

(c) The Federal Highway Administrator’s action shall constitute the final decision of the FHWA.

(d) An adverse decision shall result in immediate withdrawal of approval of FHWA planning and research funds for the State’s RD&I activities until the State is in full compliance.

PART 450—PLANNING ASSISTANCE AND STANDARDS

Subpart A—Planning Definitions

Sec.
450.100 Purpose.
450.102 Applicability.
450.104 Definitions.

Subpart B—Statewide Transportation Planning

450.200 Purpose.
450.202 Applicability.
450.204 Definitions.
450.206 Statewide transportation planning process: General requirements.
450.208 Statewide transportation planning process: Factors.
450.210 Coordination.

23 CFR Ch. I (4–1–01 Edition)

450.212 Public involvement.
450.214 Statewide transportation plan.
450.216 Statewide transportation improvement program (STIP).
450.218 Funding.
450.220 Approvals.
450.222 Project selection for implementation.
450.224 Phase-in of new requirements.

Subpart C—Metropolitan Transportation Planning and Programming

450.300 Purpose.
450.302 Applicability.
450.304 Definitions.
450.306 Metropolitan planning organization: Designations and redesignation.
450.308 Metropolitan planning organization: Metropolitan planning area boundaries.
450.310 Metropolitan planning organization: Agreements.
450.312 Metropolitan transportation planning process: Unified planning work programs.
450.316 Metropolitan transportation planning process: Elements.
450.318 Metropolitan transportation planning process: Major metropolitan transportation investments.
450.320 Metropolitan transportation planning process: Management systems.
450.322 Metropolitan transportation planning process: Transportation plan.
450.324 Transportation improvement program: General.
450.326 Transportation improvement program: Modification.
450.328 Transportation improvement program: Relationship to statewide TIP.
450.330 Transportation improvement program: Action required by FHWA/FTA.
450.332 Project selection for implementation.
450.334 Metropolitan transportation planning process: Certification.
450.336 Phase-in of new requirements.

Authority: 23 U.S.C. 134, 135, 217(g), and 315; 42 U.S.C. 7410 et seq.; 49 U.S.C. 5303–5306; 49 CFR 1.48(b) and 1.51.

Source: 58 FR 58064, Oct. 28, 1993, unless otherwise noted.

Subpart A—Planning Definitions

§ 450.100 Purpose.

The purpose of this subpart is to provide definitions for terms used in this part which go beyond those terms defined in 23 U.S.C. 101(a).
§ 450.102 Applicability.

The definitions in this subpart are applicable to this part, except as otherwise provided.

§ 450.104 Definitions.

Except as defined in this subpart, terms defined in 23 U.S.C 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party’s views.

Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and adjustment of plans, programs and schedules to achieve general consistency.

Governor means the Governor of any one of the fifty States, or Puerto Rico, and includes the Mayor of the District of Columbia.

Maintenance area means any geographic region of the United States designated nonattainment pursuant to the CAA Amendments of 1990 (Section 102(e)), 42 U.S.C. 7410 et seq., and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the Clean Air Act as amended (CAA), 42 U.S.C. 7410 et seq.

Major metropolitan transportation investment means a high-type highway or transit improvement of substantial cost that is expected to have a significant effect on capacity, traffic flow, level of service, or mode share at the transportation corridor or subarea scale. Consultation among the MPO, State department of transportation, transit operator, the FHWA and the FTA may lead to the designation of other proposed improvements as major investments beyond the examples listed below. Examples of such investments could generally include but are not limited to: Construction of a new partially controlled access (access allowed only for public roads) principal arterial, extension of an existing partially controlled access (access allowed only for public roads) principal arterial by one or more miles, capacity expansion of a partially controlled access (access provided only for public roads) principal arterial by at least one lane through widening or an equivalent increase in capacity produced by access control or technological improvement, construction or extension of a high-occupancy vehicle (HOV) facility or a fixed guideway transit facility by one or more miles, the addition of lanes or tracks to an existing fixed guideway transit facility for a distance of one or more miles, or a substantial increase in transit service on a fixed guideway facility. For this purpose, a fixed guideway refers to any public transportation facility which utilizes and occupies a designated right-of-way or rails including (but not limited to) rapid rail, light rail, commuter rail, busways, automated guideway transit, and people movers. Projects that generally are not considered to be major transportation investments include but are not limited to: Highway projects on principal arterials where access is not limited to public roads only, small scale improvements or extensions (normally less than one mile) on principal arterials with the primary goal of relieving localized safety or operational difficulties, resurfacing, replacement, or rehabilitation of existing principal arterials and equipment, highway projects not located on a principal arterial, and changes in transit routing and scheduling.

Management system means a systematic process, designed to assist decisionmakers in selecting cost effective strategies/actions to improve the efficiency and safety of, and protect the investment in the nation’s infrastructure. A management system includes: identification of performance measures; data collection and analysis; determination of needs; evaluation, and selection of appropriate strategies/actions to address the needs; and evaluation of the effectiveness of the implemented strategies/actions.
§ 450.200 Metropolitan planning area means the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out.

Metropolitan planning organization (MPO) means the forum for cooperative transportation decisionmaking for the metropolitan planning area. MPOs designated prior to the promulgation of this regulation remain in effect until redesignated in accordance with § 450.106 and nothing in this part is intended to require or encourage such redesignation.

Metropolitan transportation plan means the official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area.

Nonattainment area means any geographic region of the United States that the Environmental Protection Agency (EPA) has designated as a nonattainment area for a transportation related pollutant(s) for which a National Ambient Air Quality Standard (NAAQS) exists.

Regionally significant project means a project (other than projects that may be grouped in the STIP/TIP pursuant to § 450.216 and § 450.324) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area’s transportation network, including, as a minimum, all principal arterial highways and all fixed guideway transit facilities that offer a significant alternative to regional highway travel.

State means any one of the fifty States, the District of Columbia, or Puerto Rico.

State Implementation Plan (SIP) means the portion (or portions) of an applicable implementation plan approved or promulgated, or the most recent revision thereof, under sections 110, 301(d) and 175A of the Clean Air Act (42 U.S.C. 7409, 7601, and 7505a).

Statewide transportation improvement program (STIP) means a staged, multiyear, statewide, intermodal program of transportation projects which is consistent with the Statewide transportation plan and planning processes and metropolitan plans, TIPs and processes.

Statewide transportation plan means the official statewide, intermodal transportation plan that is developed through the statewide transportation planning process.

Transportation improvement program (TIP) means a staged, multiyear, intermodal program of transportation projects which is consistent with the metropolitan transportation plan.

Transportation Management Area (TMA) means an urbanized area with a population over 200,000 (as determined by the latest decennial census) or other area when TMA designation is requested by the Governor and the MPO (or affected local officials), and officially designated by the Administrators of the FHWA and the FTA. The TMA designation applies to the entire metropolitan planning area(s).

Subpart B—Statewide Transportation Planning

§ 450.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 135, which requires each State to carry out a continuing, comprehensive, and intermodal statewide transportation planning process, including the development of a statewide transportation plan and transportation improvement program, that facilitates the efficient, economic movement of people and goods in all areas of the State, including those areas subject to the requirements of 23 U.S.C 134.

§ 450.202 Applicability.

The requirements of this subpart are applicable to States and any other agencies/organizations which are responsible for satisfying these requirements.

§ 450.204 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23
§ 450.206 Statewide transportation planning process: General requirements.

(a) The statewide transportation planning process shall include, as a minimum:
   (1) Data collection and analysis;
   (2) Consideration of factors contained in §450.208;
   (3) Coordination of activities as noted in §450.210;
   (4) Development of a statewide transportation plan that considers a range of transportation options designed to meet the transportation needs (both passenger and freight) of the state including all modes and their connections; and
   (5) Development of a statewide transportation improvement program (STIP).

(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part.

§ 450.208 Statewide transportation planning process: Factors.

(a) Each State shall, at a minimum, explicitly consider, analyze as appropriate and reflect in planning process products the following factors in conducting its continuing statewide transportation planning process:
   (1) The transportation needs (strategies and other results) identified through the management systems required by 23 U.S.C. 303;
   (2) Any Federal, State, or local energy use goals, objectives, programs, or requirements;
   (3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in appropriate projects throughout the State;
   (4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations;
   (5) The transportation needs of nonmetropolitan areas (areas outside of MPO planning boundaries) through a process that includes consultation with local elected officials with jurisdiction over transportation;
   (6) Any metropolitan area plan developed pursuant to 23 U.S.C. 134 and section 8 of the Federal Transit Act, 49 U.S.C. app. 1607;
   (7) Connectivity between metropolitan planning areas within the State and with metropolitan planning areas in other States;
   (8) Recreational travel and tourism;
   (9) Any State plan developed pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. (and in addition to plans pursuant to the Coastal Zone Management Act);
   (10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities (including consideration of all transportation modes);
   (11) The overall social, economic, energy, and environmental effects of transportation decisions (including housing and community development effects and effects on the human, natural and manmade environments);
   (12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel;
   (13) Methods to expand and enhance appropriate transit services and to increase the use of such services (including commuter rail);
   (14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decision-making and the provisions of all applicable short-range and long-range land use and development plans (analyses should include projections of economic, demographic, environmental protection, growth management and land use activities consistent with development goals and transportation demand projections);
   (15) Strategies for identifying and implementing transportation enhancements where appropriate throughout the State;
   (16) The use of innovative mechanisms for financing projects, including...
§ 450.210 Coordination.

(a) In addition to the coordination required under §450.208(a)(21), in carrying out the requirements of this subpart, each State, in cooperation with participating organizations (such as MPOs, Indian tribal governments, environmental, resource and permit agencies, public transit operators) shall, to the extent appropriate, provide for a fully coordinated process including coordination of the following:

1. Data collection, data analysis and evaluation of alternatives for a transit, highway, bikeway, scenic byway, recreational trail, or pedestrian program with any such activities for the other programs;

2. Plans, such as the statewide transportation plan required under §450.214, with programs and priorities for transportation projects, such as the STIP;

3. Data analysis used in development of plans and programs, (for example, information resulting from traffic data analysis, data and plans regarding employment and housing availability, data and plans regarding land use control and community development) with land use projections, with data analyses done as part of the establishment and maintenance of management systems developed in response to 23 U.S.C. 303;

4. Consideration of intermodal facilities with land use planning, including land use activities carried out by local, regional, and multistate agencies;

5. Transportation planning carried out by the State with transportation planning carried out by Indian tribal governments, Federal agencies and local governments, MPOs, large-scale public and private transportation providers, operators of major intermodal terminals and multistate businesses;

6. Transportation planning carried out by the State with significant transportation-related actions carried out by other agencies for recreation, tourism, and economic development and for the operation of airports, ports, rail terminals and other intermodal transportation facilities;

7. Public involvement carried out for the statewide planning process with public involvement carried out for the metropolitan planning process;

(b) The degree of consideration and analysis of the factors should be based on the scale and complexity of many issues, including transportation problems, land use, employment, economic development, environmental and housing and community development objectives, the extent of overlap between factors and other circumstances statewide or in subareas within the State.
§ 450.212 Public involvement.

(a) Public involvement processes shall be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement. The processes shall provide for:

(1) Early and continuing public involvement opportunities throughout the transportation planning and programming process;

(2) Timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects;

(3) Reasonable public access to technical and policy information used in the development of the plan and STIP;

(4) Adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the plan and STIP;

(5) A process for demonstrating explicit consideration and response to public input during the planning and program development process;

(6) A process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities;

(7) Periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all and revision of the process as necessary.

(b) Public involvement activities carried out in a metropolitan area in response to metropolitan planning requirements in § 450.322(c) or § 450.324(c) may by agreement of the State and the MPO satisfy the requirements of this section.

(c) During initial development and major revisions of the statewide transportation plan required under § 450.214, the State shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation and other affected agencies, private and public providers of transportation, and other interested parties a reasonable opportunity to comment on the proposed plan. The proposed plan shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment. Likewise, the official statewide transportation plan (see § 450.214(d)) shall be published, with reasonable notification of its availability, or otherwise made readily available for public information.

(d) During development and major revision of the statewide transportation improvement program required under § 450.216, the Governor shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation or other affected agencies, private providers of transportation, and other interested parties, a reasonable opportunity for review and comment on the proposed program.
§ 450.214 Statewide transportation plan.

(a) The State shall develop a statewide transportation plan for all areas of the State.

(b) The plan shall:

(1) Be intermodal (including consideration and provision, as applicable, of elements and connections of and between rail, commercial motor vehicle, waterway, and aviation facilities, particularly with respect to intercity travel) and statewide in scope in order to facilitate the efficient movement of people and goods;

(2) Be reasonably consistent in time horizon among its elements, but cover a period of at least 20 years;

(3) Contain, as an element, a plan for bicycle transportation, pedestrian walkways and trails which is appropriately interconnected with other modes;

(4) Be coordinated with the metropolitan transportation plans required under 23 U.S.C. 134;

(5) Reference, summarize or contain any applicable short range planning studies, strategic planning and/or policy studies, transportation need studies, management system reports and any statements of policies, goals and objectives regarding issues such as transportation, economic development, housing, social and environmental effects, energy, etc., that were significant to development of the plan; and

(6) Reference, summarize or contain information on the availability of financial and other resources needed to carry out the plan.

(c) In developing the plan, the State shall:

(1) Cooperate with the MPOs on the portions of the plan affecting metropolitan planning areas;

(2) Cooperate with the Indian tribal government and the Secretary of the Interior on the portions of the plan affecting areas of the State under the jurisdiction of an Indian tribal government;

(3) Provide for public involvement as required under §450.212;

(4) Provide for substantive consideration and analysis as appropriate of specified factors as required under §450.208; and


(d) The State shall provide and carry out a mechanism to establish the document, or documents, comprising the plan as the official statewide transportation plan.

(e) The plan shall be continually evaluated and periodically updated as appropriate using the procedures in this section for development and establishment of the plan.

§ 450.216 Statewide transportation improvement program (STIP).

(a) Each State shall develop a statewide transportation improvement program for all areas of the State. In case of difficulties in developing the STIP portion for a particular area, e.g., metropolitan area, Indian tribal lands, etc., a partial STIP covering the rest of the State may be developed. The portion of the STIP in a metropolitan...
planning area (the metropolitan TIP developed pursuant to subpart C of this part) shall be developed in cooperation with the MPO. To assist this process, the State will need to provide MPOs with estimates of available Federal and State funds which the MPO can utilize in developing the metropolitan TIP. Metropolitan planning area TIPs shall be included without modification in the STIP, directly or by reference, once approved by the MPO and the Governor and after needed conformity findings are made. Metropolitan TIPs in non-attainment and maintenance areas are subject to the FHWA and the FTA conformity findings before their inclusion in the STIP. In nonattainment and maintenance areas outside metropolitan planning areas, Federal findings of conformity must be made prior to placing projects in the STIP. The State shall notify the appropriate MPO, local jurisdictions, Federal land agency, Indian tribal government, etc. when a TIP including projects under the jurisdiction of the agency has been included in the STIP. All title 23 and Federal Transit Act fund recipients will share information as projects in the STIP are implemented. The Governor shall provide for public involvement in development of the STIP as required by §450.212. In addition, the STIP shall:

(1) Include a list of priority transportation projects proposed to be carried out in the first 3 years of the STIP. Since each TIP is approved by the Governor, the TIP priorities will dictate STIP priorities for each individual metropolitan area. As a minimum, the lists shall group the projects that are to be undertaken in each of the years, e.g., year 1, year 2, year 3;

(2) Cover a period of not less than 3 years, but may at State discretion cover a longer period. If the STIP covers more than 3 years, the projects in the additional years will be considered by the FHWA and the FTA only as informational;

(3) Contain only projects consistent with the statewide plan developed under §450.214;

(4) In nonattainment and maintenance areas, contain only transportation projects found to conform, or from programs that conform, to the requirements contained in 40 CFR part 51;

(5) Be financially constrained by year and include sufficient financial information to demonstrate which projects are to be implemented using current revenue sources while the system as a whole is being adequately operated and maintained. In nonattainment and maintenance areas, projects included in the first two years of the current STIP/TIP shall be limited to those for which funds are available or committed. In the case of proposed funding sources, strategies for ensuring their availability shall be identified;

(6) Contain all capital and non-capital transportation projects (including transportation enhancements, Federal lands highways projects, trails projects, pedestrian walkways, and bicycle transportation facilities), or identified phases of transportation projects, proposed for funding under the Federal Transit Act (49 U.S.C. app. 1602, 1607a, 1612 and 1614) and/or title 23, U.S.C. excluding:

(i) Safety projects funded under section 402 of the Surface Transportation Assistance Act of 1982, as amended (49 U.S.C. app. 2302);

(ii) IVHS planning grants funded under section 6055(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240, 105 Stat. 1914);

(iii) Transit planning grants funded under section 8 or 26 of the Federal Transit Act (49 U.S.C. app. 1607 and 1622);

(iv) Metropolitan planning projects funded under 23 U.S.C. 104(t);

(v) State planning and research projects funded under 23 U.S.C. 207(c)(1) (except those funded with NHS, STP and minimum allocation (MA) funds that the State and MPO for a metropolitan area agree should be in the TIP and consequently must be in the STIP);

and

(vi) Emergency relief projects (except those involving substantial functional, locational or capacity changes);

(7) Contain all regionally significant transportation projects requiring an action by the FHWA or the FTA whether or not the projects are to be funded with title 23, U.S.C. or Federal Transit
Act funds, e.g., addition of an interchange to the Interstate System with State, local and/or private funds, demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act. (The STIP should, for information purposes, include all regionally significant transportation projects proposed to be funded with Federal funds other than those administered by the FHWA or the FTA. It should also include, for information purposes, if appropriate and cited in any TIPs, all regionally significant projects, to be funded with non-Federal funds);

(8) Include for each project the following:
   (i) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;
   (ii) Estimated total cost;
   (iii) The amount of Federal funds proposed to be obligated during each program year;
   (iv) For the first year, the proposed category of Federal funds and source(s) of non-Federal funds;
   (v) For the second and third years, the likely category or possible categories of Federal funds and sources of non-Federal funds;
   (vi) Identification of the agencies responsible for carrying out the project; and

(9) For non-metropolitan areas, include in the first year only those projects which have been selected in accordance with the project selection requirements in § 450.222(c).

(b) Projects that are not considered to be of appropriate scale for individual identification in a given program year may be grouped by function, work type, and/or geographic area using the applicable classifications under 23 CFR 771.117(c) and (d) and/or 49 CFR part 51.

(c) Projects in any of the first three years of the STIP may be moved to any other of the first three years of the STIP subject to the project selection requirements of § 450.222.

(d) The STIP may be amended at any time under procedures agreed to by the cooperating parties consistent with the procedures established in this section (for STIP development), in § 450.222 (for public involvement) and in § 450.220 (for the FHWA and the FTA approval).

§ 450.218 Funding.

Funds provided under sections 8, 9, 18, and 26(a)(2) of the Federal Transit Act and 23 U.S.C. 104(b)(1), 104(b)(3), 104(f)(3) and 307(c)(1) may be used to accomplish activities in this subpart.

§ 450.220 Approvals.

(a) At least every two years, each State shall submit the entire proposed STIP, and amendments as necessary, concurrently to the FHWA and the FTA for joint approval. The State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements of:

(1) 23 U.S.C. 135, section 8(q) of the Federal Transit Act and this part;

(2) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(3) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects (sec. 105(f), Pub. L. 97–424, 96 Stat. 2100; 49 CFR part 23);

(4) The provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations “Transportation for Individuals with Disabilities” (49 CFR parts 27, 37, and 38);

(5) The provisions of 49 CFR part 20 regarding restrictions on influencing certain Federal activities; and

(6) In States containing nonattainment and maintenance areas, sections 174 and 176(c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506(c) and (d)).

(b) The FHWA and the FTA Administrators, in consultation with, where applicable, Federal lands agencies, will review the STIP or amendment and jointly make a finding as to the extent the projects in the STIP are based on a planning process that meets or substantially meets the requirements of title 23, U.S.C., the Federal Transit Act and subparts A, B and C of this part.

(c) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment
meet, to an acceptable degree, the requirements of 23 U.S.C. 135 and these regulations (including subpart C where a metropolitan TIP is involved), they will approve the STIP. Approval action will take one of the following forms, as appropriate:

1. Joint approval of the STIP;
2. Joint approval of the STIP subject to certain corrective actions being taken;
3. Joint approval of the STIP as the basis for approval of identified categories of projects; and/or
4. Under special circumstances, joint approval of a partial STIP covering only a portion of the State.

(d) The joint approval period for a new STIP or amended STIP will not exceed two years. Where the State demonstrates that extenuating circumstances will delay the submittal of a new STIP or amended STIP for approval, FHWA and FTA will consider and take appropriate action on requests to extend the approval beyond two years for all or part of the STIP for a limited period of time. Where the request involves projects in a metropolitan planning area(s), the affected MPO(s) must concur in the request and if the delay was due to the development and approval of the TIP, the affected MPO(s) must provide supporting information for the request. If non-attainment and/or maintenance areas are involved, a request for an extension cannot be granted if the conformity determination on the TIP is no longer valid under EPA's conformity regulations (40 CFR part 51).

(e) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment does not substantially meet the requirements of 23 U.S.C. 135 and this part for any identified categories of projects, they will not approve the STIP.

(f) The FHWA and the FTA will notify the State of actions taken under this section.

(g) Where necessary in order to maintain or establish operations, the Federal Transit Administrator and/or the Federal Highway Administrator may approve operating assistance for specific projects or programs even though the projects or programs may not be included in an approved STIP.

§ 450.222 Project selection for implementation.

(a) Except as provided in §§ 450.220(f) and 450.216(a)(7), only projects included in the Federally approved STIP shall be eligible for funds administered by the FHWA or the FTA.

(b) In metropolitan planning areas, transportation projects requiring title 23 or Federal Transit Act funds administered by the FHWA or the FTA shall be selected in accordance with procedures established pursuant to the project selection portion of the metropolitan planning regulation in subpart C of this part.

(c) Outside metropolitan planning areas, transportation projects undertaken on the National Highway System with title 23 funds and under the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials. Federal lands highway projects shall be selected in accordance with 23 U.S.C. 204. Other transportation projects undertaken with funds administered by the FHWA shall be selected by the State in cooperation with the appropriate affected local officials and transit operators.

(d) The projects in the first year of an approved STIP shall constitute an "agreed to" list of projects for subsequent scheduling and implementation. No further project selection action is required for the implementing agency to proceed with these projects except that if appropriated Federal funds available are significantly less than the authorized amounts, §450.332(c) provides for a revised list of "agreed to" projects to be developed upon the request of the State, MPO, or transit operators. If an implementing agency wishes to proceed with a project in the second and third year of the STIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used. Expedited selection procedures which provide for the advancement of projects from the second or third years of the STIP may be used if agreed to by all the parties involved in the selection.
§ 450.224 Phase-in of new requirements.

The State shall, by January 1, 1995, identify the official statewide transportation plan, described under §450.214, to be used as a basis for subsequently approved STIPs. Until such a plan is identified, but no later than January 1, 1995, the State may identify existing plans and policies which can serve as the official interim plan. STIP development shall be based upon a transportation plan which serves as the official plan (including an interim plan, if appropriate, prior to January 1, 1995, provided that all factors identified in §450.208 are considered).

Subpart C—Metropolitan Transportation Planning and Programming

§ 450.300 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Federal Transit Act, as amended, which require that a Metropolitan Planning Organization (MPO) be designated for each urbanized area and that the metropolitan area has a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods.

§ 450.302 Applicability.

The provisions of this subpart are applicable to agencies involved in the transportation planning, program development, and project selection processes in metropolitan planning areas.

§ 450.304 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C 101(a) are used in this part as so defined.

§ 450.306 Metropolitan planning organization: Designations and redesignation.

(a) Designations of metropolitan planning organizations (MPOs) made after December 18, 1991, shall be by agreement among the Governor(s) and units of general purpose local governments representing 75 percent of the affected metropolitan population (including the central city or cities as defined by the Bureau of the Census), or in accordance with procedures established by applicable State or local law. To the extent possible, only one MPO shall be designated for each UZA or group of contiguous UZAs. More than one MPO may be designated within an UZA only if the Governor(s) determines that the size and complexity of the UZA make designation of more than one MPO appropriate.

(b) The designation shall clearly identify the policy body that is the forum for cooperative decisionmaking that will be taking the required approval actions as the MPO.

(c) To the extent possible, the MPO designated should be established under specific State legislation, State enabling legislation, or by interstate compact, and shall have authority to carry out metropolitan transportation planning.

(d) Redesignation (designation of a new MPO(s) to replace an existing MPO) shall occur by agreement of the Governor and affected local units of government representing 75 percent of the population in the entire metropolitan area. The central city(ies) must be among the units of local government agreeing to the redesignation.

(e) Nothing in this subpart shall be deemed to prohibit the MPO from utilizing the staff resources of other agencies to carry out selected elements of the planning process.

(f) Existing MPO designations remain valid until a new MPO is redesignated, unless revoked by the Governor and local units of government representing 75 percent of the population in the area served by the existing MPO (the central city(ies) must be among those desiring to revoke the MPO designation), or as otherwise provided under State or local procedures. If the Governor and
local officials decide to redesignate an existing MPO, but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally designated.

(g) Redesignation of an MPO in a multistate metropolitan area requires the approval of the Governor of each State and local officials representing 75 percent of the population in the entire metropolitan planning area. The local officials in the central city(ies) must be among those agreeing to the redesignation.

(h) Redesignation of an MPO covering more than one UZA requires the approval of the Governor and local officials representing 75 percent of the population in the metropolitan planning area covered by the current MPO; the local officials in the central city(ies) in each urbanized area must be among those agreeing to the redesignation.

(i) The voting membership of an MPO policy body designated/redesignated subsequent to December 18, 1991, and serving a TMA, must include representation of local elected officials, officials of agencies that administer or operate major modes or systems of transportation, e.g., transit operators, sponsors of major local airports, maritime ports, rail operators, etc. (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials. Where agencies that operate other major modes of transportation do not already have a voice on existing MPOs, the MPOs (in cooperation with the States) are encouraged to provide such agencies a voice in the decisionmaking process, including representation/membership on the policy body and/or other appropriate committees. Further, where appropriate, existing MPOs should increase the representation of local elected officials on the policy board and other committees as a means for encouraging their greater involvement in MPO processes. Adding such representation to an MPO will not, in itself, constitute a redesignation action.

(j) Where the metropolitan planning area boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body and other committees, should be reviewed to ensure that the added area has appropriate representation.

(k) Adding membership (e.g., local elected officials and operators of major modes or systems of transportation, or representatives of newly urbanized areas) to the policy body or expansion of the metropolitan planning area does not automatically require redesignation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The Governor and MPO shall review the previous MPO designation, State and local law, MPO bylaws, etc., to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated or the existing designation is formally revoked in accordance with the procedures of this section.

§ 450.308 Metropolitan planning organization: Metropolitan planning area boundaries.

(a) The metropolitan planning area boundary shall, as a minimum, cover the UZA(s) and the contiguous geographic area(s) likely to become urbanized within the twenty year forecast period covered by the transportation plan described in § 450.322 of this part. The boundary may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For geographic areas designated as nonattainment or maintenance areas (as created by the Clean Air Act Amendments of 1990 (CAA)) for transportation related pollutants under the CAA, the boundaries of the metropolitan planning area shall include at least the boundaries of the nonattainment or maintenance areas, except as otherwise provided by agreement between the MPO and the Governor under the procedures specified in § 450.310(f) of this part. In the absence of a formal agreement between the Governor and the MPO to reduce the metropolitan planning area to an area less than the boundaries of the nonattainment or maintenance area, the entire nonattainment or maintenance
§ 450.310 Metropolitan planning organization: Agreements.

(a) The responsibilities for cooperatively carrying out transportation planning (including corridor and subarea studies) and programming shall be clearly identified in an agreement or memorandum of understanding between the State and the MPO.

(b) There shall be an agreement between the MPO and operators of publicly owned transit services which specifies cooperative procedures for carrying out transportation planning (including corridor and subarea studies) and programming as required by this subpart.

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

(d) To the extent possible, there shall be one cooperative agreement containing the understandings required by paragraphs (a) through (c) of this section among the State, MPO, publicly owned operators of mass transportation services, and air quality agencies.

(e) Where the parties involved agree, the requirement for agreements specified in paragraphs (a), (b), and (c) of this section may be satisfied by including the responsibilities and procedures for carrying out a cooperative process in the unified planning work program or a prospectus as defined in § 450.314(c).

(f) If the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an 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 metropolitan planning area but within the nonattainment or maintenance area. The agreement also must indicate how the total transportation related emissions for the nonattainment or maintenance area, including areas both within and outside the metropolitan planning area, will be treated for the purposes of determining conformity in accordance with the U.S. EPA conformity regulation (40 CFR part 51). The agreement shall address policy mechanisms for resolving conflicts concerning transportation related emissions that may arise between the metropolitan planning area and the portion of the nonattainment or maintenance area outside the metropolitan planning area. Proposals to exclude a portion of the nonattainment or maintenance area from the planning area boundary shall be coordinated with the FHWA, the FTA, the EPA, and the State air quality agency before a final decision is made.
Federal Highway Administration, DOT

§ 450.312 Metropolitan transportation planning: Responsibilities, cooperation, and coordination.

(a) The MPO in cooperation with the State and with operators of publicly owned transit services shall be responsible for carrying out the metropolitan transportation planning process. The MPO, the State and transit operator(s) shall cooperatively determine their mutual responsibilities in the conduct of the planning process, including corridor refinement studies, described in §§ 450.316 through 450.318. They shall cooperatively develop the unified planning work program, transportation plan, and transportation improvement program specified in §§ 450.314 through 450.318. In addition, the development of the plan and TIP shall be coordinated with other providers of transportation, e.g., sponsors of regional airports, maritime port operators, rail freight operators, etc.

(b) The MPO shall approve the metropolitan transportation plan and its periodic updates. The MPO and the Governor shall approve the metropolitan transportation improvement program and any amendments.

(c) In nonattainment or maintenance areas, the MPO shall coordinate the development of the transportation plan with the SIP development process including the development of the transportation control measures. The MPO shall develop or assist in developing the transportation control measures.

(d) In nonattainment or maintenance areas for transportation related pollutants, the MPO shall not approve any transportation plan or program which does not conform with the SIP, as determined in accordance with the U.S. EPA conformity regulation (40 CFR Part 51).

(e) If more than one MPO has authority in a metropolitan planning area (including multi-State metropolitan planning areas) or in an area which is designated as nonattainment or maintenance for transportation related pollutants, the MPOs and the Governor(s) shall cooperatively establish the boundaries of the metropolitan planning area (including the twenty year planning horizon and relationship to the nonattainment or maintenance areas) and the respective jurisdictional responsibilities of each MPO. The MPOs shall consult with each other and the State(s) to assure the preparation of integrated plans and transportation improvement programs for the entire metropolitan planning area. An individual MPO plan and program may be developed separately. However, each plan and program must be consistent with the plans and programs of other MPOs in the metropolitan planning area. For the overall metropolitan planning area, the individual MPO planning process shall reflect coordinated data collection, analysis and development. In those areas where this provision is applicable, coordination efforts shall be initiated and the process and outcomes documented in subsequent transmittals of the UPWP and various planning products (the plan, TIP, etc.) to the State, the FHWA, and the FTA.

(f) The Secretary must designate as transportation management areas all UZAs over 200,000 population as determined by the most recent decennial census. The Secretary designated TMAs by publishing a notice in the FEDERAL REGISTER. Copies of this notice may be obtained from the FHWA.
§ 450.314 Metropolitan transportation planning process: Unified planning work programs.

(a) In TMAs, the MPO(s) in cooperation with the State and operators of publicly owned transit shall develop unified planning work programs (UPWPs) that meet the requirements of 23 CFR part 420, subpart A, and:

(1) Discuss the planning priorities facing the metropolitan planning area and describe all metropolitan transportation and transportation-related air quality planning activities (including the corridor and subarea studies discussed in §450.318) anticipated within the area during the next one or two year period, regardless of funding sources or agencies conducting activities, in sufficient detail to indicate who will perform the work, the schedule for completing it and the products that will be produced;

(2) Document planning activities to be performed with funds provided under title 23, U.S.C., and the Federal Transit Act.

(b) Arrangements may be made with the FHWA and the FTA to combine the UPWP requirements with the work program for other Federal sources of planning funds.

(c) The metropolitan transportation planning process may include the development of a prospectus that establishes a multiyear framework within which the UPWP is accomplished. The prospectus may be used to satisfy the requirements of §450.310 and paragraph (a)(1) of this section.

(d) In areas not designated as TMAs, the MPO in cooperation with the State and transit operators, with the approval of the FHWA and the FTA, may prepare a simplified statement of work, in lieu of a UPWP, that describes who will perform the work and the work that will be accomplished using Federal funds. If a simplified statement of work is used, it may be submitted as part of the Statewide planning work program, in accordance with 23 CFR part 420.

§ 450.316 Metropolitan transportation planning process: Elements.

(a) Section 134(f) of title 23, U.S.C., and Federal Transit Act section 8(f) (49 U.S.C. app. 1607(f)) list 15 factors that must be considered as part of the planning process for all metropolitan areas. The following factors shall be explicitly considered, analyzed as appropriate, and reflected in the planning process products:

(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently;

(2) Consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives;

(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur including:
§ 450.316

(i) The consideration of congestion management strategies or actions which improve the mobility of people and goods in all phases of the planning process; and

(ii) In TMAs, a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operation management strategies (e.g., various elements of IVHS) shall be developed in accordance with § 450.320;

(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);

(5) Programming of expenditures for transportation enhancement activities as required under 23 U.S.C. 133;

(6) The effects of all transportation projects to be undertaken within the metropolitan planning area, without regard to the source of funding (the analysis shall consider the effectiveness, cost effectiveness, and financing of alternative investments in meeting transportation demand and supporting the overall efficiency and effectiveness of transportation system performance and related impacts on community/central city goals regarding social and economic development, housing, and employment);

(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations (supporting technical efforts should provide an analysis of goods and services movement problem areas, as determined in cooperation with appropriate private sector involvement, including, but not limited to, addressing inter-connected transportation access and service needs of intermodal facilities);

(8) Connectivity of roads within metropolitan planning areas with roads outside of those areas;

(9) Transportation needs identified through the use of the management systems required under 23 U.S.C. 303 (strategies identified under each management system will be analyzed during the development of the transportation plan, including its financial component, for possible inclusion in the metropolitan plan and TIP);

(10) Preservation of rights-of-way for construction of future transportation projects, including future transportation corridors;

(11) Enhancement of the efficient movement of freight;

(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement (operating and maintenance costs must be considered in analyzing transportation alternatives);

(13) The overall social, economic, energy, and environmental effects of transportation decisions (including consideration of the effects and impacts of the plan on the human, natural and man-made environment such as housing, employment and community development, consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and appropriate emphasis on transportation-related air quality problems in support of the requirements of 23 U.S.C. 109(h), and section 14 of the Federal Transit Act (49 U.S.C. 1610), section 4(f) of the DOT Act (49 U.S.C. 303) and section 174(b) of the Clean Air Act (42 U.S.C. 7504));

(14) Expansion, enhancement, and increased use of transit services;

(15) Capital investments that would result in increased security in transit systems; and

(16) Recreational travel and tourism.

(b) In addition, the metropolitan transportation planning process shall:

(1) Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and support early and continuing involvement of the public in developing plans for...
§ 450.316  23 CFR Ch. I (4–1–01 Edition)

and TIPs and meets the requirements and criteria specified as follows:

(i) Require a minimum public comment period of 45 days before the public involvement process is initially adopted or revised;

(ii) Provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs and projects (including but not limited to central city and other local jurisdiction concerns);

(iii) Provide reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;

(iv) Require adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs (in nonattainment areas, classified as serious and above, the comment period shall be at least 30 days for the plan, TIP and major amendment(s));

(v) Demonstrate explicit consideration and response to public input received during the planning and program development processes;

(vi) Seek out and consider the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households;

(vii) When significant written and oral comments are received on the draft transportation plan or TIP (including the financial plan) as a result of the public involvement process or the interagency consultation process required under the U.S. EPA’s conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP;

(viii) If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available;

(ix) Public involvement processes shall be periodically reviewed by the MPO in terms of their effectiveness in assuring that the process provides full and open access to all;

(x) These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes;

(xi) Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs;

(2) Be consistent with Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794, which ensure that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving Federal assistance from the United States Department of Transportation;

(3) Identify actions necessary to comply with the Americans With Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations “Transportation for Individuals With Disabilities” (49 CFR parts 27, 37, and 38);

(4) Provide for the involvement of traffic, ridesharing, parking, transportation safety and enforcement agencies; commuter rail operators; airport and port authorities; toll authorities; appropriate private transportation providers, and where appropriate city officials; and

(5) Provide for the involvement of local, State, and Federal environment resource and permit agencies as appropriate;

(c) In attainment areas not designated as TMAs simplified procedures for the development of plans and programs, if considered appropriate, shall
be proposed by the MPO in cooperation with the State and transit operator, and submitted by the State for approval by the FHWA and the FTA. In developing proposed simplified planning procedures, consideration shall be given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart including air quality, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be approved by the MPO and a TIP to be approved by the MPO and the Governor.

(d) The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and update of the transportation plan. The reports shall be reasonably available to interested parties, consistent with §450.316(b)(1).


§ 450.318 Metropolitan transportation planning process: Major metropolitan transportation investments.

(a) Where the need for a major metropolitan transportation investment is identified, and Federal funds are potentially involved, major investment (corridor or subarea) studies shall be undertaken to develop or refine the plan and lead to decisions by the MPO, in cooperation with participating agencies, on the design concept and scope of the investment. Where the studies have not been completed prior to plan approval, the provisions of §450.322(b)(8) apply.

(b) When any of the implementing agencies or the MPO wish to initiate a major investment study, a meeting will be convened to determine the extent of the analyses and agency roles in a cooperative process which involves the MPO, the State department of transportation, public transit operators, environmental, resource and permit agencies, local officials, the FHWA and the FTA and where appropriate community development agencies, major governmental housing bodies, and such other related agencies as may be impacted by the proposed scope of analysis. A reasonable opportunity, consistent with §450.316(b)(1), shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to participate in the cooperative process. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of demand management, and operating characteristics.

(c) To the extent appropriate as determined under paragraph (b) of this section, major investment studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of reasonable alternatives and such factors as mobility improvements; social, economic, and environmental effects; safety; operating efficiencies; land use and economic development; financing; and energy consumption.

(d) These major investment studies will serve as the “alternatives analyses” required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 “New Start” funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A) Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, operating efficiency, etc.

(e) These major investment studies also will, when appropriate, serve as the analysis of demand reduction and operational management strategies pursuant to 23 CFR 500.109(b).

(f) A major investment study will include environmental studies which will
be used for environmental documents as described in paragraphs (f)(1) and (2) of this section:

(1) As a minimum the participating agencies will use the major investment study as input to an environmental impact statement or environmental assessment prepared subsequent to the completion of the study. In such a case, the major investment study reports shall document the consideration given to alternatives and their impacts; or

(2) The participating agencies may elect to develop a draft environmental impact statement or environmental assessment as part of the major investment study. At any time after the completion of the study and the inclusion of the major transportation investment in the plan and the TIP the participating agencies may request the development of final environmental decision documents required under NEPA for such major transportation investments, culminating in the execution of a Record of Decision or Finding of No Significant Impact by the FHWA and/or the FTA.

(g) Major investment studies may lead to decisions that modify the project design concept and scope assumed in the plan development process. In this case, the study shall lead to the specification of a project’s design concept and scope in sufficient detail to meet the requirements of the U.S. EPA conformity regulations (40 CFR part 51).

(h) Major investment studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 16072, and 1622) and planning and capital funds apportioned under title 23, U.S.C., and shall be included in the UPWP. If CMAQ, STP, NHS, or other capital funds administered by the FHWA are utilized for this purpose, the study must also be included in the TIP.

(i) Where the environmental process has been completed and a Record of Decision or Finding of No Significant Impact has been signed, §450.318 does not apply. Where the environmental process has been initiated but not completed, the FHWA and the FTA shall be consulted on appropriate modifications to meet the requirements of this section.


§ 450.320 Metropolitan transportation planning process; Relation to management systems.

(a) Within all metropolitan areas, congestion, public transportation, and intermodal management systems, to the extent appropriate, shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. 5303–5305.

(b) In TMAs designated as nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles (a new general purpose highway on a new location or adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks) unless the project results from a congestion management system (CMS) meeting the requirements of 23 CFR part 500. Such projects shall incorporate all reasonably available strategies to manage the SOV facility effectively (or to facilitate its management in the future). Other travel demand reduction and operational management strategies, as appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself, shall be committed to by the State and the MPO for implementation in a timely manner, but no later than the completion date for the SOV project. Projects that had advanced beyond the NEPA stage prior to April 6, 1992, and which are actively advancing to implementation, e.g., right-of-way acquisition has been approved, shall be deemed programmed and not subject to this provision.

(c) In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies and meets the requirements of 23 CFR part 500.
§ 450.322 Metropolitan transportation planning process: Transportation plan.

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty year planning horizon. The plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to confirm its validity and its consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period. The transportation plan must be approved by the MPO.

(b) In addition, the plan shall:

(1) Identify the projected transportation demand of persons and goods in the metropolitan planning area over the period of the plan;

(2) Identify adopted congestion management strategies including, as appropriate, traffic operations, ridesharing, pedestrian and bicycle facilities, alternative work schedules, freight movement options, high occupancy vehicle treatments, telecommuting, and public transportation improvements (including regulatory, pricing, management, and operational options), that demonstrate a systematic approach in addressing current and future transportation demand;

(3) Identify pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. 217(g);

(4) Reflect the consideration given to the results of the management systems, including in TMAs that are non-attainment areas for carbon monoxide and ozone, identification of SOV projects that result from a congestion management system that meets the requirements of 23 CFR part 500;

(5) Assess capital investment and other measures necessary to preserve the existing transportation system (including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities) and make the most efficient use of existing transportation facilities to relieve vehicular congestion and enhance the mobility of people and goods;

(6) Include design concept and scope descriptions of all existing and proposed transportation facilities in sufficient detail, regardless of the source of funding, in nonattainment and maintenance areas to permit conformity determinations under the U.S. EPA conformity regulations at 40 CFR part 51. In all areas, all proposed improvements shall be described in sufficient detail to develop cost estimates;

(7) Reflect a multimodal evaluation of the transportation, socioeconomic, environmental, and financial impact of the overall plan, including all major transportation investments in accordance with § 450.318;

(8) For major transportation investments for which analyses are not complete, indicate that the design concept and scope (mode and alignment) have not been fully determined and will require further analysis. The plan shall identify such study corridors and subareas and may stipulate either a set of assumptions (assumed alternatives) concerning the proposed improvements or a no-build condition pending the completion of a corridor or subarea level analysis under § 450.318. In nonattainment and maintenance areas, the set of assumed alternatives shall be in sufficient detail to permit plan conformity determinations under the U.S. EPA conformity regulations (40 CFR part 51);

(9) Reflect, to the extent that they exist, consideration of: the area’s comprehensive long-range land use plan
§ 450.324 Transportation improvement program: General.

(a) The metropolitan transportation planning process shall include development of a transportation improvement program (TIP) for the metropolitan planning area by the MPO in cooperation with the State and public transit operators.

(b) The TIP must be updated at least every two years and approved by the MPO and the Governor. The frequency and cycle for updating the TIP must be compatible with the STIP development and approval process. Since the TIP becomes part of the STIP, the TIP lapses when the FHWA and FTA approval for the STIP lapses. In the case of extenuating circumstances, FHWA and FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the STIP in accordance with §450.220(d).

Although metropolitan TIPs, unlike

and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and environmental resource plans; local, State, and national goals and objectives such as linking low income households with employment opportunities; and the area’s overall social, economic, environmental, and energy conservation goals and objectives;

(10) Indicate, as appropriate, proposed transportation enhancement activities as defined in 23 U.S.C. 101(a); and

(11) Include a financial plan that demonstrates the consistency of proposed transportation investments with already available and projected sources of revenue. The financial plan shall compare the estimated revenue from existing and proposed funding sources that can reasonably be expected to be available for transportation uses, and the estimated costs of constructing, maintaining and operating the total (existing plus planned) transportation system over the period of the plan. The estimated revenue by existing revenue source (local, State, and Federal and private) available for transportation projects shall be determined and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls shall be identified, including strategies for ensuring their availability for proposed investments. Existing and proposed revenues shall cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections shall be based on the data reflecting the existing situation and historical trends. For non-attainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of projects and programs to reach air quality compliance.

(c) There must be adequate opportunity for public official (including elected officials) and citizen involvement in the development of the transportation plan before it is approved by the MPO, in accordance with the requirements of §450.316(b)(1). Such procedures shall include opportunities for interested parties (including citizens, affected public agencies, representatives of transportation agency employees, and private providers of transportation) to be involved in the early stages of the plan development/update process. The procedures shall include publication of the proposed plan or other methods to make it readily available for public review and comment and, in nonattainment TMAs, an opportunity for at least one formal public meeting annually to review planning assumptions and the plan development process with interested parties and the general public. The procedures also shall include publication of the approved plan or other methods to make it readily available for information purposes.

(d) In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new/revised plan in accordance with the Clean Air Act and the EPA conformity regulations (40 CFR part 51).

(e) Although transportation plans do not need to be approved by the FHWA or the FTA, copies of any new/revised plans must be provided to each agency.

statewide TIPs, do not need to be approved by the FHWA or the FTA. Copies of any new or amended TIPs must be provided to each agency. Additionally, in nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new or amended TIPs (unless the amendment consists entirely of exempt projects) in accordance with the Clean Air Act requirements and the EPA conformity regulations (40 CFR part 51).

(c) There must be reasonable opportunity for public comment in accordance with the requirements of §450.316(b)(1) and, in nonattainment TMA, an opportunity for at least one formal public meeting during the TIP development process. This public meeting may be combined with the public meeting required under §450.322(c). The proposed TIP shall be published or otherwise made readily available for review and comment. Similarly, the approved TIP shall be published or otherwise made readily available for information purposes.

(d) The TIP shall cover a period of not less than 3 years, but may cover a longer period if it identifies priorities and financial information for the additional years. The TIP must include a priority list of projects to be carried out in the first three years. As a minimum, the priority list shall group the projects that are to be undertaken in each of the years, i.e., year 1, year 2, year 3. In nonattainment and maintenance areas, the TIP shall give priority to eligible TCMs identified in the approved SIP in accordance with the U.S. EPA conformity regulation (40 CFR part 51) and shall provide for their timely implementation.

(e) The TIP shall be financially constrained by year and include a financial plan that demonstrates which projects can be implemented using current revenue sources and which projects are to be implemented using proposed revenue sources (while the existing transportation system is being adequately operated and maintained). The financial plan shall be developed by the MPO in cooperation with the State and the transit operator. The State and the transit operator must provide MPOs with estimates of available Federal and State funds which the MPOs shall utilize in developing financial plans. It is expected that the State would develop this information as part of the STIP development process and that the estimates would be refined through this process. Only projects for which construction and operating funds can reasonably be expected to be available may be included. In the case of new funding sources, strategies for ensuring their availability shall be identified. In developing the financial analysis, the MPO shall take into account all projects and strategies funded under title 23, U.S.C., and the Federal Transit Act, other Federal funds, local sources, State assistance, and private participation. In nonattainment and maintenance areas, projects included for the first two years of the current TIP shall be limited to those for which funds are available or committed.

(f) The TIP shall include:

1. All transportation projects, or identified phases of a project, (including pedestrian walkways, bicycle transportation facilities and transportation enhancement projects) within the metropolitan planning area proposed for funding under title 23, U.S.C., (including Federal Lands Highway projects) and the Federal Transit Act, excluding safety projects funded under 23 U.S.C. 402, emergency relief projects (except those involving substantial functional, locational and capacity changes), and planning and research activities (except those funded with NHS, STP, and/or MA funds). Planning and research activities funded with NHS, STP and/or MA funds, other than those used for major investment studies, may be excluded from the TIP by agreement of the State and the MPO;

2. Only projects that are consistent with the transportation plan;

3. All regionally significant transportation projects for which an FHWA or the FTA approval is required whether or not the projects are to be funded with title 23, U.S.C., or Federal Transit Act funds, e.g., addition of an interchange to the Interstate System with State, local, and/or private funds, demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act, etc.;
§ 450.324  [23 CFR Ch. I (4–1–01 Edition)]

(4) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant transportation projects proposed to be funded with Federal funds, including intermodal facilities, not covered in paragraphs (f)(1) or (f)(3) of this section; and

(5) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant projects to be funded with non-Federal funds.

(g) With respect to each project under paragraph (f) of this section the TIP shall include:

(1) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(2) Estimated total cost;

(3) The amount of Federal funds proposed to be obligated during each program year;

(4) Proposed source of Federal and non-Federal funds;

(5) Identification of the recipient/subrecipient and State and local agencies responsible for carrying out the project;

(6) In nonattainment and maintenance areas, identification of those projects which are identified as TCMs in the applicable SIP; and

(7) In areas with Americans with Disabilities Act required Paratransit and key station plans, identification of those projects which will implement the plans.

(h) In nonattainment and maintenance areas, projects included shall be specified in sufficient detail (design concept and scope) to permit air quality analysis in accordance with the U.S. EPA conformity requirements (40 CFR part 51).

(i) Projects proposed for FHWA and/or FTA funding that are not considered by the State and MPO to be of appropriate scale for individual identification in a given program year may be grouped by function, geographic area, and work type using applicable classifications under 23 CFR 771.117 (c) and (d). In nonattainment and maintenance areas, classifications must be consistent with the exempt project classifications contained in the U.S. EPA conformity requirements (40 CFR part 51).

(j) Projects utilizing Federal funds that have been allocated to the area pursuant to 23 U.S.C. 133(d)(3)(E) shall be identified.

(k) The total Federal share of projects included in the TIP proposed for funding under section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) may not exceed section 9 authorized funding levels available to the area for the program year.

(l) Procedures or agreements that distribute suballocated Surface Transportation Program or section 9 funds to individual jurisdictions or modes within the metropolitan area by predetermined percentages or formulas are inconsistent with the legislative provisions that require MPOs in cooperation with the State and transit operators to develop a prioritized and financially constrained TIP and shall not be used unless they can be clearly shown to be based on considerations required to be addressed as part of the planning process.

(m) For the purpose of including Federal Transit Act section 3 funded projects in a TIP the following approach shall be followed:

(1) The total Federal share of projects included in the first year of the TIP shall not exceed levels of funding committed to the area; and

(2) The total Federal share of projects included in the second, third and/or subsequent years of the TIP may not exceed levels of funding committed, or reasonably expected to be available, to the area.

(n) As a management tool for monitoring progress in implementing the transportation plan, the TIP shall:

(1) Identify the criteria and process for prioritizing implementation of transportation plan elements (including intermodal trade-offs) for inclusion in the TIP and any changes in priorities from previous TIPs;

(2) List major projects from the previous TIP that were implemented and identify any significant delays in the planned implementation of major projects;

(3) In nonattainment and maintenance areas, describe the progress in implementing any required TCMs, including the reasons for any significant delays in the planned implementation.
§ 450.326 Transportation improvement program: Modification.

The TIP may be modified at any time consistent with the procedures established in this part for its development and approval. In nonattainment or maintenance areas for transportation related pollutants if the TIP is amended by adding or deleting projects which contribute to and/or reduce transportation related emissions or replaced with a new TIP, new conformity determinations by the MPO and the FHWA and the FTA will be necessary. Public involvement procedures consistent with §450.316(b)(1) shall be utilized in amending the TIP, except that these procedures are not required for TIP amendments that only involve projects of the type covered in §450.324(1).

§ 450.328 Transportation improvement program: Relationship to statewide TIP.

(a) After approval by the MPO and the Governor, the TIP shall be included without modification, directly or by reference, in the STIP program required under 23 U.S.C. 133 and consistent with §450.220, except that in nonattainment and maintenance areas, a conformity finding by the FHWA and the FTA must be made before it is included in the STIP. After approval by the MPO and the Governor, a copy shall be provided to the FHWA and the FTA.

(b) The State shall notify the appropriate MPO and Federal Lands Highways Program agencies, e.g., Bureau of Indian Affairs and/or National Park Service, when a TIP including projects under the jurisdiction of these agencies has been included in the STIP.

§ 450.330 Transportation improvement program: Action required by FHWA/FTA.

(a) The FHWA and the FTA must jointly find that each metropolitan TIP is based on a continuing, comprehensive transportation process carried on cooperatively by the States, MPOs and transit operators in accordance with the provisions of 23 U.S.C. 134 and section 8 of the Federal Transit Act (49 U.S.C. app. 1607). This finding shall be based on the self-certification statement submitted by the State and MPO under §450.334 and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the FHWA and the FTA must also jointly find that the metropolitan TIP conforms with the adopted SIP and that priority has been given to the timely implementation of transportation control measures contained in the SIP in accordance with 40 CFR part 51. As part of their review in nonattainment areas requiring TCMs, the FHWA and the FTA will specifically consider any comments relating to the financial plans for the plan and TIP contained in the summary of significant comments required under §450.316(b). If the TIP is found to be in nonconformance with the SIP, the TIP shall be returned to the Governor and the MPO with the joint finding. If the TIP is found to conform with the SIP, the Governor/MPO shall be notified of the joint finding. After the FHWA and the FTA find the TIP to be in conformance, the TIP shall be incorporated, without modification, into the STIP, directly or by reference.

§ 450.332 Project selection for implementation.

(a) In areas not designated as TMAs and when §450.332(c) does not apply, projects to be implemented using title 23 funds other than Federal lands projects or Federal Transit Act funds
§ 450.334 Metropolitan transportation planning process: Certification.

(a) The State and the MPO shall annually certify to the FHWA and the FTA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements of:

1. Section 134 of title 23, U.S.C., section 8 of the Federal Transit Act (49 U.S.C. app. 1607) and this part;
2. Sections 174 and 176 (c) and (d) of the Clean Air Act (42 U.S.C. 7504, 7506 (c) and (d));
3. Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;
4. Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded planning projects (sec. 105(f), Pub. L. 97–424, 96 Stat. 2100; 49 CFR part 23); and

(b) The FHWA and the FTA jointly will review and evaluate the transportation planning process for each TMA (as appropriate but no less than once every three years) to determine if the process meets the requirements of this subpart.

(c) In TMAs that are nonattainment or maintenance areas for transportation related pollutants, the FHWA and the FTA will also review and evaluate the transportation planning process to assure that the MPO has an adequate process to ensure conformity of plans and programs in accordance with procedures contained in 40 CFR part 51.

(d) Projects not included in the Federally approved STIP will not be eligible for funding with title 23, U.S.C., or Federal Transit Act funds.

(e) In nonattainment and maintenance areas, priority will be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the U.S. EPA conformity regulations at 40 CFR part 51.
§ 450.336 Phase-in of new requirements.

(a) Except for reflecting the consideration given the results of the management systems, the planning process and plans in nonattainment areas requiring TCMs shall comply, to the extent possible, with the requirements of this subpart by October 1, 1994. All other metropolitan areas shall comply to the extent possible with the requirements of this subpart by December 18, 1994. Where time does not permit a quantitative analysis of certain factors, a qualitative analysis of those factors will be acceptable. If a forecast period of less than twenty years is acceptable for SIP development and air quality conformity purposes, that same time period will be acceptable for transportation planning. The initial plan update shall be financially feasible, taking into account capital costs and the funds reasonably available for capital improvements, as well as addressing to the extent possible the costs of and revenues available for operating and maintenance of the transportation system. Where TCMs are required, the plan update process shall be coordinated with the process for developing TCMs. The planning process for subsequent updates of the plan and the updated plans shall comply with the requirements of this subpart. Plan updates performed in all areas must consider the results of the management systems (specified in 23 CFR part 500) as they become available. The plan shall reflect this consideration.

(b) (1) During the period prior to the full implementation of the CMS in a TMA, the MPO in cooperation with the State, the public transit operators, and other operators of major modes of transportation shall identify the location of the most serious congestion problems in the metropolitan area and proceed with the development of actions to address these problems.

(2) Prior to the full implementation of a CMS, an adequate interim CMS in a TMA designated as nonattainment for carbon monoxide and/or ozone shall, as a minimum, include a process that results in an appropriate analysis of all
reasonably available (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in SOV capacity is proposed. This analysis must demonstrate how far such strategies can go in eliminating the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, then all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner but no later than completion of construction of the SOV facility. If the area does not already have a traffic management and carpool/vanpool program, the establishment of such programs must be a part of the commitment.

(3) In TMAs that are nonattainment for carbon monoxide and/or ozone, the MPO, a State and/or transit operator may not advance a project utilizing Federal funds that provides a significant capacity increase for SOVs (adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks, or a new highway on a new location) beyond the NEPA process unless an interim CMS is in place that meets the criteria in paragraphs (b)(1) and (b)(2) of this section and the project results from this interim CMS.

(4) Projects that are part of or consistent with a State mandated congestion management system/plan are not subject to the requirements in paragraphs (b)(1) and (b)(2) of this section.

(5) Projects advanced beyond the NEPA process as of April 6, 1992 and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.

§ 470.101 Purpose.

This part sets forth policies and procedures relating to the identification of Federal-aid highways, the functional classification of roads and streets, the designation of urban area boundaries,
§ 470.103 Definitions.

Except as otherwise provided in this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party’s views.

Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs, and schedules of other agencies or entities with legal standing, and adjustment of plans, programs, and schedules to achieve general consistency.

Federal-aid highway systems means the National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways (the “Interstate System”).

Federal-aid highways means highways on the Federal-aid highway systems and all other public roads not classified as local roads or rural minor collectors.

Governor means the chief executive of the State and includes the Mayor of the District of Columbia.

Metropolitan planning organization (MPO) means the forum for cooperative transportation decisionmaking for the metropolitan planning area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and 49 U.S.C. 5303-5305 must be carried out.

Responsible local officials means—

(1) In urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor, or

(2) In rural areas and urban areas not within any urbanized area, principal elected officials of general purpose local governments.

State means any one of the fifty States, the District of Columbia, Puerto Rico, or, for purposes of functional classification of highways, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

§ 470.105 Urban area boundaries and highway functional classification.

(a) Urban area boundaries. Routes on the Federal-aid highway systems may be designated in both rural and urban areas. Guidance for determining the boundaries of urbanized and nonurbanized urban areas is provided in the “Federal-Aid Policy Guide,” Chapter 4 [G 4063.0], dated December 9, 1991.1

(b) Highway Functional Classification.

(1) The State transportation agency shall have the primary responsibility for developing and updating a statewide highway functional classification in rural and urban areas to determine functional usage of the existing roads and streets. Guidance criteria and procedures are provided in the FHWA publication “Highway Functional Classification—Concepts, Criteria and Procedures.”2 The State shall cooperate with responsible local officials, or appropriate Federal agency in the case of areas under Federal jurisdiction, in developing and updating the functional classification.

(2) The results of the functional classification shall be mapped and submitted to the Federal Highway Administration (FHWA) for approval and when approved shall serve as the official record for Federal-aid highways and the basis for designation of the National Highway System.

§ 470.107 Federal-aid highway systems.

(a) Interstate System. (1) The Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate System) shall consist of routes of highest importance to the Nation, built to the uniform geometric and construction standards of 23 U.S.C. 109(h), which connect, as directly as practicable, the principal metropolitan areas, cities, and industrial centers, including important routes into,
Federal Highway Administration, DOT

§ 470.111 Interstate System procedures.

(a) Proposals for system actions on the Interstate System shall include a route description and a statement of justification. Proposals shall also include statements regarding coordination with adjoining States on State-line connections, with responsible local officials, and with officials of areas under Federal jurisdiction.

(b) Proposals for Interstate or future Interstate designation under 23 U.S.C. 139(a) or (b), as logical additions or connections, shall consider the criteria contained in appendix A of this subpart. For designation as a part of the Interstate System, 23 U.S.C. 139(a) requires that a highway meet all the standards of a highway on the Interstate System, be a logical addition or connection to the Interstate System, and have the affirmative recommendation of the State or States involved.

§ 470.111 Intersect System procedures.

(a) Proposals for system actions on the Interstate System shall include a route description and a statement of justification. Proposals shall also include statements regarding coordination with adjoining States on State-line connections, with responsible local officials, and with officials of areas under Federal jurisdiction.

(b) Proposals for Interstate or future Interstate designation under 23 U.S.C. 139(a) or (b), as logical additions or connections, shall consider the criteria contained in appendix A of this subpart. For designation as a part of the Interstate System, 23 U.S.C. 139(a) requires that a highway meet all the standards of a highway on the Interstate System, be a logical addition or connection to the Interstate System, and have the affirmative recommendation of the State or States involved.

§ 470.109 System procedures—General.

(a) The State transportation agency, in consultation with responsible local officials, shall have the responsibility for proposing to the Federal Highway Administration all official actions regarding the designation, or revision, of the Federal-aid highway systems.

(b) The routes of the Federal-aid highway systems shall be proposed by coordinated action of the State transportation agencies where the routes involve State-line connections.

(c) The designation of routes on the Federal-aid highway systems shall be in accordance with the planning process required, pursuant to the provisions at 23 U.S.C. 135, and, in urbanized areas, the provisions at 23 U.S.C. 134(a). The State shall cooperate with local and regional officials. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under 23 U.S.C. 134.

(d) In areas under Federal jurisdiction, the designation of routes on the Federal-aid highway systems shall be coordinated with the appropriate Federal agency.
§ 470.113 to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the FHWA Administrator and the State or States involved. Such highways must also be on the National Highway System.

(c) Proposals for Interstate designation under 23 U.S.C. 139(c) shall pertain only to Alaska or Puerto Rico. For designation as parts of the Interstate System, 23 U.S.C. 139(c) requires that highway segments be in States which have no Interstate System; be logical components to a system serving the State’s principal cities, national defense needs and military installations, and traffic generated by rail, water, and air transportation modes; and have been constructed to the geometric and construction standards adequate for current and probable future traffic demands and the needs of the locality of the segment. Such highways must also be on the National Highway System.

(d) Routes proposed for Interstate designation under section 332(a)(2) of the NHS Designation Act of 1995 (NHS Act) shall be constructed to Interstate standards and connect to the Interstate System. Proposals shall consider the criteria contained in appendix B of this subpart.

(e) Proposals for Interstate route numbering shall be submitted by the State transportation agency to the Route Numbering Committee of the American Association of State Highway and Transportation Officials.

(f) Signing of corridors federally designated as future Interstate routes can follow the criteria contained in appendix C of this subpart. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under 23 U.S.C. 139, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

§ 470.113 National Highway System procedures.

(a) Proposals for system actions on the National Highway System shall include a route description, a statement of justification, and statements of coordination with adjoining States on State-line connections, with responsible local officials, and with officials of areas under Federal jurisdiction.

(b) Proposed modifications to the National Highway System shall enhance the national transportation characteristics of the National Highway System and shall follow the criteria listed in § 470.107. Proposals shall also consider the criteria contained in appendix D of this subpart.

§ 470.115 Approval authority.

(a) The Federal Highway Administrator will approve Federal-aid highway system actions involving the designation, or revision, of routes on the Interstate System, including route numbers, future Interstate routes, and routes on the National Highway System.

(b) The Federal Highway Administrator will approve functional classification actions.

APPENDIX A TO SUBPART A OF PART 470—GUIDANCE CRITERIA FOR EVALUATING REQUESTS FOR INTERSTATE SYSTEM DESIGNATIONS UNDER 23 U.S.C. 139 (A) AND (B)

Section 139 (a) and (b), of title 23, U.S.C., permits States to request the designation of National Highway System routes as parts or future parts of the Interstate System. The FHWA Administrator may approve such a request if the route is a logical addition or connection to the Interstate System and has been, or will be, constructed to meet Interstate standards. The following are the general criteria to be used to evaluate 23 U.S.C. 139 requests for Interstate System designations.

1. The proposed route should be of sufficient length to serve long-distance Interstate travel, such as connecting routes between principal metropolitan cities or industrial centers important to national defense and economic development.

2. The proposed route should not duplicate other Interstate routes. It should serve Interstate traffic movement not provided by another Interstate route.
APPENDIX C TO SUBPART A OF PART 470—POLICY FOR THE SIGNING AND NUMBERING OF FUTURE INTERSTATE CORRIDORS DESIGNATED BY SECTION 332 OF THE NHS DESIGNATION ACT OF 1995 OR DESIGNATED UNDER 23 U.S.C. 139(b)

Policy

State transportation agencies are permitted to erect informational Interstate signs along a federally designated future Interstate corridor only after the specific route location has been established for the route to be constructed to Interstate design standards.

Conditions

1. The corridor must have been designated a future part of the Interstate System under section 332(a)(2) of the NHS Designation Act of 1995 or 23 U.S.C. 139(b).

2. The specific route location to appropriate termini must have received Federal Highway (FHWA) environmental clearance. Where FHWA environmental clearance is not required or Interstate standards have been met, the route location must have been publicly announced by the State.

3. Numbering of future Interstate route segments must be coordinated with affected States and be approved by the American Association of State Highway and Transportation Officials and the FHWA at Headquarters. Short portions of a multistate corridor may require use of an interim 3-digit number.

4. The State shall coordinate the location and content of signing near the State line with the adjacent State.
Pt. 470, Subpt. A, App. D

5. Signing and other identification of a future Interstate route segment must not indicate, nor imply, that the route is on the Interstate System.

6. The FHWA Regional Office must confirm in advance that the above conditions have been met and approve the general locations of signs.

SIGN DETAILS

1. Signs may not be used to give directions and should be away from directional signs, particularly at interchanges.

2. An Interstate shield may be located on a green informational sign of a few words. For example: Future Interstate Corridor or Future Interstate.

3. The Interstate shield may not include the word “Interstate.”

4. The FHWA Division Office must approve the signs as to design, wording, and detailed location.

APPENDIX D TO SUBPART A OF PART 470—GUIDANCE CRITERIA FOR EVALUATING REQUESTS FOR MODIFICATIONS TO THE NATIONAL HIGHWAY SYSTEM

Section 103(b), of title 23, U.S.C., allows the States to propose modifications to the National Highway System (NHS) and authorizes the Secretary to approve such modifications provided that they meet the criteria established for the NHS and enhance the characteristics of the NHS. In proposing modifications under 23 U.S.C. 103(b), the States must cooperate with local and regional officials. In urbanized areas, the local officials must act through the metropolitan planning organization (MPO) designated for such areas under 23 U.S.C. 134. The following guidance criteria should be used by the States to develop proposed modifications to the NHS:

1. Proposed additions to the NHS should be included in either an adopted State or metropolitan transportation plan or program.

2. Proposed additions should connect at each end with other routes on the NHS or serve a major traffic generator.

3. Proposals should be developed in consultation with local and regional officials.

4. Proposals to add routes to the NHS should include information on the type of traffic served (i.e., percent of trucks, average trip length, local, commuter, interregional, interstate) by the route, the population centers or major traffic generators served by the route, and how this service compares with existing NHS routes.

5. Proposals should include information on existing and anticipated needs and any planned improvements to the route.

6. Proposals should include information concerning the possible effects of adding or deleting a route to or from the NHS.

7. Proposals to add routes to the NHS should include an assessment of whether modifications (adjustments or deletions) to existing NHS routes, which provide similar service, may be appropriate.

8. Proposed modifications that might affect adjoining States should be developed in cooperation with those States.

9. Proposed modifications consisting of connections to major intermodal facilities should be developed using the criteria set forth below. These criteria were used for identifying initial NHS connections to major intermodal terminals. The primary criteria are based on annual passenger volumes, annual freight volumes, or daily vehicular traffic on one or more principal routes that serve the intermodal facility. The secondary criteria include factors which underscore the importance of an intermodal facility within a specific State.

PRIMARY CRITERIA

Commercial Aviation Airports

1. Passengers—scheduled commercial service with more than 250,000 annual enplanements.

2. Cargo—100 trucks per day in each direction on the principal connecting route, or 100,000 tons per year arriving or departing by highway mode.

Ports

1. Terminals that handle more than 50,000 TEUs (a volumetric measure of containerized cargo which stands for twenty-foot equivalent units) per year, or other units measured that would convert to more than 100 trucks per day in each direction. (Trucks are defined as large single-unit trucks or combinations vehicles handling freight.)

2. Bulk commodity terminals that handle more than 500,000 tons per year by highway or rail.

3. Terminals that handle more than 50,000 passengers per year or 1,000 passengers per day for at least 90 days during the year.

Truck/Rail

1. 50,000 TEUs per year, or 100 trucks per day, in each direction on the principal connecting route, or other units measured that would convert to more than 100 trucks per day in each direction. (Trucks are defined as...
large single-unit trucks or combination vehicles carrying freight.)

Pipeines
1. 100 trucks per day in each direction on the principal connecting route.

Amtrak
1. 100,000 passengers per year (entrimpments and detrainment). Joint Amtrak, intercity bus and public transit terminals should be considered based on the combined passenger volumes. Likewise, two or more separate facilities in close proximity should be considered based on combined passenger volumes.

Intercity Bus
1. 100,000 passengers per year (boardings and deboardings).

Public Transit
1. Stations with park and ride lots with more than 500 vehicle parking spaces, or 5,000 daily bus or rail passengers, with significant highway access (i.e., a high percentage of the passengers arrive by cars and buses using a route that connects to another NHS route), or a major hub terminal that provides for the transfer of passengers among several bus routes. (These hubs should have a significant number of buses using a principal route connecting with the NHS.)

Ferries
1. Interstate/international—1,000 passengers per day for at least 90 days during the year. (A ferry which connects two terminals within the same metropolitan area should be considered as local, not interstate.)
2. Local—see public transit criteria above.

SECONDARY CRITERIA
Any of the following criteria could be used to justify an NHS connection to an intermodal terminal where there is a significant highway interface:
1. Intermodal terminals that handle more than 20 percent of passenger or freight volumes by mode within a State;
2. Intermodal terminals identified either in the Intermodal Management System or the State and metropolitan transportation plans as a major facility;
3. Significant investment in, or expansion of, an intermodal terminal; or
4. Connecting routes targeted by the State, MPO, or others for investment to address an existing, or anticipated, deficiency as a result of increased traffic.

PROXIMATE CONNECTIONS
Intermodal terminals, identified under the secondary criteria noted above, may not have sufficient highway traffic volumes to justify an NHS connection to the terminal. States and MPOs should fully consider whether a direct connection should be identified for such terminals, or whether being in the proximity (2 to 3 miles) of an NHS route is sufficient.

Subparts B–C [Reserved]

PART 476—INTERSTATE HIGHWAY SYSTEM

Subpart A—General

Sec. 476.2 Definitions.

SUBPARTS B–C [Reserved]

Subpart D—Withdrawal of Interstate Segments and Substitution of Public Mass Transit or Highway Projects or Both

476.300 Purpose.
476.302 Applicability.
476.304 Withdrawal request.
476.306 Withdrawal approval.
476.308 Concept approval for substitute projects.
476.310 Proposals for substitute public mass transit and highway projects.
476.312 Combined proposal.
476.314 Administrator’s review and approval of substitute projects.

AUTHORITY: 23 U.S.C. 103(e)(2), 103(e)(4), 103(g), 103(h) and 315; 49 CFR 1.48(b) and 1.50(f).

Subpart A—General

§ 476.2 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.
(b) The following terms, where used in the regulations in this part, have the following meaning:
(1) Base cost year for the latest Interstate System cost estimate approved by Congress shall be the calendar year specified in the Interstate Cost Estimate Manual for that estimate. For

1The “Instructional Manual for the Preparation and Submission of the (Year) Estimate of the Cost of Completing the Interstate System in Accordance with section 104(b)(5) of title 23 U.S.C., Highways,” published by the Federal Highway Administration, U.S. Department of Transportation, is

Continued
example, the base cost year for the 1972 estimate is 1970.

(2) **Concurrence** means written agreement which is currently binding on the concurring party and which addresses the specific proposal being submitted for approval.

(3) **Governor** means the Governor of any one of the fifty States and the Mayor of the District of Columbia. It also refers to any State or local entity specifically designated by the Governor for the purpose of executing any of his/her responsibilities under this part.

(4) **Interstate segment** means any designated, tolled route, or portion thereof, of the Interstate System.

(5) **Local governments concerned** means local units of general purpose government under State law within whose jurisdiction the Interstate segment lies, or is to be withdrawn.

(6) **Open to traffic** means a segment which has been constructed or has had major improvements with Federal-aid Interstate funds and open to normal Interstate traffic; or a segment which was an existing freeway, meeting acceptable Interstate geometric standards and recognized as the final location of the route, when incorporated into the System. Open to traffic does not mean a segment of existing highway that is ultimately planned to be replaced by an entirely new facility.

(7) **Responsible local officials** means:

(i) In urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization in accordance with part 450, subpart A of this title, and;

(ii) In rural areas and urban areas not within any urbanized area, principal elected officials of general purpose local governments.

(8) **Substitute highway project** means any undertaking for highway construction, which may encompass phases of work including preliminary engineering, right-of-way, and actual construction, individually or any combination thereof, on any of the Federal-aid systems described in 23 U.S.C. 103 and which is eligible for Federal financial assistance under title 23, U.S.C. A substitute highway project may include the construction of exclusive or preferential bus lanes, high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and corridor parking facilities to serve bus and other public mass transportation passengers. A substitute highway project may also be a carpool and vanpool project including but not limited to, providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(9) **Substitute nonhighway public mass transit project** means any undertaking to develop or improve public mass transit facilities or equipment. A project in an urbanized area must be included in and related to the transportation improvement program (TIP) required under 23 CFR part 450, subpart B. The TIP in urbanized areas and all projects in nonurbanized areas must include either the construction of fixed rail facilities, or the purchase of passenger equipment, or both. Passenger equipment includes buses, fixed rail rolling stock, and other transportation equipment for passenger use.

(10) **Under construction or under contract for construction** means funds for physical construction have been obligated (for highway projects) or have been included in an approved grant (for transit projects) which would complete the final development of the ultimate project in both length and scope. When projects do not involve physical construction, under construction or under contract for construction means the obligation of funds (for highway projects) or grant approval (for transit projects) has occurred.


Subparts B–C [Reserved]
§ 476.300 Purpose.

The purpose of the regulations in this subpart is to prescribe policies and procedures for implementation of 23 U.S.C. 103(e)(4), which permits the withdrawal of Interstate System segments and the substitution of public mass transit or highway projects or both.

§ 476.302 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to an Interstate segment at any stage of development if:

(1) The segment is within an urbanized area; or

(2) The segment passes through and connects urbanized areas within a State.

(b) The regulations in this subpart shall not apply to:

(1) A segment removed from the Interstate System prior to August 13, 1973;

(2) A segment added to the Interstate System after May 5, 1976, under the provisions of 23 U.S.C. 103(e)(2);

(3) Interstate segments designated under 23 U.S.C. 139;

(4) A toll bridge, tunnel, or approach thereto for which funds were advanced in accordance with 23 U.S.C. 124(b); or

(5) After September 30, 1979, an Interstate segment open to traffic before the date of the proposed withdrawal. If only a portion of an Interstate segment (between logical termini) is open to traffic the regulations of this subpart are applicable to the portion not open to traffic. The open to traffic portion will be removed from the Interstate System under 23 U.S.C. 103(f).

(6) Any segment added to the Interstate System by specific legislation unless a comparable statute permitting its withdrawal is enacted.


(c) Withdrawal requests may not be approved under this subpart after September 30, 1983, unless the route segment was under a court injunction prohibiting its construction as of November 6, 1978. For segments under such injunction, withdrawal requests may not be approved under this subpart after September 30, 1986. However, as indicated in §476.310(g), the September 30, 1986, substitute project construction time limitation remains applicable to these segments.


§ 476.304 Withdrawal request.

(a) A request to withdraw an Interstate segment within a State under this subpart shall be submitted jointly by the Governor and local governments concerned. For those segments within urbanized areas, the concurrence of responsible local officials is also required. The withdrawal request shall be submitted to the Federal Highway Administrator and the Urban Mass Transportation Administrator, through the Federal Highway Administrator.

(b) Joint submittal may be accomplished by a single request prepared by the Governor and concurred in by the local governments concerned. This may also be accomplished by a request by the Governor with separate concurrence documentation by the local governments concerned. In either case, for those segments within urbanized areas, the concurrence of responsible local officials is also required. While unanimous local action is not required, the withdrawal request is expected to have substantial support.

(c) The request for withdrawal shall include the following:

(1) A statement that the request is filed pursuant to 23 U.S.C. 103(e)(4).

(2) Reasons why the segment is not essential to the completion of a unified and connected Interstate System.

(3) A detailed statement of mileage and cost of the segment to be withdrawn as included in the latest Interstate cost estimate approved by Congress.

(4) An assurance that a toll road will not be constructed in the traffic corridor which would be served by the segment.

VerDate 11<MAY>2000 13:26 Apr 23, 2001 Jkt 194073 PO 00000 Frm 00127 Fmt 8010 Sfmt 8010 Y:\SGML\194073T.XXX pfrm04 PsN: 194073T
§ 476.306 Withdrawal approval.

(a) The Federal Highway Administrator and the Urban Mass Transportation Administrator may approve the withdrawal of an Interstate segment under the provisions of this subpart after considering the impact of the withdrawal on national defense needs if:

(1) The requirements of §476.304 are met; and

(2) The Federal Highway Administrator determines that the segment is not essential to completion of a unified and connected Interstate System.

(b) When the withdrawal of an Interstate segment is approved under paragraph (a) of this section, an amount equal to the Federal share of the cost to complete the withdrawn segment as shown in the latest Interstate System cost estimate approved by Congress is authorized for substitute projects. The amount authorized will be increased or decreased, as determined by the Federal Highway Administrator, based on changes in construction costs of the withdrawn route occurring between the base cost year of the latest cost estimate approved by Congress which included the costs of the withdrawn route and the date of approval of each substitute project. The changes in construction costs will be computed on the basis of the Composite Index shown in the quarterly publication "Price Trends for Federal-Aid Highway Construction." 1 For purposes of cost adjustments, the Composite Index for the calendar quarter within which the approval of the substitute project occurs will be used in computing the change in construction costs.

(c) Authorizations of funds made available by the withdrawal of an Interstate route under 23 U.S.C. 108(e)(4) shall remain available until expended within the limitations described in §476.310(f) and (g).

(d) Effective as of date of approval of the withdrawal of an Interstate segment, the unobligated apportionments for the Interstate System of the State receiving the approval will be reduced in the proportion that the Federal share of the cost of the withdrawn segment bears to the Federal share of the total cost of all Interstate routes in the State as reported in the latest Interstate System cost estimate approved by Congress.

(e) Mileage withdrawn under the provisions of this subpart may not be redesignated in any State under any provision of title 23 U.S.C.

(f) The payback of Federal-aid Interstate funds expended on a segment withdrawn under this subpart shall be governed by 23 CFR part 480, Use and Disposition of Property Acquired by States for Modified or Terminated Highway Projects.

(g) Segments withdrawn under the provisions of this subpart may not be redesignated under the provisions of 23 U.S.C. 139.

§ 476.308 Concept approval for substitute projects.

(a) A concept program which identifies the proposed substitute projects to be approved in concept and which, as a minimum, accounts for all unobligated funding made available by this subpart must be submitted as soon as practicable after the effective date of this subpart or after a withdrawal is formally approved.

(1) The substitute project concepts included in the program must be selected in a manner consistent with the procedures provided in §476.310(b) and (c).

(2) The concept program submission must contain:

(i) A proposed split, if any, of Interstate withdrawal authorizations between transit and highway projects;

(ii) A concept description (e.g., type of work, termini, length, estimated cost, number and type of vehicles, size and type of facility, identification of major transportation investment, etc.) of the proposed transit and/or highway projects for which concept approval is requested; and

(iii) A summary of the anticipated level of overall funding needs by individual fiscal year, as estimated on a general transit and/or highway basis.

(3) The concept program shall be endorsed by the Governor and the responsible local officials.

---

1 Published by FHWA, Interstate Reports Branch, and available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
§ 476.310 Proposals for substitute public mass transit and highway projects.

(a) The proposed substitute projects must serve the urbanized area or connecting nonurbanized area corridor, or both, from which the Interstate segment was withdrawn.

(b) Substitute projects in or serving urbanized areas shall be based on an urban transportation planning process in accordance with 23 CFR part 450, subpart A (and policies and regulations pertaining thereto), and shall be selected by the responsible local officials of the urbanized area in accordance with 23 CFR part 450, subpart B. Substitute projects located outside but serving the urbanized area shall also have the concurrence of the responsible local officials of the jurisdiction in which the project is located.

(c) Substitute projects in or serving the nonurbanized area corridor shall be selected by the responsible local officials of the nonurbanized area corridor. Substitute projects located outside but serving the nonurbanized area corridor shall also have the concurrence of the responsible local officials of the jurisdiction in which the project is located.

§ 476.312 Combined proposal.

A proposal for one or more substitute projects may be combined with projects utilizing other Federal funds available including, but not limited to, financial assistance available under either the Urban Mass Transportation Act of 1964, as amended, or 23 U.S.C. 104. Only the funds available from a
§ 476.314 Administrator’s review and approval of substitute projects.

(a) The Urban Mass Transportation Administrator shall review substitute nonhighway public mass transit projects and the Federal Highway Administrator shall review substitute highway projects to determine that the projects meet the following requirements.

(1) The proposed projects serve the urbanized area or connecting non-urbanized area corridor or both from which the Interstate segment was withdrawn.

(2) The Federal share of the costs of the proposed projects which is to be provided under this subpart by virtue of the withdrawal of an Interstate segment does not exceed the Federal share of the cost of the withdrawn segment, as determined in § 476.306(b).

(b) Approval of substitute projects can be given only to the extent that authority to obligate the funds is available.

(c) For substitute nonhighway public mass transit projects, the approval of the plans, specifications, and estimates of a project, or any phase thereof, shall be deemed to occur on the date the Urban Mass Transportation Administrator approved the substitute project or phase thereof in accordance with the policies and procedures established for the UMTA section 3 capital grant program.

(d) Substitute highway projects will be approved by the Federal Highway Administrator in accordance with policies and procedures established for the Federal-aid highway program.

(e) Approval of a substitute project or phase thereof obligates the United States to pay its proportional share of the cost of the project or phase thereof out of the general funds in the Treasury.

(f) The Federal share for substitute projects approved after November 6, 1978, shall not exceed 85 percentum, notwithstanding the Federal share for nonhighway public mass transit projects established under the Urban Mass Transportation Act of 1964, as amended, and highway projects under title 23 U.S.C.

(g) The labor protective provisions of section 3(e)(4) of the UMT Act of 1964, as amended, (49 U.S.C. section 1602(e)(4)) are applicable to nonhighway public mass transit projects funded under the provisions of this subpart.
PART 500—MANAGEMENT AND MONITORING SYSTEMS

Subpart A—Management systems

Sec.
§ 500.101 Purpose.
§ 500.102 Policy.
§ 500.103 Definitions.
§ 500.104 State option.
§ 500.105 Requirements.
§ 500.106 PMS.
§ 500.107 SMS.
§ 500.108 CMS.
§ 500.109 PTMS.
§ 500.110 IMS.

Subpart B—Traffic Monitoring System

Sec.
§ 500.201 Purpose.
§ 500.202 TMS definitions.
§ 500.203 TMS general requirements.
§ 500.204 TMS components for highway traffic data.


Source: 61 FR 67170, Dec. 19, 1996, unless otherwise noted.

Subpart A—Management Systems

§ 500.101 Purpose.

The purpose of this part is to implement the requirements of 23 U.S.C. 303(a) which directs the Secretary of Transportation (the Secretary) to issue regulations for State development, establishment, and implementation of systems for managing highway pavement of Federal-aid highways (PMS), bridges on and off Federal-aid highways (BMS), highway safety (SMS), traffic congestion (CMS), public transportation facilities and equipment (PTMS), and intermodal transportation facilities and systems (IMS). This regulation also implements 23 U.S.C. 303(b) which directs the Secretary to issue guidelines and requirements for State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment (TMS).
and establishment of the bridge management system. The following categories of FTA administered funds may be used for development, establishment, and implementation of the CMS, PTMS, IMS, and TMS: Metropolitan planning; State planning and research; and formula transit funds.

§ 500.103 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

Federal-aid highways means those highways eligible for assistance under title 23, U.S.C., except those functionally classified as local or rural minor collectors.

Metropolitan planning organization (MPO) means the forum for cooperative transportation decision making for a metropolitan planning area.

National Highway System (NHS) means the system of highways designated and approved in accordance with the provisions of 23 U.S.C. 103(b).

State means any one of the fifty States, the District of Columbia, or Puerto Rico.

Transportation management area (TMA) means an urbanized area with a population over 200,000 (as determined by the latest decennial census) or other area when TMA designation is requested by the Governor and the MPO (or affected local officials), and officially designated by the Administrators of the FHWA and the FTA. The TMA designation applies to the entire metropolitan planning area(s).

§ 500.104 State option.

Except as specified in §500.105 (a) and (b), a State may elect at any time not to implement any one or more of the management systems required under 23 U.S.C. 303, in whole or in part.

§ 500.105 Requirements.

(a) The metropolitan transportation planning process (23 U.S.C. 134 and 49 U.S.C. 5303–5005) in TMAs shall include a CMS that meets the requirements of §500.109 of this regulation.

(b) States shall develop, establish, and implement a TMS that meets the requirements of subpart B of this regulation.

(c) Any of the management systems that the State chooses to implement under 23 U.S.C. 303 and this regulation shall be developed in cooperation with MPOs in metropolitan areas, affected agencies receiving assistance under the Federal Transit Act (49 U.S.C., Chapter 53), and other agencies (including private owners and operators) that have responsibility for operation of the affected transportation systems or facilities.

(d) The results (e.g., policies, programs, projects, etc.) of any of the management systems that a State chooses to develop under 23 U.S.C. 303 and this regulation shall be considered in the development of metropolitan and statewide transportation plans and improvement programs and in making project selection decisions under title 23, U.S.C., and under the Federal Transit Act. Plans and programs adopted after September 30, 1997, shall demonstrate compliance with this requirement.

§ 500.106 PMS.

An effective PMS for Federal-aid highways is a systematic process that provides information for use in implementing cost-effective pavement reconstruction, rehabilitation, and preventive maintenance programs and that results in pavements designed to accommodate current and forecasted traffic in a safe, durable, and cost-effective manner. The PMS should be based on the “AASHTO Guidelines for Pavement Management Systems.”

§ 500.107 BMS.

An effective BMS for bridges on and off Federal-aid highways that should be based on the “AASHTO Guidelines for Bridge Management Systems” and

1AASHTO Guidelines for Pavement Management Systems, July 1990, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., Suite 249, Washington, D.C. 20001. Available for inspection as prescribed in 49 CFR part 7, appendix D.

2AASHTO Guidelines for Bridge Management Systems, 1992, can be purchased from the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., Suite 249, Washington, D.C.
that supplies analyses and summaries of data, uses mathematical models to make forecasts and recommendations, and provides the means by which alternative policies and programs may be efficiently considered. An effective BMS should include, as a minimum, formal procedures for:

(a) Collecting, processing, and updating data;
(b) Predicting deterioration;
(c) Identifying alternative actions;
(d) Predicting costs;
(e) Determining optimal policies;
(f) Performing short- and long-term budget forecasting; and
(g) Recommending programs and schedules for implementation within policy and budget constraints.

§ 500.108 SMS.

An SMS is a systematic process with the goal of reducing the number and severity of traffic crashes by ensuring that all opportunities to improve highway safety are identified, considered, implemented as appropriate, and evaluated in all phases of highway planning, design, construction, maintenance, and operation and by providing information for selecting and implementing effective highway safety strategies and projects. The development of the SMS may be based on the guidance in “Safety Management Systems: Good Practices for Development and Implementation.” 3 An effective SMS should include, at a minimum:

(a) Communication, coordination, and cooperation among the organizations responsible for the roadway, human, and vehicle safety elements;
(b) A focal point for coordination of the development, establishment, and implementation of the SMS among the agencies responsible for these major safety elements;
(c) Establishment of short- and long-term highway safety goals to address identified safety problems;
(d) Collection, analysis, and linkage of highway safety data;
(e) Identification of the safety responsibilities of units and positions;
(f) Public information and education activities; and
(g) Identification of skills, resources, and training needs to implement highway safety programs.

§ 500.109 CMS.

(a) For purposes of this regulation, congestion means the level at which transportation system performance is no longer acceptable due to traffic interference. The level of system performance deemed acceptable by State and local officials may vary by type of transportation facility, geographic location (metropolitan area or subarea, rural area), and/or time of day. An effective CMS is a systematic process for managing congestion that provides information on transportation system performance and on alternative strategies for alleviating congestion and enhancing the mobility of persons and goods to levels that meet State and local needs. The CMS results in serious consideration of implementation of strategies that provide the most efficient and effective use of existing and future transportation facilities. In both metropolitan and non-metropolitan areas, consideration needs to be given to strategies that reduce SOV travel and improve existing transportation system efficiency. Where the addition of general purpose lanes is determined to be an appropriate strategy, explicit consideration is to be given to the incorporation of appropriate features into the SOV project to facilitate future demand management and operational improvement strategies that will maintain the functional integrity of those lanes.

(b) In addition to the criteria in paragraph (a) of this section, in all TMAs, the CMS shall be developed, established and implemented as part of the metropolitan planning process in accordance with 23 CFR 450.320(c) and shall include:

(1) Methods to monitor and evaluate the performance of the multimodal transportation system, identify the causes of congestion, identify and evaluate alternative actions, provide

20001. Available for inspection as prescribed in 49 CFR part 7, appendix D.

§ 500.109

(1) Information supporting the implementation of actions, and evaluate the efficiency and effectiveness of implemented actions;

(2) Definition of parameters for measuring the extent of congestion and for supporting the evaluation of the effectiveness of congestion reduction and mobility enhancement strategies for the movement of people and goods. Since levels of acceptable system performance may vary among local communities, performance measures and service thresholds should be tailored to the specific needs of the area and established cooperatively by the State, affected MPO(s), and local officials in consultation with the operators of major modes of transportation in the coverage area;

(3) Establishment of a program for data collection and system performance monitoring to define the extent and duration of congestion, to help determine the causes of congestion, and to evaluate the efficiency and effectiveness of implemented actions. To the extent possible, existing data sources should be used, as well as appropriate application of the real-time system performance monitoring capabilities available through Intelligent Transportation Systems (ITS) technologies;

(4) Identification and evaluation of the anticipated performance and expected benefits of appropriate traditional and nontraditional congestion management strategies that will contribute to the more efficient use of existing and future transportation systems based on the established performance measures. The following categories of strategies, or combinations of strategies, should be appropriately considered for each area: Transportation demand management measures, including growth management and congestion pricing; traffic operational improvements; public transportation improvements; ITS technologies; and, where necessary, additional system capacity.

(5) Identification of an implementation schedule, implementation responsibilities, and possible funding sources for each strategy (or combination of strategies) proposed for implementation; and

(6) Implementation of a process for periodic assessment of the efficiency and effectiveness of implemented strategies, in terms of the area’s established performance measures. The results of this evaluation shall be provided to decision makers to provide guidance on selection of effective strategies for future implementation.

(c) In a TMA designated as non-attainment for carbon monoxide and/or ozone, the CMS shall provide an appropriate analysis of all reasonable (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in capacity for SOVs (adding general purpose lanes to an existing highway or constructing a new highway) is proposed. If the analysis demonstrates that travel demand reduction and operational management strategies cannot fully satisfy the need for additional capacity in the corridor and additional SOV capacity is warranted, then the CMS shall identify all reasonable strategies to manage the SOV facility effectively (or to facilitate its management in the future). Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself shall also be identified through the CMS. All identified reasonable travel demand reduction and operational management strategies shall be incorporated into the SOV project or committed to by the State and MPO for implementation.

(d)(1) Compliance with the requirement that the planning process in all TMAs include a CMS will be addressed during metropolitan planning process certification reviews for all TMAs specified in 23 CFR 450.334. If the metropolitan planning process in a TMA does not include a CMS that meets the requirements of this section, deficiencies will be noted and corrections will need to be made in accordance with the schedule established in the certification review.

(2) Until October 1, 1997, the interim CMS procedures in 23 CFR 450.336(b) may be used to meet the requirement in 23 U.S.C. 134(l) that Federal funds may not be programmed in a carbon
monoxide and/or ozone nonattainment
TMA for any highway project that will
result in a significant increase in sin-
gle-occupant-vehicle capacity unless
the project is based on an approved
CMS. After September 30, 1997, such
projects must be based on a CMS that
meets the requirements of this part.

§ 500.110 PTMS.
An effective PTMS for public trans-
portation facilities (e.g., maintenance
facilities, stations, terminals, transit
related structures), equipment, and
rolling stock is a systematic process
that collects and analyzes information
on the condition and cost of transit as-
sets on a continual basis, identifies
needs, and enables decision makers to
select cost-effective strategies for pro-
viding and maintaining transit assets
in serviceable condition. The PTMS
should cover public transportation sys-
tems operated by the State, local juris-
dictions, public transportation agen-
cies and authorities, and private (for
profit and non-profit) transit operators
receiving funds under the Federal
Transit Act and include, at a min-
imum:
(a) Development of transit asset con-
dition measures and standards;
(b) An inventory of the transit assets
including age, condition, remaining
useful life, and replacement cost; and
(c) Identification, evaluation, and
implementation of appropriate strate-
gies and projects.

§ 500.111 IMS.
An effective IMS for intermodal fa-
cilities and systems provides efficient,
safe, and convenient movement of peo-
lies and goods through integration of
transportation facilities and systems
and improvement in the coordination
in planning, and implementation of air,
water, and the various land-based
transportation facilities and systems.
An IMS should include, at a minimum:
(a) Establishment of performance
measures;
(b) Identification of key linkages be-
tween one or more modes of transpor-
tation, where the performance or use of
one mode will affect another;
(c) Definition of strategies for im-
proving the effectiveness of these
modal interactions; and
(d) Evaluation and implementation
of these strategies to enhance the over-
all performance of the transportation
system.

Subpart B—Traffic Monitoring
System

§ 500.201 Purpose.
The purpose of this subpart is to set
forth requirements for development,
establishment, implementation, and
continued operation of a traffic moni-
toring system for highways and public
transportation facilities and equip-
ment (TMS) in each State in accord-
ance with the provisions of 23 U.S.C.
303 and subpart A of this part.

§ 500.202 TMS definitions.
Unless otherwise specified in this
part, the definitions in 23 U.S.C. 101(a)
and §500.103 are applicable to this sub-
part. As used in this part:
Highway traffic data means data used
to develop estimates of the amount of
person or vehicular travel, vehicle
usage, or vehicle characteristics asso-
ciated with a system of highways or
with a particular location on a high-
way. These types of data support the
estimation of the number of vehicles
traversing a section of highway or sys-
tem of highways during a prescribed
time period (traffic volume), the por-
tion of such vehicles that may be of a
particular type (vehicle classification),
the weights of such vehicles including
the weight of each axle and associated
distances between axles on a vehicle
(vehicle weight), or the average num-
ber of persons being transported in a
vehicle (vehicle occupancy).
Transit traffic data means person and
vehicular data for public transpor-
tation on public highways and streets
and the number of vehicles and rider-
ship for dedicated transit rights-of-way
(e.g., rail and busways), at the max-
imum load points for the peak period
in the peak direction and for the daily
time period.
§ 500.203 TMS general requirements.

(a) Each State shall develop, establish, and implement, on a continuing basis, a TMS to be used for obtaining highway traffic data when:

(1) The data are supplied to the U.S. Department of Transportation (U.S. DOT);

(2) The data are used in support of transportation management systems;

(3) The data are used in support of studies or systems which are the responsibility of the U.S. DOT;

(4) The collection of the data is supported by the use of Federal funds provided from programs of the U.S. DOT;

(5) The data are used in the apportionment or allocation of Federal funds by the U.S. DOT;

(6) The data are used in the design or construction of an FHWA funded project; or

(7) The data are required as part of a federally mandated program of the U.S. DOT.

(b) The TMS for highway traffic data should be based on the concepts described in the American Association of State Highway and Transportation Officials (AASHTO) “AASHTO Guidelines for Traffic Data Programs” and the FHWA “Traffic Monitoring Guide (TMG)” and shall be consistent with the FHWA “Highway Performance Monitoring System Field Manual.”

(c) The TMS shall cover all public roads except those functionally classified as local or rural minor collector or those that are federally owned. Coverage of federally owned public roads shall be determined cooperatively by the State, the FHWA, and the agencies that own the roads.

(d) The State’s TMS shall apply to the activities of local governments and other public or private non-State government entities collecting highway traffic data within the State if the collected data are to be used for any of the purposes enumerated in §500.203(a) of this subpart.

(e) Procedures other than those referenced in this subpart may be used if the alternative procedures are documented by the State to furnish the precision levels as defined for the various purposes enumerated in §500.203(a) of this subpart and are found acceptable by the FHWA.

(f) Nothing in this subpart shall prohibit the collection of additional highway traffic data if such data are needed in the administration or management of a highway activity or are needed in the design of a highway project.

(g) Transit traffic data shall be collected in cooperation with MPOs and transit operators.

(h) The TMS for highways and public transportation facilities and equipment shall be fully operational and in use by October 1, 1997.

§ 500.204 TMS components for highway traffic data.

(a) General. Each State’s TMS, including those using alternative procedures, shall address the components in paragraphs (b) through (h) of this section.

(b) Precision of reported data. Traffic data supplied for the purposes identified in §500.203(a) of this subpart shall be to the statistical precision applicable at the time of the data’s collection as specified by the data users at various levels of government. A State’s TMS shall meet the statistical precisions established by FHWA for the HPMS.

(c) Continuous counter operations. Within each State, there shall be sufficient continuous counters of traffic volumes, vehicle classification, and vehicle weight to provide estimates of changes in highway travel patterns and to provide for the development of day-of-week, seasonal, axle correction, growth factors, or other comparable factors approved by the FHWA that
support the development of traffic estimates to meet the statistical precision requirements of the data uses identified in §500.203(a) of this subpart. As appropriate, sufficient continuous counts of vehicle classification and vehicle weight should be available to address traffic data program needs.

(d) Short term traffic monitoring. (1) Count data for traffic volumes collected in the field shall be adjusted to reflect annual average conditions. The estimation of annual average daily traffic will be through the appropriate application of only the following: Seasonal factors, day-of-week factors, and, when necessary, axle correction and growth factors or other comparable factors approved by the FHWA. Count data that have not been adjusted to represent annual average conditions will be noted as being unadjusted when they are reported. The duration and frequency of such monitoring shall comply to the data needs identified in §500.203(a) of this subpart.

(2) Vehicle classification activities on the National Highway System (NHS), shall be sufficient to assure that, on a cycle of no greater than three years, every major system segment (i.e., segments between interchanges or intersections of principal arterials of the NHS with other principal arterials of the NHS) will be monitored to provide information on the numbers of single-trailer combination trucks, multiple-trailer combination trucks, two-axle four-tire vehicles, buses and the total number of vehicles operating on an average day. If it is determined that two or more continuous major system segments have both similar traffic volumes and distributions of the vehicle types identified above, a single monitoring session will be sufficient to monitor these segments.

(e) Vehicle occupancy monitoring. As deemed appropriate to support the data uses identified in §500.203(a) of this subpart, data will be collected on the average number of persons per automobile, light two-axle truck, and bus. The duration, geographic extent, and level of detail shall be consistent with the intended use of the data, as cooperatively agreed to by the organizations that will use the data and the organizations that will collect the data. Such vehicle occupancy data shall be reviewed at least every three years and updated as necessary. Acceptable data collection methods include roadside monitoring, traveler surveys, the use of administrative records (e.g., accident reports or reports developed in support of public transportation programs), or any other method mutually acceptable to the responsible organizations and the FHWA.

(f) Field operations. (1) Each State’s TMS for highway traffic data shall include the testing of equipment used in the collection of the data. This testing shall be based on documented procedures developed by the State. This documentation will describe the test procedure as well as the frequency of testing. Standards of the American Society for Testing and Materials or guidance from the AASHTO may be used. Only equipment passing the test procedures will be used for the collection of data for the purposes identified in §500.203(a) of this subpart.

(2) Documentation of field operations shall include the number of counts, the period of monitoring, the cycle of monitoring, and the spatial and temporal distribution of count sites. Copies of the State’s documentation shall be provided to the FHWA Division Administrator when it is initially developed and after each revision.

(g) Source data retention. For estimates of traffic or travel, the value or values collected during a monitoring session, as well as information on the date(s) and hour(s) of monitoring, will remain available until the traffic or travel estimates based on the count session are updated. Data shall be available in formats that conform to those in the version of the TMG current at the time of data collection or as then amended by the FHWA.

(h) Office factoring procedures. (1) Factors to adjust data from short term monitoring sessions to estimates of average daily conditions shall be used to adjust for month, day of week, axle correction, and growth or other comparable factors approved by the FHWA. These factors will be reviewed annually and updated at least every three years.

(2) The procedures used by a State to edit and adjust highway traffic data collected from short term counts at field locations to estimates of average
§ 500.204

Traffic volume shall be documented. The documentation shall include the factors discussed in paragraph (d)(1) of this section. The documentation shall remain available as long as the traffic or travel estimates discussed in paragraph (g) of this section remain current. Copies of the State’s documentation shall be provided to the FHWA Division Administrator when it is initially developed and after each revision.

PART 511 [RESERVED]
SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 620—ENGINEERING

Subpart A—Highway Improvements in the Vicinity of Airports

§ 620.101 Purpose.

The purpose of this section is to implement title 23 U.S.C., section 318 which requires coordination of airport and highway developments to insure (a) that airway-highway clearances are adequate for the safe movement of air and highway traffic, and (b) that the expenditure of public funds for airport and highway improvements is in the public interest.

§ 620.102 Applicability.

The requirements of this section apply to all projects on which Federal-aid highway funds are to be expended and to both civil and military airports.

§ 620.103 Policy.

(a) Federal-aid highway funds shall not participate in the costs of reconstruction or relocation of any highway to which this section applies unless the Federal Highway Administration (FHWA) and State officials, in cooperation with the Federal Aviation Administration (FAA) or appropriate military authority, or in the case of privately owned airports, the owner of that airport, determine that the location or extension of the airport in question and the consequent relocation or reconstruction of the highway is in the public interest.

(b) In addition to complying with 23 U.S.C. 318 and insuring the prudent use of public funds, it is the policy of FHWA to provide a high degree of safety in the location, design, construction and operation of highways and airports.

(c) Federal-aid funds shall not participate in projects where substandard clearances are created or will continue to exist.

§ 620.104 Standards.

A finding of public interest by FHWA will be based on compliance with airway-highway clearances which conform to FAA standards for aeronautical safety.

Subpart B—Relinquishment of Highway Facilities

§ 620.201 Purpose.

To prescribe Federal Highway Administration (FHWA) procedures relating to relinquishment of highway facilities.

§ 620.202 Applicability.

The provisions of this subpart apply only to relinquishment of facilities for continued highway purposes. Other real property disposals and modifications or disposal of access rights are governed by the requirements of 23 CFR part 710.

§ 620.203 Procedures.

(a) After final acceptance of a project on the Federal-aid primary, urban, or
§ 620.203

secondary system or after the date that the plans, specifications and estimates (PS&E) for the physical construction on the right-of-way for a Federal-aid Interstate project have been approved by the FHWA, relinquishment of the right-of-way or any change made in control of access shall be in accordance with the provisions of this section. For the purposes of this section, final acceptance for a project involving physical construction is the date of the acceptance of the physical construction by the FHWA and for right-of-way projects, the date the division engineer determines to be the date of the completion of the acquisition of the right-of-way shown on the final plans.

(b) For the purposes of this section, relinquishment is defined as the conveyance of a portion of a highway right-of-way or facility by a State highway agency (SHA) to another Government agency for highway use.

(c) The following facilities may be relinquished in accordance with paragraph 203(f):

1. Sections of a State highway which have been superseded by construction on new location and removed from the Federal-aid system and the replaced section thereof is approved by the FHWA as the new location of the Federal-aid route. Federal-aid funds may not participate in rehabilitation work performed for the purpose of placing the superseded section of the highway in a condition acceptable to the local authority. The relinquishment of any Interstate mileage shall be submitted to the Federal Highway Administrator as a special case for prior approval.

2. Sections of reconstructed local facilities that are located outside the control of access lines, such as turnarounds of severed local roads or streets adjacent to the Federal-aid project’s right-of-way, and local roads and streets crossing over or under said project that have been adjusted in grade and/or alignment, including new right-of-way required for adjustments. Eligibility for Federal-aid participation in the costs of the foregoing adjustments is as determined at the time of PS&E approval under policies of the FHWA.

3. Frontage roads or portions thereof that are constructed generally parallel to and outside the control of access lines of a Federal-aid project for the purpose of permitting access to private properties rather than to serve as extensions of ramps to connect said Federal-aid project with the nearest crossroad or street.

(d) The following facilities may be relinquished only with the approval of the Federal Highway Administrator in accordance with paragraph 203(g).

1. Frontage roads or portions thereof located outside the access control lines of a Federal-aid project that are constructed to service (in lieu of or in addition to the purposes outlined under paragraph (c)(3) of this section) as connections between ramps to or from the Federal-aid project and existing public roads or streets.

2. Ramps constructed to serve as connections for interchange of traffic between the Federal-aid project and local roads or streets.

(e) Where a frontage road is not on an approved Federal-aid system title to the right-of-way may be acquired initially in the name of the political subdivision which is to assume control thus eliminating the necessity of a formal transfer later. Such procedure would be subject to prior FHWA approval and would be limited to those facilities which meet the criteria set forth in paragraphs (c)(2) and (3) of this section.

(f) Upon presentation by a State that it intends to relinquish facilities such as described in paragraph (c)(1), (2) or (3) of this section to local authorities, the division engineer of the FHWA shall have appropriate field and office examination made thereof to assure that such relinquishments are in accordance with the provisions of the cited paragraphs. Relinquishments of the types described in paragraph (c)(1), (2) or (3) of this section may be made on an individual basis or on a project or route basis subject to the following conditions and understandings:

1. Immediately following action by the State in approving a relinquishment, it shall furnish to the Division Administrator for record purposes a copy of a suitable map or maps identified by the Federal-aid project number, with the facilities to be relinquished.
§ 625.1 Purpose.

To designate those standards, policies, and standard specifications that are acceptable to the Federal Highway Administration (FHWA) for application of access control lines as shown on the plans for a Federal-aid project approved by the FHWA, without the prior approval of the Federal Highway Administrator.

(h) No change may be made in control of access, without the joint determination and approval of the SHA and FHWA. This would not prevent the relinquishment of title, without prior approval of the FHWA, of a segment of the right-of-way provided there is an abandonment of a section of highway inclusive of such segment.

(1) Relinquishments must be justified by the State’s finding concurred in by the FHWA, that:

(1) The subject land will not be needed for Federal-aid highway purposes in the foreseeable future;
(2) That the right-of-way being retained is adequate under present day standards for the facility involved;
(3) That the release will not adversely affect the Federal-aid highway facility or the traffic thereon;
(4) That the lands to be relinquished are not suitable for retention in order to restore, preserve, or improve the scenic beauty adjacent to the highway consonant with the intent of 23 U.S.C. 319 and Pub. L. 89–285, Title III, sections 302–305 (Highway Beautification Act of 1965).

(j) If a relinquishment is to a Federal, State, or local government agency for highway purposes, there need not be a charge to the said agency, nor in such event any credit to Federal funds. If for any reason there is a charge, the STD may retain the Federal share of the proceeds if used for projects eligible under title 23 of the United States Code.

[39 FR 33311, Sept. 17, 1974, as amended at 64 FR 71289, Dec. 21, 1999]
in the geometric and structural design of highways.

§ 625.2 Policy.

(a) Plans and specifications for proposed National Highway System (NHS) projects shall provide for a facility that will—

(1) Adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) Be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (a)(1) of this section and to conform to the particular needs of each locality.

(b) Resurfacing, restoration, and rehabilitation (RRR) projects, other than those on the Interstate system and other freeways, shall be constructed in accordance with standards which preserve and extend the service life of highways and enhance highway safety. Resurfacing, restoration, and rehabilitation work includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders, bridges, the roadside, and appurtenances to a condition of structural or functional adequacy.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation’s highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation’s highways.

§ 625.3 Application.

(a) Applicable Standards. (1) Design and construction standards for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the NHS (other than a highway also on the Interstate System or other freeway) shall be those approved by the Secretary in cooperation with the State highway departments. These standards may take into account, in addition to the criteria described in §625.2(a), the following:

(i) The constructed and natural environment of the area;

(ii) The environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

(iii) Access for other modes of transportation.

(2) Federal-aid projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(b) The standards, policies, and standard specifications cited in §625.4 of this part contain specific criteria and controls for the design of NHS projects. Deviations from specific minimum values therein are to be handled in accordance with procedures in paragraph (f) of this section. If there is a conflict between criteria in the documents enumerated in §625.4 of this part, the latest listed standard, policy, or standard specification will govern.

(c) Application of FHWA regulations, although cited in §625.4 of this part as standards, policies, and standard specifications, shall be as set forth therein.

(d) This regulation establishes Federal standards for work on the NHS regardless of funding source.

(e) The Division Administrator shall determine the applicability of the roadway geometric design standards to traffic engineering, safety, and preventive maintenance projects which include very minor or no roadway work. Formal findings of applicability are expected only as needed to resolve controversies.

(f) Exceptions. (1) Approval within the delegated authority provided by FHWA Order M1100.1A may be given on a project basis to designs which do not conform to the minimum criteria as set forth in the standards, policies, and standard specifications for:

(i) Experimental features on projects; and

(ii) Projects where conditions warrant that exceptions be made.

(2) The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with adjacent sections of roadway and the probable time before reconstruction of
§ 625.4 Standards, policies, and standard specifications.

The documents listed in this section are incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and are on file at the Office of the Federal Register in Washington, DC. They are available as noted in paragraph (d) of this section. The other CFR references listed in this section are included for cross-reference purposes only.

(a) Roadway and appurtenances.

(1) A Policy on Geometric Design of Highways and Streets, AASHTO 1994. [See § 625.4(d)(1)]

(2) A Policy on Design Standards—Interstate System, AASHTO 1991. [See § 625.4(d)(1)]

(3) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on NHS highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all non-freeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on NHS highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects.

(4) Erosion and Sediment Control on Highway Construction Projects, refer to 23 CFR part 650, subpart B.

(5) Location and Hydraulic Design of Encroachments on Flood Plains, refer to 23 CFR part 650, subpart A.


(7) Accommodation of Utilities, refer to 23 CFR part 645, subpart B.

(8) Pavement Design, refer to 23 CFR part 628.

(b) Bridges and structures.


(2) Interim Specifications—Bridges, AASHTO 1993. [See § 625.4(d)(1)]

(3) Interim Specifications—Bridges, AASHTO 1994. [See § 625.4(d)(1)]

(4) Interim Specifications—Bridges, AASHTO 1995. [See § 625.4(d)(1)]


(7) Standard Specifications for Movable Highway Bridges, AASHTO 1988. [See § 625.4(d)(1)]

(8) Bridge Welding Code, ANSI/AASHTO/AWS D1.5–95, AASHTO. [See § 625.4(d)(1) and (2)]

(9) Structural Welding Code—Reinforcing Steel, ANSI/AWS D1.4–92, 1992. [See § 625.4(d)(2)]


(11) Navigational Clearances for Bridges, refer to 23 CFR part 650, subpart H.

(c) Materials.

(1) General Materials Requirements, refer to 23 CFR part 635, subpart D.

(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, parts I and II, AASHTO 1995. [See § 625.4(d)(1)]

(3) Sampling and Testing of Materials and Construction, refer to 23 CFR part 637, subpart B.

(d) Availability of documents incorporated by reference. The documents listed in § 625.4 are incorporated by reference and are on file and available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These documents may also be reviewed at the Department of Transportation Library, 400 Seventh Street, SW., Washington, DC, in Room 2306. These documents are also available for inspection and copying as provided in 49 CFR part 7, appendix D. Copies of these documents may be obtained from the following organizations:

(1) American Association of State Highway and Transportation Officials (AASHTO), Suite 249, 444 North Capitol Street, NW., Washington, DC 20001.
PART 626—PAVEMENT POLICY

Sec.
626.1 Purpose.
626.2 Definitions.
626.3 Policy.

AUTHORITY: 23 U.S.C. 101(e), 109, and 315; 49 CFR 1.48(b)
SOURCE: 61 FR 67174, Dec. 19, 1996, unless otherwise noted.

§ 626.1 Purpose.
To set forth pavement design policy for Federal-aid highway projects.

§ 626.2 Definitions.
Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:
Pavement design means a project level activity where detailed engineering and economic considerations are given to alternative combinations of subbase, base, and surface materials which will provide adequate load carrying capacity. Factors which are considered include: Materials, traffic, climate, maintenance, drainage, and life-cycle costs.

§ 626.3 Policy.
Pavement shall be designed to accommodate current and predicted traffic needs in a safe, durable, and cost effective manner.

PART 627—VALUE ENGINEERING

Sec.
627.1 Purpose and applicability.
627.5 General principles and procedures.


§ 627.1 Purpose and applicability.
(a) This regulation will establish a program to improve project quality, reduce project costs, foster innovation, eliminate unnecessary and costly design elements, and ensure efficient investments by requiring the application of value engineering (VE) to all Federal-aid highway projects on the National Highway System (NHS) with an estimated cost of $25 million or more.

(b) In accordance with the Federal-State relationship established under the Federal-aid highway program, State highway agencies (SHA) shall assure that a VE analysis has been performed on all applicable projects and that all resulting, approved recommendations are incorporated into the plans, specifications and estimate.
(2) Studies. Value engineering studies shall follow the widely recognized systematic problem-solving analysis process that is used throughout private industry and governmental agencies. Studies must be performed using multi-disciplined teams of individuals not personally involved in the design of the project. Study teams should consist of a team leader and individuals from different speciality areas, such as design, construction, environment, planning, maintenance, right-of-way, and other areas depending upon the type of project being reviewed. Individuals from the public and other agencies may also be included on the team when their inclusion is found to be in the public interest.

(i) Each team leader should be trained and knowledgeable in VE techniques and be able to serve as the coordinator and facilitator of the team.

(ii) Studies should be employed as early as possible in the project development or design process so that accepted VE recommendations can be implemented without delaying the progress of the project.

(iii) Studies should conclude with a formal report outlining the study team’s recommendations for improving the project and reducing its overall cost.

(3) Recommendations. The program should include procedures to approve or reject recommendations and ensure the prompt review of VE recommendations by staff offices whose speciality areas are implicated in proposed changes and by offices responsible for implementing accepted recommendations. Reviews by these offices should be performed promptly to minimize delays to the project.

(4) Incentives. The program may include a VE or cost reduction incentive clause in an SHA’s standard specifications or project special provisions that allows construction contractors to submit change proposals and share the resulting cost savings with the SHA.

(5) Monitoring. The program should include procedures for monitoring the implementation of VE study team recommendations and VE change proposal recommendations submitted by construction contractors.

(b) State VE coordinators. Individuals knowledgeable in VE shall be assigned responsibilities to coordinate and monitor the SHA’s program and be actively involved in all phases of the program.

(c) Use of consultants. Consultants or firms with experience in VE may be retained by SHAs to conduct the studies of Federal-aid highway projects or elements of Federal-aid highway projects required under §627.1(a) of this part. Consultants or firms should not be retained to conduct studies of their own designs unless they maintain separate and distinct organizational separation of their VE and design sections.

(d) Funding eligibility. The cost of performing VE studies is project related and is, therefore, eligible for reimbursement with Federal-aid highway funds at the appropriate pro-rata share for the project studied.

PART 630—PRECONSTRUCTION PROCEDURES

Subpart A—Federal-Aid Project Authorization

Sec. 630.102 Purpose.
630.104 Applicability.
630.106 Authorization to proceed.

Subpart B—Plans, Specifications, and Estimates

630.201 Purpose.
630.203 Applicability.
630.205 Preparation, submission, and approval.

Subpart C—Project Agreements

630.301 Purpose.
630.303 Preparation of agreement.
630.305 Modification of original agreement.
630.307 Agreement provisions.

Subpart D—Geodetic Markers

630.401 Purpose.
630.402 Policy.
630.403 Initiation of projects.
630.404 Standards.

Subparts E-F [Reserved]

Subpart G—Advance Construction of Federal-Aid Projects

630.701 Purpose.
630.703 Eligibility.
630.705 Procedures.
§ 630.102 Purpose.

The purpose of this subpart is to prescribe policies for authorizing Federal-aid projects.

§ 630.104 Applicability.

(a) This regulation is applicable to all Federal-aid projects unless specifically exempted.

(b) Projects financed with FHWA planning and research funds, as defined in 23 CFR 420.103 are not covered by this subpart. These projects are to be handled in accordance with 23 CFR parts 420 and 450.

(c) Other projects which involve special procedures shall be authorized as set out in the implementing instructions for those projects.

§ 630.106 Authorization to proceed.

(a) The FHWA issuance of an authorization to proceed with a Federal-aid project shall be in response to a written request from the State highway agency (SHA). Authorization can be given only after applicable prerequisite requirements of Federal laws and implementing regulations and directives have been satisfied.

(b) Federal funds shall not participate in costs incurred prior to the date of authorization to proceed except as provided by 23 CFR 1.9(b).

(c) Authorization of a Federal-aid project shall be deemed a contractual obligation of the Federal government under 23 U.S.C. 106 and shall require that appropriate funds be available at the time of authorization for the total agreed Federal share, either pro rata or lump sum, of the cost of eligible work to be incurred by the State, except as follows:


2. Projects for preliminary studies for the portion of the preliminary engineering and right-of-way (ROW) phase(s) through the selection of a location.

3. Projects for ROW acquisition in hardship and protective buying situations through the selection of a particular location. This includes ROW acquisitions within a potential highway corridor under consideration where necessary to preserve the corridor for future highway purposes. Authorization of work under this paragraph shall be in accordance with the provisions of 23 CFR part 710.

4. In special cases where the Federal Highway Administrator determines it to be in the best interest of the Federal-aid highway program.

(d) The authorization to proceed with a project under 23 CFR 630.106(c)(1) through (c)(4) shall contain the following statement: “Authorization to proceed shall not constitute any commitment of Federal funds, nor shall it be construed as creating in any manner any obligation on the part of the Federal government to provide Federal funds for that portion of the undertaking not fully funded herein.”

(e) When a project has received an authorization under 23 CFR 630.106(c)(2) and (c)(3), subsequent authorizations beyond the location stage shall not be given until appropriate available funds have been obligated to cover eligible costs of the work covered by the previous authorization.

(f) (1) The Federal-aid share of eligible project costs shall be established at the time of project authorization in one of the following manners:
(i) Pro rata, with the authorization stating the Federal share as a specified percentage, or
(ii) Lump sum, with the authorization stating that Federal funds are limited to a specified dollar amount not to exceed the legal pro rata.

(2) The pro-rata or lump sum share may be adjusted before or shortly after contract award to reflect any substantive change in the bids received as compared to the SHA’s estimated cost of the project at the time of FHWA authorization, provided that Federal funds are available.

(3) Federal participation is limited to the agreed Federal share of eligible costs incurred by the State, not to exceed the maximum permitted by enabling legislation.

(g) The State may contribute more than the normal non-Federal share of title 23, U.S.C., projects. In general, financing proposals that result in only minimal amounts of Federal funds in projects should be avoided unless they are based on sound project management decisions.
§ 630.305 Modification of original agreement.

(a) When changes are needed to the original project agreement, a modification of agreement shall be prepared.

(b) The SHA may develop the modification of project agreement in a format acceptable to both the SHA and the FHWA provided the following are included:

(1) The Federal-aid project number and State;

(2) A sequential number identifying the modification;

(3) A reference to the date of the original project agreement to be modified;

(4) The original total project cost and the original amount of Federal funds under agreement;

(5) The revised total project cost and the revised amount of Federal funds under agreement;

(6) The reason for the modifications; and,

(7) Signatures of officials from both the State and the FHWA and date executed.

(c) The SHA may use an electronic version of the modification of project agreement as provided by the FHWA.

§ 630.307 Agreement provisions.

(a) The State, through its highway agency, accepts and agrees to comply with the applicable terms and conditions set forth in title 23, United States Code, Highways, the regulations issued pursuant thereto, the policies and procedures promulgated by the FHWA relative to the designated project in which the FHWA authorized certain work to proceed, and all other applicable Federal laws and regulations.

(b) Federal funds obligated for the project must not exceed the amount agreed to on the project agreement, the balance of the estimated total cost being an obligation of the State. Such obligation of Federal funds extends only to project costs incurred by the State after the FHWA authorization to proceed with the project involving such costs.

(c) The State must stipulate that as a condition to payment of the Federal funds obligated, it accepts and will comply with the following applicable provisions:

(1) Project for acquisition of rights-of-way. In the event that actual construction of a road on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which the project is authorized, the SHA will repay to the FHWA the sum or sums of Federal funds paid to the highway agency under the terms of the agreement.

(2) Preliminary engineering project. In the event that right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the project is authorized, the SHA will repay to the FHWA the sum or sums of Federal funds paid to the highway agency under the terms of the agreement.

(3) Drug-free workplace certification. By signing the project agreement, the SHA agrees to provide a drug-free workplace as required by 49 CFR part 29, subpart F. In signing the project agreement, the State is providing the certification required in appendix C to...
§ 630.703

(a) Highway purposes may best be served by the establishment of station markings for horizontal control along Federal-aid highway routes at spacings of three to eight kilometers (about 2 to 5 miles) and station markers for vertical control of spacings no closer than one kilometer. These requirements may be waived only with the approval of the Administrator.

(b) Projects should be of sufficient scope to permit efficient use of field parties. Projects should extend at least 30 kilometers. Projects may be coordinated with adjoining States to attain greater efficiency.

(c) Where geodetic station markers cannot be established initially at points readily accessible from the Federal-aid route, or where unavoidable circumstances result in their being established within construction limits, supplemental projects may later be approved to set and survey markers at satisfactory permanent points, preferably within the right-of-way but at points where their use does not introduce traffic hazards.

Subparts E-F [Reserved]

Subpart G—Advance Construction of Federal-Aid Projects

§ 630.701 Purpose.

The purpose of this subpart is to prescribe procedures for advancing the construction of Federal-aid highway projects without obligating Federal funds apportioned or allocated to the State.

§ 630.703 Eligibility.

(a) The State Highway Agency (SHA) may proceed with a highway substitute, congestion mitigation and air quality improvement program, surface transportation program, bridge replacement and rehabilitation, or planning and research project in accordance with this subpart, provided the SHA:

(1) Has obligated all funds apportioned or allocated to it under 23 U.S.C.
§ 630.705 Procedures.

(a) An advance construction project shall meet the same requirements and be processed in the same manner as a regular Federal-aid project, except,

(1) The FHWA authorization does not constitute any commitment of Federal funds on the project, and

(2) The FHWA shall not reimburse the State until the project is converted under § 630.709.

(b) Project numbers shall be identified by the letters "AC" preceding the regular project number prefix.

(c) If the SHA plans to claim bond interest costs under § 630.711, it shall include in its request for authorization the estimated federally participating bond interest cost.

(d) The SHA shall submit a final voucher to the FHWA upon completion of the project even though the project has not been converted. If the SHA is claiming bond interest costs under § 630.711, it shall certify on the final voucher that the bond proceeds were expended in the construction of the project and shall include a computation of the eligible interest costs.

§ 630.707 Limitation.

A request to approve an advance construction project is limited to a State’s expected apportionment of authorized funds which are eligible to finance the project.

§ 630.709 Conversion to a regular Federal-aid project.

(a) The SHA may submit a written request to the FHWA that a project be converted to a regular Federal-aid project at any time provided that sufficient Federal-aid funds and obligation authority are available.

(b) Subsequent to FHWA approval the SHA may claim reimbursement for the Federal share of project costs incurred, provided the project agreement has been executed. If the SHA has previously submitted a final voucher, the FHWA will process the voucher for payment.

§ 630.711 Payment of bond interest.

(a) For Interstate projects authorized by the FHWA after January 6, 1983, and for Interstate 4R, Interstate maintenance, primary and NHS projects authorized by the FHWA after April 2, 1987, interest earned and payable on bonds issued by a State is an eligible cost of construction as follows:

(1) Participating interest cost is based on the actual expenditure of bond proceeds on the Federal-aid project. The interest on the bonds is applied to the amount of bond proceeds expended on the project from the date of expenditure.

(2) The amount of interest determined in paragraph (a)(1) of this section shall not exceed the estimated increase in the physical construction cost of the project which would have occurred had the project been authorized on the date of conversion. The estimated increase in the physical construction cost is determined by applying the increase, if any, in the national construction cost index in effect on the date of conversion over the index in effect on the date of the FHWA authorization, to the actual cost of physical construction.

(b) For Interstate projects under physical construction on January 1, 1983, and converted to a regular Federal-aid project after January 1, 1983, bond interest is eligible in accordance with paragraph (a)(1) of this section. The restriction in paragraph (a)(2) of this section does not apply.

Subpart H—Bridges on Federal Dams

SOURCE: 39 FR 36474, Oct. 10, 1974, unless otherwise noted.
§ 630.801 Purpose.
The purpose of this subpart is to prescribe procedures for the construction and financing, by an agency of the Federal Government, of public highway bridges over dams constructed and owned by or for the United States.

§ 630.802 Applicability.
A proposed bridge over a dam, together with the approach roads to connect the bridge with existing public highways, must be eligible for inclusion in the Federal-aid highway system, if not already a part thereof.

§ 630.803 Procedures.
A State's application to qualify a project under this subpart will include:
(a) A certification that the bridge is economically desirable and needed as a link in the Federal-aid highway system.
(b) A statement showing the source and availability of funds to be used in construction of the roadway approaches.
(c) A statement of any obligation on the part of the agency constructing the dam to provide such bridge or approach roads to satisfy a legal liability incurred independently of this subpart.

Subpart I [Reserved]

Subpart J—Traffic Safety in Highway and Street Work Zones

Source: 43 FR 47140, Oct. 12, 1978, unless otherwise noted.

§ 630.1002 Purpose.
The purpose of this subpart is to provide guidance and establish procedures to assure that adequate consideration is given to motorists, pedestrians, and construction workers on all Federal-aid construction projects.

§ 630.1004 Background.
Part VI of the manual on uniform traffic control devices (MUTCD)¹ sets forth basic principles and prescribes standards for the design, application, installation, and maintenance of the various types of traffic control devices for highway and street construction, maintenance operation, and utility work. The manual cannot address in depth the variety of situations that occur in providing traffic control in work zones. Although agencies responsible for traffic control and work area protection have attempted to develop some guidelines, a coordinated and comprehensive effort to develop greater uniformity is desirable. National reviews have shown that more attention is needed to insure that the MUTCD is properly implemented on all highway projects.


§ 630.1006 Policy.
It is the policy of the Federal Highway Administration that each highway agency shall develop and implement procedures consonant with the requirements of this regulation that will assure the safety of motorists, pedestrians, and construction workers on Federal-aid highway construction projects. The procedures shall be consistent with the provisions of the MUTCD. Highway agencies should be encouraged to implement these procedures for non-Federal-aid projects and maintenance operations as well.

§ 630.1008 Implementation.
The FHWA Division Administrator shall review and approve the highway agency's implementation of its procedures at appropriate intervals. The FHWA shall take appropriate action to assure that the highway agency's procedures are being followed and achieve the results intended. Major revisions in established procedures shall be submitted to the FHWA Division Administrator for information.

§ 630.1010 Contents of the agency procedures.
The agency's procedures shall include, but not necessarily be limited to the following:
(a) Traffic control plan (TCP). (1) A traffic control plan is a plan for handling traffic through a specific highway

or street work zone or project. These plans may range in scope from a very detailed TCP designed solely for a specific project, to a reference to standard plans, a section of the MUTCD, or a standard highway agency manual. The degree of detail in the TCP will depend on the project complexity and traffic interference with construction activity.

(2) Traffic control plans shall be developed for all projects and be included in plans, specifications, and estimates (P.S. & E.’s) and shall be consistent with part VI of the MUTCD.

(3) The scope of the TCP should be determined during planning and design phases of a project.

(4) Provisions may be made to permit contractors to develop their own TCP’s and use them if the highway agency and FHWA find that these plans are as good as or better than those provided in the P.S. & E.

(5)(i) Two-lane, two-way operation on one roadway of a normally divided highway (TLTWO) shall be used only after careful consideration of other available methods of traffic control. Where the TLTWO is used, the TCP shall include provisions for the separation of opposing traffic except:

(A) Where the TLTWO is located on an urban type street or arterial where operating speeds are low;

(B) Where drivers entering the TLTWO can see the transition back to normal one-way operation on each roadway; or

(C) Where FHWA approves nonuse of separation devices based on unusual circumstances.

(ii) Center line striping, raised pavement markers, and complementary signing, either alone or in combination, are not considered acceptable for separation purposes.

(b) Responsible person. The highway agency shall designate a qualified person at the project level who will have the primary responsibility and sufficient authority for assuring that the TCP and other safety aspects of the contract are effectively administered. While the project or resident engineer may have this responsibility, on large complex projects another person should be assigned at the project level to handle traffic control on a full-time basis.

(c) Pay items. The P.S. & E. should include unit pay items for providing, installing, moving, replacing, maintaining, and cleaning traffic control devices required by the TCP. Suitable force account procedures may be utilized for traffic control items. Lumpsum method of payment should be used only to cover very small projects, projects of short duration, contingency, and general items. Payment for traffic control items as incidental to other items of work should be discouraged.

(d) Training. All persons responsible for the development, design, implementation, and inspection of traffic control shall be adequately trained.

(e) Process review and evaluation. (1) A review team consisting of appropriate highway agency personnel shall annually review randomly selected projects throughout its jurisdiction for the purpose of assessing the effectiveness of its procedures. The agency may elect to include an FHWA representative as a member of the team. The results of this review are to be forwarded to the FHWA Division Administrator for his review and approval of the highway agency’s annual traffic safety effort.

(2) Construction zone accidents and accident data shall be analyzed and used to continually correct deficiencies which are found to exist on individual projects, and to improve the content of future traffic control plans.

§ 633.102 Applicability.

(a) The required contract provisions and the required proposal notices apply to all Federal-aid construction contracts other than Appalachian construction contracts.

(b) Form FHWA–1273, “Required Contract Provisions, Federal-Aid Construction Contracts,” contains required contract provisions and required proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. The required contract provisions of Form FHWA–1273 shall be physically incorporated in each Federal-aid highway construction contract other than Appalachian construction contracts (see §633.104 for availability of form).

(c) For contracts authorized under certification acceptance procedures, an alternate format for inclusion of required contract provisions may be used pursuant to 23 CFR part 640.

(d) The required contract provisions contained in Form FHWA–1273 shall apply to all work performed on the contract by the contractor’s own organization and to all work performed on the contract by piecework, station work, or by subcontract.

(e) The contractor shall insert in each subcontract, except as excluded by law or regulation, the required contract provisions contained in Form FHWA–1273 and further require their inclusion in any lower tier subcontract that may in turn be made. The required contract provisions of Form FHWA–1273 shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the requirements contained in the provisions of Form FHWA–1273.

(f) The State highway agency (SHA) shall include the notices concerning certification of nonsegregated facilities and implementation of the Clean Air Act and Federal Water Pollution Control Act, pursuant to 40 CFR part 15, in all bidding proposals for Federal-aid highway construction projects. As the notices are reproduced in Form FHWA–1273, the SHA may include Form FHWA–1273 in its entirety to meet this requirement.
§ 633.103 Regulatory authority.

All required contract provisions contained in Form FHWA–1273 are requirements of regulations promulgated by the FHWA or other Federal agencies. The authority for each provision will be cited in the text of Form FHWA–1273.

§ 633.104 Availability.

(a) Form FHWA–1273 will be maintained by the FHWA and as regulatory revisions occur, the form will be updated.

(b) Current copies of Form FHWA–1273, Required Contract Provisions, will be made available to the SHAs by the FHWA.

Subpart B—Federal-Aid Contracts (Appalachian Contracts)


SOURCE: 39 FR 35146, Sept. 30, 1974, unless otherwise noted.

§ 633.201 Purpose.

The purpose of the regulations in this subpart is to establish policies and outline procedures for administering projects and funds for the Appalachian Development Highway System and Appalachian local access roads.

§ 633.202 Definitions.

(a) The word Commission means the Appalachian Regional Commission (ARC) established by the Appalachian Regional Development Act of 1965, as amended (Act).

(b) The term division administrator means the chief Federal Highway Administration (FHWA) official assigned to conduct FHWA business in a particular State.


§ 633.203 Applicability of existing laws, regulations, and directives.

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 inconsistent with the Act, shall apply, respectively, to the development highway system and the local access roads. In addition, the Regulations for the Administration of Federal-aid for Highways (title 23, Code of Federal Regulations) and directives implementing applicable provisions of title 23 U.S.C., where not inconsistent with the Act, shall be applicable to such projects.

§ 633.204 Fiscal allocation and obligations.

(a) Federal assistance to any project under the Act shall be as determined by the Commission, but in no event shall such Federal assistance exceed 70 per centum of the cost of such a project.

(b) The division administrator’s authorization to proceed with the proposed work shall establish obligation of Federal funds with regard to a particular project.


§ 633.205 Prefinancing.

(a) Under the provisions of subsection 201(h) of the Act, projects located on the Appalachian Development Highway System including preliminary engineering, right-of-way, and/or construction may be programmed and advanced with interim State financing.

(b) Program approvals, plans, specifications, and estimates (PS&E) approval, authorizations to proceed, concurrence in award of contracts, and all other notifications to the State of advancement of a project shall include the statement, “There is no commitment or obligation on the part of the United States to provide funds for this highway improvement. However, this project is eligible for Federal reimbursement when sufficient funds are available from the amounts allocated by the Appalachian Regional Commission.”

§ 633.206 Project agreements.

(a) Project agreements executed for projects under the Appalachian program shall contain the following paragraphs:

(1) “For projects constructed under section 201 of the Appalachian Regional
§ 633.208 Maintenance.

Maintenance of all highway projects constructed under the Act, whether on the development system or local access roads, shall be the responsibility of the State. The State may arrange for maintenance of such roads or portions thereof, by agreement with a local governmental unit.
§ 633.209 Notices to prospective Federal-aid construction contractors.

The State highway department shall include the notices set forth in appendix D in all future bidding proposals for Appalachian Development System and Appalachian local access roads construction contracts.

§ 633.210 Termination of contract.

All contracts exceeding $2,500 shall contain suitable provisions for termination by the State, including the manner in which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

§ 633.211 Implementation of the Clean Air Act and the Federal Water Pollution Control Act.

Pursuant to regulations of the Environmental Protection Agency (40 CFR part 15) implementing requirements with respect to the Clean Air Act and the Federal Water Pollution Control Act are included in appendix B to this part.

[40 FR 49084, Oct. 21, 1975]

APPENDIX A TO SUBPART B OF PART 633—TYPES OF CONTRACTS TO WHICH THE CIVIL RIGHTS ACT OF 1964 IS APPLICABLE

Section 324 of title 23 U.S.C., the Civil Rights Act of 1964, and the implementing regulations of the Department of Transportation (49 CFR part 21), including the provisions of paragraphs (2)(iii) and (2)(v) of appendix C thereof relative to employment practices, are applicable to the following types of contracts awarded by State highway departments, contractors, and first tier subcontractors, including those who supply materials and lease equipment:

1. Construction.
2. Planning.
3. Research.
5. Engineering.
6. Property Management.
7. Fee contracts and other commitments with persons for services incidental to the acquisition of right-of-way including, but not limited to:
   a. Advertising contracts.
   b. Agreements for economic studies.
   c. Contracts for surveys and plats.
   d. Contracts for abstracts of title certificates and title insurance.
   e. Contracts for appraisal services and expert witness fees.
   f. Contracts to negotiate for the acquisition of right-of-way.
   g. Contracts for disposal of improvements and property management services.
   h. Contracts for employment of fee attorneys for right-of-way procurement, or preparation and trial of condemnation cases.
   i. Contracts for escrow and closing services.

[40 FR 49084, Oct. 21, 1975]

APPENDIX B TO SUBPART B OF PART 633—REQUIRED CONTRACT PROVISIONS, APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM AND LOCAL ACCESS ROADS CONSTRUCTION CONTRACTS

I. Application.

1. These contract provisions shall apply to all work performed on the contract by the contractor with his own organization and with the assistance of workmen under his immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided in sections II, III, and IV hereof, the contractor shall insert in each of his subcontracts all of the stipulations contained in these Required Contract Provisions and also a clause requiring his subcontractors to include these Required Contract Provisions in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of these provisions in any further subcontracts that may in turn be made. The Required Contract Provisions shall in no instance be incorporated by reference.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be grounds for termination of the contract.

4. A breach of the following clauses may also be grounds for debarment as provided in 29 CFR 5.6(b):
   a. Section 1, paragraph 2.
   b. Section VI, paragraphs 1, 2, 3, 5 and 8a.
Section VII, paragraphs 1, 5a, 5b and 5d.

II. Employment preference.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the United States Department of Labor wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
   a. To the extent that qualified persons regularly residing in the area are not available.
   b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
   c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 2 below.
   2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of laborers, mechanics and other employees he anticipates will be required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.
   3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
   4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor’s permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill the positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.
   5. The contractor shall include the provisions of section II–1 through II–4 in every subcontract for work which is, or reasonably may be, done as on-site work.

III. Equal opportunity: employment practices.

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.
   b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
   c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers’ representative of the contractor’s commitments under this section III and shall post copies of the notice in conspicuous places available to employees and applicants.
   d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
   e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
   f. In the event of the contractor’s non-compliance with the nondiscrimination clauses of this contract or with any of the
said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this section III in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State Highway Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IV. Equal opportunity selection of subcontractors, procurement of materials, and leasing of equipment.

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the contractor), agrees as follows:

1. Compliance with regulations. The contractor shall comply with the provisions of 23 U.S.C. 324 and with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") title 49, Code of Federal Regulations, part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices.

3. Solicitations for subcontracts including procurement of materials and equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier, shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

4. Information and reports. The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

a. Witholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination or suspension of the contract, in whole or in part.

6. Incorporation of provisions. The contractor will include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement, as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier, as a result of such direction, the contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

V. Nonsegregated facilities.

(Applicable to Federal-aid construction contracts and related subcontracts exceeding
prominent place where it can be easily seen

the contractor at the site of the work in a
determination decision shall be posted by
such laborers and mechanics; and the wage
alleged to exist between the contractor and
any contractual relationship which may be
hereto and made a part thereof, regardless of
the Secretary of Labor which is attached
computed at wage rates not less than those con-

In the event the interested parties can-
not agree on the proper classification or re-
classification of a particular class of laborers
and mechanics which is not listed in the wage determina-
tion and which is not to be employed under the
contract, shall be classified or reclassified conformably to the wage determination, and
a report of the action taken shall be sent by
the State highway department contracting officer to the Secretary of Labor.

b. In the event the interested parties cannot agree upon a cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the State highway department contracting offi-
cer shall be referred to the Secretary for final determination.

3. Payment of fringe benefits—A. The State highway department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

b. If the contractor does not make pay-
ments to a trustee or other third person, he
may consider as part of the wage of any la-
borer or mechanic the amount of any costs
reasonably anticipated in providing benefits
under a plan or program of a type expressly
listed in the wage determination decision of
the Secretary of Labor which is part of this
contract: Provided, however, The Secretary of Labor has found, upon the written request of
the contractor, that the applicable standards
of the Davis-Bacon Act have been met. The
Secretary of Labor may require the con-
tractor to set aside in a separate account as-
sets for the meeting of obligations under the
plan or program.

4. Payment of excess wages. While the wage
rates shown are the minimum rates required
by the workers. For the purpose of this clause, contributions made or costs reasonably
anticipated under section 1(b)(2) of the
Davis-Bacon Act on behalf of laborers or me-
chanics are considered wages paid to such la-
borers or mechanics, subject to the provi-
sions of section VI, paragraph 3b, hereof.
Also for the purpose of this clause, regular
contributions made or costs incurred for more than a weekly period under plans,
funds, or programs, but covering the par-
ticular weekly period, are deemed to be con-
structively made or incurred during such weekly period.

2. Classifications—A. The State department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not to be employed under the
contract, shall be classified or reclassified conformably to the wage determination, and
a report of the action taken shall be sent by
the State department contracting officer to the Secretary of Labor.

b. In the event the interested parties can-
note agree on the proper classification or re-
classification of a particular class of laborers
and mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

3. Payment of fringe benefits—a. The State highway department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

b. If the contractor does not make pay-
ments to a trustee or other third person, he
may consider as part of the wage of any la-
borer or mechanic the amount of any costs
reasonably anticipated in providing benefits
under a plan or program of a type expressly
listed in the wage determination decision of
the Secretary of Labor which is part of this
contract: Provided, however, The Secretary of Labor has found, upon the written request of
the contractor, that the applicable standards
of the Davis-Bacon Act have been met. The
Secretary of Labor may require the con-
tractor to set aside in a separate account as-
sets for the meeting of obligations under the
plan or program.

4. Payment of excess wages. While the wage
rates shown are the minimum rates required
by the workers. For the purpose of this clause, contributions made or costs reasonably
anticipated under section 1(b)(2) of the
Davis-Bacon Act on behalf of laborers or me-
chanics are considered wages paid to such la-
borers or mechanics, subject to the provi-
sions of section VI, paragraph 3b, hereof.
Also for the purpose of this clause, regular
contributions made or costs incurred for more than a weekly period under plans,
funds, or programs, but covering the par-
ticular weekly period, are deemed to be con-
structively made or incurred during such weekly period.

2. Classifications—a. The State department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not to be employed under the
contract, shall be classified or reclassified conformably to the wage determination, and
a report of the action taken shall be sent by
the State department contracting officer to the Secretary of Labor.

b. In the event the interested parties can-
note agree on the proper classification or re-
classification of a particular class of laborers
and mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

3. Payment of fringe benefits—a. The State
highway department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

b. If the contractor does not make pay-
ments to a trustee or other third person, he
may consider as part of the wage of any la-
borer or mechanic the amount of any costs
reasonably anticipated in providing benefits
under a plan or program of a type expressly
listed in the wage determination decision of
the Secretary of Labor which is part of this
contract: Provided, however, The Secretary of Labor has found, upon the written request of
the contractor, that the applicable standards
of the Davis-Bacon Act have been met. The
Secretary of Labor may require the con-
tractor to set aside in a separate account as-
sets for the meeting of obligations under the
plan or program.

4. Payment of excess wages. While the wage
rates shown are the minimum rates required
by the workers. For the purpose of this clause, contributions made or costs reasonably
anticipated under section 1(b)(2) of the
Davis-Bacon Act on behalf of laborers or me-
chanics are considered wages paid to such la-
borers or mechanics, subject to the provi-
sions of section VI, paragraph 3b, hereof.
Also for the purpose of this clause, regular
contributions made or costs incurred for more than a weekly period under plans,
funds, or programs, but covering the par-
ticular weekly period, are deemed to be con-
structively made or incurred during such weekly period.

2. Classifications—a. The State department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not to be employed under the
contract, shall be classified or reclassified conformably to the wage determination, and
a report of the action taken shall be sent by
the State department contracting officer to the Secretary of Labor.

b. In the event the interested parties can-
note agree on the proper classification or re-
classification of a particular class of laborers
and mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

3. Payment of fringe benefits—a. The State
highway department contracting officer shall require
that any class of laborers or mechanics which is not listed in the wage determina-
tion and which is not expressed as an hourly wage
rate and the contractor is obligated to pay a
cash equivalent of such a fringe benefit, an
hourly cash equivalent thereof to be estab-
lished. In the event the interested parties cannot agree upon a cash equivalent of the
fringe benefits, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

b. If the contractor does not make pay-
ments to a trustee or other third person, he
may consider as part of the wage of any la-
borer or mechanic the amount of any costs
reasonably anticipated in providing benefits
under a plan or program of a type expressly
listed in the wage determination decision of
the Secretary of Labor which is part of this
contract: Provided, however, The Secretary of Labor has found, upon the written request of
the contractor, that the applicable standards
of the Davis-Bacon Act have been met. The
Secretary of Labor may require the con-
tractor to set aside in a separate account as-
sets for the meeting of obligations under the
plan or program.

4. Payment of excess wages. While the wage
rates shown are the minimum rates required
by the workers. For the purpose of this clause, contributions made or costs reasonably
anticipated under section 1(b)(2) of the
Davis-Bacon Act on behalf of laborers or me-
chanics are considered wages paid to such la-
borers or mechanics, subject to the provi-
sions of section VI, paragraph 3b, hereof.
obtained at these rates. No increase in the contract price shall be allowed or authorized on account of the payment of wage rates in excess of those listed herein.

5. Apprentices and trainees (Programs of Department of Labor). a. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in 29 CFR 5.2(c)(2) or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the State highway department or to a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program, the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. The utilization of apprentices, trainees and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. The utilization of apprentices, trainees and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

6. Apprentices and trainees (Programs of Department of Transportation). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal opportunity in connection with Federal-aid highway construction programs are not subject to the requirements of section VI, paragraph 5 above. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs.

7. Withholding for unpaid wages. The State highway department contracting officer may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers, mechanics, (including apprentices and trainees) watchmen, or guards employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer, mechanic, (including apprentices and trainees) watchman or guard employed or working on the site of the work, all or part of the wages required by the contract, the State highway department contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

8. Overtime requirements. a. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen or guards (including apprentices and trainees described in paragraphs 5 and 6 above) shall require or permit any laborer, mechanic, watchman or guard in any workweek in which he is employed on such work, to work in excess of eight hours in any calendar day or in excess of forty hours in
such workweek unless such laborer, mechanic, watchman or guard receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be.

b. In the event of any violation of paragraph 8a, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman or guard employed in violation of paragraph 8a, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph 8a.

c. The State highway department contracting officer may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for liquidated damages as provided in paragraph 8b.

VII. Statements and payrolls.

1. Compliance with Copeland Regulations (29 CFR part 3). The contractor shall comply with the Copeland Regulations (29 CFR part 3) of the Secretary of Labor which are herein incorporated by reference.

2. Weekly statement. Each contractor or subcontractor shall furnish each week a statement to the State highway department resident engineer with respect to the wages paid each of its employees, including apprentices and trainees described in section VI, paragraphs 5 and 6, and watchmen and guards on work covered by the Copeland Regulations during the preceding weekly payroll period. The statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages. Contractors and subcontractors must use the certification set forth on U.S. Department of Labor Form WH-948, or the same certification appearing on the reverse of Optional U.S. Department of Labor Form WH-947, or on any form with identical wording.

3. Final labor summary. The contractor and each subcontractor shall furnish, upon the completion of the contract, a summary of all employment, indicating for the completed project the total hours worked and the total amount earned. This data shall be submitted to the State highway department resident engineer on Form PR-47 together with the data required in section VIII, hereof, relative to materials and supplies.

4. Final certificate. Upon completion of the contract, the contractor shall submit to the State highway department contracting officer, for transmission to the Federal Highway Administration with the voucher for final payment for any work performed under the contract, a certificate concerning wages and classifications for laborers, mechanics, watchmen and guards employed on the project, in the following form:

* * * * *

The undersigned, contractor on (Project No.) hereby certifies that all laborers, mechanics, apprentices, trainees, watchmen and guards employed by him or by any subcontractor performing work under the contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the contract or training program provisions applicable to the wage rate paid.

Signature and title

* * * * *

V. Payrolls and payroll records—a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers, mechanics, apprentices, trainees, watchmen and guards working at the site of the work.

b. The payroll records shall contain the name, social security number and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor, pursuant to section VI, paragraph 3.b., has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

c. The payrolls shall contain the following information:
1. The employee's full name, address and social security number and a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in paragraph 1.a. (The employee's full name and social security number need only appear on the first payroll on which his name appears. The employee's address need only be shown on the first submittal on which his name appears, unless a change of address necessitates a submittal to reflect the new address.)

2. The employee's classification.

3. Entries indicating the employee's basic hourly wage rate and, where applicable, the overtime hourly wage rate. The payroll shall indicate separately the amounts of employee and employer contributions to fringe benefits funds and/or programs. Any fringe benefits paid to the employee in cash must be indicated. There is no prescribed or mandatory form for showing the above information on payrolls.

4. The employee's daily and weekly hours worked in each classification, including actual overtime hours worked (not adjusted).

5. The itemized deductions made and

6. The net wages paid.

d. The contractor will submit weekly a copy of all payrolls to the State highway department resident engineer. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and the classifications set forth for each laborer or mechanic conform with the work he performed. Submission of a weekly statement which is required under this contract by section VII, paragraph 2, and the Copeland Regulations of the Secretary of Labor (29 CFR part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor pursuant to section VI, paragraph 3b, shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the State highway department, the Federal Highway Administration and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

e. The wages of labor shall be paid in legal tender of the United States, except that this condition will be considered satisfied if payment is made by negotiable check, on a solvent bank, which may be cashed readily by the employee in the local community for the full amount, without discount or collection charges of any kind. Where checks are used for payment, the contractor shall make all necessary arrangements for them to be cashed and shall given information regarding such arrangements.

f. No fee of any kind shall be asked or accepted by the contractor or any of his agents from any person as a condition of employment on the project.

g. No laborers shall be charged for any tools used in performing their respective duties except for reasonably avoidable loss or damage thereto.

h. Every employee on the work covered by this contract shall be permitted to lodge, board and trade where and with whom he elects and neither the contractor nor his agents, nor his employees shall, directly or indirectly, require as a condition of employment that an employee shall lodge, board or trade at a particular place or with a particular person.

i. No charge shall be made for any transportation furnished by the contractor, or his agents, to any person employed on the work.

j. No individual shall be employed as a laborer or mechanic on this contract except on a wage basis, but this shall not be construed to prohibit the rental of teams, trucks, or other equipment from individuals.

VIII. Record of materials, supplies and labor.

1. The contractor shall maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form PR-47 and in the units shown. Upon completion of the contract, this record, together with the final labor summary required in section VII, paragraph 3, hereof, shall be transmitted to the State highway department resident engineer for the project on Form PR-47 in accordance with instructions attached thereto, which will be furnished for this purpose upon request. The quantities for the listed items shall be reported separately for roadway and for structures over 20 feet long as measured along the centerline of the roadway.

2. The contractor shall become familiar with the list of specific materials and supplies contained in Form PR-47 prior to the commencement of work under this contract. Any additional materials information required will be solicited through revisions of Form PR-47 with attendant explanations.

3. Where subcontracts are involved the contractor shall submit either a single report covering work both by himself and all his subcontractors, or he may submit separate reports for himself and for each of his subcontractors.

IX. Subletting or assigning the contract.

1. The contractor shall perform with his own organization contract work amounting to not less than 50 percent of the total contract price, except that any items
designated by the State as Specialty Items may be performed by subcontract and the amount of any such Specialty Items so performed may be deducted from the original total contract amount before computing the amount of work required to be performed by the contractor with his own organization.

a. His own organization shall be construed to include only workmen employed and paid directly by the prime contractor and equipment owned or rented by him, with or without operators.

b. Specialty items shall be construed to be limited to work that requires highly specialized knowledge, craftsmanship or equipment not ordinarily available in contracting organizations qualified to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. In addition to the 50 percent requirements set forth in paragraph 1 above, the contractor shall furnish (a) a competent superintendent or foreman who is employed by him, who has full authority to direct performance of the work in accordance with the contract requirements, and who is in charge of all construction operations (regardless of who performs the work), and (b) such other of his own organizational capability and responsibility (supervision, management, and engineering services) as the State highway department contracting officer determines is necessary to assure the performance of the contract.

3. The contract amount upon which the 50 percent requirement set forth in paragraph 1 is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

4. Any items that have been selected as Specialty Items for the contract are listed as such in the Special Provisions, bid schedule, or elsewhere in the contract documents.

5. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the State highway department contracting officer, or his authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Request for permission to sublet, assign or otherwise dispose of any portion of the contract shall be in writing and accompanied by (a) a showing that the organization which will perform the work is particularly experienced and equipped for such work, and (b) an assurance by the contractor that the labor standards provisions set forth in this contract shall apply to labor performed on all work encompassed by the request.

X. Safety: Accident prevention.

In the performance of this contract, the contractor shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his own responsibility, or as the State highway department contracting officer may determine, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (title 29, Code of Federal Regulations, part 1926, formerly part 1518, as revised from time to time), promulgated by the United States Secretary of Labor, in accordance with section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96).

XI. False statements concerning highway projects.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project in one or more places where it is readily available to all personnel concerned with the project:

* * * * *

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

Title 18 U.S.C., section 1020, reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed or
the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

“Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

“Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-Aid Road Act approved July 1, 1916 (39 Stat. 355), as amended and supplemented;

“Shall be fined not more than $10,000 or imprisoned not more than five years, or both.”

XII. Implementation of Clean Air Act and Federal Water Pollution Control Act (applicable to contracts and subcontracts which exceed $100,000).

1. The contractor stipulates that any facility to be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91–604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92–500), Executive Order 11738, and regulations in implementation thereof (40 CFR part 15), is listed not on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities Pursuant to 40 CFR part 15.20.

2. The contractor agrees to comply with all the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. The contractor shall promptly notify the State highway department of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. The contractor agrees to include or cause to be included the requirements of subparagraphs 1 through 4 of this paragraph XII in every subcontract which exceeds $100,000, and further agrees to take such action as Government may direct as a means of enforcing such requirements.

[40 FR 49084, Oct. 21, 1975]
Federal Highway Administration, DOT


INSTRUCTIONS FOR CONSTRUCTION CONTRACTORS

a. The contractor, with regard to the work performed by him after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations.

b. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

4. Information and reports.

The contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Incorporation of provisions.

The contractor will include these additional required contract provisions in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or orders, or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract, procurement, or lease as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, That, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor, supplier, or lessor as a result of such directed action, the contractor may request the State to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.


In the event of the contractor’s noncompliance with sections 1 through 5 above, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
b. Cancellation, termination or suspension of the contract in whole or in part.

[40 FR 49088, Oct. 21, 1975]

APPENDIX D TO SUBPART B OF PART 633—FEDERAL-AID PROPOSAL NOTICES

NOTICE TO PROSPECTIVE FEDERAL-AID CONSTRUCTION CONTRACTORS

I. Certification of nonsegregated facilities.

(a) A Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities (is included in the proposal and must be submitted prior to the award of a Federal-aid highway construction contract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause).

(b) Bidders are cautioned as follows: By signing this bid, the bidder will be deemed to have signed and agreed to the provisions of the “Certification of Nonsegregated Facilities” in this proposal. This certification provides that the bidder does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder will not maintain such segregated facilities.

(c) Bidders receiving Federal-aid highway construction contract awards exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause, will be required to provide for the forwarding of the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontractors or material supply agreements exceed $10,000 and are not exempt from the provisions of the Equal Opportunity clause.

NOTICE TO PROSPECTIVE SUBCONTRACTORS AND MATERIAL SUPPLIERS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities is required by the May 9, 1967, Order of the Secretary of Labor (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities, which is included in the proposal, or attached hereto, must be submitted by each subcontractor and material supplier prior to
the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds $10,000 and is not exempt from the provisions of the Equal Opportunity clause.

(b) Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the “Certification of Nonsegregated Facilities” in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.

(c) Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed $10,000 and are not exempt from the provisions of the Equal Opportunity clause.

II. Implementation of Clean Air Act.

(a) By signing this bid, the bidder will be deemed to have stipulated as follows:

(1) That any facility to be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1657 et seq., as by Pub. L. 91–604), Executive order 11738, and regulations in implementation thereof (40 CFR part 15, is not listed on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

(2) That the State highway department shall be promptly notified prior to contract award of the receipt by the bidder of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

Subpart C—Direct Federal Construction Contracts


Source: 39 FR 22418, June 24, 1974, unless otherwise noted.

§ 633.301 Purpose.

To prescribe for direct Federal highway construction contracts, provisions covering employment, safety, specific equal employment opportunity responsibilities and false statements concerning highway projects.

§ 633.302 Applicability.

(a) The form “Continuation of Standard Form 19-A, Labor Standards Provisions” (appendix A) shall be made a part of all highway construction contracts under the direct supervision of the Federal Highway Administration. The form shall be incorporated in each highway construction contract as a continuation of Standard Form 19-A, Labor Standards Provisions and the clauses set forth in paragraph 7 of appendix A shall be included in all subcontracts.

(b) Such additional labor standards provisions as hometown or imposed equal employment opportunity plans shall be added at the end of the form.

APPENDIX A TO SUBPART C OF PART 633—CONTINUATION OF STANDARD FORM 19-A LABOR STANDARDS PROVISIONS (DOT–FHWA 3–74)

1. Weekly Statement.

The contractor and each subcontractor shall furnish each week a statement with respect to the wages paid each of his employees engaged on work covered by the Copeland Act Regulations, 29 CFR part 3, and by 29 CFR part 5, during the preceding weekly payroll period. The statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages. The statement shall be on U.S. Department of Labor Form WH 347, “Payroll (For Contractor’s Optional Use),” or on any form with identical wording. Copies of these forms may be purchased from the Government Printing Office.

2. Employment Practices.

a. The wages of labor shall be paid in legal tender of the United States, except that this condition will be considered satisfied if payment is made by a negotiable check, on a solvent bank, which may be cashed readily by the employee in the local community for the full amount, without discount or collection charges of any kind. Where checks are used for payment, the contractor and each subcontractor shall make all necessary arrangements for them to be cashed and shall give information to their employees regarding such arrangements.
b. No fee of any kind shall be asked or accepted by the contractor, or any of his agents or subcontractors, from any person as a condition of employment on the project.

c. No laborers or mechanics shall be charged for any tools used in performing their duties unless prior permission to make payroll deductions for such charges has been granted by the Secretary of Labor in accordance with Section 3.6 of the Copeland Act Regulations.

d. Every employee on the work covered by this contract shall be permitted to lodge, board, and trade where and with whom he elects and neither the contractor, his subcontractors, nor his employees shall directly or indirectly require as a condition of employment that an employee shall lodge, board or trade at a particular place or with a particular person.

e. No charge shall be made for any transportation furnished by the contractor, or his subcontractors to any person employed on the work.

f. No individual shall be employed as a laborer or mechanic on this contract except on a wage basis, but this shall not be construed to prohibit the rental of teams, trucks, or other equipment from individuals.

g. Each employee's social security number must be shown on the first payroll on which his name appears.

3. Payment of Excess Wages.

While the wage rates shown in the wage determination decision are the minimum hourly rates required by the contract to be paid during its life, it is the responsibility of bidders to inform themselves as to the local labor conditions, such as the length of workday and workweek, overtime compensation, health and welfare contributions, labor supply, and prospective changes or adjustment of wage rates. No increase in the contract price shall be allowed or authorized on account of the payment of wage rates in excess of those listed herein.

4. Safety.

It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not require any individual employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, part 1926, as revised from time to time) promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act.

5. False Statements Concerning Highway Projects.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any fact related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the contractor shall post the Notice, Form PB-1022 on each Federal highway project in one or more places where it is readily available to all personnel concerned with the project.


a. General. (1) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in SF 23-A, General Provisions and in these Provisions. The requirements set forth in these Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the General Provisions.

(2) The contractor will work with the Federal Government in carrying out equal employment opportunity obligations and in their review of his activities under the contract.

(3) The prime contractor, and all subcontractors (not including material suppliers), holding subcontracts of $10,000 or more, will comply with the minimum equal employment opportunity requirements set forth in the balance of this clause 6.


The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship,
preapprenticeship, and/or on-the-job training.

c. Equal Employment Opportunity Officer.

The contractor will designate and make known to the contracting officer an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

d. Dissemination of Policy.

(1) All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

(a) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(b) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(c) The EEO Officer or appropriate company official will instruct all employees engaged in the direct recruitment of employees for the project relative to the methods followed by the contractor in locating and hiring minority group employees.

(2) In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officer, etc., the contractor will take the following actions:

(a) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment, and potential employees.

(b) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

e. Recruitment.

(1) When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." He will insert all such advertisements in newspapers, or other publications, having a large circulation among minority groups in the area from which the project work force would normally be derived.

(2) The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges, and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employment, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

(3) The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

f. Personnel Actions.

(1) Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin.

The following procedures shall be followed:

(a) The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

(b) The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

(c) The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action.

(d) The contractor will investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action. If the investigation
Federal Highway Administration, DOT

indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

i. Training and Promotion.

(1) The contractor will use his best efforts to develop, in cooperation with unions, joint training programs aimed toward qualifying more minority group members employed in each work classification on the project.

(2) The contractor will use his best efforts to secure the services of minority group sub-contractors or subcontractors with meaningful minority group representation among their employees.

(3) The contractor will assist in locating, qualifying and increasing the skills of minority group employees and applicants, for employment.

(4) The contractor will periodically review the training and promotion potential of minority group employees and will encourage eligible employees to apply for such training and promotion.

h. Unions.

If the contractor relies in whole or in part upon unions as a source of his work force, he will use his best efforts to obtain the cooperation of such unions to increase minority group opportunities within the unions, and to effect referrals by such unions of minority group employees. Actions by the contractor, either directly or through a contractor’s association acting as his agent, will include the procedures set forth below:

(1) Use his best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members for membership in the unions and increasing the skills of minority group employees so that they may qualify for higher paying employment.

(2) Use his best efforts to incorporate an equal employment opportunity clause into all union agreements to the end that such unions will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.

(3) In the event a union is unable to refer applicants as requested by the contractor within the time limit set forth in the union agreement, the contractor will, through his recruitment procedures, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified minority group persons.

1. Subcontracting.

(1) The contractor will use his best efforts to utilize minority group subcontractors or subcontractors with meaningful minority group representation among their employees.

(2) The contractor will use his best efforts to assure subcontractor compliance with their equal employment opportunity obligations.

j. Records and Reports.

(1) The contractor will keep such records as are necessary to determine compliance with the contractor’s equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

(a) The number of minority and non-minority group members employed in each work classification on the project.

(b) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority group representation among their employees.

(2) All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by the contracting officer or his authorized representative.

(3) The contractor will submit to the Federal Highway Administration a monthly report for the first three months after construction begins, and thereafter upon request, for the duration of the project, indicating the number of minority and non-minority group employees employed on the project.

7. Subcontracts.

The contractor shall include, verbatim, clauses 1, 2, 4, 5 and 6 of this continuation sheet in each of his subcontracts, except that Clause 5 will not be required for subcontracts less than $10,000. In addition, the contractor shall include a clause requiring each subcontractor to include these clauses in any lower tier subcontracts.

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

Sec.

635.101 Purpose.
635.102 Definitions.
635.103 Applicability.
635.104 Method of construction.
§ 635.101 Purpose.

To prescribe policies, requirements, and procedures relating to Federal-aid highway projects, from the time of authorization to proceed to the construction stage, to the time of final acceptance by the Federal Highway Administration (FHWA).

§ 635.102 Definitions.

Administrator means the Federal Highway Administrator.

Calendar day means each day shown on the calendar but, if another definition is set forth in the State contract specifications, that definition will apply.

Certification acceptance means the alternative procedure which may be used for administering certain highway projects involving Federal funds pursuant to 23 U.S.C. 117.

Contract time means the number of workdays or calendar days specified in a contract for completion of the contract work. The term includes authorized time extensions.

Division Administrator means the chief FHWA official assigned to conduct business in a particular State. A State is as defined in 23 U.S.C. 101.

Force account means a basis of payment for the direct performance of highway construction work with payment based on the actual cost of labor, equipment, and materials furnished and consideration for overhead and profit.

APPENDIX A TO SUBPART D—SUMMARY OF ACCEPTABLE CRITERIA FOR SPECIFYING TYPES OF CULVERT PIPES
Formal approval means approval in writing or the electronic transmission of such approval.

Incentive/disincentive for early completion as used in this subpart, describes a contract provision which compensates the contractor a certain amount of money for each day identified critical work is completed ahead of schedule and assesses a deduction for each day the contractor overruns the incentive/disincentive time. Its use is primarily intended for those critical projects where traffic inconvenience and delays are to be held to a minimum. The amounts are based upon estimates of such items as traffic safety, traffic maintenance, and road user delay costs.

Liquidated damages means the daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by a State highway agency because of the contractor’s failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of all daily amounts deducted under the terms of a particular contract.

Local public agency means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State highway agency in highway matters.

Major change or major extra work means a change which will significantly affect the cost of the project to the Federal Government or alter the termini, character or scope of the work.

Materially unbalanced bid means a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Federal Government.

Mathematically unbalanced bid means a bid containing lump sum or unit bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder’s anticipated profit, overhead costs, and other indirect costs.

Public agency means any organization with administrative or functional responsibilities which are directly or indirectly affiliated with a governmental body of any nation, State, or local jurisdiction.

Publicly owned equipment means equipment previously purchased or otherwise acquired by the public agency involved primarily for use in its own operations.

Specialty items means work items identified in the contract which are not normally associated with highway construction and require highly specialized knowledge, abilities or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract; in general, these items are to be limited to minor components of the overall contract.

State highway agency (SHA) means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term “State” should be considered equivalent to “State highway agency” if the context so implies.

Workday means a calendar day during which construction operations could proceed for a major part of a shift, normally excluding Saturdays, Sundays, and State-recognized legal holidays.

§ 635.103 Applicability.

The policies, requirements, and procedures prescribed in this subpart shall apply to all Federal-aid highway projects except for those title 23 requirements specifically discharged in an approved certification acceptance plan, in accordance with 23 U.S.C. 117.

§ 635.104 Method of construction.

(a) Actual construction work shall be performed by contract awarded by competitive bidding; unless, as provided in §635.104(b), the SHA demonstrates to the satisfaction of the Division Administrator that some other method is more cost effective or that an emergency exists. The SHA shall assure opportunity for free, open, and competitive bidding, including adequate publicity of the advertisements or calls for bids. The advertising or
§ 635.105 Supervising agency.

(a) The SHA has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by a local public agency or other Federal agency. The SHA shall be responsible for ensuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications.

(b) Although the SHA may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the SHA shall provide a full-time employed State engineer to be in responsible charge of the project.

(c) When a project is located on a street or highway over which the SHA does not have legal jurisdiction, or when special conditions warrant, the SHA, while not relieved of overall project responsibility, may arrange for the local public agency having jurisdiction over such street or highway to perform the work with its own forces or by contract; provided the following conditions are met and the Division Administrator approves the arrangements in advance.

(1) In the case of force account work, there is full compliance with subpart B of this part.

(2) When the work is to be performed under a contract awarded by a local public agency, all Federal requirements including those prescribed in this subpart shall be met.

(3) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work; and

(4) In those instances where a local public agency elects to use consultants for construction engineering services, the local public agency shall provide a full-time employee of the agency to be in responsible charge of the project.

§ 635.106 Use of publicly owned equipment.

(a) Publicly owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local public agency for highway construction purposes may be warranted or justified. A proposal by any SHA for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be cost effective to do so under the conditions peculiar to the individual project or locality.

(b) Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the following conditions are met:

1. The proposed use of such equipment is clearly set forth in the Plans, Specifications and Estimate (PS&E) submitted to the Division Administrator for approval.

2. The advertised specifications specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged, and the points of availability or delivery of the equipment; and

3. The advertised specifications include a notification that the successful bidder has the option either of renting part or all of such equipment from the State or local public agency or otherwise providing the equipment necessary for the performance of the contract work.

(c) In the rental of publicly owned equipment to contractors, the State or local public agency shall not profit at the expense of Federal funds.

(d) Unforeseeable conditions may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or local public agency.
agency after the work has started. Any such arrangement shall not form the basis for any increase in the cost of the project on which Federal funds are to participate.

(e) When publicly owned equipment is used on projects constructed on a force account basis, costs may be determined by agreed unit prices or on an actual cost basis. When agreed unit prices are applied the equipment need not be itemized nor rental rates shown in the estimate. However, if such work is to be performed on an actual cost basis, the SHA shall submit to the Division Administrator for approval the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use.

§ 635.107 Small and disadvantaged business participation.

The SHA shall schedule contract lettings in a balanced program providing contracts of such size and character as to assure an opportunity for all sizes of contracting organizations to compete. In accordance with title VI of the Civil Rights Act of 1964, subsequent Federal-aid Highway Acts, and 49 CFR part 23, the SHA shall affirmatively encourage disadvantaged business enterprise participation in the highway construction program.

§ 635.108 Health and safety.

Contracts for projects shall include provisions designed:

(a) To insure full compliance with all applicable Federal, State, and local laws governing safety, health and sanitation; and

(b) To require that the contractor shall provide all safeguards, safety devices, and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

§ 635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project approved under 23 U.S.C. 106:

1) Differing site conditions. (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the SHA’s at their option.)

(2) Suspensions of work ordered by the engineer. (i) If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the
§635.109

reasons and support for such adjustment.

(ii) Upon receipt, the engineer will evaluate the contractor’s request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer’s determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(3) Significant changes in the character of work.

(i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term “significant change” shall be construed to apply only to the following circumstances:

(A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

(B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be made applicable to Federal-aid highway contracts.

(2) Where the State highway agency has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State highway agency may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State’s action must be pursuant to a specific State statute requiring differing contract conditions clauses. Such State developed clause or clauses, however, must be in conformance with 23 U.S.C., 23 CFR and other applicable Federal statutes and regulations as appropriate and shall be subject to the Division Administrator’s approval as part of the PS&E.

§ 635.110 Licensing and qualification of contractors.

(a) The procedures and requirements a SHA proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the Division Administrator.

(b) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or non-resident of the State wherein the work is to be performed.

(c) No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating.

(d) Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon, or may be awarded to, a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor’s capability to perform the work.

(e) Contractors who are currently suspended, debarred or voluntarily excluded under 29 CFR part 29 or otherwise determined to be ineligible, shall be prohibited from participating in the Federal-aid highway program.

§ 635.111 Tied bids.

(a) The SHA may tie or permit the tying of Federal-aid highway projects or Federal-aid and State-financed highway projects for bidding purposes where it appears that by so doing more favorable bids may be received. To avoid discrimination against contractors desiring to bid upon a lesser amount of work than that included in the tied combinations, provisions should be made to permit bidding separately on the individual projects whenever they are of such character as to be suitable for bidding independently.

(b) When Federal-aid and State-financed highway projects are tied or permitted to be tied together for bidding purposes, the bid schedule shall set forth the quantities separately for the Federal-aid work and the State-financed work. All proposals submitted for the tied projects must contain separate bid prices for each project individually. Federal participation in the cost of the work shall be on the basis of the lowest overall responsive bid proposal unless the analysis of bids reveals that mathematical unbalancing has caused an unsupported shift of cost liability to the Federal-aid work. If such a finding is made, Federal participation shall be based on the unit prices represented in the proposal by the individual contractor who would be the lowest responsive and responsible bidder if only the Federal-aid project were considered.

(c) Federal-aid highway projects and State-financed highway projects may be combined in one contract if the conditions of the projects are so similar that the unit costs on the Federal-aid projects should not be increased by such combinations of projects. In such cases, like quantities should be combined in the proposal to avoid the possibility of unbalancing of bids in favor of either of the projects in the combination.

§ 635.112 Advertising for bids.

(a) No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to
§ 635.113 Bid opening and bid tabulations.

(a) All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting. Negotiation with contractors, during the period following the opening of bids and before the award of the contract shall not be permitted.

(b) The SHA shall prepare and forward tabulations of bids to the Division Administrator. These tabulations shall be certified by a responsible SHA official and shall show:

(1) Bid item details for at least the low three acceptable bids and

(2) The total amounts of all other acceptable bids.

§ 635.114 Award of contract and concurrence in award.

(a) Federal-aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder.
meeting the criteria of responsibility as may have been established by the SHA in accordance with §635.110. Award shall be within the time established by the SHA and subject to the prior concurrence of the Division Administrator.

(b) The SHA shall formally request concurrence by the Division Administrator in the award of all Federal-aid contracts. Concurrence in award by the Division Administrator is a prerequisite to Federal participation in construction costs and is considered as authority to proceed with construction, unless specifically stated otherwise. Concurrence in award shall be formally approved and shall only be given after receipt and review of the tabulation of bids.

(c) Following the opening of bids, the SHA shall examine the unit bid prices of the apparent low bid for reasonable conformance with the engineer’s estimated prices. A bid with extreme variations from the engineer’s estimate, or where obvious unbalancing of unit prices has occurred, shall be thoroughly evaluated.

(d) Where obvious unbalanced bid items exist, the SHA’s decision to award or reject a bid shall be supported by written justification. A bid found to be mathematically unbalanced, but not found to be materially unbalanced, may be awarded.

(e) When a low bid is determined to be both mathematically and materially unbalanced, the Division Administrator will take appropriate steps to protect the Federal interest. This action may be concurrence in a SHA decision not to award the contract. If, however, the SHA decides to proceed with the award and requests FHWA concurrence, the Division Administrator’s action may range from nonconcurrence to concurrence with contingency conditions limiting Federal participation.

(f) If the SHA determines that the lowest bid is not responsive or the bidder is not responsible, it shall so notify and obtain the Division Administrator’s concurrence before making an award to the next lowest bidder.

(g) If the SHA rejects or declines to read or consider a low bid on the grounds that it is not responsive because of noncompliance with a requirement which was not clearly identified in the bidding documents, it shall submit justification for its action. If such justification is not considered by the Division Administrator to be sufficient, concurrence will not be given to award to another bidder on the contract at the same letting.

(h) Any proposal by the SHA to reject all bids received for a Federal-aid contract shall be submitted to the Division Administrator for concurrence, accompanied by adequate justification.

(i) In the event the low bidder selected by the SHA for contract award forfeits the bid guarantee, the SHA may dispose of the amounts of such forfeited guarantees in accordance with its normal practices.

(j) A copy of the executed contract between the SHA and the construction contractor should be furnished to the Division Administrator as soon as practicable after execution.

§635.115 Agreement estimate.

(a) Following the award of contract, an agreement estimate based on the contract unit prices and estimated quantities shall be prepared by the SHA and submitted to the Division Administrator as soon as practicable for use in the preparation of the project agreement. The agreement estimate shall also include the actual or best estimated costs of any other items to be included in the project agreement.

(b) An agreement estimate shall be submitted by the SHA for each force account project (see 23 CFR part 635, subpart B) when the plans and specifications are submitted to the Division Administrator for approval. It shall normally be based on the estimated quantities and the unit prices agreed upon in advance between the SHA and the Division Administrator, whether the work is to be done by the SHA or by a local public agency. Such agreed unit prices shall constitute a commitment as the basis for Federal participation in the cost of the project. The unit prices shall be based upon the estimated actual cost of performing the work but shall in no case exceed unit prices currently being obtained by competitive bidding on comparable highway construction work in the same general locality. In special cases
§ 635.116 Subcontracting and contractor responsibilities.

(a) Contracts for projects shall specify the minimum percentage of work that a contractor must perform with its own organization. This percentage shall be not less than 30 percent of the total original contract price excluding any identified specialty items. Specialty items may be performed by subcontract and the amount of any such specialty items so performed may be deducted from the total original contract before computing the amount of work required to be performed by the contractor’s own organization. The contract amount upon which the above requirement is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

(b) The SHA shall not permit any of the contract work to be performed under a subcontract, unless such arrangement has been authorized by the SHA in writing. Prior to authorizing a subcontract, the SHA shall assure that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. The Division Administrator may permit the SHA to satisfy the subcontract assurance requirements by concurrence in a SHA process which requires the contractor to certify that each subcontract arrangement will be in the form of a written agreement containing all the requirements and pertinent provisions of the prime contract. Prior to the Division Administrator’s concurrence, the SHA must demonstrate that it has an acceptable plan for monitoring such certifications.

(c) To assure that all work (including subcontract work) is performed in accordance with the contract requirements, the contractor shall be required to furnish:

1. A competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work), and:

2. Such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines are necessary to assure the performance of the contract.

§ 635.117 Labor and employment.

(a) No construction work shall be performed by convict labor at the work site or within the limits of any Federal-aid highway construction project from the time of award of the contract or the start of work on force account until final acceptance of the work by the SHA unless it is labor performed by convicts who are on parole, supervised release, or probation.

(b) No procedures or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project.

(c) The selection of labor to be employed by the contractor on any Federal-aid project shall be by the contractor without regard to race, color, religion, sex, national origin, age, or handicap and in accordance with 23 CFR part 230, 41 CFR part 60 and Exec. Order No. 11246 (Sept. 24, 1965), 3 CFR 339 (1964–1965), as amended.

(d) Pursuant to 23 U.S.C. 140(d), it is permissible for SHA’s to implement procedures or requirements which will extend preferential employment to Indians living on or near a reservation on eligible projects as defined in paragraph (e) of this section. Indian preference shall be applied without regard to tribal affiliation or place of enrollment. In no instance should a contractor be compelled to layoff or terminate a permanent core-crew employee to meet a preference goal.

(e) Projects eligible for Indian employment preference consideration are
Federal Highway Administration, DOT

§ 635.120 Changes and extra work.

(a) Following authorization to proceed with a project, all major changes in the plans and contract provisions and all major extra work shall have formal approval by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable.

(b) For non-major changes and non-major extra work, formal approval is necessary but such approval may be given retroactively at the discretion of the Division Administrator. The SHA should establish and document with the Division Administrator’s concurrence specific parameters as to what constitutes a non-major change and non-major extra work.

(c) Changes in contract time, as related to contract changes or extra work, should be submitted at the same time as the respective work change for approval by the Division Administrator.

(d) In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such

projects located on roads within or providing access to an Indian reservation or other Indian lands as defined under the term “Indian Reservation Roads” in 23 U.S.C. 101 and regulations issued thereunder. The terminus of a road “providing access to” is that point at which it intersects with a road functionally classified as a collector or higher classification (outside the reservation boundary) in both urban and rural areas. In the case of an Interstate highway, the terminus is the first interchange outside the reservation.

(f) The advertisement or call for bids on any contract for the construction of a project located on the Federal-aid system either shall include the minimum wage rates determined by the Secretary of Labor to be prevailing on the same type of work on similar construction in the immediate locality or shall provide that such rates are set out in the bidding documents and shall further specify that such rates are a part of the contract covering the project.

§ 635.118 Payroll and weekly statements.

For all projects, copies of payrolls and statements of wages paid, filed with the State as set forth in the required contract provisions for the project, are to be retained by the SHA for the time period pursuant to 49 CFR part 18 for review as needed by the Federal Highway Administration, the Department of Labor, the General Accounting Office, or other agencies.

§ 635.119 False statements.

The following notice shall be posted on each Federal-aid highway project in one or more places where it is readily available to and viewable by all personnel concerned with the project:

Notice to All Personnel Engaged on Federal-Aid Highway Projects

United States Code, title 18, section 1020, reads as follows:

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever, knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever, knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 635.120 Changes and extra work.
§ 635.121 Contract time and contract time extensions.

(a) The SHA should have adequate written procedures for the determination of contract time. These procedures should be submitted for approval to the Division Administrator within 6 months of the effective date of this Final Rule.

(b) Contract time extensions granted by a SHA shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval to the Division Administrator shall be fully justified and adequately documented.

§ 635.122 Participation in progress payments.

(a) Federal funds will participate in the costs to the SHA of construction accomplished as the work progresses, based on a request for reimbursement submitted by State highway agencies. When the contract provisions provide for payment for stockpiled materials, the amount of the reimbursement request upon which participation is based may include the appropriate value of approved specification materials delivered by the contractor at the project site or at another designated location in the vicinity of such construction, provided that:

(1) The material conforms with the requirements of the plans and specifications.

(2) The material is supported by a paid invoice or a receipt for delivery of materials. If supported by a receipt of delivery of materials, the contractor must furnish the paid invoice within a reasonable time after receiving payment from the SHA; and

(3) The quantity of a stockpiled material eligible for Federal participation in any case shall not exceed the total estimated quantity required to complete the project. The value of the stockpiled material shall not exceed the appropriate portion of the value of the contract item or items in which such materials are to be incorporated.

(b) The materials may be stockpiled by the contractor at a location not in the vicinity of the project, if the SHA determines that because of required fabrication at an off-site location, it is not feasible or practicable to stockpile the materials in the vicinity of the project.

§ 635.123 Determination and documentation of pay quantities.

(a) The SHA shall have procedures in effect which will provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis throughout the State. All such determinations and all related source documents upon which payment is based shall be made a matter of record.

(b) Initial source documents pertaining to the determination of pay quantities are among those records and documents which must be retained pursuant to 49 CFR part 18.

§ 635.124 Participation in contract claim awards and settlements.

(a) The eligibility for and extent of Federal-aid participation up to the Federal statutory share in a contract claim award made by a State to a Federal-aid contractor on the basis of an arbitration or mediation proceeding, administrative board determination, court judgment, negotiated settlement, or other contract claim settlement shall be determined on a case-by-case basis. Federal funds will participate to the extent that any contract adjustments made are supported, and have a basis in terms of the contract and applicable State law, as fairly construed.
Further, the basis for the adjustment and contractor compensation shall be in accord with prevailing principles of public contract law.

(b) The FHWA shall be made aware by the SHA of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that SHA’s will diligently pursue the satisfactory resolution of claims within a reasonable period of time. Claims arising on projects handled on Certification Acceptance projects or on exempt non-NHS projects should be processed in accordance with the State’s approved Certification Acceptance Plan or Stewardship Plan, as appropriate.

(c) When requesting Federal participation, the SHA shall set forth in writing the legal and contractual basis for the claim, together with the cost data and other facts supporting the award or settlement. Federal-aid participation in such instances shall be supported by a SHA audit of the actual costs incurred by the contractor unless waived by the FHWA as unwarranted. Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to consideration of the award or settlement, the SHA shall include in its submission a legal opinion from its counsel setting forth the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved.

(d) In those cases where the SHA receives an adverse decision in an amount more than the SHA was able to support prior to the decision or settles a claim in an amount more than the SHA can support, the FHWA will participate up to the appropriate Federal matching share, to the extent that it involves a Federal-aid participating portion of the contract, provided that:

(1) The FHWA was consulted and concurred in the proposed course of action;
(2) All appropriate courses of action had been considered; and
(3) The SHA pursued the case diligently and in a professional manner.

(e) Federal funds will not participate:

(1) If it has been determined that SHA employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual State practices in project design, plan preparation, contract administration, or other activities which gave rise to the claim;
(2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney’s fees paid by a State to an opposing party in litigation; and
(3) In tort, inverse condemnation, or other claims erroneously styled as claims “under a contract.”

(f) Payment of interest associated with a claim will be eligible for participation provided that the payment to the contractor for interest is allowable by State statute or specification and the costs are not a result of delays caused by dilatory action of the State or the contractor. The interest rates must not exceed the rate provided for by the State statute or specification.

(g) In cases where SHA’s affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents on projects on which there was Federal-aid participation, the Federal share of such recovery shall be equivalent to the Federal share of the project or projects involved. Such recovery shall be credited to the project or projects from which the claim or claims arose.

§ 635.126 Record of materials, supplies, and labor.

(a) The provisions in this section are required to facilitate FHWA’s efforts to compile data on Federal-aid contracts for the establishment of highway construction usage factors.

(b) On all Federal-aid construction contracts of $1 million or more for projects on the National Highway System, the SHA shall require the contractor:

(1) To become familiar with the list of specific materials and supplies including labor-hour and gross earning items contained in Form FHWA–47, “Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds,” prior to the commencement of work under this contract;

(2) To maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA–47, and in the units shown; and

(3) To furnish, upon the completion of the contract, to the SHA on Form FHWA–47 both the data required in paragraph (b)(2) of this section relative to materials and supplies and a final labor summary for all contract work indicating the total hours worked and the gross earnings.

(c) Upon receipt from the contractor, the SHA shall review the Form FHWA–47 for reasonableness and promptly transmit the form to the Division Administrator in accordance with the instructions printed in the form.


§ 635.127 Agreement provisions regarding overruns in contract time.

(a) Each State highway agency (SHA) shall establish specific liquidated damages rates applicable to projects in that State. The rates may be project-specific or may be in the form of a table or schedule developed for a range of project costs and/or project types. These rates shall, as a minimum, be established to cover the estimated average daily construction engineering (CE) costs associated with the type of work encountered on the project. The amounts shall be assessed by means of deductions, for each calendar day or workday overrun in contract time, from payments otherwise due to the contractor for performance in accordance with the contract terms.

(b) The rates established shall be subject to FHWA approval either on a project-by-project basis, in the case of project-specific rates, or on a periodic basis.
§ 635.201 Purpose.

The purpose of this subpart is to prescribe procedures in accordance with 23
§635.202 Application.

This subpart applies to all Federal-aid and other highway construction projects financed in whole or in part with Federal funds and to be constructed by a State highway agency or a subdivision thereof in pursuance of agreements between any other State highway agency and the Federal Highway Administration (FHWA). This subpart does not apply to projects constructed under a Certification Acceptance Plan in those States where the Secretary has discharged his/her responsibility pursuant to 23 U.S.C. 117, except where employees of a political subdivision of a State are working on a project outside such political subdivision.

§635.203 Definitions.

The following definitions shall apply for the purpose of this subpart:

(a) A State highway agency is that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term State should be considered equivalent to State highway agency if the context so implies.

(b) Except as provided for as emergency repair work in §668.105(i) and in §635.204(b), the term some other method of construction as used in 23 U.S.C. 112(b) shall mean the force account method of construction as defined herein. In the unlikely event that circumstances are considered to justify a negotiated contract or another unusual method of construction, the policies and procedures prescribed herein for force account work will apply.

(c) The term force account shall mean the direct performance of highway construction work by a State highway agency, a county, a railroad, or a public utility company by use of labor, equipment, materials, and supplies furnished by them and used under their direct control.

(d) The term county shall mean any county, township, municipality or other political subdivision that may be empowered to cooperate with the State highway agency in highway matters.

(e) The term cost effective shall mean the efficient use of labor, equipment, materials and supplies to assure the lowest overall cost.

(f) For the purpose of this part, an emergency shall be deemed to exist when emergency repair work as provided for in §668.105(i) is necessary or when a major element or segment of the highway system has failed and the situation is such that competitive bidding is not possible or is impractical because immediate action is necessary to:

1. Minimize the extent of the damage,
2. Protect remaining facilities, or
3. Restore essential travel.

This definition of emergency has no applicability to the Emergency Relief Program of 23 CFR part 668.

§635.204 Determination of more cost effective method or an emergency.

(a) Congress has expressly provided that the contract method based on competitive bidding shall be used by a State highway agency or county for performance of highway work financed with the aid of Federal funds unless the State highway agency demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists.

(b) When a State highway agency determines it necessary due to an emergency to undertake a federally financed highway construction project by force account or negotiated contract method, it shall submit a request to the Division Administrator identifying and describing the project, the kinds of work to be performed, the method to be used, the estimated costs, the estimated Federal Funds to be provided, and the reason or reasons that an emergency exists.

(c) Except as provided in paragraph (b) of this section, when a State highway agency desires that highway construction work financed with the aid of
Federal funds, other than the kinds of work designated under §635.205(b), be undertaken by force account, it shall submit a request to the Division Administrator identifying and describing the project and the kind of work to be performed, the estimated costs, the estimated Federal funds to be provided, and the reason or reasons that force account for such project is considered cost effective.

(d) The Division Administrator shall notify the State highway agency in writing of his/her determination.

[52 FR 45172, Nov. 25, 1987]

§ 635.205 Finding of cost effectiveness.

(a) It may be found cost effective for a State highway agency or county to undertake a federally financed highway construction project by force account when a situation exists in which the rights or responsibilities of the community at large are so affected as to require some special course of action, including situations where there is a lack of bids or the bids received are unreasonable.

(b) Pursuant to authority in 23 U.S.C. 112(b), it is hereby determined that by reason of the inherent nature of the operations involved, it is cost effective to perform by force account the adjustment of railroad or utility facilities and similar types of facilities owned or operated by a public agency, a railroad, or a utility company provided that the organization is qualified to perform the work in a satisfactory manner. The installation of new facilities shall be undertaken by competitive bidding except as provided in §635.204(e). Adjustment of railroad facilities shall include minor work on the railroad’s operating facilities routinely performed by the railroad with its own forces such as the installation of grade crossing warning devices, crossing surfaces, and minor track and signal work. Adjustment of utility facilities shall include minor work on the utility’s existing facilities routinely performed by the utility with its own forces and includes minor installations of new facilities to provide power, minor lighting, telephone, water and similar utility service to a rest area, weigh-station, movable bridge, or other highway appurtenance, provided such installation cannot feasibly be done as incidental to a major installation project such as an extensive highway lighting system.

[52 FR 45173, Nov. 25, 1987]

Subpart C—Physical Construction Authorization

SOURCE: 40 FR 17251, Apr. 18, 1975, unless otherwise noted.

§ 635.301 Purpose.

To prescribe the policies and procedures under which a State highway agency may be authorized to advance a Federal-aid highway project to the physical construction stage.

§ 635.303 Applicability.

The provisions of this subpart are applicable to all Federal-aid highway construction projects except projects constructed under an approved Certification Acceptance Plan.

§ 635.305 Physical construction.

For purposes of this subpart the physical construction of a project is considered to consist of the actual construction of the highway itself with its appurtenant facilities. It includes any removal, adjustment or demolition of buildings or major obstructions, and utility or railroad work that is a part of the contract for the physical construction.

§ 635.307 Coordination.

(a) The right-of-way clearance, utility, and railroad work are to be so coordinated with the physical construction that no unnecessary delay or cost for the physical construction will occur.

(b) All right-of-way clearance, utility, and railroad work performed separately from the contract for the physical construction of the project are to be accomplished in accordance with provisions of the following:

1. 23 CFR part 140, subpart I;
2. 23 CFR part 646, subpart B;
3. 23 CFR 710.403; and
4. 23 CFR part 645, subpart A.

[40 FR 17251, Apr. 18, 1975, as amended at 40 FR 25585, June 17, 1975; 64 FR 71289, Dec. 21, 1999]
§ 635.309 Authorization.

Authorization to advertise the physical construction for bids or to proceed with force account construction thereof shall normally be issued as soon as, but not until, all of the following conditions have been met:

(a) The plans, specifications, and estimates (PS&E) therefor have been approved.

(b) A statement is received from the State, either separately or combined with the information required by § 635.309(c), that either all right-of-way clearance, utility, and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules. Where it is determined that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems and the like, there shall be appropriate notification provided in the bid proposals identifying the right-of-way clearance, utility, and railroad work which is to be underway concurrently with the highway construction.

(c) A statement is received from the State certifying that all individuals and families have been relocated to decent, safe and sanitary housing or the State has made available to relocatees adequate replacement housing in accordance with the provisions of the current Federal Highway Administration (FHWA) directive(s) covering the administration of the Highway Relocation Assistance Program and that one of the following has application:

(1) All necessary rights-of-way, including control of access rights when pertinent, have been acquired including legal and physical possession. Trial or appeal of cases may be pending in court but legal possession has been obtained. There may be some improvements remaining on the right-of-way but all occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage, or demolish these improvements and enter on all land.

(2) Although all necessary rights-of-way have not been fully acquired, the right to occupy and to use all rights-of-way required for the proper execution of the project has been acquired. Trial or appeal of some parcels may be pending in court and on other parcels full legal possession has not been obtained but right of entry has been obtained, the occupants of all lands and improvements have vacated and the State has physical possession and right to remove, salvage, or demolish these improvements.

(3) The acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. The State may request authorization on this basis only in very unusual circumstances. This exception must never become the rule. Under these circumstances, advertisement for bids or force-account work may be authorized if FHWA finds that it will be in the public interest. The physical construction may then also proceed, but the State shall ensure that occupants of residences, businesses, farms, or non-profit organizations who have not yet moved from the right-of-way are protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature. When the State requests authorization to advertise for bids and to proceed with physical construction where acquisition or right of occupancy and use of a few parcels has not been obtained, full explanation and reasons therefor including identification of each such parcel will be set forth in the State’s request along with a realistic date when physical occupancy and use is anticipated as well as substantiation that such date is realistic. Appropriate notification shall be provided in the bid proposals identifying all locations where right of occupancy and use has not been obtained.

(d) The State highway agency in accord with 23 CFR 771.111(h), has submitted public hearing transcripts, certifications and reports pursuant to 23 U.S.C. 128.

(e) An affirmative finding of cost effectiveness or that an emergency exists has been made as required by 23 U.S.C. 112, when construction by some method
other than contract based on competitive bidding is contemplated.

(f) Minimum wage rates determined by the Department of Labor in accordance with the provisions of 23 U.S.C. 113, are in effect and will not expire before the end of the period within which it can reasonably be expected that the contract will be awarded.

(g) A statement has been received that right-of-way has been acquired or will be acquired in accordance with the current FHWA directive(s) covering the acquisition of real property or that acquisition of right-of-way is not required.

(h) A statement has been received that the steps relative to relocation advisory assistance and payments as required by the current FHWA directive(s) covering the administration of the Highway Relocation Assistance Program have been taken, or that they are not required.

(i) The FHWA Division Administrator has determined that appropriate measures have been included in the PS&E in keeping with approved guidelines, for minimizing possible soil erosion and water pollution as a result of highway construction operations.

(j) The FHWA Division Administrator has determined that requirements of 23 CFR part 771 have been fulfilled and appropriate measures have been included in the PS&E to ensure that conditions and commitments made in the development of the project to mitigate environmental harm will be met.

(k) Where utility facilities are to use and occupy the right-of-way, the State has demonstrated to the satisfaction of the FHWA Division Administrator that the provisions of 23 CFR 645.119(b) have been fulfilled.

(l) The FHWA Division Administrator has verified the fact that adequate replacement housing is in place and has been made available to all affected persons.

(m) Where applicable, areawide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231 through 4233.

(n) The FHWA Division Administrator has determined that the PS&E provide for the erection of only those information signs and traffic control devices that conform to the standards developed by the Secretary of Transportation or mandates of Federal law and do not include promotional or other informational signs regarding such matters as identification of public officials, contractors, organizational affiliations, and related logos and symbols.

(o) The FHWA Division Administrator has determined that, where applicable, provisions are included in the PS&E that require the erection of funding source signs, for the life of the construction project, in accordance with section 154 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.


Subpart D—General Material Requirements

source: 41 FR 36204, Aug. 27, 1976, unless otherwise noted.

§ 635.401 Purpose.

The purpose of this subpart is to prescribe requirements and procedures relating to product and material selection and use on Federal-aid highway projects.

§ 635.403 Definitions.

As used in this subpart, the following terms have the meanings indicated:

(a) FHWA Division Administrator means the chief Federal Highway Administration (FHWA) official assigned to conduct business in a particular State;

(b) Material means any tangible substance incorporated into a Federal-aid highway project;

(c) PS&E means plans, specifications, and estimates;

(d) Special provisions means additions and revisions to the standard and supplemental specifications applicable to an individual project;

(e) Standard specifications means a compilation in book form of specifications approved for general application and repetitive use;
§ 635.405 23 CFR Ch. I (4–1–01 Edition)

(f) State has the meaning set forth in 23 U.S.C. 101;  
(g) State highway agency means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction;  
(h) Supplemental specifications means approved additions and revisions to the standard specifications.

§ 635.405 Applicability.

The requirements and procedures prescribed in this subpart apply to all contracts relating to Federal-aid highway projects, except those constructed under a Certification Acceptance Plan.

§ 635.407 Use of materials made available by a public agency.

(a) Contracts for highway projects shall require the contractor to furnish all materials to be incorporated in the work and shall permit the contractor to select the sources from which the materials are to be obtained. Exception to this requirement may be made when there is a definite finding by the State highway agency and concurred in by the FHWA Division Administrator, that it is in the public interest to require the contractor to use material furnished by the State highway agency or from sources designated by the State highway agency. In cases such as this, the FHWA does not expect mutual sharing of costs unless the State highway agency receives a related credit from another agency or political subdivision of the State. Where such a credit does accrue to the State highway agency, it shall be applied to the Federal-aid project involved. The designation of a mandatory material source may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost. Otherwise, if a State highway agency proposal to designate a material source for mandatory use would result in higher project costs, Federal-aid funds shall not participate in the increase even if the designation would conserve other public funds.

(b) The provisions of paragraph (a) of this section will not preclude the designation in the plans and specifications of sources of local natural materials, such as borrow aggregates, that have been investigated by the State highway agency and found to contain materials meeting specification requirements. The use of materials from such designated sources shall not be mandatory unless there is a finding of public interest as stated in paragraph (a) of this section.

(c) Federal funds may participate in the cost of specifications materials made available by a public agency when they have been actually incorporated in accepted items of work, or in the cost of such materials meeting the criteria and stockpiled at the locations specified in §635.114 of this chapter.

(d) To be eligible for Federal participation in its cost, any material, other than local natural materials, to be purchased by the State highway agency and furnished to the contractor for mandatory use in the project, must have been acquired on the basis of competitive bidding, except when there is a finding of public interest justifying the use of another method of acquisition. The location and unit price at which such material will be available to the contractor must be stated in the special provisions for the benefit of all prospective bidders. The unit cost eligible for Federation participation will be limited to the unit cost of such material to the State highway agency.

(e) When the State highway agency or another public agency owns or has control over the source of a local natural material the unit price at which such material will be made available to the contractor must be stated in the plans or special provisions. Federal participation will be limited to (1) the cost of the material to the State highway agency or other public agency; or (2) the fair and reasonable value of the material, whichever is less. Special cases may arise that will justify Federal participation on a basis other than that set forth above. Such cases should be fully documented and receive advance approval by the FHWA Division Administrator.

(f) Costs incurred by the State highway agency or other public agency for acquiring a designated source or the right to take materials from it will not be eligible for Federal participation if
the source is not used by the contractor.

(g) The contract provisions for one or a combination of Federal-aid projects shall not specify a mandatory site for the disposal of surplus excavated materials unless there is a finding by the State highway agency with the concurrence of the FHWA Division Administrator that such placement is the most economical except that the designation of a mandatory site may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost.

§ 635.409 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State highway agency in connection with a project which may operate:

(a) To require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or

(b) To prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Transportation as evidenced by requirements and procedures prescribed by the FHWA Administrator to carry out such policies.

§ 635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of §635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron materials; or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or $2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)(1) A State may request a waiver of the provisions of this section if:

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division.
§ 635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State highway agency certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State highway agency wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State highway agency may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Appendix A sets forth the FHWA requirements regarding (1) the specification of alternative types of culvert...
pipes, and (2) the number and types of such alternatives which must be set forth in the specifications for various types of drainage installations.

(e) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

§ 635.413 Warranty clauses.

The SHA may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following:

(a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered.

(b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval.

(c) No warranty requirement shall be approved which, in the judgment of the Division Administrator, may place an undue obligation on the contractor for items over which the contractor has no control.

(d) A SHA may follow its own procedures regarding the inclusion of warranty provisions in non-NHS Federal-aid contracts.

[60 FR 44274, Aug. 25, 1995]

§ 635.417 Convict produced materials.

(a) Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal-aid highway construction project if such materials have been:

(1) Produced by convicts who are on parole, supervised release, or probation from a prison or

(2) Produced in a qualified prison facility and the cumulative annual production amount of such materials for use in Federal-aid highway construction does not exceed the amount of such materials produced in such facility for use in Federal-aid highway construction during the 12-month period ending July 1, 1987.

(b) Qualified prison facility means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in Federal-aid highway construction projects.


APPENDIX A TO SUBPART D OF PART 635—SUMMARY OF ACCEPTABLE CRITERIA FOR SPECIFYING TYPES OF CULVERT PIPES

<table>
<thead>
<tr>
<th>Type of drainage installation</th>
<th>Alternatives required</th>
<th>AASHTO designations to be included with alternatives</th>
<th>Application</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cross drains under high-type pavement</td>
<td>X</td>
<td></td>
<td>Statewide</td>
<td>Any AASHTO-approved material.</td>
</tr>
<tr>
<td>Other cross-drain installations</td>
<td>X</td>
<td>3 minimum, M-170, and M-190</td>
<td></td>
<td>Do.</td>
</tr>
<tr>
<td>Side-drain installations</td>
<td></td>
<td></td>
<td>Individual installation.</td>
<td>Specified to meet special conditions.</td>
</tr>
<tr>
<td>Special installation conditions</td>
<td></td>
<td></td>
<td></td>
<td>Specified to meet site requirements.</td>
</tr>
<tr>
<td>Special drainage systems (storm sewers, inverted siphons, etc.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 High-type pavement is generally described as FHWA construction type codes I, J, K, L, and plant mix and penetration macadam segments, respectively shown in the right-hand columns of type codes G and H having a combined thickness of surface and base of 7 in or more (or equivalent) or that are constructed on rigid bases.

2 Types not included in currently approved AASHTO specifications may be specified if recommended by the State with adequate justification and approved by FHWA.

Subpart E—Interstate Maintenance Guidelines

SOURCE: 45 FR 20793, Mar. 31, 1980, unless otherwise noted.

§ 635.501 Purpose.

To prescribe Interstate maintenance guidelines and establish the policy and procedures to insure that the condition of Interstate routes is maintained at
§ 635.503 Policy.

The policy of the FHWA is to insure that each State highway agency develops and implements an Interstate maintenance program conforming to the guidelines in this subpart. The maintenance program shall be consistent with practices deemed necessary to adequately provide for motorist safety, preservation of the highways, rideability, and aesthetics.

§ 635.505 Maintenance guidelines.

(a) The following critical elements should serve to direct the development and implementation of an Interstate maintenance program in each State.

1. Roadway surfaces. Preservation of the structural integrity of the roadway and the safety and comfort of the user. This includes a safe, smooth, skid-resistant surface, as close as practical to the original, or subsequently improved, grade and cross section.

2. Shoulders. Preservation of a safe, smooth surface which is free of obstruction, contiguous with the adjacent roadway surface, and as close as practical to the original, or subsequently improved, grade and cross section.

3. Roadside. Preservation of the roadside in a safe, pleasant, and forgiving manner through vegetation management, erosion control, and litter pick-up.

4. Drainage. Preservation of hydraulic capacity for which originally designed.

5. Bridges and tunnels. Preservation of the structural and operational characteristics for which originally designed. These include safe, smooth, skid-resistant surfaces; proper surface drainage; and adequate functioning bearing devices and substructural elements. Replacement or repair of structural railing and approach guardrail should be done without unreasonable delay. Tunnels should be cleaned, properly lighted, and adequately ventilated.

6. Snow and ice control. Preservation of the roadway safety, efficiency, and environment during winter driving conditions.

(b) All replacements and repairs should conform to the currently approved design standards (23 CFR part 625) for all critical elements listed in paragraph (a) of this section. Exceptions for minor repairs must be clearly defined in a State’s maintenance program.

(c) These guidelines shall be interpreted to expect that repairs and maintenance will be performed without unreasonable delay, that variations from the State’s approved program will be allowed in situations involving emergency or unforeseeability, and that the State will seek to attain a high level of maintenance.

§ 635.507 Implementation.

(a) Each State highway agency shall prepare an initial program submission which shall include a description of the State’s Interstate maintenance program; a discussion of the method by

(7) Traffic control devices. Preservation of clean, legible, visible, and properly functioning traffic control devices. This includes pavement markings, signing, delineators, signals, etc.

(8) Safety appurtenances. Replacement of damaged, defective, and/or inoperable devices without unreasonable delay. This includes guardrails, impact attenuators, breakaway supports, barriers, etc.

(9) Safety rest areas. Preservation and operation of facilities reasonably necessary for the convenience, relaxation, and informational needs of the user.

(10) Access control. Preservation of the originally designed access control, elimination of unauthorized traffic movement, and prevention of improper or unauthorized use of the highway rights-of-way.

(11) Traffic safety in maintenance and utility work zones. Procedures that will aid the safety of motorists and maintenance workers. The procedures shall be consistent with the provisions of 23 CFR part 630, subpart J, and part VI of the Manual on Uniform Traffic Control Devices.¹

which the State manages its program, including copies of operating documents; and a general description of the level of resources and activity the State intends to devote to attain the objectives stated under each of the critical elements in §635.505(a). This initial submission shall be made to the FHWA no later than 120 days after the effective date of this subpart. The FHWA shall review each State’s initial program submission for conformance with the provisions of this subpart and approve or disapprove the submission on the basis of that review.

(b) Within one year after the effective date of this subpart, and by January 1 of each subsequent year, each State highway agency shall certify to the FHWA that it has an Interstate maintenance program as required by this subpart and that its Interstate routes are being maintained in accordance with that program.

(c) Beginning in 1981 and each year thereafter, each State highway agency shall update its initial program submission by providing the FHWA with a discussion of:

(1) The condition of the State’s Interstate routes and deficiencies,
(2) State maintenance priorities,
(3) The State maintenance budget, and
(4) Exceptions and/or revisions to the initial submission.

(d) The FHWA shall review each State’s annual submission for conformance with the provisions of this subpart and monitor the implementation of each State’s program in accordance with the review procedures described in the FHWA Maintenance Review Manual and the Federal-Aid Highway Program Manual, volume 6, chapter 4, section 3, subsection 1. If differences between the State and the FHWA cannot be resolved concerning the adequacy of the Interstate maintenance program’s level of resources and activity, the FHWA shall initiate action under §635.509.

§635.509 Deficient or unsatisfactory maintenance.

(a) Fund reduction. If a State fails to certify as required by this subpart, or if the Secretary determines that a State is not adequately maintaining its Interstate routes in accordance with a maintenance program as required by this subpart, the Federal-aid highway funds apportioned to the State for the next fiscal year (after the date on which the State must certify) shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104. In addition, future project approvals may be withheld by the Secretary under 23 U.S.C. 116.

(b) Procedure for reduction of funds. (1) If it appears to the Federal Highway Administrator that a State has not submitted a certification conforming to the requirements of this subpart, or that a State is not adequately maintaining its Interstate routes in accordance with a maintenance program as required by this subpart, the Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the State of the proposed determination by certified mail. The notice shall state the reasons for the proposed determination and inform the State that it may within 30 days from the date of the letter request a hearing to show cause why it should not be found in nonconformity. If the State informs the Administrator before the end of the 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for requesting a hearing by an additional 30 days. In the event of a request for informal resolution, the State and the Administrator (or designees) shall promptly schedule a meeting to resolve the matter.

(2) If a State does not request a hearing in a timely fashion as provided in paragraph (b)(1) of this section, the Administrator shall forward the proposed determination to the Secretary. Upon approval by the Secretary, the provisions of paragraph (a) of this section shall take effect immediately.

(3) If a State requests a hearing, the Secretary shall expeditiously convene a hearing on the record, which shall be conducted according to the provisions

---

2 Available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
Based on the record of the proceeding, the Secretary shall determine whether the State is in nonconformity with this subpart. If the Secretary determines that the State is in nonconformity, the provisions of paragraph (a) of this section shall take effect immediately.

(4) The Secretary may reduce 10 percent of a State's apportionment of funds under 23 U.S.C. 104 prior to the administrative determination under this section in order to prevent the apportionment to the State of funds which would be affected by a determination of nonconformity.

(5) Funds withheld pursuant to a final administrative determination under this section shall be reapportioned to all other eligible States one year from the date of this determination, unless before this time the Secretary determines, on the basis of information submitted by the State and the FHWA, that the State has come into conformity with this section. If the Secretary determines that the State has come into conformity, the withheld funds shall be released to the State.

(6) The reapportionment of funds under paragraph (b)(5) of this section shall be stayed during the pendency of any proceeding for judicial review of a final administrative determination of nonconformity made by the Secretary.

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

Subpart A [Reserved]

Subpart B—Quality Assurance Procedures for Construction

§ 637.201 Purpose.

To prescribe policies, procedures, and guidelines to assure the quality of materials and construction in all Federal-aid highway projects on the National Highway System.

§ 637.203 Definitions.

Acceptance program. All factors that comprise the State highway agency's (SHA) determination of the quality of the product as specified in the contract requirements. These factors include verification sampling, testing, and inspection and may include results of quality control sampling and testing.

Independent assurance program. Activities that are an unbiased and independent evaluation of all the sampling and testing procedures used in the acceptance program. Test procedures used in the acceptance program which are performed in the SHA's central laboratory would not be covered by an independent assurance program.

Proficiency samples. Homogeneous samples that are distributed and tested by two or more laboratories. The test results are compared to assure that the laboratories are obtaining the same results.

Qualified laboratories. Laboratories that are capable as defined by appropriate programs established by each SHA. As a minimum, the qualification program shall include provisions for checking test equipment and the laboratory shall keep records of calibration checks.

Qualified sampling and testing personnel. Personnel who are capable as defined by appropriate programs established by each SHA.

Quality assurance. All those planned and systematic actions necessary to provide confidence that a product or service will satisfy given requirements for quality.

Quality control. All contractor/vendor operational techniques and activities that are performed or conducted to fulfill the contract requirements.
Federal Highway Administration, DOT

§ 637.205 Policy.

(a) Quality assurance program. Each SHA shall develop a quality assurance program which will assure that the materials and workmanship incorporated into each Federal-aid highway construction project on the NHS are in conformity with the requirements of the approved plans and specifications, including approved changes. The program must meet the criteria in §637.207 and be approved by the FHWA.

(b) SHA capabilities. The SHA shall maintain an adequate, qualified staff to administer its quality assurance program. The State shall also maintain a central laboratory. The State’s central laboratory shall meet the requirements in §637.209(a)(2).

(c) Independent assurance program. Independent assurance samples and tests or other procedures shall be performed by qualified sampling and testing personnel employed by the SHA or its designated agent.

(d) Verification sampling and testing. The verification sampling and testing are to be performed by qualified testing personnel employed by the SHA or its designated agent, excluding the contractor and vendor.

(e) Random samples. All samples used for quality control and verification sampling and testing shall be random samples.

§ 637.207 Quality assurance program.

(a) Each SHA’s quality assurance program shall provide for an acceptance program and an independent assurance (IA) program consisting of the following:

(1) Acceptance program.

(i) Each SHA’s acceptance program shall consist of the following:

(A) Frequency guide schedules for verification sampling and testing which will give general guidance to personnel responsible for the program and allow adaptation to specific project conditions and needs.

(B) Identification of the specific location in the construction or production operation at which verification sampling and testing is to be accomplished.

(C) Identification of the specific attributes to be inspected which reflect the quality of the finished product.

(ii) Quality control sampling and testing results may be used as part of the acceptance decision provided that:

(A) The sampling and testing has been performed by qualified laboratories and qualified sampling and testing personnel.

(B) The quality of the material has been validated by the verification sampling and testing. The verification testing shall be performed on samples that are taken independently of the quality control samples.

(C) The quality control sampling and testing is evaluated by an IA program.

(iii) If the results from the quality control sampling and testing are used in the acceptance program, the SHA shall establish a dispute resolution system. The dispute resolution system shall address the resolution of discrepancies occurring between the verification sampling and testing and the quality control sampling and testing. The dispute resolution system may be administered entirely within the SHA.

(2) The IA program shall evaluate the qualified sampling and testing personnel and the testing equipment. The program shall cover sampling procedures, testing procedures, and testing equipment. Each IA program shall include a schedule of frequency for IA evaluation. The schedule may be established based on either a project basis or a system basis. The frequency can be based on either a unit of production or on a unit of time.

(i) The testing equipment shall be evaluated by using one or more of the following: Calibration checks, split samples, or proficiency samples.

(ii) Testing personnel shall be evaluated by observations and split samples or proficiency samples.

(iii) A prompt comparison and documentation shall be made of test results obtained by the tester being evaluated.
§ 637.209 Laboratory and sampling and testing personnel qualifications.

(a) Laboratories.

(1) After June 29, 2000, all contractor, vendor, and SHA testing used in the acceptance decision shall be performed by qualified laboratories.

(2) After June 30, 1997, each SHA shall have its central laboratory accredited by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(3) After June 29, 2000, any non-SHA designated laboratory which performs IA sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(4) After June 29, 2000, any non-SHA laboratory that is used in dispute resolution sampling and testing shall be accredited in the testing to be performed by the AASHTO Accreditation Program or a comparable laboratory accreditation program approved by the FHWA.

(b) Sampling and testing personnel.

After June 29, 2000, all sampling and testing data to be used in the acceptance decision or the IA program shall be executed by qualified sampling and testing personnel.

(c) Conflict of interest. In order to avoid an appearance of a conflict of interest, any qualified non-SHA laboratory shall perform only one of the following types of testing on the same project: Verification testing, quality control testing, IA testing, or dispute resolution testing.

APPENDIX A TO SUBPART B—GUIDE LETTER OF CERTIFICATION BY STATE ENGINEER

Date

Project No. __________

This is to certify that:

The results of the tests used in the acceptance program indicate that the materials incorporated in the construction work, and the construction operations controlled by sampling and testing, were in conformity with the approved plans and specifications. (The following sentence should be added if the IA testing frequencies are based on project quantities. All independent assurance samples and tests are within tolerance limits of the samples and tests that are used in the acceptance program.)

Exceptions to the plans and specifications are explained on the back hereof (or on attached sheet).

Director of SHA Laboratory or other appropriate SHA Official.
§ 640.103 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

Certification acceptance (CA) means the alternative procedure authorized by 23 U.S.C. 117(a) for administering Federal-aid highway projects not on the Interstate System.

State certification means a written statement prepared by a State highway/transportation agency setting forth the laws, regulations, directives, and standards it will use, or cause to be used, in the administration of certain highway projects.

State highway/transportation agency has the same meaning as that given for State highway department in 23 U.S.C. 101.

§ 640.105 Effect of certification acceptance.

(a) Acceptance of a State certification permits a State to discharge certain responsibilities otherwise assigned to the Secretary under title 23, U.S.C., for Federal-aid highway projects. A State may permit performance and project certification by capable local governments.

(b) Acceptance of a State certification does not constitute a commitment or obligation of Federal funds.

(c) Acceptance of a State certification does not preclude FHWA access to and review of a Federal-aid project at any time.

(d) Certification acceptance as an alternative procedure does not replace the fundamental provisions of law in title 23, U.S.C., with respect to the basic structure of the Federal-aid highway program. Acceptance of a CA proposal does not preclude application of any provision of title 23, U.S.C., that may be advantageous to the State.

(e) Nothing in this part shall affect or discharge any responsibility or obligation of the FHWA under any Federal law other than title 23, U.S.C.

§ 640.107 Coverage.

(a) Certification acceptance may apply to Federal-aid highway projects except projects on the Interstate System. If other FHWA regulations and title 23, U.S.C., allow, projects not on a Federal-aid highway may be administered under the provisions of an accepted State certification.

(b) The CA procedure shall not apply to transportation planning and research (23 U.S.C. 134, 135, and 307), highway safety (chapter 4, title 23, U.S.C.), or those public transportation projects not administered by FHWA under title 23, U.S.C.

(c) A State certification may provide for either full or partial coverage of the Federal-aid highway projects, programs, phases of work, and classes of projects.

§ 640.109 Requirements for certification acceptance.

(a) Acceptance of either a full or partial coverage State certification as described in §640.107(c) will be based upon:

(1) A State request and identification of the State laws, regulations, directives, and standards that either separately or collectively will accomplish the policies and objectives contained in or issued pursuant to title 23, U.S.C.,

(2) An FHWA finding that the State highway/transportation agency has the capability to carry out project responsibilities in accordance with such State requirements. The FHWA finding will be based on previous process reviews and evaluations conducted as part of FHWA’s oversight of Federal-aid programs and an FHWA evaluation of the State’s performance and resources. If information from process reviews and that available from previous evaluations are considered to be insufficient to form a reasonable judgment, they may be supplemented by additional reviews and inquiries of the State agency.

(b) A State certification may be accepted in whole or in part, depending on FHWA findings. Where minor deficiencies are found, acceptance may be conditioned or may exclude the affected State operations until the deficiencies are corrected. Where deficiencies are found which are of such magnitude as to create doubt that the policies and objectives of title 23, U.S.C., would be accomplished, the State certification will not be accepted until the deficiencies are corrected.
§ 640.111 Content of State certification.

(a) The State certification will include the following:

(1) The name of the State highway/transportation agency and the legal authority which permits such agency to accomplish the policies and objectives contained in or issued pursuant to title 23, U.S.C.;

(2) A statement of the programs, phases of work, and classes of projects or combinations thereof that the State is including in the certification being submitted for acceptance;

(3) For submissions providing full or partial coverage of projects as provided in §640.107(c), a listing of the title 23, U.S.C., policies and objectives and citation of State laws, regulations, directives, and standards that will be applied. Any policies and objectives that are not applicable due to partial coverage may be omitted; and

(4) A description of the State's methods for assuring local government knowledge of and compliance with State and Federal requirements where they will perform services on projects administered under CA.

(b) Existing assurances and formal agreements between the State and the FHWA with respect to equal employment opportunity, current billing, and control of outdoor advertising will continue in full force and effect and may be incorporated by reference. Likewise, the State's procedures accepted under 23 U.S.C. 109(h) may be incorporated by reference.

(c) State certifications are to be signed by the chief official of the State highway/transportation agency and submitted to the FHWA Division Administrator.

§ 640.113 Procedures.

(a) Authorization by the FHWA to proceed with work on a CA project will be in response to a written request from the State highway/transportation agency.

(b) If the State finds that exceptions to CA procedures or standards are appropriate on a project, the State will justify and document such decisions.

(c) A project agreement, or modification to a project agreement, will be executed as required by 23 CFR Part 630, subpart C, Project Agreements.

(d) The FHWA may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards. The State is to notify the FHWA when a project is complete and/or ready for such inspection and will certify that the plans, design, and construction for the project were in accord with the laws, regulations, directives, and standards contained in the State certification or such project exceptions as were approved by the State.

(e) Revisions or amendments to State certifications will be made when necessary and processed as provided in §640.111(c). The existing State certification is to be reviewed periodically to determine its adequacy in light of this part, the statutes in effect at the time of the review, and the operational reviews made by FHWA.

[60 FR 47483, Sept. 13, 1995, as amended at 61 FR 57331, Nov. 6, 1996]

§ 640.115 Evaluations.

(a) The FHWA may conduct periodic evaluations, as deemed appropriate, of the State's operations under CA. These evaluations may include coverage of any or all areas of the State's administration of CA projects.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, including recommendations, will be prepared by the FHWA as a basis for considering whether acceptance of the State certification should be rescinded under §640.117.

§ 640.117 Rescission of State certification.

The acceptance of a State certification may be rescinded at any time upon request of the State or if considered necessary by the FHWA to protect the Federal interest. The rescission may be applied to all or part of the programs or projects covered in the State certification.
PART 645—UTILITIES

Subpart A—Utility Relocations, Adjustments, and Reimbursement

Sec.
645.101 Purpose.
645.103 Applicability.
645.105 Definitions.
645.107 Eligibility.
645.109 Preliminary engineering.
645.111 Right-of-way.
645.113 Agreements and authorizations.
645.115 Construction.
645.117 Cost development and reimbursement.
645.119 Alternate procedure.

Subpart B—Accommodation of Utilities

645.201 Purpose.
645.203 Applicability.
645.205 Policy.
645.207 Definitions.
645.209 General requirements.
645.211 State transportation department accommodation policies.
645.213 Use and occupancy agreements (permits).
645.215 Approvals.


Subpart A—Utility Relocations, Adjustments, and Reimbursement

SOURCE: 50 FR 20345, May 15, 1985, unless otherwise noted.

§ 645.101 Purpose.

To prescribe the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid and direct Federal projects.

§ 645.103 Applicability.

(a) The provisions of this regulation apply to reimbursement claimed by a State transportation department (STD) for costs incurred under an approved and properly executed transportation department (TD)/utility agreement and for payment of costs incurred under all Federal Highway Administration (FHWA)/utility agreements.

(b) Procedures on the accommodation of utilities are set forth in 23 CFR part 645, subpart B, Accommodation of Utilities.

(c) When the lines or facilities to be relocated or adjusted due to highway construction are privately owned, located on the owner’s land, devoted exclusively to private use and not directly or indirectly serving the public, the provisions of the FHWA’s right-of-way procedures in 23 CFR 710.203, apply. When applicable, under the foregoing conditions, the provisions of this regulation may be used as a guide to establish a cost-to-cure.

(d) The FHWA’s reimbursement to the STD will be governed by State law (or State regulation) or the provisions of this regulation, whichever is more restrictive. When State law or regulation differs from this regulation, a determination shall be made by the STD subject to the concurrence of the FHWA as to which standards will govern, and the record documented accordingly, for each relocation encountered.

(e) For direct Federal projects, all references herein to the STD or TD are inapplicable, and it is intended that the FHWA be considered in the relative position of the STD or TD.

[50 FR 20345, May 15, 1985, as amended at 64 FR 71289, Dec. 21, 1999]

§ 645.105 Definitions.

For the purposes of this regulation, the following definitions shall apply:

Authorization—for Federal-aid projects authorization to the STD by the FHWA, or for direct Federal projects authorization to the utility by the FHWA, to proceed with any phase of a project. The date of authorization establishes the date of eligibility for Federal funds to participate in the costs incurred on that phase of work.

Betterment—any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility.

Cost of relocation—the entire amount paid by or on behalf of the utility properly attributable to the relocation after deducting from that amount any increase in value of the new facility, and any salvage derived from the old facility.
Cost of Removal— the amount expended to remove utility property including the cost of demolishing, dismantling, removing, transporting, or otherwise disposing of utility property and of cleaning up to leave the site in a neat and presentable condition.

Cost of salvage— the amount expended to restore salvaged utility property to usable condition after its removal.

Direct Federal projects— highway projects such as projects under the Federal Lands Highways Program which are under the direct administration of the FHWA.

Indirect or overhead costs— those costs which are not readily identifiable with one specific task, job, or work order. Such costs may include indirect labor, social security taxes, insurance, stores expense, and general office expenses. Costs of this nature generally are distributed or allocated to the applicable job or work orders, other accounts and other functions to which they relate. Distribution and allocation is made on a uniform basis which is reasonable, equitable, and in accordance with generally accepted cost accounting practices.

Relocation— the adjustment of utility facilities required by the highway project. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring necessary right-of-way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

Salvage value — the amount received from the sale of utility property that has been removed or the amount at which the recovered material is charged to the utility’s accounts, if retained for reuse.

State transportation department— the transportation department of one of the 50 States, the District of Columbia, or Puerto Rico.

Transportation department(TD)— that department, commission, board, or official of any State or political subdivision thereof, charged by its law with the responsibility for highway administration.

Use and occupancy agreement— the document (written agreement or permit) by which the TD approves the use and occupancy of highway right-of-way by utility facilities or private lines.

Utility— a privately, publicly, or cooperatively owned line, facility or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary.

Work order system— a procedure for accumulating and recording into separate accounts of a utility all costs to the utility in connection with any change in its system or plant.

§ 645.107 Eligibility.

(a) When requested by the STD, Federal funds may participate, subject to the provisions of §645.103(d) of this part and at the pro rata share applicable, in an amount actually paid by a TD for the costs of utility relocations. Federal funds may participate in safety corrective measures made under the provisions of §645.107(k) of this part. Federal funds may also participate for relocations necessitated by the actual construction of highway project made under one or more of the following conditions when:

(1) The STD certifies that the utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaging or taking of which is compensable in eminent domain.

(2) The utility occupies privately or publicly owned land, including public road or street right-of-way, and the STD certifies that the payment by the TD is made pursuant to a law authorizing such payment in conformance.
Federal Highway Administration, DOT
§ 645.107
with the provisions of 23 U.S.C. 123, and/or
(3) The utility occupies publicy
owned land, including public road and
street right-of-way, and is owned by a
public agency or political subdivision
of the State, and is not required by law
or agreement to move at its own ex-
pense, and the STD certifies that the
TD has the legal authority or obliga-
tion to make such payments.
(b) On projects which the STD has
the authority to participate in project
costs, Federal funds may not partici-
pate in payments made by a political
subdivision for relocation of utility fa-
cilities, other than those proposed
under the provisions of §645.107(k) of
this part, when State law prohibits the
STD from making payment for reloca-
tion of utility facilities.
(c) On projects which the STD does
not have the authority to participate
in project costs, Federal funds may
participate in payments made by a po-
litical subdivision for relocation of utility fa-
cilities necessitated by the actual con-
struction of a highway project when the STD certifies that
such payment is based upon the provi-
sions of §645.107(a) of this part and does
not violate the terms of a use and occu-
pancy agreement, or legal contract, be-
tween the utility and the TD or for
utility safety corrective measures
under the provisions of §645.107(k) of
this part.
(d) Federal funds are not eligible to
participate in any costs for which the
utility contributes or repays the TD,
except for utilities owned by the politi-
cal subdivision on projects which qual-
ify under the provisions of §645.107(c) of
this part in which case the costs of the
utility are considered to be costs of the
TD.
(e) The FHWA may deny Federal fund
participation in any payments made by
a TD for the relocation of utility facili-
ties when such payments do not con-
istute a suitable basis for Federal fund
participation under the provisions of
title 23 U.S.C.
(f) The rights of any public agency or
political subdivision of a State under
contract, franchise, or other instru-
ment or agreement with the utility,
pertaining to the utility’s use and oc-
cupancy of publicly owned land, includ-
ing public road and street right-of-way,
shall be considered the rights of the
STD in the absence of State law to the
contrary.
(g) In lieu of the individual certifi-
cations required by §645.107(a) and (c),
the STD may file a statement with the
FHWA setting forth the conditions
under which the STD will make pay-
ments for the relocation of utility fa-
cilities. The FHWA may approve Fed-
eral fund participation in utility relo-
cations proposed by the STD under the
conditions of the statement when the
FHWA has made an affirmative finding
that such statement and conditions
form a suitable basis for Federal fund
participation under the provisions of 23
U.S.C. 123.
(h) Federal funds may not participate
in the cost of relocations of utility fa-
cilities made solely for the benefit or
convenience of a utility, its contractor,
or a highway contractor.
(i) When the advance installation of
new utility facilities crossing or other-
wise occupying the proposed right-of-
way of a planned highway project is
underway, or scheduled to be under-
way, prior to the time such right-of-
way is purchased by or under control of
the TD, arrangements should be made
for such facilities to be installed in a
manner that will meet the require-
ments of the planned highway project.
Federal funds are eligible to partici-
pate in the additional cost incurred by
the utility that are attributable to,
and in accommodation of, the highway
project provided such costs are in-
curred subsequent to authorization of
the work by the FHWA. Subject to the
other provisions of this regulation,
Federal participation may be approved
under the foregoing circumstances
when it is demonstrated that the ac-
tion taken is necessary to protect the
public interest and the adjustment of
the facility is necessary by reason of
the actual construction of the highway
project.
(j) Federal funds are eligible to par-
ticipate in the costs of preliminary en-
gineering and allied services for utili-
ties, the acquisition of replacement
right-of-way for utilities, and the phys-
ical construction work associated with
utility relocations. Such costs must be
incurred by or on behalf of a utility
§ 645.109 Preliminary engineering.

(a) As mutually agreed to by the TD and utility, and subject to the provisions of paragraph (b) of this section, preliminary engineering activities associated with utility relocation work may be done by:

(1) The TD’s or utility’s engineering forces;

(2) An engineering consultant selected by the TD, after consultation with the utility, the contract to be administered by the TD; or,

(3) An engineering consultant selected by the utility, with the approval of the TD, the contract to be administered by the utility.

(b) When a utility is not adequately staffed to pursue the necessary preliminary engineering and related work for the utility relocation, Federal funds may participate in the amount paid to engineers, architects, and others for required engineering and allied services provided such amounts are not based on a percentage of the cost of relocation. When Federal participation is requested by the STD in the cost of such services, the utility and its consultant shall agree in writing as to the services to be provided and the fees and arrangements for the services. Federal funds may participate in the cost of such services performed under existing written continuing contracts when it is demonstrated that such work is performed regularly for the utility in its own work and that the costs are reasonable.

(c) The procedures in 23 CFR part 172, Administration of Engineering and Design Related Service Contracts, may be used as a guide for reviewing proposed consultant contracts.

§ 645.111 Right-of-way.

(a) Federal participation may be approved for the cost of replacement right-of-way provided:

(1) The utility has the right of occupancy in its existing location because it holds the fee, an easement, or another real property interest, the damaging or taking of which is compensable in eminent domain, or the acquisition is made in the interest of project economy or is necessary to meet the requirements of the highway project, and

(2) There will be no charge to the project for that portion of the utility’s existing right-of-way being transferred to the TD for highway purposes.

(b) The utility shall determine and make a written valuation of the replacement right-of-way that it acquires in order to justify amounts paid for such right-of-way. This written valuation shall be accomplished prior to negotiation for acquisition.

(c) Acquisition of replacement right-of-way by the TD on behalf of a utility or acquisition of nonoperating real property from a utility shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and applicable right-of-way procedures in 23 CFR 710.203.

(d) When the utility has the right-of-occupancy in its existing location because it holds the fee, an easement, or another real property interest, and it is not necessary by reason of the highway construction to adjust or replace the facilities located thereon, the taking of and damage to the utility’s real property, including the disposal or removal of such facilities, may be considered a right-of-way transaction in accordance with provisions of the applicable right-of-way procedures in 23 CFR 710.203.

[50 FR 20345, May 15, 1985, as amended at 64 FR 71289, Dec. 21, 1999]
§ 645.113 Agreements and authorizations.

(a) On Federal-aid and direct Federal projects involving utility relocations, the utility and the TD shall agree in writing on their separate responsibilities for financing and accomplishing the relocation work. When Federal participation is requested, the agreement shall incorporate this regulation by reference and designate the method to be used for performing the work (by contract or force account) and for developing relocation costs. The method proposed by the utility for developing relocation costs must be acceptable to both the TD and the FHWA. The preferred method for the development of relocation costs by a utility is on the basis of actual direct and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.

(b) When applicable, the written agreement shall specify the terms and amounts of any contribution or repayments made or to be made by the utility to the TD under the provisions of §645.107 of this regulation.

(c) The agreement shall be supported by plans, specifications when required, and itemized cost estimates of the work agreed upon, including appropriate credits to the project, and shall be sufficiently informative and complete to provide the TD and the FHWA with a clear description of the work required.

(d) When the relocation involves both work to be done at the TD’s expense and work to be done at the expense of the utility, the written agreement shall state the share to be borne by each party.

(e) In the event there are changes in the scope of work, extra work or major changes in the planned work covered by the approved agreement, plans, and estimates, Federal participation shall be limited to costs covered by a modification of the agreement, a written change, or extra work order approved by the TD and the FHWA.

(f) When proposed utility relocation and adjustment work on a project for a specific utility company can be clearly defined and the cost can be accurately estimated, the FHWA may approve an agreement between the TD and the utility company for a lump-sum payment without later confirmation by audit of actual costs.

(g) Except as otherwise provided by §645.113(h), authorization by the FHWA to the STD to proceed with the physical relocation of a utility’s facilities may be given after:

(1) The utility relocation work, or the right-of-way, or physical construction phase of the highway construction work is included in an approved State-wide transportation improvement program,

(2) The appropriate environmental evaluation and public hearing procedures required by 23 CFR part 771, Environmental Impact and Related Procedures, have been satisfied.

(3) The FHWA has reviewed and approved the plans, estimates, and proposed or executed agreements for the utility work and is furnished a schedule for accomplishing the work.

(h) The FHWA may authorize the physical relocation of utility facilities before the requirements of §645.113(g)(2) are satisfied when the relocation or adjustment of utility facilities meets the requirements of §645.107(i) of this regulation.

(i) Whenever the FHWA has authorized right-of-way acquisition under the hardship and protective buying provisions of 23 CFR 710.503, the FHWA may authorize the physical relocation of utility facilities located in whole or in part on such right-of-way.

(j) When all efforts by the TD and utility fail to bring about written agreement of their separate responsibilities under the provisions of this regulation, the STD shall submit its proposal and a full report of the circumstances to the FHWA. Conditional authorizations for the relocation work to proceed may be given by the FHWA to the STD with the understanding that Federal funds will not be paid for work done by the utility until the STD proposal has been approved by the FHWA.

(k) The FHWA will consider for approval any special procedure under State law, or appropriate administrative or judicial order, or under blanket
master agreements with the utilities, that will fully accomplish all of the foregoing objectives and accelerate the advancement of the construction and completion of projects.


§ 645.115 Construction.

(a) Part 635, subpart B, of this title, Force Account Construction (justification required for force account work), states that it is cost-effective for certain utility adjustments to be performed by a utility with its own forces and equipment, provided the utility is qualified to perform the work in a satisfactory manner. This cost-effectiveness finding covers minor work on the utility’s existing facilities routinely performed by the utility with its own forces. When the utility is not adequately staffed and equipped to perform such work with its own forces and equipment at a time convenient to and in coordination with the associated highway construction, such work may be done by:

(1) A contract awarded by the TD or utility to the lowest qualified bidder based on appropriate solicitation,

(2) Inclusion as part of the TD’s highway construction contract let by the TD as agreed to by the utility,

(3) An existing continuing contract, provided the costs are reasonable, or

(4) A contract for low-cost incidental work, such as tree trimming and the like, awarded by the TD or utility without competitive bidding, provided the costs are reasonable.

(b) When it has been determined under part 635, subpart B, that the force account method is not the most cost-effective means for accomplishing the utility adjustment, such work is to be done under competitive bid contracts as described in §645.115(a) (1) and (2) or under an existing continuing contract provided it can be demonstrated that this is the most cost-effective method.

(c) Costs for labor, materials, equipment, and other services furnished by the utility shall be billed by the utility directly to the TD. The special provisions of contracts let by the utility or the TD shall be explicit in this respect. The costs of force account work performed for the utility by the TD and of contract work performed for the utility under a contract let by the TD shall be reported separately from the costs of other force account and contract items on the highway project.

§ 645.117 Cost development and reimbursement.

(a) Developing and recording costs. (1) All utility relocation costs shall be recorded by means of work orders in accordance with an approved work order system except when another method of developing and recording costs, such as lump-sum agreement, has been approved by the TD and the FHWA. Except for work done under contracts, the individual and total costs properly reported and recorded in the utility’s accounts in accordance with the approved method for developing such costs, or the lump-sum agreement, shall constitute the maximum amount on which Federal participation may be based.

(2) Each utility shall keep its work order system or other approved accounting procedure in such a manner as to show the nature of each addition to or retirement from a facility, the total costs thereof, and the source or sources of cost. Separate work orders may be issued for additions and retirements. Retirements, however, may be included with the construction work order provided that all items relating to retirements shall be kept separately from those relating to construction.

(3) The STD may develop, or work in concert with utility companies to develop, other acceptable costing methods, such as unit costs, to estimate and reimburse utility relocation expenditures. Such other methods shall be founded in generally accepted industry practices and be reasonably supported by recent actual expenditures. Unit costs should be developed periodically and supported annually by a maintained data base of relocation expenses. Development of any alternate costing method should consider the factors listed in paragraphs (b) through (g) of this section. Streamlining of the cost development and reimbursement procedures is encouraged so long as adequate accountability for Federal expenditures is maintained. Concurrence by
the FHWA is required for any costing method used other than actual cost.

(b) Direct labor costs. (1) Salaries and wages, at actual or average rates, and related expenses paid by the utility to individuals for the time worked on the project are reimbursable when supported by adequate records. This includes labor associated with preliminary engineering, construction engineering, right-of-way, and force account construction.

(2) Salaries and expenses paid to individuals who are normally part of the overhead organization of the utility may be reimbursed for the time worked directly on the project when supported by adequate records and when the work performed by such individuals is essential to the project and could not have been accomplished as economically by employees outside the overhead organization.

(3) Amounts paid to engineers, architects and others for services directly related to projects may be reimbursed.

(c) Labor surcharges. (1) Labor surcharges include worker compensation insurance, public liability and property damage insurance, and such fringe benefits as the utility has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the utility, or, at the option of the utility, average rates which are representative of actual costs may be used in lieu of actual costs if approved by the STD and the FHWA. These average rates should be adjusted at least once annually to take into account known anticipated changes and correction for any over or under applied costs for the preceding period.

(2) When the utility is a self-insurer, there may be reimbursement at experience rates properly developed from actual costs. The rates cannot exceed the rates of a regular insurance company for the class of employment covered.

(d) Overhead and indirect construction costs. (1) Overhead and indirect construction costs not charged directly to work order or construction accounts may be allocated to the relocation provided the allocation is made on an equitable basis. All costs included in the allocation shall be eligible for Federal reimbursement, reasonable, actually incurred by the utility, and consistent with the provisions of 48 CFR part 31.

(2) Costs not eligible for Federal reimbursement include, but are not limited to, the costs associated with advertising, sales promotion, interest on borrowings, the issuance of stock, bad debts, uncollectible accounts receivable, contributions, donations, entertainment, fines, penalties, lobbying, and research programs.

(3) The records supporting the entries for overhead and indirect construction costs shall show the total amount, rate, and allocation basis for each additive, and are subject to audit by representatives of the State and Federal Government.

(e) Material and supply costs. (1) Materials and supplies, if available, are to be furnished from company stock except that they may be obtained from other sources near the project site when available at a lower cost. When not available from company stock, they may be purchased either under competitive bids or existing continuing contracts under which the lowest available prices are developed. Minor quantities of materials and supplies and proprietary products routinely used in the utility’s operation and essential for the maintenance of system compatibility may be excluded from these requirements. The utility shall not be required to change its existing standards for materials used in permanent changes to its facilities. Costs shall be determined as follows:

(i) Materials and supplies furnished from company stock shall be billed at the current stock prices for such new or used materials at time of issue.

(ii) Materials and supplies not furnished from company stock shall be billed at actual costs to the utility delivered to the project site.

(iii) A reasonable cost for plant inspection and testing may be included in the costs of materials and supplies when such expense has been incurred. The computation of actual costs of materials and supplies shall include the deduction of all offered discounts, rebates, and allowances.

(iv) The cost of rehabilitating rather than replacing existing utility facilities to meet the requirements of a
§ 645.117  

23 CFR Ch. I (4–1–01 Edition)  

project is reimbursable, provided this cost does not exceed replacement costs.

(2) Materials recovered from temporary use and accepted for reuse by the utility shall be credited to the project at prices charged to the job, less a consideration for loss in service life at 10 percent. Materials recovered from the permanent facility of the utility that are accepted by the utility for return to stock shall be credited to the project at the current stock prices of such used materials. Materials recovered and not accepted for reuse by the utility, if determined to have a net sale value, shall be sold to the highest bidder by the TD or utility following an opportunity for TD inspection and appropriate solicitation for bids. If the utility practices a system of periodic disposal by sale, credit to the project shall be at the going prices supported by records of the utility.

(3) Federal participation may be approved for the total cost of removal when either such removal is required by the highway construction or the existing facilities cannot be abandoned in place for aesthetic or safety reasons. When the utility facilities can be abandoned in place but the utility or highway constructor elects to remove and recover the materials, Federal funds shall not participate in removal costs which exceed the value of the materials recovered.

(4) The actual and direct costs of handling and loading materials and supplies at company stores or material yards, and of unloading and handling recovered materials accepted by the utility at its stores or material yards are reimbursable. In lieu of actual costs, average rates which are representative of actual costs may be used if approved by the STD and the FHWA. These average rates should be adjusted at least once annually to take into account known anticipated changes and correction for any over or under applied costs for the preceding period. At the option of the utility, 5 percent of the amounts billed for the materials and supplies issued from company stores and material yards or the value of recovered materials will be reimbursed in lieu of actual or average costs for handling.

(f) Equipment costs. The average or actual costs of operation, minor maintenance, and depreciation of utility-owned equipment may be reimbursed. Reimbursement for utility-owned vehicles may be made at average or actual costs. When utility-owned equipment is not available, reimbursement will be limited to the amount of rental paid (1) to the lowest qualified bidder, (2) under existing continuing contracts at reasonable costs, or (3) as an exception by negotiation when paragraph (f) (1) and (2) of this section are impractical due to project location or schedule.

(g) Transportation costs. (1) The utility’s cost, consistent with its overall policy, of necessary employee transportation and subsistence directly attributable to the project is reimbursable.

(2) Reasonable cost for the movement of materials, supplies, and equipment to the project and necessary return to storage including the associated cost of loading and unloading equipment is reimbursable.

(h) Credits. (1) Credit to the highway project will be required for the cost of any betterments to the facility being replaced or adjusted, and for the salvage value of the materials removed.

(2) Credit to the highway project will be required for the accrued depreciation of a utility facility being replaced, such as a building, pumping station, filtration plant, power plant, substation, or any other similar operational unit. Such accrued depreciation is that amount based on the ratio between the period of actual length of service and total life expectancy applied to the original cost. Credit for accrued depreciation shall not be required for a segment of the utility’s service, distribution, or transmission lines.

(3) No betterment credit is required for additions or improvements which are:

(i) Required by the highway project,

(ii) Replacement devices or materials that are of equivalent standards although not identical,

(iii) Replacement of devices or materials no longer regularly manufactured with next highest grade or size,

(iv) Required by law under governmental and appropriate regulatory commission code, or
§ 645.119 Alternate procedure.

(a) This alternate procedure is provided to simplify the processing of utility relocations or adjustments under the provisions of this regulation. Under this procedure, except as otherwise provided in paragraph (b) of this section, the STD is to act in the relative position of the FHWA for reviewing and approving the arrangements, fees, estimates, plans, agreements, and other related matters required by this regulation as prerequisites for authorizing the utility to proceed with and complete the work.

(b) The scope of the STD's approval authority under the alternate procedure includes all actions necessary to advance and complete all types of utility work under the provisions of this regulation except in the following instances:

(1) Utility relocations and adjustments involving major transfer, production, and storage facilities such as generating plants, power feed stations, pumping stations and reservoirs.

(2) Utility relocations falling within the scope of §645.113 (h), (i), and (j), and §645.107(i) of this regulation.

(c) To adopt the alternate procedure, the STD must file a formal application for approval by the FHWA. The application must include the following:

(1) The STD's written policies and procedures for administering and processing Federal-aid utility adjustments. Those policies and procedures must make adequate provisions with respect to the following:

(i) Compliance with the requirements of this regulation, except as otherwise provided by §645.119(b), and the provisions of 23 CFR part 645, subpart B, Accommodation of Utilities.

(ii) Advance utility liaison, planning, and coordination measures for providing adequate lead time and early scheduling of utility relocation to minimize interference with the planned highway construction.

(iii) Appropriate administrative, legal, and engineering review and coordination procedures as needed to establish the legal basis of the TD's payment; the extent of eligibility of the work under State and Federal laws and regulations; the more restrictive payment standards under §645.103(d) of this

(v) Required by current design practices regularly followed by the company in its own work, and there is a direct benefit to the highway project.

(4) When the facilities, including equipment and operating facilities, described in §645.117(h)(2) are not being replaced, but are being rehabilitated and/or moved, as necessitated by the highway project, no credit for accrued depreciation is needed.

(5) In no event will the total of all credits required under the provisions of this regulation exceed the total costs of adjustment exclusive of the cost of additions or improvements necessitated by the highway construction.

(i) Billings.

(1) After the executed TD/utility agreement has been approved by the FHWA, the utility may be reimbursed through the STD by progress billings for costs incurred. Cost for materials stockpiled at the project site or specifically purchased and delivered to the utility for use on the project may also be reimbursed on progress billings following approval of the executed TD/utility agreement.

(2) The utility shall provide one final and complete billing of all costs incurred, or of the agreed-to lump-sum, within one year following completion of the utility relocation work, otherwise previous payments to the utility may be considered final, except as agreed to between the STD and the utility. Billings received from utilities more than one year following completion of the utility relocation work may be paid if the STD so desires, and Federal-aid highway funds may participate in these payments.

(3) All utility cost records and accounts relating to the project are subject to audit by representatives of the State and Federal Government for a period of 3 years from the date final payment has been received by the utility.

(Information collection requirements in paragraph (i) were approved by the Office of Management and Budget under control number 2125–0159)

[50 FR 20345, May 15, 1985, as amended at 60 FR 34850, July 5, 1995; 65 FR 70311, Nov. 22, 2000]
§ 645.201 Purpose.

To prescribe policies and procedures for accommodating utility facilities and private lines on the right-of-way of Federal-aid or direct Federal highway projects.

§ 645.203 Applicability.

This subpart applies to:

(a) New utility installations within the right-of-way of Federal-aid or direct Federal highway projects,

(b) Existing utility facilities which are to be retained, relocated, or adjusted within the right-of-way of active projects under development or construction when Federal-aid or direct Federal highway funds are either being or have been used on the involved highway facility. When existing utility installations are to remain in place without adjustments on such projects the transportation department and utility are to enter into an appropriate agreement as discussed in §645.213 of this part,

(c) Existing utility facilities which are to be adjusted or relocated under the provisions of §645.209(k), and

(d) Private lines which may be permitted to cross the right-of-way of a Federal-aid or direct Federal highway project pursuant to State law and regulations and the provisions of this subpart. Longitudinal use of such right-of-way by private lines is to be handled under the provisions of 23 CFR 1.23(c).

§ 645.205 Policy.

(a) Pursuant to the provisions of 23 CFR 1.23, it is in the public interest for utility facilities to be accommodated on the right-of-way of a Federal-aid or direct Federal highway project when such use and occupancy of the highway right-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations.
§ 645.207 Definitions.

For the purpose of this regulation, the following definitions shall apply:

Aesthetic quality—those desirable characteristics in the appearance of the highway and its environment, such as harmony between or blending of natural and manufactured objects in the environment, continuity of visual form without distracting interruptions, and simplicity of designs which are desirably functional in shape but without clutter.

Border area—the area between the traveled way and the right-of-way line.

Clear roadside policy—that policy employed by a transportation department to provide a clear zone in order to increase safety, improve traffic operations, and enhance the aesthetic quality of highways by designing, constructing and maintaining highway roadsides as wide, flat, and rounded as practical and as free as practical from natural or manufactured hazards such as trees, drainage structures, non-yielding sign supports, highway lighting supports, and utility poles and other ground-mounted structures. The policy should address the removal of roadside obstacles which are likely to be associated with accident or injury to the highway user, or when such obstacles are essential, the policy should provide for appropriate countermeasures to reduce hazards. Countermeasures include placing utility facilities at locations which protect out-of-control vehicles, using breakaway features, using impact attenuation devices, or shielding. In all cases full consideration shall be given to sound engineering principles and economic factors.

Clear zone—the total roadside border area starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and/or the area at the toe of a non-recoverable slope available for safe use by an errant vehicle. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. The current edition of the AASHTO “Roadside Design Guide” should be used as a guide for establishing clear zones for

(b) Since by tradition and practice highway and utility facilities frequently coexist within common right-of-way or along the same transportation corridors, it is essential in such situations that these public service facilities be compatibly designed and operated. In the design of new highway facilities consideration should be given to utility service needs of the area traversed if such service is to be provided from utility facilities on or near the highway. Similarly the potential impact on the highway and its users should be considered in the design and location of utility facilities on or along highway right-of-way. Efficient, effective and safe joint highway and utility development of transportation corridors is important along high speed and high volume roads, such as major arterials and freeways, particularly those approaching metropolitan areas where space is increasingly limited. Joint highway and utility planning and development efforts are encouraged on Federal-aid highway projects.

(c) The manner in which utilities cross or otherwise occupy the right-of-way of a direct Federal or Federal-aid highway project can materially affect the highway, its safe operation, aesthetic quality, and maintenance. Therefore, it is necessary that such use and occupancy, where authorized, be regulated by transportation departments in a manner which preserves the operational safety and the functional and aesthetic quality of the highway facility. This subpart shall not be construed to alter the basic legal authority of utilities to install their facilities on public highways pursuant to law or franchise, and reasonable regulation by transportation departments with respect to location and manner of installation.

(d) When utilities cross or otherwise occupy the right-of-way of a direct Federal or Federal-aid highway project on Federal lands, and when the right-of-way grant is for highway purposes only, the utility must also obtain and comply with the terms of a right-of-way or other occupancy permit for the Federal agency having jurisdiction over the underlying land.

various types of highways and operating conditions. This publication is available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division Offices as prescribed in 49 CFR part 7. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001, or electronically at http://www.aashto.org.

Direct Federal highway projects—those active or completed highway projects such as projects under the Federal Lands Highways Program which are under the direct administration of the Federal Highway Administration (FHWA)

Federal-aid highway projects—those active or completed highway projects administered by or through a State transportation department which involve or have involved the use of Federal-aid highway funds for the development, acquisition of right-of-way, construction or improvement of the highway or related facilities, including highway beautification projects under 23 U.S.C. 319, Landscaping and Scenic Enhancement.

Freeway—a divided arterial highway with full control of access.

Highway—any public way for vehicular travel, including the entire area within the right-of-way and related facilities constructed or improved in whole or in part with Federal-aid or direct Federal highway funds.

Transportation department—that department, agency, commission, board, or official of any State or political subdivision thereof, charged by its law with the responsibility for highway administration.

Private lines—privately owned facilities which convey or transmit the commodities outlined in the definition of utility facility of this section, but devoted exclusively to private use.

Right-of-way—real property, or interests therein, acquired, dedicated or reserved for the construction, operation, and maintenance of a highway in which Federal-aid or direct Federal highway funds are or have been involved in any stage of development. Lands acquired under 23 U.S.C. 319 shall be considered to be highway right-of-way.

State transportation department—the transportation department of one of the 50 States, the District of Columbia, or Puerto Rico.

Use and occupancy agreement—the document (written agreement or permit) by which the transportation department approves the use and occupancy of highway right-of-way by utility facilities or private lines.

Utility facility—privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any substantially owned or controlled subsidiary. For the purposes of this part, the term includes those utility-type facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use. The term utility includes those facilities used solely by the utility which are a part of its operating plant.

§ 645.209 General requirements.

(a) Safety. Highway safety and traffic safety are of paramount, but not of sole, importance when accommodating utility facilities within highway right-of-way. Utilities provide an essential public service to the general public. Traditionally, as a matter of sound economic public policy and law, utilities have used public road right-of-way for transmitting and distributing their services. The lack of sufficient right-of-way width to accommodate utilities outside the desirable clear zone, in and of itself, is not a valid reason to preclude utilities from occupying the highway right-of-way. However, due to
the nature and volume of highway traffic, the effect of such joint use on the traveling public must be carefully considered by transportation departments before approval of utility use of the right-of-way of Federal-aid or direct Federal highway projects is given. Adjustments in the operating characteristics of the utility or the highway or other special efforts may be necessary to increase the compatibility of utility-highway joint use. The possibility of this joint use should be a consideration in establishing right-of-way requirements for highway projects. In any event, the design, location, and manner in which utilities use and occupy the right-of-way of Federal-aid or direct Federal highway projects must conform to the clear roadside policies for the highway involved and otherwise provide for a safe traveling environment as required by 23 U.S.C. 109(1)(1).

(b) New above ground installations. On Federal-aid or direct Federal highway projects, new above ground utility installations, where permitted, shall be located as far from the traveled way as possible, preferably along the right-of-way line. No new above ground utility installations are to be allowed within the established clear zone of the highway unless a determination has been made by the transportation department that placement underground is not technically feasible or is unreasonably costly and there are no feasible alternate locations. In exceptional situations where it is essential to locate such above ground utility facilities within the established clear zone of the highway unless a determination has been made by the transportation department that placement underground is not technically feasible or is unreasonably costly and there are no feasible alternate locations. These environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the disapproval of the use of such right-of-way for accommodation of such utility facility will be considered.

(c) Installations within freeways. (1) Each State transportation department shall submit an accommodation plan in accordance with §§ 645.211 and 645.215 which addresses how the State transportation department will consider applications for longitudinal utility installations within the access control lines of a freeway. This includes utility installations within interchange areas which must be constructed or serviced by direct access from the main lanes or ramps. If a State transportation department elects to permit such use, the plan must address how the State transportation department will oversee such use consistent with this subpart, Title 23 U.S.C., and the safe and efficient use of the highways.

(2) Any accommodation plan shall assure that installations satisfy the following criteria:

(i) The effects utility installations will have on highway and traffic safety will be ascertained, since in no case shall any use be permitted which would adversely affect safety.

(ii) The direct and indirect environmental and economic effects of any loss of productive agricultural land or any productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for accommodation of such utility facility will be evaluated.

(iii) These environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility will be considered.

(iv) [Reserved]

(v) A utility strip will be established along the outer edge of the right-of-way by locating a utility access control line between the proposed utility installation and the through roadway and ramps. Existing fences should be retained and, except along sections of freeways having frontage roads, planned fences should be located at the freeway right-of-way line. The State or political subdivision is to retain control of the utility strip right-of-way including its use by utility facilities. Service connections to adjacent properties shall not be permitted from within the utility strip.

(3) Nothing in this part shall be construed as prohibiting a transportation department from adopting a more restrictive policy than that contained herein with regard to longitudinal utility installations along freeway right-of-way and access for constructing and/or for servicing such installations.
§ 645.209
23 CFR Ch. I (4–1–01 Edition)

(d) Uniform policies and procedures. For a transportation department to fulfill its responsibilities to control utility use of Federal-aid highway right-of-way within the State and its political subdivisions, it must exercise or cause to be exercised, adequate regulation over such use and occupancy through the establishment and enforcement of reasonably uniform policies and procedures for utility accommodation.

(e) Private lines. Because there are circumstances when private lines may be allowed to cross or otherwise occupy the right-of-way of Federal-aid projects, transportation departments shall establish uniform policies for properly controlling such permitted use. When permitted, private lines must conform to the provisions of this part and the provisions of 23 CFR 1.23(c) for longitudinal installations.

(f) Direct Federal highway projects. On direct Federal highway projects, the FHWA will apply, or cause to be applied, utility and private line accommodation policies similar to those required on Federal-aid highway projects. When appropriate, agreements will be entered into between the FHWA and the transportation department or other government agencies to ensure adequate control and regulation of use by utilities and private lines of the right-of-way on direct Federal highway projects.

(g) Projects where state lacks authority. On Federal-aid highway projects where the State transportation department does not have legal authority to regulate highway use by utilities and private lines, the State transportation department must enter into formal agreements with those local officials who have such authority. The agreements must provide for a degree of protection to the highway at least equal to the protection provided by the State transportation department’s utility accommodation policy approved under the provisions of §645.215(b) of this part. The project agreement between the State transportation department and the FHWA on all such Federal-aid highway projects shall contain a special provision incorporating the formal agreements with the responsible local officials.

(h) Scenic areas. New utility installations, including those needed for highway purposes, such as for highway lighting or to serve a weigh station, rest area or recreation area, are not permitted on highway right-of-way or other lands which are acquired or improved with Federal-aid or direct Federal highway funds and are located within or adjacent to areas of scenic enhancement and natural beauty. Such areas include public park and recreational lands, wildlife and waterfowl refuges, historic sites as described in 23 U.S.C. 138, scenic strips, overlooks, rest areas and landscaped areas. The State transportation department may permit exceptions provided the following conditions are met:

1. New underground or aerial installations may be permitted only when they do not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.

2. Aerial installations may be permitted only when:
   i. Other locations are not available or are unusually difficult and costly, or are less desirable from the standpoint of aesthetic quality,
   ii. Placement underground is not technically feasible or is unreasonably costly, and
   iii. The proposed installation will be made at a location, and will employ suitable designs and materials, which give the greatest weight to the aesthetic qualities of the area being traversed. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable.

3. For new utility installations within freeways, the provisions of paragraph (c) of this section must also be satisfied.

(i) Joint use agreements. When the utility has a compensable interest in the land occupied by its facilities and such land is to be jointly occupied and used for highway and utility purposes, the transportation department and utility shall agree in writing as to the obligations and responsibilities of each party. Such joint-use agreements shall
incorporate the conditions of occupancy for each party, including the rights vested in the transportation department and the rights and privileges retained by the utility. In any event, the interest to be acquired by or vested in the transportation department in any portion of the right-of-way of a Federal-aid or direct Federal highway project to be vacated, used or occupied by utilities or private lines, shall be adequate for the construction, safe operation, and maintenance of the highway project.

(j) Traffic control plan. Whenever a utility installation, adjustment or maintenance activity will affect the movement of traffic or traffic safety, the utility shall implement a traffic control plan and utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around the work site and the safety of the utility work force in accordance with procedures established by the transportation department. The traffic control plan and the application of traffic control devices shall conform to the standards set forth in the current edition of the "Manual on Uniform Traffic Control Devices" (MUTCD) and 23 CFR part 630, subpart J. This publication is available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division Offices as prescribed in 49 CFR part 7.

(k) Corrective measures. When the transportation department determines that existing utility facilities are likely to be associated with injury or accident to the highway user, as indicated by accident history or safety studies, the transportation department shall initiate or cause to be initiated in consultation with the affected utilities, corrective measures to provide for a safer traffic environment. The corrective measures may include changes to utility or highway facilities and should be prioritized to maximum safety benefits in the most cost-effective manner. The scheduling of utility safety improvements should take into consideration planned utility replacement or upgrading schedules, accident potential, and the availability of resources. It is expected that the requirements of this paragraph will result in an orderly and positive process to address the identified utility hazard problems in a timely and reasonable manner with due regard to the effect of the corrective measures on both the utility consumer and the road user. The type of corrective measures are not prescribed. Any requests received involving Federal participation in the cost of adjusting or relocating utility facilities pursuant to this paragraph shall be subject to the provisions of 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, and 23 CFR part 924, Highway Safety Improvement Program.

(l) Wetlands. The installation of privately owned lines or conduits on the right-of-way of Federal-aid or direct Federal highway projects for the purpose of draining adjacent wetlands onto the highway right-of-way is considered to be inconsistent with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, and shall be prohibited.

(m) Utility determination. In determining whether a proposed installation is a utility or not, the most important consideration is how the STD views it under its own State laws and/or regulations.

§ 645.211 State transportation department accommodation policies.

The FHWA should use the current editions of the AASHTO publications, "A Guide for Accommodating Utilities Within Highway Right-of-Way" and "Roadside Design Guide" to assist in the evaluation of adequacy of STD utility accommodation policies. These publications are available for inspection from the FHWA Washington Headquarters and all FHWA Division Offices as prescribed in 49 CFR part 7. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, DC 20001, or electronically at http://www.aashto.org. At a minimum, such policies shall make adequate provisions with respect to the following:

(a) Utilities must be accommodated and maintained in a manner which will
§ 645.211—Public use of highway right-of-way by utilities.

(a) No public utility shall use or occupy any highway right-of-way so as to impair the highway or adversely affect highway or traffic safety. Uniform procedures controlling the manner, nature and extent of such utility use shall be established.

(b) Consideration shall be given to the effect of utility installations in regard to safety, aesthetic quality, and the costs or difficulty of highway and utility construction and maintenance.

(c) The State transportation department’s standards for regulating the use and occupancy of highway right-of-way by utilities must include, but are not limited to, the following:

1. The horizontal and vertical location requirements and clearances for the various types of utilities must be clearly stated. These must be adequate to ensure compliance with the clear roadside policies for the particular highway involved.

2. The applicable provisions of government or industry codes required by law or regulation must be set forth or appropriately referenced, including highway design standards or other measures which the State transportation department deems necessary to provide adequate protection to the highway, its safe operation, aesthetic quality, and maintenance.

3. Specifications for and methods of installation; requirements for preservation and restoration of highway facilities, appurtenances, and natural features and vegetation on the right-of-way; and limitations on the utility’s activities within the right-of-way including installation within areas set forth by §645.209(h) of this part should be prescribed as necessary to protect highway interests.

4. Measures necessary to protect traffic and its safe operation during and after installation of facilities, including control-of-access restrictions, provisions for rerouting or detouring traffic, traffic control measures to be employed, procedures for utility traffic control plans, limitations on vehicle parking and materials storage, protection of open excavations, and the like must be provided.

5. A State transportation department may deny a utility’s request to occupy highway right-of-way based on State law, regulation, or ordinances or the State transportation department’s policy. However, in any case where the provisions of this part are to be cited as the basis for disapproving a utility’s request to use and occupy highway right-of-way, measures must be provided to evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land that would result from the disapproval. The environmental and economic effects on productive agricultural land together with the possible interference with or impairment of the use of the highway and the effect on highway safety must be considered in the decision to disapprove any proposal by a utility to use such highway right-of-way.

(d) Compliance with applicable State laws and approved State transportation department utility accommodation policies must be assured. The responsible State transportation department’s file must contain evidence of the written arrangements which set forth the terms under which utility facilities are to cross or otherwise occupy highway right-of-way. All utility installations made on highway right-of-way shall be subject to written approval by the State transportation department. However, such approval will not be required where so provided in the use and occupancy agreement for such matters as utility facility maintenance, installation of service connections on highways other than freeways, or emergency operations.

(e) The State transportation department shall set forth in its utility accommodation plan detailed procedures, criteria, and standards it will use to evaluate and approve individual applications of utilities on freeways under the provisions of §645.209(c) of this part. The State transportation department also may develop such procedures, criteria and standards by class of utility. In defining utility classes, consideration may be given to distinguishing utility services by type, nature or function and their potential impact on the highway and its user.

(f) The means and authority for enforcing the control of access restrictions applicable to utility use of controlled access highway facilities should
§ 645.213 Use and occupancy agreements (permits).

The written arrangements, generally in the form of use and occupancy agreements setting forth the terms under which the utility is to cross or otherwise occupy the highway right-of-way, must include or incorporate by reference:

(a) The transportation department standards for accommodating utilities. Since all of the standards will not be applicable to each individual utility installation, the use and occupancy agreement must, as a minimum, describe the requirements for location, construction, protection of traffic, maintenance, access restriction, and any special conditions applicable to each installation.

(b) A general description of the size, type, nature, and extent of the utility facilities being located within the highway right-of-way.

(c) Adequate drawings or sketches showing the existing and/or proposed location of the utility facilities within the highway right-of-way with respect to the existing and/or planned highway improvements, the traveled way, the right-of-way lines and, where applicable, the control of access lines and approved access points.

(d) The extent of liability and responsibilities associated with future adjustment of the utilities to accommodate highway improvements.

(e) The action to be taken in case of noncompliance with the transportation department’s requirements.

(f) Other provisions as deemed necessary to comply with laws and regulations.

(Approved by the Office of Management and Budget under control number 2125-0522)

§ 645.215 Approvals.

(a) Each State transportation department shall submit a statement to the FHWA on the authority of utilities to use and occupy the right-of-way of State highways, the State transportation department’s power to regulate such use, and the policies the State transportation department employs or proposes to employ for accommodating utilities within the right-of-way Federal-aid highways under its jurisdiction. Statements previously submitted and approved by the FHWA need not be resubmitted provided the statement adequately addresses the requirements of this part. When revisions are deemed necessary the changes to the previously approved statement may be submitted separately to the FHWA for approval. The State transportation department shall include similar information on the use and occupancy of such highways by private lines where permitted. The State shall identify those areas, if any, of Federal-aid highways within its borders where the State transportation department is without legal authority to regulate use by utilities. The statement shall address the nature of the formal agreements with local officials required by §645.209(g) of this part. It is expected that the statements required by this part or necessary revisions to previously submitted and approved statements will be submitted to FHWA within 1 year of the effective date of this regulation.

(b) Upon determination by the FHWA that a State transportation department’s policies satisfy the provisions of 23 U.S.C. 109, 111, and 116, and 23 CFR 1.23 and 1.27, and meet the requirements of this regulation, the FHWA will approve their use on Federal-aid highway projects in that State.

(c) Any changes, additions or deletions the State transportation department proposes to the approved policies are subject to FHWA approval.

(d) When a utility files a notice or makes an individual application or request to a STD to use or occupy the right-of-way of a Federal-aid highway project, the STD is not required to submit the matter to the FHWA for prior concurrence, except when the proposed installation is not in accordance with this regulation or with the STD’s utility accommodation policy approved by
the FHWA for use on Federal-aid highway projects.

(e) The State transportation department’s practices under the policies or agreements approved under §645.215(b) of this part shall be periodically reviewed by the FHWA.

(Information collection requirements in paragraph (a) were approved by the Office of Management and Budget under control number 2125–0514)


PART 646—RAILROADS

Subpart A—Railroad-Highway Insurance Protection

Sec.
646.101 Purpose.
646.103 Application.
646.105 Contractor’s public liability and property damage insurance.
646.107 Railroad protective insurance.
646.109 Types of coverage.
646.111 Amount of coverage.

Subpart B—Railroad-Highway Projects

646.200 Purpose and applicability.
646.204 Definitions.
646.206 ‘Types of projects.
646.208 Funding.
646.210 Classification of projects and railroad share of the cost.
646.212 Federal share.
646.214 Design.
646.216 General procedures.
646.218 Simplified procedure for accelerating grade crossing improvements.
646.220 Alternate Federal-State procedure.

APPENDIX TO SUBPART B—HORIZONTAL AND VERTICAL CLEARANCE PROVISIONS FOR OVERPASS AND UNDERPASS STRUCTURES

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

Subpart A—Railroad-Highway Insurance Protection

SOURCE: 39 FR 36474, Oct. 10, 1974, unless otherwise noted.

§ 646.101 Purpose.

The purpose of this part is to prescribe provisions under which Federal funds may be applied to the costs of public liability and property damage insurance obtained by contractors for their own operations, and (b) on behalf of railroads on or about whose right-of-way the contractors are required to work in the construction of highway projects financed in whole or in part with Federal funds.

§ 646.103 Application.

(a) This part applies:

(1) To a contractors’ legal liability for bodily injury to, or death of, persons and for injury to, or destruction of, property.

(2) To the liability which may attach to railroads for bodily injury to, or death of, persons and for injury to, or destruction of, property.

(3) To damage to property owned by or in the care, custody or control of the railroads, both as such liability or damage may arise out of the contractor’s operations, or may result from work performed by railroads at or about railroad rights-of-way in connection with projects financed in whole or in part with Federal funds.

(b) Where the highway construction is under the direct supervision of the Federal Highway Administration (FHWA), all references herein to the State shall be considered as references to the FHWA.

§ 646.105 Contractor’s public liability and property damage insurance.

(a) Contractors may be subject to liability with respect to bodily injury to or death of persons, and injury to, or destruction of property, which may be suffered by persons other than their own employees as a result of their operations in connection with construction of highway projects located in whole or in part within railroad right-of-way and financed in whole or in part with Federal funds. Protection to cover such liability of contractors shall be furnished under regular contractors’ public liability and property damage insurance policies issued in the names of the contractors. Such policies shall be so written as to furnish protection to contractors respecting their operations in performing work covered by their contract.

(b) Where a contractor sublets a part of the work on any project to a subcontractor, the contractor shall be required to secure insurance protection...
in his own behalf under contractor’s public liability and property damage insurance policies to cover any liability imposed on him by law for damages because of bodily injury to, or death of, persons and injury to, or destruction of, property as a result of work undertaken by such subcontractors. In addition, the contractor shall provide for and on behalf of any such subcontractors protection to cover like liability imposed upon the latter as a result of their operations by means of separate and individual contractor’s public liability and property damage policies; or, in the alternative, each subcontractor shall provide satisfactory insurance on his own behalf to cover his individual operations.

(c) The contractor shall furnish to the State highway department evidence satisfactory to such department and to the FHWA that the insurance coverages required herein have been provided. The contractor shall also furnish a copy of such evidence to the railroad or railroads involved. The insurance specified shall be kept in force until all work required to be performed shall have been satisfactorily completed and accepted in accordance with the contract under which the construction work is undertaken.

§ 646.107 Railroad protective insurance.

In connection with highway projects for the elimination of hazards of railroad-highway crossings and other highway construction projects located in whole or in part within railroad right-of-way, railroad protective liability insurance shall be purchased on behalf of the railroad by the contractor. The standards for railroad protective insurance established by §§646.109 through 646.111 shall be adhered to insofar as the insurance laws of the State will permit.


§ 646.109 Types of coverage.

(a) Coverage shall be limited to damage suffered by the railroad on account of occurrences arising out of the work of the contractor on or about the railroad right-of-way, independent of the railroad’s general supervision or control, except as noted in §646.109(b)(4).

(b) Coverage shall include:

(1) Death of or bodily injury to passengers of the railroad and employees of the railroad not covered by State workmen’s compensation laws;

(2) Personal property owned by or in the care, custody or control of the railroads;

(3) The contractor, or any of his agents or employees who suffer bodily injury or death as the result of acts of the railroad or its agents, regardless of the negligence of the railroad;

(4) Negligence of only the following classes of railroad employees:

(i) Any supervisory employee of the railroad at the job site;

(ii) Any employee of the railroad while operating, attached to, or engaged on, work trains or other railroad equipment at the job site which are assigned exclusively to the contractor; or

(iii) Any employee of the railroad not within (b)(4) (i) or (ii) who is specifically loaned or assigned to the work of the contractor for prevention of accidents or protection of property, the cost of whose services is borne specifically by the contractor or governmental authority.

§ 646.111 Amount of coverage.

(a) The maximum dollar amounts of coverage to be reimbursable from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of $2 million per occurrence with an aggregate of $6 million applying separately to each annual period except as provided in paragraph (b) of this section.

(b) In cases involving real and demonstrable danger of appreciably higher risks, higher dollar amounts of coverage for which premiums will be reimbursable from Federal funds shall be allowed. These larger amounts will depend on circumstances and shall be written for the individual project in accordance with standard underwriting practices upon approval of the FHWA.

§ 646.200 Purpose and applicability.

(a) The purpose of this subpart is to prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities.

(b) This subpart, and all references hereinafter made to projects, applies to Federal-aid projects involving railroad facilities, including projects for the elimination of hazards of railroad-highway crossings, and other projects which use railroad properties or which involve adjustments required by highway construction to either railroad facilities or facilities that are jointly owned or used by railroad and utility companies.

(c) Additional instructions for projects involving the elimination of hazards of railroad/highway grade crossings pursuant to 23 U.S.C. 130 are set forth in 23 CFR part 924.

(d) Procedures on reimbursement for projects undertaken pursuant to this subpart are set forth in 23 CFR part 140, subpart I.

(e) Procedures on insurance required of contractors working on or about railroad right-of-way are set forth in 23 CFR part 646, subpart A.

§ 646.202 [Reserved]

§ 646.204 Definitions.

For the purposes of this subpart, the following definitions apply:

- **Active warning devices** means those traffic control devices activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, as well as manually operated devices and crossing watchmen, all of which display to motorists positive warning of the approach or presence of a train.

- **Company** shall mean any railroad or utility company including any wholly owned or controlled subsidiary thereof.

- **Construction** shall mean the actual physical construction to improve or eliminate a railroad-highway grade crossing or accomplish other railroad involved work.

- **Diagnostic team** means a group of knowledgeable representatives of the parties of interest in a railroad-highway crossing or a group of crossings.

- **Main line railroad track** means a track of a principal line of a railroad, including extensions through yards, upon which trains are operated by timetable or train order or both, or the use of which is governed by block signals or by centralized traffic control.

- **Passive warning devices** means those types of traffic control devices, including signs, markings and other devices, located at or in advance of grade crossings to indicate the presence of a crossing but which do not change aspect upon the approach or presence of a train.

- **Preliminary engineering** shall mean the work necessary to produce construction plans, specifications, and estimates to the degree of completeness required for undertaking construction thereunder, including locating, surveying, designing, and related work.

- **Railroad** shall mean all rail carriers, publicly-owned, private, and common carriers, including line haul freight and passenger railroads, switching and terminal railroads and passenger carrying railroads such as rapid transit, commuter and street railroads.

- **Utility** shall mean the lines and facilities for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, water, steam, sewer and similar commodities.

§ 646.206 Types of projects.

(a) Projects for the elimination of hazards, to both vehicles and pedestrians, of railroad-highway crossings may include but are not limited to:

1. Grade crossing elimination;

2. Reconstruction of existing grade separations; and

3. Grade crossing improvements.

(b) Other railroad-highway projects are those which use railroad properties or involve adjustments to railroad facilities required by highway construction but do not involve the elimination
Federal Highway Administration, DOT

§ 646.208 Funding.
(a) Railroad/highway crossing projects may be funded through the Federal-aid funding source appropriate for the involved project.
(b) Projects for the elimination of hazards at railroad/highway crossings may, at the option of the State, be funded with the funds provided by 23 U.S.C. 133(d)(1).
(82 FR 45328, Aug. 27, 1997)

§ 646.210 Classification of projects and railroad share of the cost.
(a) State laws requiring railroads to share in the cost of work for the elimination of hazards at railroad-highway crossings shall not apply to Federal-aid projects.
(b) Pursuant to 23 U.S.C. 130(b), and 49 CFR 1.48:
(1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.
(2) Projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs.
(3) On projects for the elimination of existing grade crossings at which active warning devices are in place or ordered to be installed by a State regulatory agency, the railroad share of the project costs shall be 5 percent.
(4) On projects for the elimination of existing grade crossings at which active warning devices are not in place and have not been ordered installed by a State regulatory agency, or on projects which do not eliminate an existing crossing, there shall be no required railroad share of the project cost.
(c) The required railroad share of the cost under §646.210(b)(3) shall be based on the costs for preliminary engineer-

§ 646.212 Federal share.
(a) General. (1) Federal funds are not eligible to participate in costs incurred solely for the benefit of the railroad.
(2) At grade separations Federal funds are eligible to participate in costs to provide space for more tracks than are in place when the railroad establishes to the satisfaction of the State highway agency and FHWA that it has a definite demand and plans for installation of the additional tracks within a reasonable time.
(3) The Federal share of the cost of a grade separation project shall be based on the cost to provide horizontal and/or vertical clearances used by the railroad in its normal practice subject to limitations as shown in the appendix or as required by a State regulatory agency.
(b) The Federal share of railroad/highway crossing projects may be:
(1) Regular pro rata sharing as provided by 23 U.S.C. 120(a) and 120(b).
(2) One hundred percent Federal share, as provided by 23 U.S.C. 120(c).

§646.214 Design.

(a) General. (1) Facilities that are the responsibility of the railroad for maintenance and operation shall conform to the specifications and design standards used by the railroad in its normal practice, subject to approval by the State highway agency and FHWA.
(2) Facilities that are the responsibility of the highway agency for maintenance and operation shall conform to the specifications and design standards and guides used by the highway agency in its normal practice for Federal-aid projects.

(b) Grade crossing improvements. (1) All traffic control devices proposed shall comply with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways supplemented to the extent applicable by State standards.
(2) Pursuant to 23 U.S.C. 109(e), where a railroad-highway grade crossing is located within the limits of or near the terminus of a Federal-aid highway project for construction of a new highway or improvement of the existing roadway, the crossing shall not be opened for unrestricted use by traffic or the project accepted by FHWA until adequate warning devices for the crossing are installed and functioning properly.

(c) Grade crossing elimination. All crossings of railroads and highways at grade shall be eliminated where there is full control of access on the highway (a freeway) regardless of the volume of railroad or highway traffic.

§646.216 General procedures.

(a) General. Unless specifically modified herein, applicable Federal-aid procedures govern projects undertaken pursuant to this subpart.

(b) Preliminary engineering and engineering services. (1) As mutually agreed to by the State highway agency and railroad, and subject to the provisions of §646.216(b)(2), preliminary engineering work on railroad-highway projects may be accomplished by one of the following methods:
(i) The State or railroad’s engineering forces;
(ii) An engineering consultant selected by the State after consultation with the railroad, and with the State administering the contract; or
§ 646.216

(iii) An engineering consultant selected by the railroad, with the approval of the State and with the railroad administering the contract.

(2) Where a railroad is not adequately staffed, Federal-aid funds may participate in the amounts paid to engineering consultants and others for required services, provided such amounts are not based on a percentage of the cost of construction, either under contracts for individual projects or under existing written continuing contracts where such work is regularly performed for the railroad in its own work under such contracts at reasonable costs.

(c) Rights-of-way. (1) Acquisition of right-of-way by a State highway agency on behalf of a railroad or acquisition of nonoperating real property from a railroad shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and applicable FHWA right-of-way procedures in 23 CFR, chapter I, subchapter H. On projects for the elimination of hazards of railroad-highway crossings by the relocation of railroads, acquisition or replacement right-of-way by a railroad shall be in accordance with 42 U.S.C. 4601 et seq.

(2) Where buildings and other depreciable structures of the railroad (such as signal towers, passenger stations, depots, and other buildings, and equipment housings) which are integral to operation of railroad traffic are wholly or partly affected by a highway project, the costs of work necessary to functionally restore such facilities are eligible for participation. However, when replacement of such facilities is necessary, credits shall be made to the project for:

(i) Accrued depreciation, which is that amount based on the ratio between the period of actual length of service and total life expectancy applied to the original cost.

(ii) Additions or improvements which provide higher quality or increased service capability of the facility and which are provided solely for the benefit of the railroad.

(iii) Actual salvage value of the material recovered from the facility being replaced. Total credits to a project shall not be required in excess of the replacement cost of the facility.

(3) Where Federal funds participate in the cost of replacement right-of-way, there will be no charge to the project for the railroad’s existing right-of-way being transferred to the State highway agency except when the value of the right-of-way being taken exceeds the value of the replacement right-of-way.

(d) State-railroad agreements. (1) Where construction of a Federal-aid project requires use of railroad properties or adjustments to railroad facilities, there shall be an agreement in writing between the State highway agency and the railroad company.

(2) The written agreement between the State and the railroad shall, as a minimum include the following, where applicable:

(i) The provisions of this subpart and of 23 CFR part 140, subpart I, incorporated by reference.

(ii) A detailed statement of the work to be performed by each party.

(iii) Method of payment (either actual cost or lump sum).

(iv) For projects which are not for the elimination of hazards of railroad-highway crossings, the extent to which the railroad is obligated to move or adjust its facilities at its own expense,

(v) The railroad’s share of the project cost.

(vi) An itemized estimate of the cost of the work to be performed by the railroad.

(vii) Method to be used for performing the work, either by railroad forces or by contract.

(viii) Maintenance responsibility.

(ix) Form, duration, and amounts of any needed insurance.

(x) Appropriate reference to or identification of plans and specifications.

(xi) Statements defining the conditions under which the railroad will provide or require protective services during performance of the work, the type of protective services and the method of reimbursement to the railroad, and

(xii) Provisions regarding inspection of any recovered materials.

(3) On work to be performed by the railroad with its own forces and where the State highway agency and railroad agree, subject to approval by FHWA,
an agreement providing for a lump sum payment in lieu of later determination of actual costs may be used for any of the following:

(i) Installation or improvement of grade crossing warning devices and/or grade crossing surfaces, regardless of cost, or

(ii) Any other eligible work where the estimated cost to the State of the proposed railroad work does not exceed $100,000 or

(iii) Where FHWA finds that the circumstances are such that this method of developing costs would be in the best interest of the public.

(4) Where the lump sum method of payment is used, periodic reviews and analyses of the railroad’s methods and cost data used to develop lump sum estimates will be made.

(5) Master agreements between a State and a railroad on an areawide or statewide basis may be used. These agreements would contain the specifications, regulations, and provisions required in conjunction with work performed on all projects. Supporting data for each project or group of projects must, when combined with the master agreement by reference, satisfy the provisions of §646.216(d)(2).

(6) Official orders issued by regulatory agencies will be accepted in lieu of State-railroad agreements only where, together with supplementary written understandings between the State and the railroad, they include the items required by §646.216(d)(2).

(7) In extraordinary cases where FHWA finds that the circumstances are such that requiring such agreement or order would not be in the best interest of the public, projects may be approved for construction with the aid of Federal funds, provided satisfactory commitments have been made with respect to construction, maintenance and the railroad share of project costs.

(e) Authorizations. (1) The costs of preliminary engineering, right-of-way acquisition, and construction incurred after the date each phase of the work is included in an approved statewide transportation improvement program and authorized by the FHWA are eligible for Federal-aid participation. Preliminary engineering and right-of-way acquisition costs which are otherwise eligible, but incurred by a railroad prior to authorization by the FHWA, although not reimbursable, may be included as part of the railroad share of project cost where such a share is required.

(2) Prior to issuance of authorization by FHWA either to advertise the physical construction for bids or to proceed with force account construction for railroad work or for other construction affected by railroad work, the following must be accomplished:

(i) The plans, specifications and estimates must be approved by FHWA.

(ii) A proposed agreement between the State and railroad must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the State for railroad costs the executed agreement must be approved by FHWA. However, cost for materials stockpiled at the project site or specifically purchased and delivered to the company for use on the project may be reimbursed on progress billings prior to the approval of the executed State-Railroad Agreement in accordance with 23 CFR 140.922(a) and §646.218 of this part.

(iii) Adequate provisions must be made for any needed easements, right-of-way, temporary crossings for construction purposes or other property interests.

(iv) The pertinent portions of the State-railroad agreement applicable to any protective services required during performance of the work must be included in the project specifications and special provisions for any construction contract.

(3) In unusual cases, pending compliance with §646.216(e)(2)(ii), (iii) and (iv), authorization may be given by FHWA to advertise for bids for highway construction under conditions where a railroad grants a right-of-entry to its property as necessary to prosecute the physical construction.

(f) Construction. (1) Construction may be accomplished by:

(i) Railroad force account,

(ii) Contracting with the lowest qualified bidder based on appropriate solicitation.

(iii) Existing continuing contracts at reasonable costs, or
(iv) Contract without competitive bidding, for minor work, at reasonable costs.

(2) Reimbursement will not be made for any increased costs due to changes in plans:
(i) For the convenience of the contractor, or
(ii) Not approved by the State and FHWA.

(3) The State and FHWA shall be afforded a reasonable opportunity to inspect materials recovered by the railroad prior to disposal by sale or scrap. This requirement will be satisfied by the railroad giving written notice, or oral notice with prompt written confirmation, to the State of the time and place where the materials will be available for inspection. The giving of notice is the responsibility of the railroad, and it may be held accountable for full value of materials disposed of without notice.

(4) In addition to normal construction costs, the following construction costs are eligible for participation with Federal-aid funds when approved by the State and FHWA:
(i) The cost of maintaining temporary facilities of a railroad company required by and during the highway construction to the extent that such costs exceed the documented normal cost of maintaining the permanent facilities.
(ii) The cost of stage or extended construction involving grade corrections and/or slope stabilization for permanent tracks of a railroad which are required to be relocated on new grade by the highway construction. Stage or extended construction will be approved by FHWA only when documentation submitted by the State establishes the proposed method of construction to be the only practical method and that the cost of the extended construction within the period specified is estimated to be less than the cost of any practicable alternate procedure.
(iii) The cost of restoring the company’s service by adjustments of existing facilities away from the project site, in lieu of and not to exceed the cost of replacing, adjusting or relocating facilities at the project site.
(iv) The cost of an addition or improvement to an existing railroad facility which is required by the highway construction.

§ 646.218 Simplified procedure for accelerating grade crossing improvements.

(a) The procedure set forth in this section is encouraged for use in simplifying and accelerating the processing of single or multiple grade crossing improvements.
(b) Eligible preliminary engineering costs may include those incurred in selecting crossings to be improved, determining the type of improvement for each crossing, estimating the cost and preparing the required agreement.
(c) The written agreement between a State and a railroad shall contain as a minimum:
(1) Identification of each crossing location.
(2) Description of improvement and estimate of cost for each crossing location.
(3) Estimated schedule for completion of work at each location.
(d) Following programming, authorization and approval of the agreement under § 646.216(c), FHWA may authorize construction, including acquisition of warning device materials, with the condition that work at any particular location will not be undertaken until the proposed or executed State-railroad agreement under § 646.216(d)(2) is found satisfactory by FHWA and the final plans, specifications, and estimates are approved and with the condition that only material actually incorporated into the project will be eligible for Federal participation.
(e) Work programmed and authorized under this simplified procedure should include only that which can reasonably be expected to reach the construction stage within one year and be completed within two years after the initial authorization date.

§ 646.220 Alternate Federal-State procedure.

(a) On other than Interstate projects, an alternate procedure may be used, at the election of the State, for processing certain types of railroad-highway...
work. Under this procedure, the State highway agency will act in the relative position of FHWA for reviewing and approving projects.

(b) The scope of the State’s approval authority under the alternate procedure includes all actions necessary to advance and complete the following types of railroad-highway work:

1. All types of grade crossing improvements under §646.206(a)(3).
2. Minor adjustments to railroad facilities under §646.206(b).
(c) The following types of work are to be reviewed and approved in the normal manner, as prescribed elsewhere in this subpart.

1. All projects under §646.206(a) (1) and (2).
2. Major adjustments to railroad facilities under §646.206(b).

(d) Any State wishing to adopt the alternate procedure may file a formal application for approval by FHWA. The application must include the following:

1. The State’s written policies and procedures for administering and processing Federal-aid railroad-highway work, which make adequate provisions with respect to all of the following:
   i. Compliance with the provisions of title 23 U.S.C., title 23 CFR, and other applicable Federal laws and Executive Orders.
   ii. Compliance with this subpart and 23 CFR part 140, subpart I and 23 CFR part 172.
   iii. For grade crossing safety improvements, compliance with the requirements of 23 CFR part 924.

2. A statement signed by the Chief Administrative Officer of the State highway agency certifying that:
   i. The work will be done in accordance with the applicable provisions of the State’s policies and procedures submitted under §646.220(d)(1), and
   ii. Reimbursement will be requested in only those costs properly attributable to the highway construction and eligible for Federal fund participation.

(e) When FHWA has approved the alternate procedure, it may authorize the State to proceed in accordance with the State’s certification, subject to the following conditions:

1. The work has been programmed.
2. The State submits in writing a request for such authorization which shall include a list of the improvements or adjustments to be processed under the alternate procedure, along with the best available estimate of cost.

(f) The FHWA Regional Administrator may suspend approval of the certified procedure, where FHWA reviews disclose noncompliance with the certification. Federal-aid funds will not be eligible to participate in costs that do not qualify under §646.220(d)(1).


APPENDIX TO SUBPART B OF PART 646—HORIZONTAL AND VERTICAL CLEARANCE PROVISIONS FOR OVERPASS AND UNDERPASS STRUCTURES

The following implements provisions of 23 CFR §646.212(a)(3).

a. Lateral Geometrics

A cross section with a horizontal distance of 6.1 meters, measured at right angles from the centerline of track at the top of rails, to the face of the embankment slope, may be approved. The 6.1-meters distance may be increased at individual structure locations as appropriate to provide for drainage if justified by a hydraulic analysis or to allow adequate room to accommodate special conditions, such as where heavy and drifting snow is a problem. The railroad must demonstrate that this is its normal practice to address these special conditions in the manner proposed. Additionally, this distance may also be increased up to 2.5 meters as may be necessary for off-track maintenance equipment, provided adequate horizontal clearance is not available in adjacent spans and where justified by the presence of an existing maintenance road or by evidence of future need for such equipment. All piers should be placed at least 2.8 meters horizontally from the centerline of the track and preferably beyond the drainage ditch. For multiple track facilities, all dimensions apply to the centerline of the outside track.

Any increase above the 6.1-meters horizontal clearance distance must be required by specific site conditions and be justified by the railroad to the satisfaction of the State highway agency (SHA) and the FHWA.

b. Vertical Clearance

A vertical clearance of 7.1 meters above the top of rails, which includes an allowance for future ballasting of the railroad tracks, may be approved. Vertical clearance greater than 7.1 meters may be approved when the State regulatory agency having jurisdiction over such matters requires a vertical clearance in excess of 7.1 meters or on a site by
site basis where justified by the railroad to the satisfaction of the SHA and the FHWA. A railroad's justification for increased vertical clearance should be based on an analysis of engineering, operational and/or economic conditions at a specific structure location.

Federal-aid highway funds are also eligible to participate in the cost of providing vertical clearance greater than 7.1 meters where a railroad establishes to the satisfaction of a SHA and the FHWA that it has a definite formal plan for electrification of its rail system where the proposed grade separation project is located. The plan must cover a logical independent segment of the rail system and be approved by the railroad's corporate headquarters. For 25 kv line, a vertical clearance of 7.4 meters may be approved. For 50 kv line, a vertical clearance of 8.0 meters may be approved.

A railroad's justification to support its plan for electrification shall include maps and plans or drawings showing those lines to be electrified; actions taken by its corporate headquarters committing it to electrification including a proposed schedule; and actions initiated or completed to date implementing its electrification plan such as a showing of the amounts of funds and identification of structures, if any, where the railroad has expended its own funds to provide added clearance for the proposed electrification. The cost of reconstructing or modifying any existing railroad-highway grade separation structures solely to accommodate electrification will not be eligible for Federal-aid highway fund participation.

Sec. 650.101 Purpose.
650.103 Policy.
650.105 Definitions.
650.107 Applicability.
650.109 Public Involvement.
650.111 Location hydraulic studies.
650.113 Only practicable alternative finding.
650.115 Design standards.
650.117 Content of design studies.

Subpart A—Location and Hydraulic Design of Encroachments on Flood Plains

Subpart B—Erosion and Sediment Control on Highway Construction Projects

Subpart C—National Bridge Inspection Standards

Subpart D—Highway Bridge Replacement and Rehabilitation Program

Subparts E–F [Reserved]

Subpart G—Discretionary Bridge Candidate Rating Factor

§ 650.101 Purpose.

To prescribe Federal Highway Administration (FHWA) policies and procedures for the location and hydraulic design of highway encroachments on flood plains, including direct Federal highway projects administered by the FHWA.

§ 650.103 Policy.

It is the policy of the FHWA:
(a) To encourage a broad and unified effort to prevent uneconomic, hazardous or incompatible use and development of the Nation's flood plains,
(b) To avoid longitudinal encroachments, where practicable,
(c) To avoid significant encroachments, where practicable,
(d) To minimize impacts of highway agency actions which adversely affect base flood plains,
(e) To restore and preserve the natural and beneficial flood-plain values that are adversely impacted by highway agency actions,
(f) To avoid support of incompatible flood-plain development,
(g) To be consistent with the intent of the Standards and Criteria of the National Flood Insurance Program, where appropriate, and
(h) To incorporate "A Unified National Program for Floodplain Manage-
(1) Preserve shall mean to avoid modification to the functions of the natural flood-plain environment or to maintain it as closely as practicable in its natural state.

(m) Regulatory floodway shall mean the flood-plain area that is reserved in an open manner by Federal, State or local requirements, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so that the cumulative increase in water surface elevation is no more than a designated amount (not to exceed 1 foot as established by the Federal Emergency Management Agency (FEMA) for administering the National Flood Insurance Program).

(n) Restore shall mean to reestablish a setting or environment in which the functions of the natural and beneficial flood-plain values adversely impacted by the highway agency action can again operate.

(o) Risk shall mean the consequences associated with the probability of flooding attributable to an encroachment. It shall include the potential for property loss and hazard to life during the service life of the highway.

(p) Risk analysis shall mean an economic comparison of design alternatives using expected total costs (construction costs plus risk costs) to determine the alternative with the least total expected cost to the public. It shall include probable flood-related costs during the service life of the facility for highway operation, maintenance, and repair, for highway-aggravated flood damage to other property, and for additional or interrupted highway travel.

(q) Significant encroachment shall mean a highway encroachment and any direct support of likely base flood-plain development that would involve one or more of the following construction or flood-related impacts:

(1) A significant potential for interruption or termination of a transportation facility which is needed for emergency vehicles or provides a community’s only evacuation route.

(2) A significant risk, or

(3) A significant adverse impact on natural and beneficial flood-plain values.

(r) Support base flood-plain development shall mean to encourage, allow, serve, or otherwise facilitate additional base flood-plain development. Direct support results from an encroachment, while indirect support results from an action out of the base flood plain.

§ 650.107 Applicability.

(a) The provisions of this regulation shall apply to all encroachments and to all actions which affect base flood plains, except for repairs made with emergency funds (23 CFR part 698) during or immediately following a disaster.

(b) The provisions of this regulation shall not apply to or alter approvals or authorizations which were given by FHWA pursuant to regulations or directives in effect before the effective date of this regulation.

§ 650.109 Public involvement.

Procedures which have been established to meet the public involvement requirements of 23 CFR part 771 shall be used to provide opportunity for early public review and comment on alternatives which contain encroachments.

[53 FR 11065, Apr. 5, 1988]

§ 650.111 Location hydraulic studies.

(a) National Flood Insurance Program (NFIP) maps or information developed by the highway agency, if NFIP maps are not available, shall be used to determine whether a highway location alternative will include an encroachment.

(b) Location studies shall include evaluation and discussion of the practicability of alternatives to any longitudinal encroachments.

(c) Location studies shall include discussion of the following items, commensurate with the significance of the risk or environmental impact, for all alternatives containing encroachments and for those actions which would support base flood-plain development:

(1) The risks associated with implementation of the action.

(2) The impacts on natural and beneficial flood-plain values,
(3) The support of probable incompatible flood-plain development.

(4) The measures to minimize flood-plain impacts associated with the action, and

(5) The measures to restore and preserve the natural and beneficial flood-plain values impacted by the action.

(d) Location studies shall include evaluation and discussion of the practicability of alternatives to any significant encroachments or any support of incompatible flood-plain development.

(e) The studies required by §650.111(c) and (d) shall be summarized in environmental review documents prepared pursuant to 23 CFR part 771.

(f) Local, State, and Federal water resources and flood-plain management agencies should be consulted to determine if the proposed highway action is consistent with existing watershed and flood-plain management programs and to obtain current information on development and proposed actions in the affected watersheds.

§650.113 Only practicable alternative finding.

(a) A proposed action which includes a significant encroachment shall not be approved unless the FHWA finds that the proposed significant encroachment is the only practicable alternative. This finding shall be included in the final environmental document (final environmental impact statement or finding of no significant impact) and shall be supported by the following information:

(1) The reasons why the proposed action must be located in the flood plain.

(2) The alternatives considered and why they were not practicable, and

(3) A statement indicating whether the action conforms to applicable State or local flood-plain protection standards.

(b) [Reserved]

[44 FR 67380, Nov. 26, 1979, as amended at 48 FR 29274, June 24, 1983]

§650.115 Design standards.

(a) The design selected for an encroachment shall be supported by analyses of design alternatives with consideration given to capital costs and risks, and to other economic, engineer-

(1) Consideration of capital costs and risks shall include, as appropriate, a risk analysis or assessment which includes:

(i) The overtopping flood or the base flood, whichever is greater; or

(ii) The greatest flood which must flow through the highway drainage structure(s), where overtopping is not practicable. The greatest flood used in the analysis is subject to state-of-the-art capability to estimate the exceedance probability.

(2) The design flood for encroachments by through lanes of Interstate highways shall not be less than the flood with a 2-percent chance of being exceeded in any given year. No minimum design flood is specified for Interstate highway ramps and frontage roads or for other highways.

(3) Freeboard shall be provided, where practicable, to protect bridge structures from debris- and scour-related failure.

(4) The effect of existing flood control channels, levees, and reservoirs shall be considered in estimating the peak discharge and stage for all floods considered in the design.

(5) The design of encroachments shall be consistent with standards established by the FEMA, State, and local governmental agencies for the administration of the National Flood Insurance Program for:

(i) All direct Federal highway actions, unless the standards are demonstrably inappropriate, and

(ii) Federal-aid highway actions where a regulatory floodway has been designated or where studies are underway to establish a regulatory floodway.

(b) Rest area buildings and related water supply and waste treatment facilities shall be located outside the base flood plain, where practicable. Rest area buildings which are located on the base flood plain shall be floodproofed against damage from the base flood.

(c) Where highway fills are to be used as dams to permanently impound water more than 50 acre-feet (6.17×10⁶ cubic metres) in volume or 25 feet (7.6 metres) deep, the hydrologic, hydraulic, and structural design of the fill and
§ 650.209 Construction.

(a) Permanent erosion and sediment control measures and practices shall be established and implemented at the earliest practicable time consistent with the construction schedule. Such practices shall be designed to minimize erosion and sedimentation and shall be assessed when the application of the practices is completed or when another Method Statement is adopted to provide significant improvement to the practice. The requirement for the establishment and implementation of erosion and sediment control measures and practices at an early date shall not delay the start of construction to such an extent that significant erosion and deposition of sediments will result. The Division Administrator shall be responsible for the implementation of such measures and practices with the cooperation of the contractor. The Division Administrator shall take any necessary steps to ensure the protection of the environment and of adjacent properties and to avoid or minimize the adverse effects on the environment, including water quality, in accordance with the applicable standards and regulations of the Federal agencies responsible for the safety of dams or like structures within the State, prior to authorization by the Division Administrator to advertise for bids for construction.

§ 650.117 Content of design studies.

(a) The detail of studies shall be commensurate with the risk associated with the encroachment and with other economic, engineering, social or environmental concerns.

(b) Studies by highway agencies shall contain:

(1) The hydrologic and hydraulic data and design computations,

(2) The analysis required by §650.115(a), and

(3) For proposed direct Federal highway actions, the reasons, when applicable, why FEMA criteria (44 CFR 60.3, formerly 24 CFR 1910.3) are demonstrably inappropriate.

(c) For encroachment locations, project plans shall show:

(1) The magnitude, approximate probability of exceedance and, at appropriate locations, the water surface elevations associated with the overtopping flood or the flood of §650.115(a)(1)(ii), and

(2) The magnitude and water surface elevation of the base flood, if larger than the overtopping flood.

Subpart B—Erosion and Sediment Control on Highway Construction Projects

Source: 59 FR 37939, July 26, 1994, unless otherwise noted.

§ 650.201 Purpose.

The purpose of this subpart is to prescribe policies and procedures for the control of erosion, abatement of water pollution, and prevention of damage by sediment deposition from construction projects funded under title 23, United States Code.

§ 650.203 Policy.

It is the policy of the Federal Highway Administration (FHWA) that all highways funded in whole or in part under title 23, United States Code, shall be located, designed, constructed and operated according to standards that will minimize erosion and sediment damage to the highway and adjacent properties and abate pollution of surface and ground water resources. Guidance for the development of standards used to minimize erosion and sediment damage is referenced in §650.211 of this part.

§ 650.205 Definitions.

Erosion control measures and practices are actions that are taken to inhibit the dislodging and transporting of soil particles by water or wind, including actions that limit the area of exposed soil and minimize the time the soil is exposed.

Permanent erosion and sediment control measures and practices are installations and design features of a construction project which remain in place and in service after completion of the project.

Pollutants are substances, including sediment, which cause deterioration of water quality when added to surface or ground waters in sufficient quantity.

Sediment control measures and practices are actions taken to control the deposition of sediments resulting from surface runoff.

Temporary erosion and sediment control measures and practices are actions taken on an interim basis during construction to minimize the disturbance, transportation, and unwanted deposition of sediment.

§ 650.207 Plans, specifications and estimates.

(a) Emphasis shall be placed on erosion control in the preparation of plans, specifications and estimates.

(b) All reasonable steps shall be taken to insure that highway project designs for the control of erosion and sedimentation and the protection of water quality comply with applicable standards and regulations of other agencies.

[39 FR 36332, Oct. 9, 1974]
§ 650.211 Guidelines.

(a) The FHWA adopts the AASHTO Highway Drainage Guidelines, Volume III, “Erosion and Sediment Control in Highway Construction,” 1992, as guidelines to be followed on all construction projects funded under title 23, United States Code. These guidelines are not intended to preempt any requirements made by or under State law if such requirements are more stringent.

(b) Implementation of temporary erosion and sediment control measures and practices shall be coordinated with permanent measures to assure economical, effective, and continuous control throughout construction.

(c) Erosion and sediment control measures and practices shall be monitored and maintained or revised to insure that they are fulfilling their intended function during the construction of the project.

(d) Federal-aid funds shall not be used in erosion and sediment control actions made necessary because of contractor oversight, carelessness, or failure to implement sufficient control measures.

(e) Pollutants used during highway construction or operation and material from sediment traps shall not be stockpiled or disposed of in a manner which makes them susceptible to being washed into any watercourse by runoff or high water. No pollutants shall be deposited or disposed of in watercourses.

§ 650.211 Guidelines.

(a) The FHWA adopts the AASHTO Highway Drainage Guidelines, Volume III, “Erosion and Sediment Control in Highway Construction,” 1992, as guidelines to be followed on all construction projects funded under title 23, United States Code. These guidelines are not intended to preempt any requirements made by or under State law if such requirements are more stringent.

(b) Implementation of temporary erosion and sediment control measures and practices shall be coordinated with permanent measures to assure economical, effective, and continuous control throughout construction.

(c) Erosion and sediment control measures and practices shall be monitored and maintained or revised to insure that they are fulfilling their intended function during the construction of the project.

(d) Federal-aid funds shall not be used in erosion and sediment control actions made necessary because of contractor oversight, carelessness, or failure to implement sufficient control measures.

(e) Pollutants used during highway construction or operation and material from sediment traps shall not be stockpiled or disposed of in a manner which makes them susceptible to being washed into any watercourse by runoff or high water. No pollutants shall be deposited or disposed of in watercourses.

Subpart C—National Bridge Inspection Standards

§ 650.301 Application of standards.

The National Bridge Inspection Standards in this part apply to all structures defined as bridges located on all public roads. In accordance with the AASHTO (American Association of State Highway and Transportation Officials) Transportation Glossary, a bridge is defined as a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than...
§ 650.303 Inspection procedures.

(a) Each highway department shall include a bridge inspection organization capable of performing inspections, preparing reports, and determining ratings in accordance with the provisions of the AASHTO Manual1 and the Standards contained herein.

(b) Bridge inspectors shall meet the minimum qualifications stated in § 650.307.

(c) Each structure required to be inspected under the Standards shall be rated as to its safe load carrying capacity in accordance with section 4 of the AASHTO Manual. If it is determined under this rating procedure that the maximum legal load under State law exceeds the load permitted under the Operating Rating, the bridge must be posted in conformity with the AASHTO Manual or in accordance with State law.

(d) Inspection records and bridge inventories shall be prepared and maintained in accordance with the Standards.

(e) The individual in charge of the organizational unit that has been delegated the responsibilities for bridge inspection, reporting and inventory shall determine and designate on the individual inspection and inventory records and maintain a master list of the following:

1 Those bridges which contain fracture critical members, the location and description of such members on the bridge and the inspection frequency and procedures for inspection of such members. (Fracture critical members are tension members of a bridge whose failure will probably cause a portion of or the entire bridge to collapse.)

2 Those bridges with underwater members which cannot be visually evaluated during periods of low flow or examined by feel for condition, integrity and safe load capacity due to excessive water depth or turbidity. These members shall be described, the inspection frequency stated, not to exceed five years, and the inspection procedure specified.

3 Those bridges which contain unique or special features requiring additional attention during inspection to ensure the safety of such bridges and the inspection frequency and procedure for inspection of each such feature.

4 The date of last inspection of the features designated in paragraphs (e)(1) through (3) of this section and a description of the findings and follow-up actions, if necessary, resulting from the most recent inspection of fracture critical details, underwater members or special features of each so designated bridge.

§ 650.305 Frequency of inspections.

(a) Each bridge is to be inspected at regular intervals not to exceed 2 years in accordance with section 2.3 of the AASHTO Manual.

(b) Certain types or groups of bridges will require inspection at less than 2-year intervals. The depth and frequency to which bridges are to be inspected will depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The evaluation of these factors will be the responsibility of the individual in charge of the inspection program.

(c) The maximum inspection interval may be increased for certain types or groups of bridges where past inspection reports and favorable experience and...
analysis justify the increased interval of inspection. If a State proposes to inspect some bridges at greater than the specified two-year interval, the State shall submit a detailed proposal and supporting data to the Federal Highway Administrator for approval. The maximum time period between inspections shall not exceed four years.

§ 650.307 Qualifications of personnel.

(a) The individual in charge of the organizational unit that has been delegated the responsibilities for bridge inspection, reporting, and inventory shall possess the following minimum qualifications:

(1) Be a registered professional engineer; or
(2) Be qualified for registration as a professional engineer under the laws of the State; or
(3) Have a minimum of 10 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the "Bridge Inspector's Training Manual," which has been developed by a joint Federal-State task force. The manual has been revised and updated in subsequent years.

(b) An individual in charge of a bridge inspection team shall possess the following minimum qualifications:

(1) Have the qualifications specified in paragraph (a) of this section; or
(2) Have a minimum of 5 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the "Bridge Inspector's Training Manual," which has been developed by a joint Federal-State task force.

§ 650.309 Inspection report.

The findings and results of bridge inspections shall be recorded on standard forms. The data required to complete the forms and the functions which must be performed to compile the data are contained in section 3 of the AASHTO Manual.

§ 650.311 Inventory.

(a) Each State shall prepare and maintain an inventory of all bridge structures subject to the Standards. Under these Standards, certain structure inventory and appraisal data must be collected and retained within the various departments of the State organization for collection by the Federal Highway Administration as needed. A tabulation of this data is contained in the structure inventory and appraisal sheet distributed by the Federal Highway Administration as part of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide) in January of 1979. Reporting procedures have been developed by the Federal Highway Administration.

(b) Newly completed structures, modification of existing structures which would alter previously recorded data on the inventory forms or placement of load restriction signs on the approaches to or at the structure itself...
Federal Highway Administration, DOT

§ 650.407 Application for bridge replacement or rehabilitation.

(a) Agencies participate in the bridge program by conducting bridge inspections and submitting Structure Inventory and Appraisal (SI&A) sheet inspection data. Federal and local governments supply SI&A sheet data to the State agency for review and processing. The State is responsible for submitting the six computer card format or tapes containing all public road SI&A sheet bridge information through

(b) Types of projects which are eligible. The following types of work are eligible for participation in the Highway Bridge Replacement and Rehabilitation Program (HBRRP), hereinafter known as the bridge program.

(1) Replacement. Total replacement of a structurally deficient or functionally obsolete bridge with a new facility constructed in the same general traffic corridor. A nominal amount of approach work, sufficient to connect the new facility to the existing roadway or to return the gradeline to an attainable touchdown point in accordance with good design practice is also eligible. The replacement structure must meet the current geometric, construction and structural standards required for the types and volume of projected traffic on the facility over its design life.

(2) Rehabilitation. The project requirements necessary to perform the major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects are eligible except as noted under ineligible work. Bridges to be rehabilitated both on or off the F–A System shall, as a minimum, conform with the provisions of 23 CFR part 625, Design Standards for Federal-aid Highways, for the class of highway on which the bridge is a part.

(c) Ineligible work. Except as otherwise prescribed by the Administrator, the costs of long approach fills, causeways, connecting roadways, interchanges, ramps, and other extensive earth structures, when constructed beyond the attainable touchdown point, are not eligible under the bridge program.

SOURCE: 44 FR 15665, Mar. 15, 1979, unless otherwise noted.

§ 650.401 Purpose.

The purpose of this regulation is to prescribe policies and outline procedures for administering the Highway Bridge Replacement and Rehabilitation Program in accordance with 23 U.S.C. 144.

§ 650.403 Definition of terms.

As used in this regulation:

(a) Bridge. A structure, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may include multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening.

(b) Sufficiency rating. The numerical rating of a bridge based on its structural adequacy and safety, essentiality for public use, and its serviceability and functional obsolescence.

(c) Rehabilitation. The major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects.

§ 650.405 Eligible projects.

(a) General. Deficient highway bridges on all public roads may be eligible for replacement or rehabilitation.
§ 650.409 Evaluation of bridge inventory.

(a) Sufficiency rating of bridges. Upon receipt and evaluation of the bridge inventory, a sufficiency rating will be assigned to each bridge by the Secretary in accordance with the approved AASHTO1 sufficiency rating formula. The sufficiency rating will be used as a basis for establishing eligibility and priority for replacement or rehabilitation of bridges; in general the lower the rating, the higher the priority.

(b) Selection of bridges for inclusion in State program. After evaluation of the inventory and assignment of sufficiency ratings, the Secretary will provide the State with a selection list of bridges within the State that are eligible for the bridge program. From that list or from previously furnished selection lists, the State may select bridge projects.

§ 650.411 Procedures for bridge replacement and rehabilitation projects.

(a) Consideration shall be given to projects which will remove from serv-

1American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW, Washington, DC 20001.

ice highway bridges most in danger of failure.

(b) Submission and approval of projects. (1) Bridge replacement or rehabilitation projects shall be submitted by the State to the Secretary in accordance with 23 CFR part 630, subpart A Federal-Aid Programs, Approval and Authorization.

(2) Funds apportioned to a State shall be made available throughout each State on a fair and equitable basis.

(c)(1) Each approved project will be designed, constructed, and inspected for acceptance in the same manner as other projects on the system on which the project is located. It shall be the responsibility of the State agency to properly maintain, or cause to be properly maintained, any project constructed under this bridge program. The State highway agency shall enter into a formal agreement for maintenance with appropriate local government officials in cases where an eligible project is located within and is under the legal authority of such a local government.

(2) Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall either be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life. For example, if the only deficiency of the existing structure is inadequate roadway width and the combination of the new and existing structure can be made to meet current standards for the volume of traffic the facility will carry over its design life, the existing bridge may remain in place and be incorporated into the system.


§ 650.413 Funding.

(a) Funds authorized for carrying out the Highway Bridge Replacement and Rehabilitation Program are available for obligation at the beginning of the fiscal year for which authorized and remain available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system.
(b) The Federal share payable on account of any project carried out under 23 U.S.C. 144 shall be 80 percent of the eligible cost.

(c) Not less than 15 percent nor more than 35 percent of the apportioned funds shall be expended for projects located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.

§ 650.415 Reports.

The Secretary must report annually to the Congress on projects approved and current inventories together with recommendations for further improvements.

Subparts E–F [Reserved]

Subpart G—Discretionary Bridge Candidate Rating Factor

SOURCE: 48 FR 52296, Nov. 17, 1983, unless otherwise noted.

§ 650.701 Purpose.

The purpose of this regulation is to describe a rating factor used as part of a selection process of allocation of discretionary bridge funds made available to the Secretary of Transportation under 23 U.S.C. 144.

§ 650.703 Eligible projects.

(a) Deficient highway bridges on Federal-aid highway system roads may be eligible for allocation of discretionary bridge funds to the same extent as they are for bridge funds apportioned under 23 U.S.C. 144, provided that the total project cost for a discretionary bridge candidate is at least $10 million or twice the amount of 23 U.S.C. 144 funds apportioned to the State during the fiscal year for which funding for the candidate bridge is requested.

(b) After the effective date of this regulation for the discretionary bridge candidate rating factor, only candidate bridges not previously selected with a computed rating factor of 100 or less will be eligible for consideration.

§ 650.705 Application for discretionary bridge funds.

Each year through its field offices, the FHWA will issue an annual call for discretionary bridge candidate submittals including updates of previously submitted but not selected projects. Each State is responsible for submitting such data as required for candidate bridges. Data requested will include structure number, funds needed by fiscal year, total project cost, current average daily truck traffic and a narrative describing the existing bridge, the proposed new or rehabilitated bridge and other relevant factors which the State believes may warrant special consideration.

§ 650.707 Rating factor.

(a) The following formula is to be used in the selection process for ranking discretionary bridge candidates:

\[
\text{Rating Factor (RF)} = \frac{\text{SR}}{\text{D}} \times \frac{\text{TPC}}{\text{ADT}} \times \left[1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}}\right]
\]

The lower the rating factor, the higher the priority for selection and funding.

(b) The terms in the rating factor are defined as follows:

SR is Sufficiency Rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure inventory and Appraisal of the Nation’s Bridges, USDOT/FHWA (latest edition); (If SR is less than 1.0, use SR=1.0);

ADT is Average Daily Traffic in thousands taking the most current value from the national bridge inventory data;
§ 650.709

ADTT is Average Daily Truck Traffic in thousands (Pick up trucks and light delivery trucks not included).
For load posted bridges, the ADTT furnished should be that which would use the bridge if traffic were not restricted.
The ADTT should be the annual average volume, not peak or seasonal.
D is Defense Highway System Status
D=1 if not on defense highway
D=1.5 if bridge carries a designated defense highway

The last term of the rating factor expression includes the State’s unobligated balance of funds received under 23 U.S.C. 144 as of June 30 preceding the date of calculation, and the total funds received under 23 U.S.C. 144 for the last four fiscal years ending with the most recent fiscal year of the FHWA’s annual call for discretionary bridge candidate submittals; (if unobligated HBRRP balance is less than $10 million, use zero balance).
TPC is Total Project Cost in millions of dollars;
HBRRP is Highway Bridge Replacement and Rehabilitation Program;
ADT' is ADT plus ADTT.

(c) In order to balance the relative importance of candidate bridges with very low (less than one) sufficiency ratings and very low ADT's against candidate bridges with high ADT's, the minimum sufficiency rating used will be 1.0. If the computed sufficiency rating for a candidate bridge is less than 1.0, use 1.0 in the rating factor formula.
(d) If the unobligated balance of HBRRP funds for the State is less than $10 million, the HBRRP modifier is 1.0. This will limit the effect of the modifier on those States with small apportionments or those who may be accumulating funds to finance a major bridge.

Source: 52 FR 28139, July 28, 1987, unless otherwise noted.

§ 650.801 Purpose.

The purpose of this regulation is to establish policy and to set forth coordination procedures for Federal-aid highway bridges which require navigational clearances.

§ 650.803 Policy.

It is the policy of FHWA:
(a) To provide clearances which meet the reasonable needs of navigation and provide for cost-effective highway operations,
(b) To provide fixed bridges wherever practicable, and
(c) To consider appropriate pier protection and vehicular protective and warning systems on bridges subject to ship collisions.

§ 650.805 Bridges not requiring a USCG permit.

(a) The FHWA has the responsibility under 23 U.S.C. 144(h) to determine that a USCG permit is not required for bridge construction. This determination shall be made at an early stage of project development so that any necessary coordination can be accomplished during environmental processing.
(b) A USCG permit shall not be required if the FHWA determines that the proposed construction, reconstruction, rehabilitation, or replacement of the federally aided or assisted bridge is over waters (1) which are not used or
§ 650.807 Bridges requiring a USCG permit.

(a) The USCG has the responsibility (1) to determine whether a USCG permit is required for the improvement or construction of a bridge over navigable waters except for the exemption exercised by FHWA in §650.805 and (2) to approve the bridge location, alignment and appropriate navigational clearances in all bridge permit applications.

(b) A USCG permit shall be required when a bridge crosses waters which are: (1) tidal and used by recreational boating, fishing, and other small vessels 21 feet or greater in length or (2) used or susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce. If it is determined that a USCG permit is required, the project shall be processed in accordance with the following procedures.

(c) The HA shall initiate coordination with the USCG at an early stage of project development and provide opportunity for the USCG to be involved throughout the environmental review process in accordance with 23 CFR part 771. The FHWA and Coast Guard have developed internal guidelines which set forth coordination procedures that both agencies have found useful in streamlining and expediting the permit approval process. These guidelines include (1) USCG/FHWA Procedures for Handling Projects which Require a USCG Permit and (2) the USCG/FHWA Memorandum of Understanding on Coordinating The Preparation and Processing of Environmental Projects.

(d) The HA shall accomplish sufficient preliminary design and consultation during the environmental phase of project development to investigate bridge concepts, including the feasibility of any proposed movable bridges, the horizontal and vertical clearances that may be required, and other location considerations which may affect navigation. At least one fixed bridge alternative shall be included with any proposal for a movable bridge to provide a comparative analysis of engineering, social, economic and environmental benefit and impacts.

(e) The HA shall consider hydraulic, safety, environmental and navigational needs along with highway costs when designing a proposed navigable waterway crossing.

(f) For bridges where the risk of ship collision is significant, HA’s shall consider, in addition to USCG requirements, the need for pier protection and warning systems as outlined in FHWA

Footnotes:
1This document is an internal directive in the USCG Bridge Administration Manual, Enclosure 1a, COMDT INST M16590.5, change 2 dated Dec. 1, 1983. It is available for inspection and copying from the U.S. Coast Guard or the Federal Highway Administration as prescribed in 49 CFR part 7, appendices B and D.
2FHWA Notice 6640.22 dated July 17, 1981, is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
Technical Advisory 5140.19, Pier Protection and Warning Systems for Bridges Subject to Ship Collisions, dated February 11, 1983.

(g) Special navigational clearances shall normally not be provided for accommodation of floating construction equipment of any type that is not required for navigation channel maintenance. If the navigational clearances are influenced by the needs of such equipment, the USCG should be consulted to determine the appropriate clearances to be provided.

(h) For projects which require FHWA approval of plans, specifications and estimates, preliminary bridge plans shall be approved at the appropriate level by FHWA for structural concepts, hydraulics, and navigational clearances prior to submission of the permit application.

(i) If the HA bid plans contain alternative designs for the same configuration (fixed or movable), the permit application shall be prepared in sufficient detail so that all alternatives can be evaluated by the USCG. If appropriate, the USCG will issue a permit for all alternatives. Within 30 days after award of the construction contract, the USCG shall be notified by the HA of the alternate which was selected. The USCG procedure for evaluating permit applications which contain alternates is presented in its Bridge Administration Manual (COMDT INST M16590.5). The FHWA policy on alternates, Alternate Design for Bridges; Policy Statement, was published at 48 FR 21409 on May 12, 1983.

§ 650.809 Movable span bridges.

A fixed bridge shall be selected wherever practicable. If there are social, economic, environmental or engineering reasons which favor the selection of a movable bridge, a cost benefit analysis to support the need for the movable bridge shall be prepared as a part of the preliminary plans.
§ 652.7 Eligibility.

(a) Independent bicycle projects, incidental bicycle projects, and nonconstruction bicycle projects must be principally for transportation rather than recreational use and must meet the project conditions for authorization where applicable.

(b) The implementation of pedestrian and bicycle accommodations may be authorized for Federal-aid participation as either incidental features of highways or as independent projects where all of the following conditions are satisfied.

1. The safety of the motorist, bicyclist, and/or pedestrian will be enhanced by the project.

2. The project is initiated or supported by the appropriate State highway agency(ies) and/or the Federal land management agency. Projects are to be located and designed pursuant to an overall plan, which provides due consideration for safety and contiguous routes.

3. A public agency has formally agreed to:

   (i) Accept the responsibility for the operation and maintenance of the facility,

   (ii) Ban all motorized vehicles other than maintenance vehicles, or snowmobiles where permitted by State or local regulations, from pedestrian walkways and bicycle paths, and

   (iii) Ban parking, except in the case of emergency, from bicycle lanes that are contiguous to traffic lanes.

4. The estimated cost of the project is consistent with the anticipated benefits to the community.

5. The project will be designed in substantial conformity with the latest official design criteria. (See §652.13.)

[49 FR 10662, Mar. 22, 1984; 49 FR 14729, Apr. 13, 1984]
§ 652.9 Federal participation.

(a) Independent walkway projects, independent bicycle projects and non-construction bicycle projects shall be financed with 100 percent Federal-aid primary, secondary or urban highway funds, provided the total amount obligated for all such projects in any one State in any fiscal year does not exceed $4.5 million of Federal-aid funds or a lesser amount apportioned by the Federal Highway Administrator to avoid exceeding the annual $45 million cost limitation on these projects for all States in a fiscal year. The Federal Highway Administrator may, upon application, waive this limitation for a State for any fiscal year. This limitation also applies to projects funded under §652.9(d). This limitation does not apply to projects of the type described in §652.9(c). The FHWA Offices of Direct Federal Programs and Engineering will coordinate projects of the type described in §652.9(d) to ensure that the annual cost limitations will not be exceeded.

(b) Specific eligibility requirements for Federal-aid participation in independent and nonconstruction projects are:

1. An independent walkway project must be constructed on highway right-of-way or easement, or right-of-way acquired for this purpose. Independent walkway projects may be constructed separately or in conjunction with a Federal-aid highway construction project. Where an independent walkway project is located away from the Federal-aid highway right-of-way, it must serve pedestrians who would normally desire to use the Federal-aid route.

2. An independent bicycle project may include the acquisition of land needed for the facility, or such projects may be constructed on existing highway right-of-way or easement acquired for this purpose. Independent bicycle projects may include construction of bicycle lanes, paths, shelters, bicycle parking facilities and other roadway and bridge work necessary to accommodate bicyclists.

3. Nonconstruction bicycle projects must be related to the safe use of bicycles for transportation, and may include safety educational material and route maps for safe bicycle transportation purposes. Nonconstruction bicycle projects shall not include salaries for administration, law enforcement, maintenance and similar items required to operate transportation networks and programs, but may include cost of staff or consultants for development of specific nonconstruction projects.

(c) Bicycle and pedestrian accommodations may also be constructed as incidental features of highway construction projects. These incidental features may be financed with the same type of Federal-aid funds, including funds of the type described in §652.9(d) (except Interstate construction funds) and at the same Federal share payable as a basic highway project. These accommodations are not subject to the funding limitations for independent walkway, independent bicycle and nonconstruction bicycle projects. In the case of the Interstate construction projects, Federal-aid Interstate construction funds may only be used to replace existing facilities that would be interrupted by construction of the project, or to mitigate specific environmental impacts. Interstate 4R funds provided by 23 U.S.C. 104(b)(5)(B) may be used only for incidental features. As incidental features, these accommodations must be part of a highway improvement and must be located within the right-of-way of the highway, including land acquired under 23 U.S.C. 319 (Scenic Enhancement Program).

(d) Funds authorized for Federal lands highways (forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads), forest development roads and trails (i.e., roads or trails under the jurisdiction of the Forest Service), and public lands development roads and trails (i.e., roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his/her control), may be used for independent bicycle routes and independent walkway projects. These funds may not be used for nonconstruction bicycle projects.
§ 652.11 Planning.
Federally aided bicycle and pedestrian projects implemented within urbanized areas must be included in the transportation improvement program/annual (or biennial) element unless excluded by agreement between the State and the metropolitan planning organization.

§ 652.13 Design and construction criteria.
(a) The American Association of State Highway and Transportation Officials’ “Guide for Development of New Bicycle Facilities, 1981” (AASHTO Guide) or equivalent guides developed in cooperation with State or local officials and acceptable to the division office of the FHWA, shall be used as standards for the construction and design of bicycle routes. Copies of the AASHTO Guide may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, NW., Suite 225, Washington, DC 20001.
(b) Curb cuts and other provisions as may be appropriate for the handicapped are required on all Federal and Federal-aid projects involving the provision of curbs or sidewalks at all pedestrian crosswalks.

PART 655—TRAFFIC OPERATIONS
Subparts A–C [Reserved]
Subpart D—Traffic Surveillance and Control
Sec. 655.401 Purpose.
655.403 Traffic surveillance and control systems.
655.405 Policy.
655.407 Eligibility.
655.409 Traffic engineering analysis.
655.411 Project administration.

Subpart E [Reserved]
Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways
655.601 Purpose.
655.602 Definitions.
655.603 Standards.
655.604 Achieving basic uniformity.
655.605 Project procedures.
655.606 Higher cost materials.
655.607 Funding.
§ 655.405 Policy.

Implementation and efficient utilization of traffic surveillance and control systems are essential to optimize transportation systems efficiency, fuel conservation, safety, and environmental quality.

§ 655.407 Eligibility.

Traffic surveillance and control system projects are an integral part of Federal-aid highway construction and all phases of these projects are eligible for funding with appropriate Federal-aid highway funds. The degree of sophistication of any system must be in scale with needs and with the availability of personnel and budget resources to operate and maintain the system.

§ 655.409 Traffic engineering analysis.

Traffic surveillance and control system projects shall be based on a traffic engineering analysis. The analysis should be on a scale commensurate with the project scope. The basic elements of the analysis are:

(a) Preliminary analysis. The Preliminary Traffic Engineering Analysis should determine the area to be controlled; transportation characteristics; objectives of the system; existing systems resources (including communications); existing personnel and budget resources for the maintenance and operation of the system.

(b) Alternative systems analysis. Alternative systems should be analyzed as applicable. For the alternatives considered, the analysis should encompass incremental initial costs; required maintenance and operating budget and personnel resources; and expected benefits. Improved use of existing resources, as applicable, should be considered also.

(c) Procurement and system start-up analysis. Procurement and system start-up methods should be considered in the analysis. Federal-aid laws, regulations, policies, and procedures provide considerable flexibility to accommodate the special needs of systems procurement.

(d) Special features analysis. Unique or special features including special components and functions (such as emergency vehicle priority control, redundant hardware, closed circuit television, etc.) should be specifically evaluated in relation to the objectives of the system and incremental initial costs, operating costs, and resource requirements.

(e) Analysis of laws and ordinances. Existing traffic laws, ordinances, and regulations relevant to the effective operation of the proposed system shall be reviewed to ensure compatibility.

(f) Implementation plan. The final element in the traffic engineering analysis shall be an implementation plan. It shall include needed legislation, systems design, procurement methods, construction management procedures including acceptance testing, system start-up plan, operation and maintenance plan. It shall include necessary institutional arrangements and the dedication of needed personnel and budget resources required for the proposed system.

(Approved by the Office of Management and Budget under control number 2125–0512)

[49 FR 8436, Mar. 7, 1984, as amended at 59 FR 33910, July 1, 1994]

§ 655.411 Project administration.

(a) Prior to authorization of Federal-aid highway funds for construction, there should be a commitment to the operations plan (see §655.409(f)).

(b) The plans, specifications and estimates submittal shall include a total system acceptance plan.

(c) Project approval actions are delegated to the Division Administrator. Approval actions for traffic surveillance and control systems projects costing over $1,000,000 are subject to review by the Regional Administrator prior to approval of plans, specifications, and estimates.

(d) System start-up is an integral part of a surveillance and control project.

(1) Costs for system start-up, over and above those attributable to routine
Federal Highway Administration, DOT

§ 655.603 Standards.

(a) National MUTCD. The MUTCD approved by the Federal Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C 108(d) and 402(a). The national MUTCD is specifically approved by the FHWA for application on any highway project in which Federal highway funds participate and on projects in federally administered areas where a Federal department or agency controls the highway or supervises the traffic operations.

(b) State or other Federal MUTCD. (1) Where State or other Federal agency MUTCDs or supplements are required, they shall be in substantial conformance with the national MUTCD. Changes to the national MUTCD issued by the FHWA shall be adopted by the States or other Federal agencies within 243
§ 655.604 Achieving basic uniformity.

(a) Programs. Programs for the orderly and systematic upgrading of existing traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with 23 CFR part 630, subpart J, Traffic Safety in Highway and Street Work Zones.

(b) Inventory. An inventory of all traffic control devices installed in construction areas using Federal-aid funds may be used in statewide or systemwide studies or inventories. Also, metropolitan planning (PL) funds may be used in urbanized areas provided the activity is included in an approved unified work program.

§ 655.605 Project procedures.

(a) Federal-aid highways. Federal-aid projects involving the installation of traffic control devices shall follow procedures as established in 23 CFR part 630, subpart A, Federal-Aid Programs Approval and Project Authorization. Simplified and timesaving procedures are to be used to the extent permitted by existing policy.

(b) Off-system highways. Certain federally funded programs are available for installation of traffic control devices on streets and highways that are not on the Federal-aid system. The procedures used in these programs may vary from project to project but, essentially, the guidelines set forth herein should be used.
§ 655.606 Higher cost materials.

The use of signing, pavement marking, and signal materials (or equipment) having distinctive performance characteristics, but costing more than other materials (or equipment) commonly used may be approved by the FHWA Division Administrator when the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) Federal-aid highways. (1) Funds apportioned or allocated under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed, reconstructed, resurfaced, restored, or rehabilitated highways, or on existing highways when this work is classified as construction in accordance with 23 U.S.C. 101(a). Federal-aid highway funds for eligible pavement markings and traffic control signalization may amount to 100 percent of the construction cost. Federal-aid highway funds apportioned or allocated under other sections of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable program regulations and directives.

(2) Traffic control devices are eligible, in keeping with paragraph (a)(1) of this section, provided that the work is classified as construction in accordance with 23 U.S.C. 101(a) and the State or local agency has a policy acceptable to the FHWA Division Administrator for selecting traffic control devices material or equipment based on items such as cost, traffic volumes, safety, and expected service life. The State’s policy should provide for cost-effective selection of materials which will provide for substantial service life taking into account expected and necessary routine maintenance. For these purposes, effectiveness would normally be measured in terms of durability, service life and/or performance of the material. Specific projects including material or equipment selection shall be developed in accordance with this policy. Proposed work may be approved on a project-by-project basis when the work is (i) clearly warranted, (ii) on a Federal-aid system, (iii) clearly identified by site, (iv) substantial in nature, and (v) of sufficient magnitude at any given location to warrant Federal-aid participation as a construction item.

(3) The method of accomplishing the work will be in accordance with 23 CFR part 655, subpart A, Contract Procedures.

(b) Off-system highways. Certain Federal-aid highway funds are eligible to participate in traffic control device improvement projects on off-system highways. In addition, Federal-aid highway funds apportioned or allocated in 23 U.S.C. are eligible for the installation of traffic control devices on any public road not on the Federal-aid system when the installation is directly related to a traffic improvement project on a Federal-aid system route.

APPENDIX TO SUBPART F OF PART 655—
ALTERNATE METHOD OF DETERMINING THE COLOR OF RETROREFLECTIVE SIGN MATERIALS

1. The FHWA Color Tolerance Charts provide that conventional color measuring instruments such as spectrophotometers and tristimulus photoelectric colorimeters should not be used for measurement of retroreflective material colors and that such materials should be evaluated visually using the Color Tolerance Charts and paying strict attention to prescribed illumination and viewing conditions.

2. As an alternate to visual testing, the diffuse day color of retroreflective sign material may be determined in accordance with ASTM E 97, “Standard Method of Test for 45-Degree, 0-Degree Directional Reflectance of Opaque Specimens by Filter Photometry.” Geometric characteristics must be confined to illumination incident within 10 degrees of, and centered about, a direction of 45 degrees from the perpendicular to the test surface; viewing is within 15 degrees of, and centered about, the perpendicular to the test surface. Conditions of illumination and observation must not be interchanged.

3. Standards to be used for reference are the Munsell Papers designated in Table 1 or Table II, attached. The papers must be recently calibrated on a spectrophotometer. Acceptable test instruments are:
   a. Gardner Multipurpose Reflectometer or Model XL 20 Color Difference Meter,
   b. Gardner Model Ac-2a or XL 30 Color Difference Meter,
   c. Meeco Model V Colormaster,
   d. Hunter lab D25 Color Difference Meter,
   e. Approved equal.
4. Average performance sheeting is identified as Types I and II sheeting and high performance sheeting is identified as Types III and IV sheeting in Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects\(^3\) (FP-79, Section 633).

### TABLE I—COLOR SPECIFICATION LIMITS AND REFERENCE STANDARDS, TYPES I AND II SHEETING

<table>
<thead>
<tr>
<th>Color</th>
<th>Chromaticity coordinates (^1) (corner points)</th>
<th>Reflectance limits (percent (Y))</th>
<th>Reference (^3) standard (munsell papers)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(x)</td>
<td>(y)</td>
<td>(x)</td>
</tr>
<tr>
<td>White</td>
<td>.305</td>
<td>.290</td>
<td>.350</td>
</tr>
<tr>
<td>Orange</td>
<td>.535</td>
<td>.375</td>
<td>.607</td>
</tr>
<tr>
<td>Brown</td>
<td>.445</td>
<td>.353</td>
<td>.604</td>
</tr>
<tr>
<td>Yellow</td>
<td>.482</td>
<td>.450</td>
<td>.532</td>
</tr>
<tr>
<td>Green</td>
<td>.130</td>
<td>.369</td>
<td>.180</td>
</tr>
<tr>
<td>Blue</td>
<td>.147</td>
<td>.075</td>
<td>.176</td>
</tr>
</tbody>
</table>

\(^1\) The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.
\(^2\) Silver white is an acceptable color designation.
\(^3\) Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

### TABLE II—COLOR SPECIFICATION LIMITS AND REFERENCE STANDARDS, TYPES III AND IV SHEETING

<table>
<thead>
<tr>
<th>Color</th>
<th>Chromaticity Coordinates (^1) (corner points)</th>
<th>Reflectance limits (percent (Y))</th>
<th>Reference (^3) standard (munsell papers)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(x)</td>
<td>(y)</td>
<td>(x)</td>
</tr>
<tr>
<td>White</td>
<td>.303</td>
<td>.287</td>
<td>.353</td>
</tr>
<tr>
<td>Red</td>
<td>.613</td>
<td>.297</td>
<td>.708</td>
</tr>
<tr>
<td>Orange</td>
<td>.550</td>
<td>.360</td>
<td>.630</td>
</tr>
<tr>
<td>Yellow</td>
<td>.498</td>
<td>.412</td>
<td>.557</td>
</tr>
<tr>
<td>Green</td>
<td>.030</td>
<td>.380</td>
<td>.166</td>
</tr>
<tr>
<td>Blue</td>
<td>.144</td>
<td>.030</td>
<td>.244</td>
</tr>
</tbody>
</table>

\(^1\) The four pairs of chromaticity coordinates determine the acceptable color in terms of the CIE 1931 standard colorimetric system measured with standard illumination source C.
\(^2\) Silver white is an acceptable color designation.
\(^3\) Available from Munsell Color Company, 2441 Calvert Street, Baltimore, Maryland 21218.

---

**Subpart G [Reserved]**

**PART 656—CARPOOL AND VANPOOL PROJECTS**

Sec. 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

§ 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

\(^3\)This document is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
§ 656.5 Eligibility.

(a) Projects which promote ride-sharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C. 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term carpool includes vanpool.

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

1. Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

2. Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

3. The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, occurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

   (i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7–15 passengers (no passenger cars which do not meet the 7–15 criteria and no buses); and

   (ii) Provision is made for repayment of the acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

   (A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

   (B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

   (4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lanes designation is effective and that the project is fully developed and operating properly. While no fixed time limit is being arbitrarily prescribed for the inspection and monitoring period, it is intended that this activity be conducted as soon as possible to evaluate the effectiveness of the project and does not extend indefinitely nor become a part of routine facility operations.

   (5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trail blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition.
or easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, fringe parking construction under this section shall be subject to the provisions of 23 CFR part 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Determination of an exception.

(a) The FHWA has determined under provisions of 23 U.S.C. 146(b) that an exceptional situation exists in regard to the funding of carpools so as to allow the State to contribute as its share of the non-Federal match essential project-related work and services performed by local agencies and private organizations when approved and authorized in accordance with regular Federal-aid procedures. The cost of such work must be properly valued, supportable and verifiable in order for inclusion as an eligible project cost. Examples of such contributed work and services include: public service announcements, computer services, and project-related staff time for administration by employees of public and private organizations.

(b) This determination is based on: (1) The nature of carpool projects to provide a variety of services to the public; (2) the fact that carpool projects are labor intensive and require professional and specialized technical skills; (3) the extensive use of joint public and private endeavors; and (4) the fact that project costs involve the acquisition of capital equipment as opposed to construction of fixed items.

(c) This exception is limited to carpool projects and therefore is not applicable to other Federal-aid projects. The exception does not affect or replace the standard Federal-aid funding procedures or real property acquisition procedures and requirements, part 712, The Acquisition Function.

PART 657—CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

§ 657.1 Purpose.

To prescribe requirements for administering a program of vehicle size and weight enforcement on Federal-aid (FA) highways, including the required annual certification by the State.

§ 657.3 Definition.

Enforcing or enforcement means all actions by the State to obtain compliance with size and weight requirements by all vehicles operating on the FA
§ 657.5 Policy.

Federal Highway Administration (FHWA) policy is that each State enforce vehicle size and weight laws to assure that violations are discouraged and that vehicles traversing the highway system do not exceed the limits specified by law. These size and weight limits are based upon design specifications and safety considerations, and enforcement shall be developed and maintained both to prevent premature deterioration of the highway pavement and structures and to provide a safe driving environment.

§ 657.7 Objective.

The objective of this regulation is the development and operation by each State of an enforcement process which identifies vehicles of excessive size and weight and provides a systematic approach to eliminate violations and thus improve conditions.

§ 657.9 Formulation of a plan for enforcement.

(a) Each State shall develop a plan for the maintenance of an effective enforcement process. The plan shall describe the procedures, resources, and facilities which the State intends to devote to the enforcement of its vehicle size and weight laws. Each State plan must be accepted by the FHWA and will then serve as a basis by which the annual certification of enforcement will be judged for adequacy.

(b) The plan shall discuss the following subjects:

(1) Facilities and resources. (i) No program shall be approved which does not utilize a combination of at least two of the following listed devices to deter evasion of size and weight measurement in sufficient quantity to cover the FA system: fixed platform scales; portable wheel weigher scales; semiportable or ramp scales; WIM equipment.

(ii) Staff assigned to the program, identified by specific agency. Where more than one State agency has weight enforcement responsibility, the lead agency should be indicated.

(2) Practices and procedures. (i) Proposed plan of operation, including geographical coverage and hours of operation in general terms.

(ii) Policy and practices with respect to overweight violators, including off-loading requirements for divisible loads. In those States in which off-loading is mandatory by law, an administrative variance from the legal requirement shall be fully explained. In those States in which off-loading is permissive administrative guidelines shall be included.

(iii) Policy and practices with respect to penalties, including those for repeated violations. Administrative directives, booklets or other written criteria shall be made part of the plan submission.

(iv) Policy and practices with respect to special permits for overweight. Administrative directives, booklets or other written criteria shall be made part of the plan submission.

(3) Updating. Modification and/or additions to the plan based on experience and new developments in the enforcement program. It is recognized that the plan is not static and that changes may be required to meet changing needs.

§ 657.11 Evaluation of operations.

(a) The State shall submit its enforcement plan or annual update to the Office of Motor Carriers in the FHWA division office by July 1 of each year. However, if a State’s legislative or budgetary cycle is not consonant with that date, the FHWA and the State may jointly select an alternate date. In any event, a State must have an approved plan in effect by October 1 of each year. Failure of a State to submit or update a plan will result in the State being unable to certify in accordance with §657.13 for the period to be covered by the plan.

(b) The Office of Motor Carriers in the FHWA division office shall review the State’s operation under the accepted plan on a continuing basis and shall prepare an evaluation report annually. The State will be advised of the results of the evaluation and of any needed changes either in the plan itself or in
§ 657.13 Certification requirement.

Each State shall certify to the Federal Highway Administrator, before January 1 of each year, that it is enforcing all State laws respecting maximum vehicle size and weight permitted on what, prior to October 1, 1991, were the Federal-aid Primary, Secondary, and Urban Systems, including the Interstate System, in accordance with 23 U.S.C. 127. The States must also certify that they are enforcing and complying with the ISTEA freeze on the use of LCV’s and other multi-unit vehicles. The certification shall be supported by information on activities and results achieved during the preceding 12-month period ending on September 30 of each year.

[59 FR 30418, June 13, 1994]

§ 657.15 Certification content.

The certification shall consist of the following elements and each element shall be addressed even though the response is negative:

(a) A statement by the Governor of the State, or an official designated by the Governor, that the State’s vehicle weight laws and regulations governing use of the Interstate System conform to 23 U.S.C. 127.

(b) A statement by the Governor of the State, or an official designated by the Governor, that all State size and weight limits are being enforced on the Interstate System and those routes which prior to October 1, 1991, were designated as part of the Federal-aid Primary, Urban, and Secondary Systems, and that the State is enforcing and complying with the provisions of 23 U.S.C. 127(d) and 49 U.S.C. 31112 Urbanized areas not subject to State jurisdiction shall be identified. The statement shall include an analysis of enforcement efforts in such areas.

(c) Except for Alaska and Puerto Rico, the certifying statements required by paragraphs (a) and (b) of this section shall be worded as follows (the statements for Alaska and Puerto Rico do not have to refer to 23 U.S.C. 127(d) in (c)(2), or include paragraph (c)(3) of this section):

I, (name of certifying official), (position title), of the State of ___________ do hereby certify:

(1) That all State laws and regulations governing vehicle size and weight are being enforced on those highways which, prior to October 1, 1991, were designated as part of the Federal-aid Primary, Federal-aid Secondary, or Federal-aid Urban Systems;

(2) That the State is enforcing the freeze provisions of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127(d) and 49 U.S.C. 31112); and

(3) That all State laws governing vehicle weight on the Interstate System are consistent with 23 U.S.C. 127 (a) and (b).

(d) If this statement is made by an official other than the Governor, a copy of the document designating the official, signed by the Governor, shall also be included in the certification made under this part.

(e) A copy of any State law or regulation pertaining to vehicle sizes and weights adopted since the State’s last certification and an analysis of the changes made. Those laws and regulations pertaining to special permits and penalties shall be specifically identified and analyzed in accordance with section 123 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599).

(f) A report of State size and weight enforcement efforts during the period covered by the certification which addresses the following:

(1) Actual operations as compared with those forecast by the plan submitted earlier, with particular attention to changes in or deviations from the operations proposed.

(2) Impacts of the process as actually applied, in terms of changes in the number of oversize and/or overweight vehicles.

(3) Measures of activity—(i) Vehicles weighed. Separate totals shall be reported for the annual number of vehicles weighed on fixed scales, on
§ 657.21 Procedure for reduction of funds.

(a) If it appears to the Federal Highway Administrator that a State has not submitted a certification conforming to the requirements of this regulation, or that the State is not adequately enforcing State laws respecting maximum vehicle size and weight, including laws applicable to vehicles using the Interstate System with weights or widths in excess of those provided under 23 U.S.C. 127, the Federal Highway Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the State of the proposed determination by certified mail. The notice shall state the reasons for the proposed determination and inform the State that it may, within 30 days from the date of the notice, request a hearing to show cause why it should not be found in nonconformity. If the State informs the Administrator before the end of this 30-day period that it wishes to attempt to resolve the matter informally, the Administrator may extend the time for requesting a hearing. In the event of a request for informal resolution, the State and the Administrator (or designee) shall promptly schedule a meeting to resolve the matter.

(b) In all instances where the State proceeds on the basis of informal resolution, a transcript of the conference will be made and furnished to the State by the FHWA.

(1) The State may offer any information which it considers helpful to a resolution of the matter, and the scope of review at the conference will include, but not be limited to, legislative actions, including those proposed to remedy deficiencies, budgetary considerations, judicial actions, and proposals for specific actions which will be implemented to bring the State into compliance.

(2) The information produced at the conference may constitute an explanation and offer of settlement and the Administrator will make a determination on the basis of the certification, record of the conference, and other information submitted by the State. The Administrator's final decision together with a copy of the transcript of the
conference will be furnished to the State.

(3) If the Administrator does not accept an offer of settlement made pursuant to paragraph (b)(2) of this section, the State retains the right to request a hearing on the record pursuant to paragraph (d) of this section, except in the case of a violation of section 127.

(c) If the State does not request a hearing in a timely fashion as provided in paragraph (a) of this section, the Federal Highway Administrator shall forward the proposed determination of nonconformity to the Secretary. Upon approval of the proposed determination by the Secretary, the fund reduction specified by §657.19 shall be effected.

(d) If the State requests a hearing, the Secretary shall expeditiously convene a hearing on the record, which shall be conducted according to the provisions of the Administrative Procedure Act, 5 U.S.C. 555 et seq. Based on the record of the proceeding, the Secretary shall determine whether the State is in nonconformity with this regulation. If the Secretary determines that the State is in nonconformity, the fund reduction specified by section 657.19 shall be effected.

(e) The Secretary may reserve 10 percent of a State’s apportionment of funds under 23 U.S.C. 104 pending a final administrative determination under this regulation to prevent the apportionment to the State of funds which would be affected by a determination of nonconformity.

(f) Funds withheld pursuant to a final administrative determination under this regulation shall be reapportioned to all other eligible States one year from the date of this determination, unless before this time the Secretary determines, on the basis of information submitted by the State and the FHWA, that the State has come into conformity with this regulation. If the Secretary determines that the State has come into conformity, the withheld funds shall be released to the State.

(g) The reapportionment of funds under paragraph (e) of this section shall be stayed during the pendency of any judicial review of the Secretary’s final administrative determination of nonconformity.

APPENDIX TO PART 657—GUIDELINES TO BE USED IN DEVELOPING ENFORCEMENT PLANS AND CERTIFICATION EVALUATION

A. Facilities and Equipment

1. Permanent Scales
   a. Number
   b. Location (a map appropriately coded is suggested)
   c. Public-private (if any)

2. Weigh-in-motion (WIM)
   a. Number
   b. Location (notation on above map is suggested)

3. Semi-portable scales
   a. Type and number
   b. If used in sets, the number comprising a set

4. Portable Scales
   a. Type and number
   b. If used in sets, the number comprising a set

B. Resources

1. Agencies involved (i.e., highway agency, State police, motor vehicle department, etc.)
2. Personnel—numbers from respective agencies assigned to weight enforcement
3. Funding
   a. Facilities
   b. Personnel

C. Practices

1. Proposed schedule of operation of fixed scale locations in general terms
2. Proposed schedule of deployment of portable scale equipment in general terms
3. Proposed schedule of deployment of semi-portable equipment in general terms
4. Strategy for prevention of bypassing of fixed weighing facility location
5. Proposed action for implementation of off-loading, if applicable

D. Goals

1. Short term—the year beginning October 1 following submission of a vehicle size and weight enforcement plan
2. Medium term—2-4 years after submission of the enforcement plan
3. Long term—5 years beyond the submission of the enforcement plan
4. Provision for annual review and update of vehicle size and weight enforcement plan

E. Evaluation

The evaluation of an existing plan, in comparison to goals for strengthening the enforcement program, is a difficult task, especially since there is very limited experience nationwide.

The FHWA plans to approach this objective through a continued cooperative effort with State and other enforcement agencies
by gathering useful information and experience on elements of enforcement practices that produce positive results.

It is not considered practicable at this time to establish objective minimums, such as the number of vehicles to be weighed by each State, as a requirement for satisfactory compliance. However, the States will want to know as many specifics as possible about what measuring tools will be used to evaluate their annual certifications for adequacy.

The above discussion goes to the heart of the question concerning numerical criteria. The assumption that a certain number of weighings will provide a maximum or even satisfactory deterrent is not supportable. The enforcement of vehicle size and weight laws requires that vehicles be weighed but it does not logically follow that the more vehicles weighed, the more effective the enforcement program, especially if the vehicles are weighed at a limited number of fixed locations. A “numbers game” does not necessarily provide a deterrent to deliberate overloading. Consistent, vigorous enforcement activities, the certainty of apprehension and of penalty, the adequacy of the penalty, even the publicity given these factors, may be greater deterrents than the number of weighings alone.

In recognizing that all States are unique in character, there are some similarities between certain States and useful perspectives that may be obtained by relating their program elements. Some comparative factors are:

1. Truck registration (excluding pickups and panels)
2. Population
3. Average Daily Traffic (ADT) for trucks on FA highways
4. To total mileage of Federal-aid highways
5. Geographic location of the State
6. Annual truck miles traveled in State
7. Number of truck terminals (over 6 doors)
8. Vehicle miles of intrastate truck traffic

Quantities relating to the above items can become factors that in the aggregate are descriptive of a State’s characteristics and can identify States that are similar from a trucking operation viewpoint. This is especially applicable for States within the same area.

After States with similar truck traffic operations have been identified in a regional area, another important variable must be considered: the type of weighing equipment that has been or is proposed for predominant use in the State. When data become available on the number of trucks weighed by each type of scale (fixed, portable, semi-portable, etc.) some indicators will be developed to relate one State’s effort to those of other States. The measures of activity that are a part of each certification submitted will provide a basis for the development of more precise numerical criteria by which an enforcement plan and its activities can be judged for adequacy.

Previous certifications have provided information from which the following gross scale capabilities have been derived.

Potential Weighing Capacities

1. Permanent scales 60 veh/hr.
2. Weigh-in-motion scales 100 veh/hr.
4. Portable scales 3 veh/hr.

To meet the mandates of Federal and other laws regarding truck size and weight enforcement, the FHWA desires to become a resource for all States in achieving a successful exchange of useful information. Some States are more advanced in their enforcement activities. Some have special experience with portable, semi-portable, fixed, or weighing-in-motion devices. Others have operated permanent scales in combination with concentrated safety inspection programs. The FHWA is interested in information on individual State experiences in these specialized areas as part of initial plan submissions. If such information has recently been furnished to the Washington Headquarters, an appropriate cross reference should be included on the submission.

It is the policy of the FHWA to avoid red tape, and information volunteered by the States will be of assistance in meeting many needs. The ultimate goal in developing information through the evaluation process is to assemble criteria for a model enforcement program.

### APPENDIX C TO PART 658

**TRUCK SIZE AND WEIGHT, ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS**

- **Sec. 658.1** Purpose.
- **658.3** Policy statement.
- **658.5** Definitions.
- **658.7** Applicability.
- **658.9** National Network criteria.
- **658.11** Additions, deletions, exceptions, and restrictions.
- **658.13** Length.
- **658.15** Width.
- **658.17** Weight.
- **658.19** Reasonable access.
- **658.21** Identification of National Network.
- **658.23** LVV freeze; cargo-carrying unit freeze.

**APPENDIX A TO PART 658—NATIONAL NETWORK—FEDERALLY-DESIGNATED ROUTES**

**APPENDIX B TO PART 658—GRANDFATHERED SEMITRAILER LENGTHS**

**APPENDIX C TO PART 658—TRUCKS OVER 80,000 POUNDS ON THE INTERSTATE SYSTEM AND TRUCKS OVER STAA LENGTHS ON THE NATIONAL NETWORK**
§ 658.1 Purpose.

The purpose of this part is to identify a National Network of highways available to vehicles authorized by provisions of the Surface Transportation Assistance Act of 1982 (STAA) as amended, and to prescribe national policies that govern truck and bus size and weight.

[59 FR 30419, June 13, 1994]

§ 658.3 Policy statement.

The Federal Highway Administration’s (FHWA) policy is to provide a safe and efficient National Network of highways that can safely and efficiently accommodate the large vehicles authorized by the STAA. This network includes the Interstate System plus other qualifying Federal-aid Primary System Highways.

§ 658.5 Definitions.

Automobile transporters. Any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.

Beverage semitrailer. A van-type, drop-frame semitrailer designed and used specifically for the transport and delivery of bottled or canned beverages (i.e., liquids for drinking, including water) which has side-only access for loading and unloading this commodity.

Semitrailer has the same meaning as in 49 CFR 390.5.

Boat transporters. Any vehicle combination designed and used specifically to transport assembled boats and boat hulls. Boats may be partially disassembled to facilitate transporting.

Bridge Gross Weight Formula. The standard specifying the relationship between axle (or groups of axles) spacing and the gross weight that (those) axle(s) may carry expressed by the formula:

\[ W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right) \]

where \( W \) = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, \( L \) = distance in feet between the extreme of any group of two or more consecutive axles, and \( N \) = number of axles in the group under consideration.

Cargo-carrying unit. As used in this part, cargo-carrying unit means any portion of a commercial motor vehicle (CMV) combination (other than a truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo-carrying section of a single-unit truck. The length of the cargo carrying units of a CMV with two or more such units is measured from the front of the first unit to the rear of the last [including the hitch(es) between the units].

Commercial Motor Vehicle. For purposes of this regulation a motor vehicle designed or regularly used for carrying freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vehicles used for vanpools.

Federal-aid Primary System. The Federal-aid Highway System of rural arterials and their extensions into or through urban areas in existence on June 1, 1991, as described in 23 U.S.C. 103(b) in effect at that time.

Fullmount. A fullmount is a smaller vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination.

Interstate System. The National System of Interstate and Defense Highways described in sections 103(e) and 139(a) of Title 23, U.S.C. For the purpose of this regulation this system includes toll roads designated as Interstate.

Length Exclusive Devices. For purposes of this regulation all appurtenances at the front or rear of a commercial motor vehicle semitrailer, or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer. No device excluded from length determination shall be designed or used for carrying cargo.

Longer combination vehicle (LCV). As used in this part, longer combination vehicle means any combination of a truck tractor and two or more trailers or semitrailers which operates on the
§ 658.5

Interstate System at a gross vehicle weight greater than 80,000 pounds.

Maxi-cube vehicle. A maxi-cube vehicle is a combination vehicle consisting of a power unit and a trailing unit, both of which are designed to carry cargo. The power unit is a nonarticulated truck with one or more drive axles that carries either a detachable or a permanently attached cargo box. The trailing unit is a trailer or semitrailer with a cargo box so designed that the power unit may be loaded and unloaded through the trailing unit. Neither cargo box shall exceed 34 feet in length, excluding drawbar or hitching device; the distance from the front of the first to the rear of the second cargo box shall not exceed 60 feet, including the space between the cargo boxes; and the overall length of the combination vehicle shall not exceed 65 feet, including the space between the cargo boxes.

Motor carrier of passengers. As used in this part, a motor carrier of passengers is a common, contract, or private carrier using a bus to provide commercial transportation of passengers. Bus has the same meaning as in 49 CFR 390.5.

National Network (NN). The composite of the individual network of highways from each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under § 658.11(f) or deleted under § 658.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, set out by the FHWA in appendix A to this part.

Nondivisible load or vehicle.

(1) As used in this part, nondivisible means any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

(i) Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

(ii) Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

(iii) Require more than 8 workhours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

(2) A State may treat emergency response vehicles, casks designed for the transport of spent nuclear materials, and military vehicles transporting marked military equipment or material as nondivisible vehicles or loads.

Saddlemount combination. A saddlemount combination is a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination.

Safety Devices—Width Exclusion. Federally approved safety devices accorded width exclusion status include rearview mirrors, turn signal lamps, handholds for cab entry/exit, and splash and spray suppressant devices. Although not normally considered a safety device, load-induced tire bulge is also excluded from consideration in determining vehicle width.

Single Axle Weight. The total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. The Federal single axle weight limit on the Interstate System is 20,000 pounds.

Special Mobile Equipment. Every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including military equipment, farm equipment, implements of husbandry, road construction or maintenance machinery, and emergency apparatus which includes fire and police emergency equipment. This list is partial and not exclusive of such other vehicles as may fall within the general terms of this definition.
§ 658.7  Stinger-steered combination. A truck tractor semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

Tandem Axle Weight. The total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle. The Federal tandem axle weight limit on the Interstate System is 34,000 pounds.

Terminal. The term terminal as used in this regulation means, at a minimum:

Freight either originates, terminates, or is handled in the transportation process; or

Commercial motor carriers maintain operating facilities.

Tractor or Truck Tractor. The noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

Truck-tractor Semitrailer-Semitrailer. In a truck-tractor semitrailer-semitrailer combination vehicle, the two trailing units are connected with a “B-train” assembly. The B-train assembly is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth wheel connection point for the second semitrailer. This combination has one less articulation point than the conventional “A dolly” connected truck-tractor semitrailer-trailer combination.

Truck-trailer boat transporter. A boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection. The trailer axle(s) is located substantially at the trailer center of gravity (rather than the rear of the trailer) but so as to maintain a downward force on the trailer tongue.


§ 658.7  Applicability.

Except as limited in §658.17(a) the provisions of this part are applicable to the National Network and reasonable access thereto. However, nothing in this regulation shall be construed to prevent any State from applying any weight and size limits to other highways, except when such limits would deny reasonable access to the National Network.

§ 658.9  National Network criteria.

(a) The National Network listed in the appendix to this part is available for use by commercial motor vehicles of the dimensions and configurations described in §§658.13 and 658.15.

(b) For those States with detailed lists of individual routes in the appendix, the routes have been designated on the basis of their general adherence to the following criteria.

(1) The route is a geometrically typical component of the Federal-Aid Primary System, serving to link principal cities and densely developed portions of the States.

(2) The route is a high volume route utilized extensively by large vehicles for interstate commerce.

(3) The route does not have any restrictions precluding use by conventional combination vehicles.

(4) The route has adequate geometrics to support safe operations, considering sight distance, severity and length of grades, pavement width, horizontal curvature, shoulder width,
Federal Highway Administration, DOT

§ 658.11 Additions, deletions, exceptions, and restrictions.

To ensure that the National Network remains substantially intact, FHWA retains the authority to rule upon all requested additions to and deletions from the National Network as well as requests for the imposition of certain restrictions. FHWA approval or disapproval will constitute the final decision of the U.S. Department of Transportation.

(a) Additions. (1) Requests for additions to the National Network, including justification, shall have the endorsement of the Governor or the Governor’s authorized representative, and be submitted in writing to the appropriate FHWA Division Office. Proposals for addition of routes to the National Network shall be accompanied by an analysis of suitability based on the criteria in § 658.9.

(2) Proposals for additions that meet the criteria of § 658.9 and have the endorsement of the Governor or the Governor’s authorized representative will be published in the FEDERAL REGISTER for public comment as a notice of proposed rulemaking (NPRM). If found acceptable, as a final rule.

(b) Deletions—Federal-aid primary—other than interstate. Changed conditions or additional information may require the deletion of a designated route or a portion thereof. The deletion of any route or route segment shall require FHWA approval. Requests for deletion of routes from the National Network, including the reason(s) for the deletion, shall be submitted in writing to the appropriate FHWA Division Office. These requests shall be assessed on the basis of the criteria of § 658.9.

FHWA proposed deletions will be published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking (NPRM).

(c) Requests for deletion—Federal-aid primary—other than interstate. Requests for deletion should include the following information, where appropriate:

(1) Did the route segment prior to designation carry combination vehicles or 102-inch buses?

(2) Were truck restrictions in effect on the segment on January 6, 1983? If so, what types of restrictions?

(3) What is the safety record of the segment, including current or anticipated safety problems? Specifically, is the route experiencing above normal accident rates and/or accident severities? Does analysis of the accident problem indicate that the addition of larger trucks have aggravated existing accident problems?

(4) What are the geometric, structural or traffic operations features that might preclude safe, efficient operation? Specifically describe lane widths, sight distance, severity and length of grades, horizontal curvature, shoulder width, narrow bridges, bridge clearances and load limits, traffic volumes and vehicle mix, intersection geometrics and vulnerability of roadside hardware.

(5) Is there a reasonable alternate route available?

(6) Are there operational restrictions that might be implemented in lieu of deletion?

(d) Deletions and use restrictions—Federal-aid interstate. (1) The deletion of, or imposition of use restrictions on, any specific segment of the Interstate Highway System on the National Network, except as otherwise provided in this part, must be approved by the FHWA. Such action will be initiated on the FHWA’s own initiative or on the request of the Governor or the Governor’s authorized representative of the State in which the Interstate segment is located. Requests from the Governor or the Governor’s authorized

VerDate 11<MAY>2000 13:26 Apr 23, 2001 Jkt 194073 PO 00000 Frm 00257 Fmt 8010 Sfmt 8010 Y:\SGML\194073T.XXX pfrm04 PsN: 194073T
representative shall be submitted along with justification for the deletion or restriction, in writing, to the appropriate FHWA Division Office for transmittal to Washington Headquarters.

(2) The justification accompanying a request shall be based on the following:

(i) Analysis of evidence of safety problems supporting the deletion or restriction as identified in §658.11(c).

(ii) Analysis of the impact on interstate commerce.

(iii) Analysis and recommendation of any alternative routes that can safely accommodate commercial motor vehicles of the dimensions and configurations described in §§658.13 and 658.15 and serve the area in which such segment is located.

(iv) Evidence of consultation with the local governments in which the segment is located as well as the Governor or the Governor’s authorized representative of any adjacent State that might be directly affected by such a deletion or restriction.

(3) Actions to ban all commercial vehicles on portions of the Interstate System not excepted under §658.11(f) are considered deletions subject to the requirements of subsection (d) of this section.

(4) Reasonable restrictions on the use of Interstate routes on the National Network by STAA-authorized vehicles related to specific travel lanes of multi-lane facilities, construction zones, seasonal operation, adverse weather conditions or structural or clearance deficiencies may be imposed.

(5) Proposed deletions or restrictions will be published in the Federal Register as an NPRM, except in the case of an emergency deletion as prescribed in §658.11(e). The FHWA will consider the factors set out in paragraph (d)(2) of this section and the comments of interested parties. Any approval of deletion or restriction will be published as a final rule. A deletion of or restriction on a segment for reasons ascribable to dimensions of commercial motor vehicles described in either §658.13 or §658.15 shall result in a deletion or restriction for the purposes of both §§658.13 and 658.15.

(e) Emergency deletions. FHWA has the authority to delete any route from the National Network, on an emergency basis, for safety considerations. Emergency deletions are not considered final, and will be published in the Federal Register for notice and comment.

(f) Exceptions. Those portions of the Interstate System which were open to traffic and on which all commercial motor vehicles were banned on January 6, 1983, are not included in the National Network.

(g) Restrictions—Federal-aid primary—other than interstate. (1) Reasonable restrictions on the use of non-Interstate Federal-aid Primary routes on the National Network by STAA-authorized vehicles may be imposed during certain peak hours of travel or on specific travel lanes of multi-lane facilities. Restrictions related to construction zones, seasonal operation, adverse weather conditions or structural or clearance deficiencies may be imposed.

(2) All restrictions on the use of the National Network based on hours of use by vehicles authorized by the STAA require prior FHWA approval. Requests for such restrictions on the National Network shall be submitted in writing to the appropriate FHWA Division Office. Approval of requests for restrictions will be contingent on the ability to justify significant negative impact on safety, the environment and/or operational efficiency.

§658.13 Length.

(a) The length provisions of the STAA apply only to the following types of vehicle combinations:

(1) Truck tractor-semitrailer

(2) Truck tractor-semitrailer-trailer.

The length provisions apply only when these combinations are in use on the National Network or in transit between these highways and terminals or service locations pursuant to §658.19.

(b) The length provisions referred to in paragraph (a) of this section include the following:

(1) No State shall impose a length limitation of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination.
§ 658.13

(2) No State shall impose a length limitation of less than 28 feet on any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination.

(3) No State shall impose an overall length limitation on commercial vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations.

(4) No State shall prohibit commercial motor vehicles operating in truck tractor-semitrailer-trailer combinations.

(5) No State shall prohibit the operation of semitrailers or trailers which are 28\(\frac{1}{2}\) feet long when operating in a truck tractor-semitrailer-trailer combination if such a trailer or semitrailer was in actual and lawful operation on December 1, 1982, and such combination had an overall length not exceeding 65 feet.

(c) State maximum length limits for semitrailers operating in a truck tractor-semitrailer combination and semitrailers and trailers operating in a truck tractor-semitrailer-trailer combination are subject to the following:

(1) No State shall prohibit the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982, as set out in appendix B of this part.

(2) If on December 1, 1982, State length limitations on a semitrailer were described in terms of the distance from the kingpin to rearmost axle, or end of semitrailer, the operation of any semitrailer that complies with that limitation must be allowed.

(d) No State shall impose a limit of less than 45 feet on the length of any bus on the NN.

(e) Specialized equipment—(1) Automobile transporters. (i) Automobile transporters are considered to be specialized equipment. As provided in §658.5, automobile transporters may carry vehicles on the power unit so long as the length and width restrictions of the vehicles and load are not exceeded. No State shall impose an overall length limitation of less than 65 feet on traditional boat transporters (fifth wheel located on tractor frame over rear axle(s), including “low boys,” or less than 75 feet on stinger-steered boat transporters. In addition, no State shall impose an overall length limitation of less than 65 feet on truck-trailer boat transporters. Paragraph (c) of this section requires the States to allow operation of vehicles with the dimensions that were legal in the State on December 1, 1982.

(ii) All length provisions regarding automobile transporters are exclusive of front and rear overhang. Further, no State shall impose a front overhang limitation of less than three (3) feet nor a rearmost overhang limitation of less than four (4) feet.

(iii) Drive-away saddlemount vehicle transporter combinations and driveaway saddlemount with fullmount vehicle transporter combinations are considered to be specialized equipment. No State shall impose an overall length limit of less than 75 feet on such combinations. This provision applies to saddlemount combinations with up to three saddlemounted vehicles. Such combinations may include one fullmount. Saddlemount combinations must also comply with the applicable safety regulations at 49 CFR 393.71.

(2) Boat transporters. (i) Boat transporters are considered to be specialized equipment. As provided for automobile transporters in §658.5, boat transporters may carry boats on the power unit so long as the length and width restrictions of the vehicles and load are not exceeded. No State shall impose an overall length limitation of less than 65 feet on traditional boat transporters (fifth wheel located on tractor frame over rear axle(s), including “low boys,” or less than 75 feet on stinger-steered boat transporters. In addition, no State shall impose an overall length limitation of less than 65 feet on truck-trailer boat transporters. Paragraph (c) of this section requires the States to allow operation of vehicles with the dimensions that were legal in the State on December 1, 1982.

(ii) All length provisions regarding boat transporters are exclusive of front and rear overhang. Further, no State shall impose a front overhang limitation of less than three (3) feet nor a rearmost overhang limitation of less than four (4) feet.

(3) Truck-tractor semitrailer-semitrailer. (i) Truck-tractor semitrailer-semitrailer combination vehicles are considered to be specialized equipment. No State shall impose a length limitation of less than 28 feet on any.
§ 658.15 Width.

(a) No State shall impose a width limitation of more or less than 102 inches, or its approximate metric equivalent, 2.6 meters (102.36 inches) on a vehicle operating on the National Network, except for the State of Hawaii, which is allowed to keep the State's 106-inch width maximum by virtue of section 416(a) of the STAA.
§ 658.17 Weight.

(a) The provisions of the section are applicable to the National System of Interstate and Defense Highways and reasonable access thereto.

(b) The maximum gross vehicle weight shall be 80,000 pounds except where lower gross vehicle weight is dictated by the bridge formula.

(c) The maximum gross weight upon any one axle, including any one axle of a group of axles, or a vehicle is 20,000 pounds.

(d) The maximum gross weight on tandem axles is 34,000 pounds.

(e) No vehicle or combination of vehicles shall be moved or operated on any Interstate highway when the gross weight on two or more consecutive axles exceeds the limitations prescribed by the following formula, referred to as the Bridge Gross Weight Formula:

\[ W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right) \]

except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axle is 36 feet or more. In no case shall the total gross weight of a vehicle exceed 80,000 pounds.

(f) Except as provided herein, States may not enforce on the Interstate System vehicle weight limits of less than 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, or the weights derived from the Bridge Formula, up to a maximum of 80,000 pounds, including all enforcement tolerances. States may not limit tire loads to less than 500 pounds per inch of tire or tread width, except that such limits may not be applied to tires on the steering axle. States may not limit steering axle weights to less than 20,000 pounds or the axle rating established by the manufacturer, whichever is lower.

(g) The weights in paragraphs (b), (c), (d), and (e) of this section shall be inclusive of all tolerances, enforcement or otherwise, with the exception of a scale allowance factor when using portable scales (wheel-load weighers). The current accuracy of such scales is generally within 2 or 3 percent of actual weight, but in no case shall an allowance in excess of 5 percent be applied. Penalty or fine schedules which impose no fine up to a specified threshold, i.e., 1,000 pounds, will be considered as tolerance provisions not authorized by 23 U.S.C. 127.

(h) States may issue special permits without regard to the axle, gross, or Federal Bridge Formula requirements for nondivisible vehicles or loads.

(i) The provisions of paragraphs (b), (c), and (d) of this section shall not apply to single-, or tandem-axle weights, or gross weights legally authorized under State law on July 1, 1956. The group of axles requirement established in this section shall not apply to vehicles legally grandfathered under State groups of axles tables or formulas on January 1, 1975. Grandfathered weight limits are vested on the date specified by Congress and remain available to a State even if it chooses to adopt a lower weight limit for a time.

(j) The provisions of paragraphs (c) through (e) of this section shall not apply to the operation on Interstate Route 68 in Allegany and Garrett Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of
§ 658.19 Reasonable access.

(a) No State may enact or enforce any law denying reasonable access to vehicles with dimensions authorized by the STAA between the NN and terminals and facilities for food, fuel, repairs, and rest. In addition, no State may enact or enforce any law denying reasonable access between the NN and points of loading and unloading to household goods carriers, motor carriers of passengers, and any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 281/2 feet and which generally operates as part of a vehicle combination described in §§ 658.13(b)(5) and 658.15(a).

(b) All States shall make available to commercial motor vehicle operators information regarding their reasonable access provisions to and from the National Network.

(c) Nothing in this section shall be construed as preventing any State or local government from imposing any reasonable restriction, based on safety considerations, on access to points of loading and unloading by any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 281/2 feet and which generally operates as part of a vehicle combination described in §§ 658.13(b)(5) and 658.15(a).

(d) No State may enact or enforce any law denying access within 1 road-mile from the National Network using the most reasonable and practicable route available except for specific safety reasons on individual routes.

(e) Approval of access for specific vehicles on any individual route applies to all vehicles of the same type regardless of ownership. Distinctions between vehicle types shall be based only on significant, substantial differences in their operating characteristics.

(f) Blanket restrictions on 102-inch wide vehicles may not be imposed.

(g) Vehicle dimension limits shall not be more restrictive than Federal requirements.

(h) States shall ensure compliance with the requirements of this section for roads under the jurisdiction of local units of government.

(i)(1) Except in those States in which State law authorizes the operation of STAA-dimensioned vehicles on all public roads and highways, all States shall have an access review process that provides for the review of requests for access from the National Network.

(2) State access review processes shall provide for:

   (i) One or more of the following:

   (A) An analysis of the proposed access routes using observations or other data obtained from the operation of test vehicles over the routes;
   (B) An analysis of the proposed access routes by application of vehicle templates to plans of the routes;
   (C) A general provision for allowing access, without requiring a request, for commercial motor vehicles with semitrailers with a kingpin distance of 41 feet or less (measured from the kingpin to the center of the rear axle, if single, or the center of a group of rear axles). State safety analyses may be conducted on individual routes if warranted; and
   (ii) All of the following:

   (A) The denial of access to terminals and services only on the basis of safety
and engineering analysis of the access route.

(B) The automatic approval of an access request if not acted upon within 90 days of receipt by the State. This provision shall become effective no later than 12 months following the effective date of this rule unless an extension is requested by the State and approved by FHWA.

(C) The denial of access for any 102-inch wide vehicles only on the basis of the characteristics of specific routes, in particular significant deficiencies in lane width.

(j)(1) Each State shall submit its access provisions to FHWA for approval within 6 months after June 1, 1990. In those States in which State law authorizes the operation of STAA-dimensioned vehicles on all public roads and highways, no submission or approval under this paragraph is required. If, in the future, such a State changes its authorizing legislation and restricts the operation of STAA-dimensioned vehicles, then compliance with these provisions will be necessary.

(2) The FHWA will review the access provisions as submitted by each State subject to the provisions in paragraph (j)(1) and approve those that are in compliance with the requirements of this section. The FHWA may, at a State’s request, approve State provisions that differ from the requirements of this section if FHWA determines that they provide reasonable access for STAA-dimensioned vehicles and do not impose an unreasonable burden on motor freight carriers, shippers and receivers and service facility operators.

(3) Any State that does not have FHWA approved access provisions in effect within 1 year after June 1, 1990 shall follow the requirements and the criteria set forth in this section and section 658.5 and 658.19 for determining access for STAA-dimensioned vehicles to terminals and services. The FHWA may approve a State’s request for a time extension if it is received by FHWA at least 1 month before the end of the 1 year period.

§658.21 Identification of National Network.

(a) To identify the National Network, a State may sign the routes or provide maps of lists of highways describing the National Network.

(b) Exceptional local conditions on the National Network shall be signed. All signs shall conform to the Manual on Uniform Traffic Control Devices. Exceptional conditions shall include but not be limited to:

(1) Operational restrictions designed to maximize the efficiency of the total traffic flow, such as time of day prohibitions, or lane use controls.

(2) Geometric and structural restrictions, such as vertical clearances, posted weight limits on bridges, or restrictions caused by construction operations.

(3) Detours from urban Interstate routes to bypass of circumferential routes for commercial motor vehicles not destined for the urban area to be bypassed.

§658.23 LCV freeze; cargo-carrying unit freeze.

(a)(1) Except as otherwise provided in this section and except for tow trucks with vehicles in tow, a State may allow the operation of LCV’s on the Interstate System only as listed in appendix C to this part.

(2) Except as otherwise provided in this section, a State may not allow the operation on the NN of any CMV combination with two or more cargo-carrying units (not including the truck tractor) whose cargo-carrying units exceed:

(i) The maximum combination trailer, semitrailer, or other type of length limitation authorized by State law or regulation of that State on or before June 1, 1991; or

(ii) The length of the cargo-carrying units of those CMV combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 1991, as listed in appendix C to this part.

(b) Notwithstanding paragraph (a)(2) of this section, the following CMV combinations with two or more cargo-carrying units may operate on the NN.

§ 658.23

(1) Truck tractor-semitrailer-trailer and truck tractor-semitrailer-semitrailer combinations with a maximum length of the individual cargo units of 28.5 feet or less.

(2) Vehicles described in § 658.13(e) and (g).

(3) Truck-trailer and truck-semitrailer combinations with an overall length of 65 feet or less.

(4) Maxi-cubes.

(5) Tow trucks with vehicles in tow.

(c) For specific safety purposes and road construction, a State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions applicable to combinations subject to 23 U.S.C. 127(d) and 49 U.S.C. 31112 and in effect on June 1, 1991 (July 6, 1991, for Alaska). Adjustments which last 30 days or less may be made without notifying the FHWA. Minor adjustments which exceed 30 days require approval of the FHWA. When such adjustments are needed, a State must submit to the Division Office of Motor Carriers, by the end of the 30th day, a written description of the emergency, the date on which it began, and the date on which it is expected to conclude. If the adjustment involves route designations, the State shall describe the new route on which vehicles otherwise subject to the freeze imposed by 23 U.S.C. 127(d) and 49 U.S.C. 31112 are allowed to operate. To the extent possible, the geometric and pavement design characteristics of the alternate route should be equivalent to those of the highway section which is temporarily unavailable. Approval or disapproval by Office of Motor Carriers officials of adjustments involving route designations shall be coordinated with the Division Administrator. If the adjustment involves vehicle operating restrictions, the State shall list the restrictions that have been removed or modified. Approval or disapproval of the adjustment by the Division Office of Motor Carriers shall take place only after consultation with the Regional Office of Motor Carriers. If the adjustment is approved, a copy of the approved submission shall be forwarded through the Regional Office of Motor Carriers, to the Associate Administrator for Motor Carriers at Headquarters, who will publish the notice of adjustment, with an expiration date, in the Federal Register. Requests for extensions of time beyond the originally established conclusion date shall be subject to the same approval and publication process as the original request. If upon consultation with the Regional Office of Motor Carriers, a decision is reached that minor adjustments made by a State are not legitimately attributable to road or bridge construction or safety, the Division Office of Motor Carriers will inform the State, and the original conditions of the freeze must be reimposed immediately. Failure to do so may subject the State to a penalty pursuant to 23 U.S.C. 141.

(d) A State may issue a permit authorizing a CMV to transport an over-length nondivisible load on two or more cargo-carrying units on the NN without regard to the restrictions in § 658.23(a)(2).

(e) States further restricting or prohibiting the operation of vehicles subject to 23 U.S.C. 127(d) and 49 U.S.C. 31112 after June 1, 1991, shall notify the FHWA Division Office of Motor Carriers within 30 days after the restriction is effective. The Division Office of Motor Carriers shall forward the information through the Regional Office of Motor Carriers to the Associate Administrator for Motor Carriers at Headquarters. The FHWA will publish the restriction in the Federal Register as an amendment to appendix C to this part. Failure to provide such notification may subject the State to a penalty pursuant to 23 U.S.C. 141.

(f) The Federal Highway Administrator, on his or her own motion or upon a request by any person (including a State), shall review the information set forth in appendix C to this part. If the Administrator determines there is cause to believe that a mistake was made in the accuracy of the information contained in appendix C to this part, the Administrator shall commence a proceeding to determine whether the information published should be corrected. If the Administrator determines that there is a mistake in the accuracy of the information contained in appendix C to this part, the Administrator shall publish
APPENDIX A TO PART 658—NATIONAL NETWORK—FEDERALLY-DENominated ROUTES

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 43</td>
<td>I-65 N. of Mobile</td>
<td>Sunflower</td>
</tr>
<tr>
<td>US 43</td>
<td>AL 5 near Russellville</td>
<td>TN State Line</td>
</tr>
<tr>
<td>US 72</td>
<td>MS State Line</td>
<td>CR 33 Hollywood</td>
</tr>
<tr>
<td>US 72 Alt</td>
<td>US 72 Tuscumbia</td>
<td>US 72/231/431</td>
</tr>
<tr>
<td>US 78</td>
<td>End of I-4 lane W. of AL 5 Jasper</td>
<td>I-59 Birmingham</td>
</tr>
<tr>
<td>US 80</td>
<td>AL 14 W. Int. Selma</td>
<td>US 82 Montgomery</td>
</tr>
<tr>
<td>US 82</td>
<td>Coker W. of I-59</td>
<td>Edline W. of AL 5</td>
</tr>
<tr>
<td>US 82</td>
<td>AL 206 Prattville</td>
<td>US 231 N. Int. Montgomery</td>
</tr>
<tr>
<td>US 84</td>
<td>AL 92 E. of Daleville (via AL 210 Dothan Cir.)</td>
<td>End of 4-lane E. of Dothan</td>
</tr>
<tr>
<td>US 98</td>
<td>I-10 Daphne</td>
<td>End of 4-lane near Fairhope</td>
</tr>
<tr>
<td>US 231</td>
<td>FL State Line (via AL 210 Dothan Circle)</td>
<td>End of 4-lane N. of Wetumpka</td>
</tr>
<tr>
<td>US 231</td>
<td>Arab</td>
<td>TN State Line</td>
</tr>
<tr>
<td>US 280</td>
<td>US 31 Mountain Brook</td>
<td>AL 22 Alexander City</td>
</tr>
<tr>
<td>US 280</td>
<td>I-80 Opelika</td>
<td>GA State Line Phenix City</td>
</tr>
<tr>
<td>US 431</td>
<td>AL 210 Dothan</td>
<td>AL 173 Headland</td>
</tr>
<tr>
<td>US 431</td>
<td>I-20 Anniston</td>
<td>AL 79 N. Int. Columbus City (via I-59—AL 77 Gadsden)</td>
</tr>
<tr>
<td>US 431</td>
<td>CR 8 New Hope</td>
<td>TN State Line</td>
</tr>
<tr>
<td>AL 21</td>
<td>US 31 Almore</td>
<td>I-65 N. of Atmore</td>
</tr>
<tr>
<td>AL 21</td>
<td>US 431 Anniston</td>
<td>Jacksonville</td>
</tr>
<tr>
<td>AL 67</td>
<td>I-65 Priceville</td>
<td>US 72 Alt. W. of Decatur</td>
</tr>
<tr>
<td>AL 79</td>
<td>I-59 Birmingham</td>
<td>I-65 N. Int. Montgomery</td>
</tr>
<tr>
<td>AL 210</td>
<td>Dothan Circle (Beltyway)</td>
<td>I-65 N. Int. Montgomery</td>
</tr>
<tr>
<td>AL 248</td>
<td>US 84 Enterprise</td>
<td>Ft. Rucker</td>
</tr>
<tr>
<td>AL 249</td>
<td>Ft. Rucker</td>
<td>US 231</td>
</tr>
</tbody>
</table>

Note: Routes added to the Interstate System under 23 U.S.C. 139(c) are included only to the extent designated above.

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 60</td>
<td>I-10 Brenda</td>
<td>I-17 Phoenix</td>
</tr>
<tr>
<td>US 60</td>
<td>US 87 Prescot</td>
<td>I-40 Ash Fork</td>
</tr>
<tr>
<td>US 60</td>
<td>AZ 87 Mesa</td>
<td>AZ 70 Globe</td>
</tr>
<tr>
<td>US 60</td>
<td>AZ 260 E. Int. Show Low</td>
<td>NM State Line</td>
</tr>
<tr>
<td>US 64</td>
<td>US 160 Tecos</td>
<td>NM State Line</td>
</tr>
<tr>
<td>US 70</td>
<td>US 60 Globe</td>
<td>NM State Line</td>
</tr>
<tr>
<td>US 80</td>
<td>AZ 92 Bisbee</td>
<td>NM State Line</td>
</tr>
<tr>
<td>US 89</td>
<td>I-10 Tucson</td>
<td>US 60 Florence Junction</td>
</tr>
<tr>
<td>US 97</td>
<td>US 89 Prescott</td>
<td>I-17 Cordes Junction</td>
</tr>
<tr>
<td>AZ 77</td>
<td>US 60 Show Low</td>
<td>I-40 Holbrook</td>
</tr>
<tr>
<td>AZ 84</td>
<td>I-10 Picacho</td>
<td>AZ 87 E. of Eloy</td>
</tr>
<tr>
<td>AZ 85</td>
<td>I-8 Gila Bend (via I-88)</td>
<td>I-10 Buckeye (via AZ 65 Spur)</td>
</tr>
<tr>
<td>AZ 87</td>
<td>US 84 E. of Eloy</td>
<td>US 387 W. of Coolidge</td>
</tr>
<tr>
<td>AZ 87</td>
<td>AZ 587 Chandler</td>
<td>US 60 Mesa</td>
</tr>
<tr>
<td>AZ 90</td>
<td>I-10 Benson</td>
<td>AZ 92 Sierra Vista</td>
</tr>
<tr>
<td>AZ 169</td>
<td>AZ 69 Dewey</td>
<td>I-17 S. of Camp Verde</td>
</tr>
<tr>
<td>AZ 189</td>
<td>Mexican Border</td>
<td>I-19 Nogales</td>
</tr>
<tr>
<td>AZ 287</td>
<td>AZ 87 Coolidge</td>
<td>US 89 Florence</td>
</tr>
<tr>
<td>AZ 360</td>
<td>I-10 Phoenix</td>
<td>AZ 87 Mesa</td>
</tr>
<tr>
<td>AZ 387</td>
<td>I-10 Exit 185</td>
<td>AZ 87 W. of Coolidge</td>
</tr>
<tr>
<td>AZ 587 (Old AZ 93)</td>
<td>I-10 Exit 175</td>
<td>AZ 87 Chandler</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 60</td>
<td>I-80 Bus Loop (US 50—CA 51)</td>
<td>US 80 Sacramento</td>
</tr>
<tr>
<td>US 60</td>
<td>US 395 Bishop</td>
<td>NV State Line</td>
</tr>
<tr>
<td>US 50</td>
<td>US 80 W. of Sacramento</td>
<td>Sly Park Rd. Pollock Pines</td>
</tr>
<tr>
<td>US 95</td>
<td>I-40 near Needles</td>
<td>NV State Line</td>
</tr>
<tr>
<td>US 101</td>
<td>I-5 Los Angeles</td>
<td>I-80 San Francisco</td>
</tr>
<tr>
<td>US 395</td>
<td>I-15 S. of Victorville</td>
<td>NV State Line</td>
</tr>
<tr>
<td>CA 2</td>
<td>I-5</td>
<td>I-210 Los Angeles</td>
</tr>
<tr>
<td>CA 10 (San Bern. Fwy.)</td>
<td>US 101</td>
<td>I-5 Los Angeles</td>
</tr>
<tr>
<td>CA 14</td>
<td>I-5 near San Fernando</td>
<td>US 395 Ridgecrest</td>
</tr>
<tr>
<td>CA 15</td>
<td>I-5</td>
<td>I-805 San Diego</td>
</tr>
<tr>
<td>CA 22</td>
<td>I-405 Seal Beach</td>
<td>CA 55 Orange</td>
</tr>
<tr>
<td>Route</td>
<td>From</td>
<td>To</td>
</tr>
<tr>
<td>-------</td>
<td>------</td>
<td>----</td>
</tr>
<tr>
<td>CA 24</td>
<td>I-580 Oakland</td>
<td>I-680 Walnut Creek</td>
</tr>
<tr>
<td>CA 52</td>
<td>I-5</td>
<td>I-805 San Diego</td>
</tr>
<tr>
<td>CA 55</td>
<td>I-405 Costa Mesa</td>
<td>CA 91 Anaheim</td>
</tr>
<tr>
<td>CA 57</td>
<td>I-5 Santa Ana</td>
<td>I-210 Pomona</td>
</tr>
<tr>
<td>CA 58</td>
<td>CA 99 Bakersfield</td>
<td>I-15 Barstow</td>
</tr>
<tr>
<td>CA 60</td>
<td>I-10 Los Angeles</td>
<td>I-10 Beaumont</td>
</tr>
<tr>
<td>CA 71</td>
<td>I-210</td>
<td>CA 60 Pomona</td>
</tr>
<tr>
<td>CA 78</td>
<td>I-5 Carlsbad</td>
<td>I-15 Escondido</td>
</tr>
<tr>
<td>CA 85</td>
<td>I-280 near San Jose</td>
<td>CA 101 Mountain</td>
</tr>
<tr>
<td>CA 91</td>
<td>I-110 Los Angeles</td>
<td>I-215/CA 60 Riverside</td>
</tr>
<tr>
<td>CA 92</td>
<td>I-280 San Mateo</td>
<td>I-880 Hayward</td>
</tr>
<tr>
<td>CA 94</td>
<td>I-5</td>
<td>CA 125 San Diego</td>
</tr>
<tr>
<td>CA 99</td>
<td>I-5 Wheeler Ridge</td>
<td>I-60 Bus. Loop/US 50 Sacramento</td>
</tr>
<tr>
<td>CA 110</td>
<td>I-10</td>
<td>US 101 Los Angeles</td>
</tr>
<tr>
<td>CA 118</td>
<td>I-405 Los Angeles</td>
<td>I-210 San Fernando</td>
</tr>
<tr>
<td>CA 125</td>
<td>CA 94</td>
<td>I-8 La Mesa</td>
</tr>
<tr>
<td>CA 133</td>
<td>I-405</td>
<td>I-5 near El Toro</td>
</tr>
<tr>
<td>CA 134</td>
<td>US 101 Los Angeles</td>
<td>I-210 Pasadena</td>
</tr>
<tr>
<td>CA 163</td>
<td>I-8</td>
<td>I-15 San Diego</td>
</tr>
<tr>
<td>CA 170</td>
<td>US 101</td>
<td>I-5 Los Angeles</td>
</tr>
<tr>
<td>CA 198</td>
<td>I-5 Coalinga</td>
<td>CA 99 Visalia</td>
</tr>
<tr>
<td>CA 215</td>
<td>I-15 N. of Temecula</td>
<td>CA 60 Riverside</td>
</tr>
<tr>
<td>CA 905 (Old CA 117)</td>
<td>I-5</td>
<td>I-805 San Diego</td>
</tr>
</tbody>
</table>

**Note:** I-580 Oakland—All vehicles over 4 1/2 tons (except passenger buses and stages) are prohibited on MacArthur Freeway between Grand Avenue and the north city limits of San Leandro. (Excepted under 23 CFR 658.11(f)).

**Colorado**

No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

**Connecticut**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>CT 2</td>
<td>Columbus Blvd. Hartford</td>
<td>I-395 Norwich</td>
</tr>
<tr>
<td>CT 8</td>
<td>I-95 Bridgeport</td>
<td>US 44 Winsted</td>
</tr>
<tr>
<td>CT 9</td>
<td>I-95 Old Saybrook</td>
<td>I-91 Cromwell</td>
</tr>
<tr>
<td>CT 20</td>
<td>CT 401 Bradley Int. Airport, Windsor Locks</td>
<td>I-91 Windsor</td>
</tr>
<tr>
<td>CT 401</td>
<td>CT 20 Windsor Locks</td>
<td>Bradley Int. Airport Access Rd., Windsor Lks</td>
</tr>
</tbody>
</table>

**Delaware**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 13</td>
<td>MD State Line</td>
<td>I-495 S. Int. Wilming.</td>
</tr>
<tr>
<td>US 113</td>
<td>MD State Line</td>
<td>US 13 Dover</td>
</tr>
</tbody>
</table>

**District of Columbia**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anastasia</td>
<td>I-295</td>
<td>MD State Line Cheverly MD</td>
</tr>
</tbody>
</table>

**Florida**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 27</td>
<td>FL Tumpke Ext</td>
<td>FL 84 Andytown</td>
</tr>
<tr>
<td>US 27</td>
<td>South Bay</td>
<td>I-75 Ocala</td>
</tr>
<tr>
<td>US 301</td>
<td>SR 24 Waldo</td>
<td>I-10</td>
</tr>
<tr>
<td>FL 24</td>
<td>SR 331 Gainesville</td>
<td>US 310 Waldo</td>
</tr>
<tr>
<td>FL 85</td>
<td>FL 397 Valparaiso</td>
<td>I-10 near Crestview</td>
</tr>
<tr>
<td>FL 202</td>
<td>I-95 Jacksonville</td>
<td>FL A-1-A</td>
</tr>
<tr>
<td>FL 263</td>
<td>US 90 W. of Tallahassee</td>
<td>I-10</td>
</tr>
<tr>
<td>FL 331</td>
<td>I-75 S. of Gainesville</td>
<td>FL 24</td>
</tr>
<tr>
<td>FL 387</td>
<td>Entrance Eglin AFB</td>
<td>I-85 Valparaiso</td>
</tr>
<tr>
<td>FL 528–FL 407</td>
<td>I-4 Orlando</td>
<td>Cape Canaveral</td>
</tr>
<tr>
<td>FL 20th St.</td>
<td>I-95 Jacksonville</td>
<td>Adams St. near Matthews Bridge</td>
</tr>
<tr>
<td>FL Tumpke</td>
<td>S. End of Homestead Extension</td>
<td>I-75 Wildwood</td>
</tr>
</tbody>
</table>

**Georgia**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 19</td>
<td>FL State Line</td>
<td>US 82 Albany</td>
</tr>
<tr>
<td>US 23/GA 365</td>
<td>I-985 near Gainesville</td>
<td>US 441 near Corolla</td>
</tr>
<tr>
<td>US 23</td>
<td>I-16</td>
<td>N. of Statesboro</td>
</tr>
<tr>
<td>US 27</td>
<td>GA 53 Rome</td>
<td>US 278 Cedartown</td>
</tr>
<tr>
<td>US 27</td>
<td>FL State Line</td>
<td>GA 38 Bainbridge</td>
</tr>
<tr>
<td>US 27 Alternate GA 85</td>
<td>I-185 Columbus</td>
<td>Ellerslie</td>
</tr>
<tr>
<td>US 29</td>
<td>US 78 W. Interchange</td>
<td>US 129/441 E. Interchange Athens</td>
</tr>
<tr>
<td>US 41</td>
<td>I-75 W. of Morrow</td>
<td>Near Barnesville</td>
</tr>
<tr>
<td>US 41</td>
<td>GA 5 Connector</td>
<td>County Road 633 Emerson</td>
</tr>
<tr>
<td>US 76</td>
<td>I-75 Dalton</td>
<td>US 411 Chatsworth</td>
</tr>
<tr>
<td>US 76</td>
<td>US 13</td>
<td>GA 138 Monroe</td>
</tr>
<tr>
<td>US 78/GA 410</td>
<td>Valleybrook Rd.</td>
<td>GA 10 Stone Mountain</td>
</tr>
<tr>
<td>US 78/GA 10</td>
<td>Stone Mountain</td>
<td>Monroe Bypass</td>
</tr>
<tr>
<td>US 80/GA 22</td>
<td>Freeway</td>
<td>GA 85 Columbus</td>
</tr>
<tr>
<td>US 82/GA 520</td>
<td>Dawson</td>
<td>I-95 Exit 6 Brunswick</td>
</tr>
<tr>
<td>US 84/GA 38</td>
<td>Alabama State Line</td>
<td>I-75</td>
</tr>
<tr>
<td>US 84/GA 38</td>
<td>GA 520 Waycross</td>
<td>GA 32 Patterson</td>
</tr>
<tr>
<td>US 129</td>
<td>I-16</td>
<td>Gray</td>
</tr>
<tr>
<td>US 129</td>
<td>GA 247 Connector</td>
<td>I-75 Macon</td>
</tr>
<tr>
<td>US 129/GA 11</td>
<td>I-85</td>
<td>I-985</td>
</tr>
<tr>
<td>US 280/GA 520</td>
<td>Alabama State Line</td>
<td>Dawson</td>
</tr>
<tr>
<td>US 319/GA 35</td>
<td>US 19/GA 300</td>
<td>US 82/GA 520 Tifton</td>
</tr>
<tr>
<td>US 411–US 41</td>
<td>Thomasville</td>
<td>US 27 Rome</td>
</tr>
<tr>
<td>US 441/GA 31</td>
<td>US 82/GA 520 Pear- son</td>
<td>I-75 near Emerson</td>
</tr>
<tr>
<td>US 441/GA 24</td>
<td></td>
<td>GA 135 Douglas</td>
</tr>
<tr>
<td>US 441/GA 15</td>
<td>US 27 Fort Oglethorpe</td>
<td>GA 22 Milledgeville</td>
</tr>
<tr>
<td>US 27 Fort Oglethorpe</td>
<td>GA 2</td>
<td>I-85</td>
</tr>
<tr>
<td>US 27 Fort Oglethorpe</td>
<td>US 27 Fort Oglethorpe</td>
<td>I-75</td>
</tr>
</tbody>
</table>
**Federal Highway Administration, DOT**

**Pt. 658, App. A**

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways]

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>GA 5 Connector</td>
<td>US 41.</td>
<td>US 52</td>
</tr>
<tr>
<td>GA 6 20</td>
<td>GA 6 Bypass near Dallas.</td>
<td>US 65</td>
</tr>
<tr>
<td>GA 6 Bypass</td>
<td>E. of Dallas</td>
<td>W. of Dallas.</td>
</tr>
<tr>
<td>GA 10 Loop</td>
<td>E. and S. Bypass in Athens.</td>
<td>US 15</td>
</tr>
<tr>
<td>GA 21</td>
<td>I-69 Montezuma</td>
<td>I-95 Exit 8.</td>
</tr>
<tr>
<td>GA 25</td>
<td>GA 520</td>
<td>GA 25 Spur.</td>
</tr>
<tr>
<td>GA 53</td>
<td>Rome</td>
<td>I-75 Calhoun.</td>
</tr>
<tr>
<td>GA 61</td>
<td>I-20</td>
<td>GA 166 near Carrollton.</td>
</tr>
<tr>
<td>GA 85</td>
<td>Fayetteville</td>
<td>I-75</td>
</tr>
<tr>
<td>GA 138</td>
<td>I-20 Conyers</td>
<td>US 78 Monroe.</td>
</tr>
<tr>
<td>GA 166</td>
<td>GA 61</td>
<td>End of 4-lane section of W. GA 1</td>
</tr>
<tr>
<td>GA 247C</td>
<td>I-75</td>
<td>GA 247 Warner Robins.</td>
</tr>
<tr>
<td>GA 300</td>
<td>US 82 Albany</td>
<td>I-75 near Cordele.</td>
</tr>
<tr>
<td>GA 400</td>
<td>I-285 near Atlanta</td>
<td>GA 60.</td>
</tr>
<tr>
<td>GA 515</td>
<td>I-575</td>
<td>Blairsville.</td>
</tr>
<tr>
<td>GA 520</td>
<td>I-95</td>
<td>GA 25.</td>
</tr>
</tbody>
</table>

**Note:** Atlanta area—Interstate highways within the I-285 beltway are not available to through trucks with more than 6 wheels because of construction.

**Hawaii**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>HI 61</td>
<td>HI 98 (Vineyard Boulevard)</td>
<td>Kawaiina Bridge Kailua.</td>
</tr>
<tr>
<td>HI 63</td>
<td>HI 92 (Nimitz Hwy.)</td>
<td>Kailua.</td>
</tr>
<tr>
<td>HI 64</td>
<td>Sand Island Park</td>
<td>HI 92 (Nimitz Hwy.).</td>
</tr>
<tr>
<td>HI 72</td>
<td>61 Kailua/Waimanalo Junction.</td>
<td>AI Akakia.</td>
</tr>
<tr>
<td>HI 78</td>
<td>H-1 Middle St</td>
<td>HI 99 (Kamehameha Hwy.)</td>
</tr>
<tr>
<td>HI 83</td>
<td>HI 99 Weed Junction</td>
<td>HI 61 (Kalanianoale Hwy.).</td>
</tr>
<tr>
<td>HI 92</td>
<td>Pearl Harbor/Main Gate</td>
<td>Kalakaua Avenue.</td>
</tr>
<tr>
<td>HI 93</td>
<td>Beginning of H-1</td>
<td>Makaha Bridge.</td>
</tr>
<tr>
<td>HI 95</td>
<td>H-1</td>
<td>Barbers Point Harbor.</td>
</tr>
<tr>
<td>HI 99</td>
<td>Pearl Harbor Int.</td>
<td>HI 83 Weed Junction.</td>
</tr>
</tbody>
</table>

**Idaho**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 2</td>
<td>Dover</td>
<td>US 26 N. Int. Idaho Falls.</td>
</tr>
<tr>
<td>US 2</td>
<td>US 95 Bonners Ferry</td>
<td>I-84 W. Caldwell Int. Caldwell.</td>
</tr>
<tr>
<td>US 20/26</td>
<td>OR State Line</td>
<td>I-84 The Montana.</td>
</tr>
<tr>
<td>US 20</td>
<td>I-84 Mountain Home</td>
<td>MT State Line.</td>
</tr>
<tr>
<td>US 26</td>
<td>I-84 Blackfoot</td>
<td>I-15 Virginia.</td>
</tr>
<tr>
<td>US 30</td>
<td>US 95 Fruitland</td>
<td>WV State Line.</td>
</tr>
<tr>
<td>US 89</td>
<td>UT State Line</td>
<td>US 30 Montpelier.</td>
</tr>
<tr>
<td>US 91</td>
<td>UT State Line</td>
<td>I-15 Virginia.</td>
</tr>
<tr>
<td>US 93</td>
<td>NV State Line</td>
<td>Arco.</td>
</tr>
</tbody>
</table>

**Illinois**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 36</td>
<td>IL 100 NW. of Winchester.</td>
<td>I-55 Springfield.</td>
</tr>
<tr>
<td>US 50</td>
<td>US 50 BR E. of Lawrenceville.</td>
<td>IN State Line.</td>
</tr>
<tr>
<td>US 67</td>
<td>IL 92 Rock Island</td>
<td>IA State Line.</td>
</tr>
<tr>
<td>IL 6</td>
<td>I-74/474 Peoria</td>
<td>IL 88 N. of Peoria.</td>
</tr>
<tr>
<td>IL 53</td>
<td>Army Trail Rd.</td>
<td>IL 68 Arlington Heights.</td>
</tr>
<tr>
<td>IL 92</td>
<td>I-280 Rock Island</td>
<td>US 67 Rock Island.</td>
</tr>
<tr>
<td>IL 338</td>
<td>IL 57 Fall Creek</td>
<td>US 24 NE. of Quincy.</td>
</tr>
<tr>
<td>IL 994</td>
<td>IL 1 Goodmorow</td>
<td>I-80/4/294 S. Holland.</td>
</tr>
</tbody>
</table>

**Indiana**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 6</td>
<td>NE State Line</td>
<td>I-80 Council Bluffs.</td>
</tr>
<tr>
<td>US 6</td>
<td>IA 48 Lewis</td>
<td>I-80 N. of Wilton.</td>
</tr>
<tr>
<td>US 6</td>
<td>IA 130 Davenport</td>
<td>I-74.</td>
</tr>
<tr>
<td>US 18</td>
<td>WCL Rock Valley</td>
<td>WI State Line.</td>
</tr>
<tr>
<td>US 20</td>
<td>I-29 Sioux City</td>
<td>IL State Line.</td>
</tr>
<tr>
<td>US 30</td>
<td>Missouri River Bridge (NE).</td>
<td>IL State Line</td>
</tr>
<tr>
<td>US 34</td>
<td>Missouri River Bridge (NE).</td>
<td>IL State Line</td>
</tr>
<tr>
<td>US 52</td>
<td>US 61 Dubuque</td>
<td>IA 386 N. Int.</td>
</tr>
<tr>
<td>US 52</td>
<td>IA 3 Luxembourg</td>
<td>US 18 E. Int.</td>
</tr>
<tr>
<td>US 52</td>
<td>ECL Calmar</td>
<td>Burr Oak.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 2 Shenandoah</td>
<td>IA 184.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 92 Carson</td>
<td>US 6 N. Int.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 83 Avoca</td>
<td>US 30 Denison.</td>
</tr>
<tr>
<td>US 59</td>
<td>US 20 Holstein</td>
<td>IA 3.</td>
</tr>
</tbody>
</table>

**Iowa**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 6</td>
<td>NE State Line</td>
<td>I-80 Council Bluffs.</td>
</tr>
<tr>
<td>US 6</td>
<td>IA 48 Lewis</td>
<td>I-80 N. of Wilton.</td>
</tr>
<tr>
<td>US 6</td>
<td>IA 130 Davenport</td>
<td>I-74.</td>
</tr>
<tr>
<td>US 18</td>
<td>WCL Rock Valley</td>
<td>WI State Line.</td>
</tr>
<tr>
<td>US 20</td>
<td>I-29 Sioux City</td>
<td>IL State Line.</td>
</tr>
<tr>
<td>US 30</td>
<td>Missouri River Bridge (NE).</td>
<td>IL State Line</td>
</tr>
<tr>
<td>US 34</td>
<td>Missouri River Bridge (NE).</td>
<td>IL State Line</td>
</tr>
<tr>
<td>US 52</td>
<td>US 61 Dubuque</td>
<td>IA 386 N. Int.</td>
</tr>
<tr>
<td>US 52</td>
<td>IA 3 Luxembourg</td>
<td>US 18 E. Int.</td>
</tr>
<tr>
<td>US 52</td>
<td>ECL Calmar</td>
<td>Burr Oak.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 2 Shenandoah</td>
<td>IA 184.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 92 Carson</td>
<td>US 6 N. Int.</td>
</tr>
<tr>
<td>US 59</td>
<td>IA 83 Avoca</td>
<td>US 30 Denison.</td>
</tr>
<tr>
<td>US 59</td>
<td>US 20 Holstein</td>
<td>IA 3.</td>
</tr>
</tbody>
</table>
The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 59</td>
<td>IA 10 E. Int. of Sutherland</td>
<td>IA 18 Sanborn</td>
</tr>
<tr>
<td>US 61</td>
<td>Des Moines River Bridge (MO) Keokuk</td>
<td>WI State Line</td>
</tr>
<tr>
<td>US 63</td>
<td>MO State Line</td>
<td>IA 146 New Sharon, NCL Chester</td>
</tr>
<tr>
<td>US 63</td>
<td>I-80 Malcom</td>
<td>IA 105 Northwood, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 65</td>
<td>US 34 N. Int. Lucas</td>
<td>IA 117/330, Sheffield</td>
</tr>
<tr>
<td>US 65</td>
<td>US 30 Colo</td>
<td>IA 96, IA 925 W. Int. IA 16 Postville</td>
</tr>
<tr>
<td>US 65</td>
<td>SCL Mason City</td>
<td>IA 105 Northwood, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 67</td>
<td>IL State Line Dav</td>
<td>IA 105 Northwood, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 69</td>
<td>SCL Lamoni</td>
<td>IA 105 Lake Mills, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 69</td>
<td>US 6/55 Des Moines</td>
<td>IA 105 Lake Mills, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 71</td>
<td>MO State Line</td>
<td>IA 105 Lake Mills, 4.64 Miles N. of Clinton</td>
</tr>
<tr>
<td>US 71</td>
<td>US 20 Early</td>
<td>MN State Line</td>
</tr>
<tr>
<td>US 75</td>
<td>I-29 N. Int. Sioux</td>
<td>IA 9 E. Int.</td>
</tr>
<tr>
<td>US 77</td>
<td>NE State Line</td>
<td>IA 9 W. Int. S. of Waubee</td>
</tr>
<tr>
<td>US 136</td>
<td>Des Moines River Bridge (MO)</td>
<td>IA 30 W. of Mt. Ayr</td>
</tr>
<tr>
<td>US 151</td>
<td>I-80 E. of Williamsburg</td>
<td>IA 92 Winterset, IA 141 Perry, IA 2</td>
</tr>
<tr>
<td>US 169</td>
<td>SCL Ainslie</td>
<td>IA 141 Perry, IA 2</td>
</tr>
<tr>
<td>US 169</td>
<td>SCL Desoto</td>
<td>IA 141 Perry, IA 2</td>
</tr>
<tr>
<td>US 169</td>
<td>US 6 Adel</td>
<td>IA 2, IA 2</td>
</tr>
<tr>
<td>US 169</td>
<td>US 30 Beaver</td>
<td>IA 3, IA 3</td>
</tr>
<tr>
<td>US 169</td>
<td>US 18 Algona</td>
<td>IA 9 W. Int. S. of Waubee</td>
</tr>
<tr>
<td>US 218</td>
<td>US 136 Keokuk</td>
<td>IA 92 Ainsworth, IA 227, IA 78 W. Int.</td>
</tr>
</tbody>
</table>
### Federal Highway Administration, DOT

**Pt. 658, App. A**

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways]

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>IA 210</td>
<td>IA 17 N. Int.</td>
<td>ECL Slater.</td>
</tr>
<tr>
<td>IA 215</td>
<td>Union</td>
<td>IA 175 Eldora.</td>
</tr>
<tr>
<td>IA 221</td>
<td>I-35</td>
<td>Roland.</td>
</tr>
<tr>
<td>IA 227</td>
<td>US 218</td>
<td>Stacyville.</td>
</tr>
<tr>
<td>IA 244</td>
<td>I-80</td>
<td>IA 191 Neola.</td>
</tr>
<tr>
<td>IA 249</td>
<td>IA 78</td>
<td>Winfield.</td>
</tr>
<tr>
<td>IA 272</td>
<td>US 63</td>
<td>Elma.</td>
</tr>
<tr>
<td>IA 273</td>
<td>WCL Drakesville</td>
<td>US 63.</td>
</tr>
<tr>
<td>IA 276</td>
<td>US 71</td>
<td>IA 327 Orleans.</td>
</tr>
<tr>
<td>IA 279</td>
<td>US 30</td>
<td>Atkins.</td>
</tr>
<tr>
<td>IA 281</td>
<td>WCL Fairbank</td>
<td>IA 150.</td>
</tr>
<tr>
<td>IA 283</td>
<td>Brandon</td>
<td>IA 150.</td>
</tr>
<tr>
<td>IA 287</td>
<td>US 30</td>
<td>Newhall.</td>
</tr>
<tr>
<td>IA 290</td>
<td>Modale</td>
<td>I-29.</td>
</tr>
<tr>
<td>IA 316</td>
<td>IA 5 Pleasantville</td>
<td>NCL Runnels.</td>
</tr>
<tr>
<td>IA 363</td>
<td>IA 101</td>
<td>Urbana.</td>
</tr>
<tr>
<td>IA 401</td>
<td>US 6</td>
<td>Johnston.</td>
</tr>
<tr>
<td>IA 405</td>
<td>Lone Tree</td>
<td>IA 22.</td>
</tr>
<tr>
<td>IA 406</td>
<td>US 34</td>
<td>US 61 Burlington.</td>
</tr>
<tr>
<td>IA 415</td>
<td>US 6 Des Moines</td>
<td>IA 160.</td>
</tr>
<tr>
<td>IA 927</td>
<td>IA 38 Wilton</td>
<td>IA 260 Davenport.</td>
</tr>
<tr>
<td>IA 928</td>
<td>US 20/IA 17</td>
<td>US 20 Williams.</td>
</tr>
<tr>
<td>IA 930</td>
<td>US 30</td>
<td>Ames.</td>
</tr>
<tr>
<td>IA 939</td>
<td>IA 150 Independence</td>
<td>IA 187.</td>
</tr>
<tr>
<td>IA 964</td>
<td>IA 5/92</td>
<td>IA 975/14 Knoxville.</td>
</tr>
<tr>
<td>IA 967</td>
<td>US 20</td>
<td>Farley.</td>
</tr>
<tr>
<td>IA 975</td>
<td>IA 5/92</td>
<td>IA 964/14 Knoxville.</td>
</tr>
<tr>
<td>University</td>
<td>US 20 SW. of Cedar</td>
<td>US 218 Cedar Falls.</td>
</tr>
</tbody>
</table>

**Kans**

No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 25/421</td>
<td>KY 418 (via KY 4)</td>
<td>Nandino Blvd./Lexington.</td>
</tr>
</tbody>
</table>

**Kentucky**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 41</td>
<td>Pennyrile Parkway</td>
<td>KY 11.</td>
</tr>
<tr>
<td>US 41</td>
<td>Tennessee State Line.</td>
<td>KY 12.</td>
</tr>
</tbody>
</table>

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways]
### The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways:

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>KY 15 Spur</td>
<td>KY 15/191 Campton</td>
<td>Mountain Parkway Exit 43</td>
</tr>
<tr>
<td>KY 21</td>
<td>I-75 Exit 76 W. of</td>
<td>US 25 Berea</td>
</tr>
<tr>
<td>KY 35</td>
<td>US 127 Bromley</td>
<td>I-71 Exit 57</td>
</tr>
<tr>
<td>KY 55</td>
<td>Cumberland Parkway</td>
<td>US 150 Springfield</td>
</tr>
<tr>
<td>KY 61</td>
<td>KY 144</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 69</td>
<td>KY 525</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 70/90</td>
<td>KY 17 Exit 53</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 79</td>
<td>KY 15/191 Brandy</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 80</td>
<td>KY 80 Byp. E. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 80</td>
<td>KY 15 N. of Hazard</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 80/US</td>
<td>S. ramps Daniel</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Boone Parkway EXIT 20</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 80 Byp</td>
<td>US 27 Somerset</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 90</td>
<td>KY 61 Burkesville</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 114</td>
<td>US 460 E. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 118</td>
<td>Int. US 421/KY 80</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 124</td>
<td>KY 441</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 151</td>
<td>US 127 N. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 180</td>
<td>I-64 Exit 185</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 192</td>
<td>I-75 Exit 38</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 259</td>
<td>Western Kentucky Park-</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>iway Exit 107</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 418</td>
<td>US 25/421 Lexington</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 446</td>
<td>US 31W Bowling Green</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 448</td>
<td>KY 144</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 555</td>
<td>US 150 Springfield</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 676</td>
<td>US 127 Frankfort</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 686</td>
<td>US 460 M. Sterting</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 876</td>
<td>I-75 Exit 87 Rich-</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>mond</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 922</td>
<td>KY 4 Lexington</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 1051</td>
<td>KY 448 S. of Brandy</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 1682</td>
<td>US 68 W. of Hopkin-</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>ksville</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>KY 1958</td>
<td>KY 627 S. of Win-</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>chester</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td>Audubon</td>
<td>Kentucky Parkways</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Parkway Exit 77 Hender-</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>son</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Blue Grass Parkway</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>KY 115 Exit 83 E. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Elizabethtown</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>I-75 Exit 83 N. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Hays</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>US 25 N. of London</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>I-65 Exit 20 S.E. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Bowling Green</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>I-24 Exit 25 E. of</td>
<td>Kentucky Parkways</td>
</tr>
<tr>
<td></td>
<td>Calvert City</td>
<td>Kentucky Parkways</td>
</tr>
</tbody>
</table>

### Note:
- KY 23 crosses the Ohio River between South Portsmouth, KY and Portsmouth, OH via the U.S. Grant Bridge. Although the state line is near the Ohio shoreline, putting most of the bridge in Kentucky, the terminal point for US 23 is listed as the south end of the bridge because the bridge is maintained by the Ohio DOT.

### Louisiana

No additional routes have been federally designated; STAAA dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

### Maine

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 1</td>
<td>I-95 Brunswick</td>
<td>Old US 1 (Vicinity of Congress St.) Bath.</td>
</tr>
<tr>
<td></td>
<td>I-295 South Portland</td>
<td>US 1 Scarborough</td>
</tr>
<tr>
<td></td>
<td>I-95 South Portland</td>
<td>US 1 South Portland</td>
</tr>
</tbody>
</table>

### Maryland

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 13</td>
<td>VA State Line</td>
<td>DE State Line</td>
</tr>
<tr>
<td>US 15</td>
<td>US 13/340 Frederick</td>
<td>MD 26 Frederick</td>
</tr>
<tr>
<td>US 40</td>
<td>US 15/340 Frederick</td>
<td>MD 702/707 Frederick</td>
</tr>
<tr>
<td>US 48</td>
<td>WV State Line</td>
<td>I-700/230 Frederick</td>
</tr>
<tr>
<td>US 50</td>
<td>MD 201/Keenworth Ave.</td>
<td>US 13 Salisbury</td>
</tr>
<tr>
<td>US 301</td>
<td>VA State Line</td>
<td>DE State Line</td>
</tr>
<tr>
<td>US 340</td>
<td>MD 67 Waverly</td>
<td>MD 15/40 Frederick</td>
</tr>
<tr>
<td>MD 3</td>
<td>US 50/301 Bowie</td>
<td>I-695/695/695 Glen Burnie</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Burnie</td>
</tr>
<tr>
<td>MD 4</td>
<td>I-95/695 Forestville</td>
<td>US 301 Upper Marlboro</td>
</tr>
<tr>
<td></td>
<td></td>
<td>MD 695/695/695 Glen Burnie</td>
</tr>
<tr>
<td>MD 10</td>
<td>MD 648 Glen Burnie</td>
<td>MD 695/695/695 Glen Burnie</td>
</tr>
<tr>
<td></td>
<td></td>
<td>MD 695/695/695 Glen Burnie</td>
</tr>
<tr>
<td>MD 201</td>
<td>D.C. Line</td>
<td>US 50 Cheverly</td>
</tr>
<tr>
<td>MD 295</td>
<td>I-695 Lithiumc</td>
<td>I-95/695 Baltimore</td>
</tr>
<tr>
<td>MD 695</td>
<td>I-695/MD 3 Glen Burnie</td>
<td>I-695/695 Kenwood</td>
</tr>
<tr>
<td>MD 702</td>
<td>Old Eastern Avenue</td>
<td>MD 695 Essex</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: I-895/695/695/695</td>
</tr>
</tbody>
</table>

### Massachusetts

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 3</td>
<td>I-95 Burlington</td>
<td>NH State Line</td>
</tr>
<tr>
<td>MA 2</td>
<td>I-190 Leominster</td>
<td>MA 495 Littelton</td>
</tr>
<tr>
<td>MA 24</td>
<td>I-195 Fall River</td>
<td>MA 193 Randolph</td>
</tr>
<tr>
<td>MA 140</td>
<td>I-195 New Bedford</td>
<td>MA 24 Taunton</td>
</tr>
</tbody>
</table>
### Federal Highway Administration, DOT

The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.

#### Michigan

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-75 Conn</td>
<td>US 24BR Pontiac</td>
<td>I-75</td>
</tr>
<tr>
<td>US 2</td>
<td>WI State Line</td>
<td>WI State Line S. of Crystal Falls.</td>
</tr>
<tr>
<td>US 2</td>
<td>WI State Line Ironwood</td>
<td>I-75 St. Ignace.</td>
</tr>
<tr>
<td>US 8</td>
<td>WI State Line Iron</td>
<td>Mountain</td>
</tr>
<tr>
<td>US 10</td>
<td>Ludington</td>
<td>I-75 S. of Bay City.</td>
</tr>
<tr>
<td>MI 23</td>
<td>OH State Line</td>
<td>I-75 Mackinaw City.</td>
</tr>
<tr>
<td>MI 24</td>
<td>OH State Line</td>
<td>MI 15 Waterford.</td>
</tr>
<tr>
<td>MI 24BR</td>
<td>MI 1 Pontiac</td>
<td>US 24 S. of Pontiac.</td>
</tr>
<tr>
<td>MI 27</td>
<td>IN State Line</td>
<td>I-75 S. of Grayling.</td>
</tr>
<tr>
<td>MI 31</td>
<td>IN State Line</td>
<td>I-75 Mackinaw City.</td>
</tr>
<tr>
<td>MI 33</td>
<td>MI 12 Niles</td>
<td>US 12 Niles.</td>
</tr>
<tr>
<td>MI 41</td>
<td>WI State Line</td>
<td>Houghton.</td>
</tr>
<tr>
<td>MI 45</td>
<td>WI State Line</td>
<td>MI 26 Rockland.</td>
</tr>
<tr>
<td>MI 131</td>
<td>IN State Line</td>
<td>US 31 Petoskey.</td>
</tr>
<tr>
<td>MI 141</td>
<td>WI State Line S. of Crystal Falls.</td>
<td>US 41MI 28.</td>
</tr>
<tr>
<td>MI 13</td>
<td>I-75 Ann Arbor</td>
<td>I-75 Saginaw (via MI 81).</td>
</tr>
<tr>
<td>MI 13</td>
<td>I-75 Kasekawin (via I-75 Conn.)</td>
<td>US 23 Standish.</td>
</tr>
<tr>
<td>MI 14</td>
<td>I-94 Ann Arbor</td>
<td>MI 28 Standish.</td>
</tr>
<tr>
<td>MI 18</td>
<td>US 10</td>
<td>MI 61 Gladwin.</td>
</tr>
<tr>
<td>MI 20</td>
<td>MI 31 New Era</td>
<td>MI 37 White Cloud.</td>
</tr>
<tr>
<td>MI 21</td>
<td>I-96 near Grand Rapids.</td>
<td>I-69 Flint.</td>
</tr>
<tr>
<td>MI 24</td>
<td>I-75 Auburn Hills (via I-75 Conn.)</td>
<td>I-69 Lapeer.</td>
</tr>
<tr>
<td>MI 24</td>
<td>MI 46</td>
<td>MI 81 Caro.</td>
</tr>
<tr>
<td>MI 26</td>
<td>US 45 Rockland</td>
<td>MI 38.</td>
</tr>
<tr>
<td>MI 27</td>
<td>I-75</td>
<td>US 24/151 Escanaba.</td>
</tr>
<tr>
<td>MI 32</td>
<td>Hillman</td>
<td>Alpena.</td>
</tr>
<tr>
<td>MI 33</td>
<td>Mio</td>
<td>Fairview.</td>
</tr>
<tr>
<td>MI 36</td>
<td>US 127 Mason</td>
<td>Dansville.</td>
</tr>
<tr>
<td>MI 37</td>
<td>MI 55</td>
<td>US 31/MI 72 Traverse City.</td>
</tr>
<tr>
<td>MI 37</td>
<td>I-96 Grand Rapids</td>
<td>MI 46 Kent City.</td>
</tr>
<tr>
<td>MI 38</td>
<td>US 45 Otonomagon</td>
<td>US 41 Baraga.</td>
</tr>
<tr>
<td>MI 39</td>
<td>I-75 Lincoln Park</td>
<td>MI 10 Southfield.</td>
</tr>
<tr>
<td>MI 40</td>
<td>MI 89 Allegan</td>
<td>US 31BR/I-196BL Holland.</td>
</tr>
<tr>
<td>MI 43</td>
<td>MI 37 Hastings</td>
<td>US 127 Lansing.</td>
</tr>
<tr>
<td>MI 46</td>
<td>US 131 Howard City</td>
<td>MI 25 Port Sanilac.</td>
</tr>
<tr>
<td>MI 50</td>
<td>MI 43/66 Woodbury</td>
<td>MI 99 Eaton Rapids.</td>
</tr>
<tr>
<td>MI 51</td>
<td>MI 12 Niles</td>
<td>US 12 Clinton.</td>
</tr>
<tr>
<td>MI 52</td>
<td>OH State Line</td>
<td>MI 6 W. of Saginaw.</td>
</tr>
<tr>
<td>MI 52</td>
<td>I-96 Webberville</td>
<td>MI 25 Port Austin.</td>
</tr>
<tr>
<td>MI 53</td>
<td>MI 3 Detroit</td>
<td>MI 25 Port Austin.</td>
</tr>
</tbody>
</table>

#### Minnesota

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 2</td>
<td>NO State Line E.</td>
<td>Grand Forks.</td>
</tr>
<tr>
<td>US 10</td>
<td>CH 11 E. of Moorhead</td>
<td>I-35 Duluth.</td>
</tr>
<tr>
<td>US 59</td>
<td>I-94 N. Int. Fergus Falls</td>
<td>MN 175 Lake Bronson.</td>
</tr>
<tr>
<td>US 61</td>
<td>WI State Line</td>
<td>WI 60 Babaska.</td>
</tr>
<tr>
<td>US 61</td>
<td>I-35 Duluth</td>
<td>CH 2 Two Harbors.</td>
</tr>
<tr>
<td>US 63</td>
<td>MN 58 Red Wing</td>
<td>WI State Line.</td>
</tr>
<tr>
<td>US 71</td>
<td>IA State Line</td>
<td>MN 34 Park Rapids.</td>
</tr>
<tr>
<td>US 75</td>
<td>I-90</td>
<td>US 2 Crookston.</td>
</tr>
<tr>
<td>US 75</td>
<td>MN 175 Hallock</td>
<td>MN 169 Canadian Border.</td>
</tr>
<tr>
<td>US 169</td>
<td>I-94 Brook Park</td>
<td>MN 23 Minnetonka.</td>
</tr>
<tr>
<td>US 212</td>
<td>SD State Line</td>
<td>MN 62 Edina.</td>
</tr>
<tr>
<td>US 218</td>
<td>I-90 Austin</td>
<td>US 14 Owatonna.</td>
</tr>
</tbody>
</table>
The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>MN 1</td>
<td>ND State Line</td>
<td>US 59/MN 32 Thief River Falls.</td>
</tr>
<tr>
<td>MN 5</td>
<td>MN 22 Gaylord</td>
<td>US 212.</td>
</tr>
<tr>
<td>MN 7</td>
<td>US 75 near Odessa Park</td>
<td>MN 100 St. Louis.</td>
</tr>
<tr>
<td>MN 11</td>
<td>MN 32 Greenbush</td>
<td>I-90 MO 14 Wasaeco.</td>
</tr>
<tr>
<td>MN 13</td>
<td>I-90 Fairmont</td>
<td>MN 60.</td>
</tr>
<tr>
<td>MN 15</td>
<td>US 14 New Ulm</td>
<td>MN 19 Winthrop.</td>
</tr>
<tr>
<td>MN 22</td>
<td>MN 109 Wells</td>
<td>US 14/MN 60 Man- kato.</td>
</tr>
<tr>
<td>MN 23</td>
<td>US 75 Pipestone</td>
<td>I-35 near Hinckley.</td>
</tr>
<tr>
<td>MN 24</td>
<td>I-94 Clearwater</td>
<td>US 10 Clear Lake.</td>
</tr>
<tr>
<td>MN 25</td>
<td>I-94 Monticello</td>
<td>US 10 Big Lake.</td>
</tr>
<tr>
<td>MN 27</td>
<td>MN 29 Alexandria</td>
<td>MN 127 Osakis.</td>
</tr>
<tr>
<td>MN 28</td>
<td>SD State Line</td>
<td>I-94/US 71 Sauk Centre.</td>
</tr>
<tr>
<td>MN 32</td>
<td>US 59/MN 1 Thief River Falls.</td>
<td>MN 11 Greenbush.</td>
</tr>
<tr>
<td>MN 33</td>
<td>I-35 Cloquet</td>
<td>US 53 Independence.</td>
</tr>
<tr>
<td>MN 34</td>
<td>US 71 Park Rapids</td>
<td>MN 371 Walker.</td>
</tr>
<tr>
<td>MN 36</td>
<td>I-35W Roseville</td>
<td>MN 95 Oak Park Hts.</td>
</tr>
<tr>
<td>MN 55</td>
<td>MN 28 Glenwood</td>
<td>7th St. N. W. Int. Minneapolis.</td>
</tr>
<tr>
<td>MN 60</td>
<td>IA State Line Bigelow</td>
<td>US 14/169 Mankato.</td>
</tr>
<tr>
<td>MN 62</td>
<td>US 212 Edina</td>
<td>MN 100 Edina.</td>
</tr>
<tr>
<td>MN 65</td>
<td>I-694 Fridley</td>
<td>MN 23 Mora.</td>
</tr>
<tr>
<td>MN 109</td>
<td>I-90 Alden</td>
<td>MN 22 Wells.</td>
</tr>
<tr>
<td>MN 175</td>
<td>US 75 Hallock</td>
<td>US 59.</td>
</tr>
<tr>
<td>MN 210</td>
<td>ND State Line</td>
<td>US 59 W. Int. Fergus Falls.</td>
</tr>
<tr>
<td>MN 210</td>
<td>US 10 Motley</td>
<td>I-35 Carlton.</td>
</tr>
</tbody>
</table>

Mississippi

No additional routes have been federally designated; STAA- dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

Missouri

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 40</td>
<td>I-70 Wentzville</td>
<td>I-270 W. of St. Louis.</td>
</tr>
</tbody>
</table>

Montana

No additional routes have been federally designated; STAA- dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

Nebraska

No additional routes have been federally designated; STAA- dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

Nevada

No additional routes have been federally designated; STAA- dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

New Hampshire

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 3</td>
<td>MA State Line</td>
<td>I-95 Portsmouth.</td>
</tr>
<tr>
<td>US 4</td>
<td>MA State Line</td>
<td>NH 101A Nashua.</td>
</tr>
<tr>
<td>US 5</td>
<td>MA State Line</td>
<td>Exit 6 E. of Durham.</td>
</tr>
</tbody>
</table>
### New Jersey

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 130</td>
<td>US 322 Bridgeport</td>
<td>255 Logan Township</td>
</tr>
<tr>
<td>US 130</td>
<td>I-295/NJ 44 West Deptford</td>
<td>295 West Deptford</td>
</tr>
<tr>
<td>US 322</td>
<td>PA State Line</td>
<td>130 Bridgeport</td>
</tr>
<tr>
<td>NJ 42</td>
<td>Atlantic City Expwy.</td>
<td>295 Bellmawr</td>
</tr>
<tr>
<td>NJ 81</td>
<td>I-95 Elizabeth</td>
<td>19 Newark Intl. Airport</td>
</tr>
<tr>
<td>NJ 440</td>
<td>I-287/I-95 Edison</td>
<td>NY State Line Outerbridge Crossing</td>
</tr>
</tbody>
</table>

**Note:** I-95—The following two sections of the New Jersey Turnpike are available to STAA-allocated vehicles. They were added to the Interstate System on March 3, 1983, but are not signed as Interstate.

### New Mexico

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 56</td>
<td>I-25 Springer</td>
<td>OK State Line</td>
</tr>
<tr>
<td>US 60</td>
<td>AZ State Line</td>
<td>I-25 Socorro</td>
</tr>
<tr>
<td>US 62</td>
<td>US 285 Carlsbad</td>
<td>TX State Line</td>
</tr>
<tr>
<td>US 64</td>
<td>AZ State Line</td>
<td>US 550 Farmington</td>
</tr>
<tr>
<td>US 70</td>
<td>AZ State Line</td>
<td>I-10 Lordsburg</td>
</tr>
<tr>
<td>US 70</td>
<td>US 285 Roswell</td>
<td>US 84 Clovis</td>
</tr>
<tr>
<td>US 80</td>
<td>AZ State Line</td>
<td>I-10 Road Forks</td>
</tr>
<tr>
<td>US 84</td>
<td>TX State Line</td>
<td>CO State Line</td>
</tr>
<tr>
<td>US 87</td>
<td>US 56 Clayton</td>
<td>TX State Line</td>
</tr>
<tr>
<td>US 160</td>
<td>AZ State Line (Four Corners)</td>
<td>CO State Line</td>
</tr>
<tr>
<td>US 285</td>
<td>TX State Line S. of Carlsbad</td>
<td>CO State Line</td>
</tr>
<tr>
<td>US 550</td>
<td>US 64 Farmington</td>
<td>CO State Line</td>
</tr>
<tr>
<td>US 666</td>
<td>I-40 Gallup</td>
<td>CO State Line</td>
</tr>
</tbody>
</table>

### New York

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 15</td>
<td>Presho Int.</td>
<td>NY 17 Corning, Howard Rd. Mt. Vernon</td>
</tr>
<tr>
<td>US 20</td>
<td>NY 75 Mt. Vernon</td>
<td>NY 17 Corning Howard Rd. Mt. Vernon</td>
</tr>
<tr>
<td>US 219</td>
<td>NY 39 Springville</td>
<td>NY 80 S. of Exit 55</td>
</tr>
<tr>
<td>NY 5</td>
<td>NY 174 Camillus</td>
<td>NY 695 Fairmont</td>
</tr>
<tr>
<td>NY 5</td>
<td>ECL Schenectady</td>
<td>I-87 Colonie</td>
</tr>
<tr>
<td>NY 5</td>
<td>NY 179 Woodlawn Beach</td>
<td>NY 75 Mt. Vernon</td>
</tr>
<tr>
<td>NY 7</td>
<td>Schenectady/Albany Co. Line</td>
<td>I-790 Utica</td>
</tr>
<tr>
<td>NY 8</td>
<td>CR 9/Main St. Saugus</td>
<td>I-87 Colonie</td>
</tr>
<tr>
<td>NY 12</td>
<td>I-790 Utica</td>
<td>Putnam Road Trenham</td>
</tr>
<tr>
<td>NY 17</td>
<td>Exit 24 Allegany</td>
<td>I-87 Exit 16 Har- niman</td>
</tr>
<tr>
<td>NY 17</td>
<td>NJ State Line</td>
<td>I-87 Exit 15 Suffern</td>
</tr>
<tr>
<td>NY 33</td>
<td>Michigan Ave. Buf- falo</td>
<td>Greater Buffalo Intl. Airport</td>
</tr>
<tr>
<td>NY 49</td>
<td>NY 365 Rome</td>
<td>NY 291 near Otsiskary</td>
</tr>
<tr>
<td>NY 104</td>
<td>Maplewood Dr. Roch-ester</td>
<td>Monroe/Wayne Co. Line</td>
</tr>
</tbody>
</table>

### North Carolina

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-40 Conn</td>
<td>US 19/23/74 Clyde</td>
<td>I-40 W. of Clyde</td>
</tr>
<tr>
<td>I-95 BR</td>
<td>I-95 S. of Fayette- ville</td>
<td>US 74 Rockingham</td>
</tr>
<tr>
<td>US 1</td>
<td>US 74 Rockingham</td>
<td>I-85 near Hender- son</td>
</tr>
<tr>
<td>US 15</td>
<td>US 401 Laurinburg</td>
<td>US 1 Aberdeen</td>
</tr>
<tr>
<td>US 15</td>
<td>US 1 Northview</td>
<td>US 64 Pittsboro</td>
</tr>
<tr>
<td>US 17</td>
<td>SC State Line</td>
<td>US 74/76 W. of Wil- mington</td>
</tr>
<tr>
<td>US 17</td>
<td>SR 1409 E. of Wil- mington</td>
<td>US 19/US 23</td>
</tr>
<tr>
<td>US 23</td>
<td>I-240 Asheville</td>
<td>N. Int. Mars Hill</td>
</tr>
<tr>
<td>US 25</td>
<td>SC State Line</td>
<td>US 74 Dillsboro</td>
</tr>
<tr>
<td>US 25/US 70</td>
<td>US 19/23 Weaver- ton</td>
<td>I-26 East Flat Rock</td>
</tr>
<tr>
<td>US 29</td>
<td>US 52 Lexington</td>
<td>US 25/27 Bypass Marshal</td>
</tr>
<tr>
<td>US 52</td>
<td>NC 24/27 Albemarle</td>
<td>VA State Line</td>
</tr>
<tr>
<td>US 64</td>
<td>I-40 Morganton</td>
<td>US 321 Lenoir</td>
</tr>
<tr>
<td>US 64</td>
<td>US 29 Lexington</td>
<td>US 15 Pittsboro</td>
</tr>
<tr>
<td>US 64</td>
<td>US 1/70/401 Raleigh</td>
<td>US 17 Williamston</td>
</tr>
<tr>
<td>US 70</td>
<td>I-77 Statesville</td>
<td>I-85 Salisbury (via US 601)</td>
</tr>
<tr>
<td>US 70</td>
<td>I-85 Durham</td>
<td>US 70A W. of Smith- field</td>
</tr>
<tr>
<td>US 70</td>
<td>I-85 Durham</td>
<td>US 70 Princeton</td>
</tr>
<tr>
<td>US 70A</td>
<td>US 70 W. of Smith- field</td>
<td>US 70A Princeton</td>
</tr>
<tr>
<td>US 70A</td>
<td>US 70A Princeton</td>
<td>Beaufort</td>
</tr>
<tr>
<td>US 74</td>
<td>TN State Line</td>
<td>I-40 Conn. Clyde</td>
</tr>
<tr>
<td>US 74</td>
<td>US 221 Ruther- fordon</td>
<td>I-85 Kings Mountain</td>
</tr>
<tr>
<td>US 74</td>
<td>US 277 Charlotte</td>
<td>US 17 W. Int. Wil- mington</td>
</tr>
<tr>
<td>US 74</td>
<td>(See Note Below)</td>
<td></td>
</tr>
<tr>
<td>US 74</td>
<td>I-26 EXT 36</td>
<td>US 74 ALT: near Forest City</td>
</tr>
<tr>
<td>US 74</td>
<td>I-90 Exit 56 Win- dorum</td>
<td>US 17/74 W. Int. Wil- mington</td>
</tr>
<tr>
<td>US 76</td>
<td>US 17/74 W. Int. Wil- mington</td>
<td>SR 1409 E. of Wil- mington</td>
</tr>
<tr>
<td>US 158</td>
<td>US 40 Winston-Salem</td>
<td>US 29 Redville</td>
</tr>
<tr>
<td>US 158</td>
<td>I-85 Henderson</td>
<td>US 258 Murfreesboro</td>
</tr>
<tr>
<td>US 220</td>
<td>US 74 Rockingham</td>
<td>VA State Line</td>
</tr>
<tr>
<td>US 221</td>
<td>US 74 Rutherfordon</td>
<td>I-40 Glenwood</td>
</tr>
<tr>
<td>US 258</td>
<td>NC 24 N. Int. Rich- lands</td>
<td>US 64 Tatboro</td>
</tr>
<tr>
<td>US 258</td>
<td>US 158 Murfreesboro</td>
<td>VA State Line</td>
</tr>
<tr>
<td>US 264</td>
<td>US 64 Zebulon</td>
<td>US 17 Washington</td>
</tr>
</tbody>
</table>
### North Dakota

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 2</td>
<td>MT State Line</td>
<td>MN State Line Grand Forks.</td>
</tr>
<tr>
<td>US 12</td>
<td>MT State Line</td>
<td>Marinette.</td>
</tr>
<tr>
<td>NC 11</td>
<td>US 70 Kinson</td>
<td>US 281 Bismarck.</td>
</tr>
<tr>
<td>NC 24</td>
<td>US 74 Charlotte</td>
<td>US 52 Albermarle.</td>
</tr>
<tr>
<td>NC 12</td>
<td>NC 87 Spout Springs</td>
<td>I-95 Fayetteville.</td>
</tr>
<tr>
<td>NC 26</td>
<td>US 421 Clinton</td>
<td>US 70 Mansfield.</td>
</tr>
<tr>
<td>NC 49</td>
<td>I-85 Charlotte</td>
<td>US 64 Asheboro.</td>
</tr>
<tr>
<td>NC 87</td>
<td>NC 24/27 Spout Springs</td>
<td>US 1 Sanford.</td>
</tr>
</tbody>
</table>

### Note:
US 74 Charlotte—STAA-dimensioned vehicles are subject to State restrictions on US 74 in Charlotte because of narrow lane widths.

### Ohio

No additional routes have been federally designated: STAA-dimensional commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

### Oklahoma

No additional routes have been federally designated: STAA-dimensional commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

### Oregon

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 20</td>
<td>OR 34 W. Int. Philomath.</td>
<td>ECL Sweet Home.</td>
</tr>
<tr>
<td>US 321</td>
<td>I-40 Hickory</td>
<td>NC 1890 Lenoir.</td>
</tr>
<tr>
<td>US 421</td>
<td>Carolina Beach</td>
<td>I-95 Dunn.</td>
</tr>
<tr>
<td>US 421</td>
<td>US 1 Sanford</td>
<td>US 64 Siler City.</td>
</tr>
<tr>
<td>US 521</td>
<td>SC State Line</td>
<td>I-77 Charlotte.</td>
</tr>
<tr>
<td>NC 4</td>
<td>I-95 Gold Rock</td>
<td>US 301 Bismarck.</td>
</tr>
<tr>
<td>NC 11</td>
<td>US 70 Kinston</td>
<td>US 281 Bismarck.</td>
</tr>
<tr>
<td>NC 24</td>
<td>US 74 Charlotte</td>
<td>US 52 Albermarle.</td>
</tr>
<tr>
<td>NC 24</td>
<td>NC 87 Spout Springs</td>
<td>I-95 Fayetteville.</td>
</tr>
<tr>
<td>NC 24</td>
<td>US 421 Clinton</td>
<td>US 70 Mansfield.</td>
</tr>
<tr>
<td>NC 49</td>
<td>I-85 Charlotte</td>
<td>US 64 Asheboro.</td>
</tr>
<tr>
<td>NC 87</td>
<td>NC 24/27 Spout Springs</td>
<td>US 1 Sanford.</td>
</tr>
</tbody>
</table>

### Pennsylvania

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 1</td>
<td>OR 13 Morrisville</td>
<td>Conneaut Lake Borough.</td>
</tr>
<tr>
<td>US 6</td>
<td>NJ State Line</td>
<td>End of 4-lane Bypass NE. of Meadville.</td>
</tr>
</tbody>
</table>

---

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways:]

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 20</td>
<td>OR 126 Sisters</td>
<td>ID State Line Nyssa.</td>
</tr>
<tr>
<td>US 26</td>
<td>OR 101 Cannon</td>
<td>OR 126 Prineville.</td>
</tr>
<tr>
<td>US 30 BR</td>
<td>OR 201 Ontario</td>
<td>ID State Line.</td>
</tr>
<tr>
<td>US 95</td>
<td>NV State Line</td>
<td>ID State Line.</td>
</tr>
<tr>
<td>US 95 Spur</td>
<td>OR 201</td>
<td>ID State Line Weiser, ID.</td>
</tr>
<tr>
<td>US 97</td>
<td>CA State Line</td>
<td>WA State Line.</td>
</tr>
<tr>
<td>US 101</td>
<td>SCL Port Orchard</td>
<td>OR 126 Florence.</td>
</tr>
<tr>
<td>US 101</td>
<td>US 20 Newport</td>
<td>OR 18 Otis.</td>
</tr>
<tr>
<td>US 101</td>
<td>OR 6 Tillamook</td>
<td>WA State Line.</td>
</tr>
<tr>
<td>US 197</td>
<td>I-84 The Dalles</td>
<td>WA State Line.</td>
</tr>
<tr>
<td>US 730</td>
<td>I-84 Boardman</td>
<td>WA State Line.</td>
</tr>
<tr>
<td>OR 6</td>
<td>US 101 Tillamook</td>
<td>US 26 Near Banks.</td>
</tr>
<tr>
<td>OR 8</td>
<td>OR 47 Forest Grove</td>
<td>OR 217 Beaverton.</td>
</tr>
<tr>
<td>OR 11</td>
<td>I-84 Pendleton</td>
<td>WA State Line.</td>
</tr>
<tr>
<td>OR 18</td>
<td>US 101 Otis</td>
<td>OR 99W Dayton.</td>
</tr>
<tr>
<td>OR 19</td>
<td>OR 206 Condor</td>
<td>I-84 Arlington.</td>
</tr>
<tr>
<td>OR 22</td>
<td>OR 18 near US 20</td>
<td>US 20 Santiam Junction.</td>
</tr>
<tr>
<td>OR 31</td>
<td>US 97 La Pine</td>
<td>US 395 Valley Falls.</td>
</tr>
<tr>
<td>OR 34</td>
<td>OR 99W Corvallis</td>
<td>US 20 Lebanon.</td>
</tr>
<tr>
<td>OR 35</td>
<td>US 26 Government Camp</td>
<td>I-84 Hood River.</td>
</tr>
<tr>
<td>OR 38</td>
<td>US 101 Reedsport</td>
<td>I-5 Astoria.</td>
</tr>
<tr>
<td>OR 39</td>
<td>CA State Line</td>
<td>OR 140 E. of Klamath Falls.</td>
</tr>
<tr>
<td>OR 42</td>
<td>US 101 Coos Bay</td>
<td>OR 42S Coquille.</td>
</tr>
<tr>
<td>OR 47</td>
<td>OR 8 Forest Grove</td>
<td>US 26 N. of Banks.</td>
</tr>
<tr>
<td>OR 56</td>
<td>I-5 Eugene</td>
<td>US 97 near Chemult.</td>
</tr>
<tr>
<td>OR 62</td>
<td>Medford</td>
<td>OR 140 White City.</td>
</tr>
<tr>
<td>OR 78</td>
<td>Burns</td>
<td>US 95 Burns Junction.</td>
</tr>
<tr>
<td>OR 99</td>
<td>I-5 Eugene</td>
<td>OR 99WE Junction City.</td>
</tr>
<tr>
<td>OR 99E</td>
<td>OR 99W Junction City.</td>
<td>I-5 Albany.</td>
</tr>
<tr>
<td>OR 99E</td>
<td>I-5 Salem</td>
<td>I-5 Portland.</td>
</tr>
<tr>
<td>OR 99W</td>
<td>OR 99W Junction City.</td>
<td>I-5 Portland.</td>
</tr>
<tr>
<td>OR 138</td>
<td>OR 38 Elkton</td>
<td>I-5 near Sutherlin.</td>
</tr>
<tr>
<td>OR 140</td>
<td>OR 62 White City</td>
<td>OR 39 E. of Klamath Falls.</td>
</tr>
<tr>
<td>OR 201</td>
<td>US 26 Cairo</td>
<td>US 95 Spur near Weiser, ID.</td>
</tr>
<tr>
<td>OR 212</td>
<td>OR 224 E. Int. near Rock Creek Corr.</td>
<td>US 26 near Boring.</td>
</tr>
<tr>
<td>OR 214</td>
<td>I-5 Woodburn</td>
<td>OR 213 Silverton.</td>
</tr>
<tr>
<td>OR 217</td>
<td>US 26 Beaverton</td>
<td>I-5 Tigard.</td>
</tr>
<tr>
<td>OR 223</td>
<td>Kings Valley Hwy. in Dallas.</td>
<td>OR 99W Rickreall.</td>
</tr>
<tr>
<td>OR 224</td>
<td>OR 99E Milwaukie</td>
<td>OR 212 E. Int. near Rock Creek Corr.</td>
</tr>
</tbody>
</table>
Federal Highway Administration, DOT

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 11</td>
<td>Tumpike Int. 16</td>
<td>US 15 Harrisburg</td>
</tr>
<tr>
<td>US 13</td>
<td>US 1 Morrisville</td>
<td>Tumpike Int. 29</td>
</tr>
<tr>
<td>US 15</td>
<td>Tumpike Int. 17</td>
<td>US 11 Harrisburg</td>
</tr>
<tr>
<td>US 15</td>
<td>PA 642 West Milton</td>
<td>White Deer Int.</td>
</tr>
<tr>
<td>US 15</td>
<td>1-180/US 220 Wil-</td>
<td>End of I-150 acc. Williams Port</td>
</tr>
<tr>
<td>US 20</td>
<td>PA 89 North East</td>
<td>1-90 Int. 12</td>
</tr>
<tr>
<td>US 22</td>
<td>WV State Line</td>
<td>1-79 Int. 15 Carnegie</td>
</tr>
<tr>
<td>US 22</td>
<td>I-78 Fogelsville</td>
<td>NJ State Line</td>
</tr>
<tr>
<td>US 30</td>
<td>PA 462 W. of York</td>
<td>PA 462 E. of Lancaster</td>
</tr>
<tr>
<td>US 119</td>
<td>End of I-11, acc. S. of Uniontown</td>
<td>US 30 Greensburg</td>
</tr>
<tr>
<td>US 202</td>
<td>DE State Line</td>
<td>1-76 Int. 26 King of Prussia</td>
</tr>
<tr>
<td>US 209</td>
<td>PA 33 Snydersville</td>
<td>I-80 Stroudsburg</td>
</tr>
<tr>
<td>US 219</td>
<td>South Bradford Int.</td>
<td>NY State Line</td>
</tr>
<tr>
<td>US 220</td>
<td>Tumpike Int. 11</td>
<td>1-180/US 15 Williamsport</td>
</tr>
<tr>
<td>US 220</td>
<td>PA 199 S. of Athens</td>
<td>NY State Line NY 17, PA 61 S. of Tuckerton</td>
</tr>
<tr>
<td>US 222</td>
<td>US 422 N. Int. Reading.</td>
<td>Tumpike Int. 21</td>
</tr>
<tr>
<td>US 222</td>
<td>US 30 Lancaster</td>
<td>I-95 Chester</td>
</tr>
<tr>
<td>US 322</td>
<td>NJ State Line (Comm. Barry Br.)</td>
<td>PA 3</td>
</tr>
<tr>
<td>US 322</td>
<td>I-83/283</td>
<td>PA 9</td>
</tr>
<tr>
<td>US 422</td>
<td>US 322/PA 39 Her-</td>
<td>US 422/PA 39 Her-</td>
</tr>
<tr>
<td>PA 3</td>
<td>US 202</td>
<td>PA 3</td>
</tr>
<tr>
<td>PA 9</td>
<td>Tumpike Int. 25</td>
<td>PA 2</td>
</tr>
<tr>
<td>PA 28</td>
<td>PA 8</td>
<td>I-90-3</td>
</tr>
<tr>
<td>PA 33</td>
<td>US 22 Easton</td>
<td>US 11 Bloomsburg</td>
</tr>
<tr>
<td>PA 42</td>
<td>I-80 Int. 34</td>
<td>PA 51</td>
</tr>
<tr>
<td>PA 51</td>
<td>US 11 Uniontown</td>
<td>Monongahela Riv. Elizabeth</td>
</tr>
<tr>
<td>PA 54</td>
<td>I-80 Int. 33</td>
<td>US 11 Darville</td>
</tr>
<tr>
<td>PA 60</td>
<td>PA 51 Beaver Falls</td>
<td>US 22</td>
</tr>
<tr>
<td>PA 60-US</td>
<td>I-80 Int. 1</td>
<td>US 202</td>
</tr>
<tr>
<td>PA 61</td>
<td>1-80 S. of Tuckerton</td>
<td>PA 9</td>
</tr>
<tr>
<td>PA 93</td>
<td>I-81 Int. 41</td>
<td>PA 924</td>
</tr>
<tr>
<td>PA 114</td>
<td>US 11 Hogestown</td>
<td>US 11 Int. 18</td>
</tr>
<tr>
<td>PA 132</td>
<td>I-95 Connells Heights</td>
<td>Tumpike Int. 28 (via I-1 Connection)</td>
</tr>
<tr>
<td>PA 283</td>
<td>I-283 Int. 2</td>
<td>US 30 Lancaster</td>
</tr>
<tr>
<td>PA 283</td>
<td>US 283</td>
<td>PA 924</td>
</tr>
<tr>
<td>Harrisburg Exp. (SR 3032)</td>
<td></td>
<td>Airport Access (SR 3032)</td>
</tr>
<tr>
<td>Harrisburg Exp. (SR 3032)</td>
<td></td>
<td>PA 183 Leinbachs</td>
</tr>
</tbody>
</table>

Puerto Rico

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>PR 1</td>
<td>PR 2 Ponce</td>
<td>PR 52 Ponce</td>
</tr>
<tr>
<td>PR 2</td>
<td>PR 22 San Juan</td>
<td>PR 1 Ponce</td>
</tr>
<tr>
<td>PR 3</td>
<td>N. Ent. Roosevelt</td>
<td>PR 26 Carolina</td>
</tr>
<tr>
<td>PR 18</td>
<td>PR 52 San Juan</td>
<td>PR 22 San Juan</td>
</tr>
<tr>
<td>PR 22</td>
<td>PR 26 San Juan</td>
<td>PR 165 Toa Baja</td>
</tr>
<tr>
<td>PR 26</td>
<td>PR 22 San Juan</td>
<td>PR 3 Carolina</td>
</tr>
<tr>
<td>PR 30</td>
<td>PR 52 Caguanas</td>
<td>PR 3 Humacao</td>
</tr>
<tr>
<td>PR 52</td>
<td>PR 1 Ponce</td>
<td>PR 1 Toa Baja</td>
</tr>
<tr>
<td>PR 165</td>
<td>PR 2 Toa Baja</td>
<td>PR 2 Toa Baja</td>
</tr>
</tbody>
</table>

Note: Routes added to the Interstate System under 23 U.S.C. 139(c) are included only to the extent designated above.

Rhode Island

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>RI 10</td>
<td>RI 195 Providence</td>
<td>RI 95 Cranston</td>
</tr>
<tr>
<td>RI 37</td>
<td>I-295 Cranston</td>
<td>I-95 near Lincoln</td>
</tr>
<tr>
<td>RI 146</td>
<td>I-95 Providence</td>
<td>I-295 N. of Lime Rock</td>
</tr>
<tr>
<td>RI 195</td>
<td>I-295 Johnston</td>
<td>RI 10 Providence</td>
</tr>
</tbody>
</table>

South Carolina

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 15/401</td>
<td>NC State Line</td>
<td>US 52 Society Hill</td>
</tr>
<tr>
<td>US 17</td>
<td>I-95 Pocotaligo</td>
<td>US 21 Gardens Corner</td>
</tr>
<tr>
<td>US 17</td>
<td>I-26 Charleston</td>
<td>NC State Line</td>
</tr>
<tr>
<td>US 21</td>
<td>US 17 Gardens Corner</td>
<td>SC 170 Beaufort</td>
</tr>
<tr>
<td>US 52</td>
<td>US 15/401 Society Hill</td>
<td>End of 4-ln. div. N. of urban limits of Kingshree,</td>
</tr>
<tr>
<td>US 76</td>
<td>US 52 Florence</td>
<td>SC 576 Marion</td>
</tr>
<tr>
<td>US 76</td>
<td>SC 277 Columbia</td>
<td>I-126 Columbia</td>
</tr>
<tr>
<td>US 78</td>
<td>GA State Line</td>
<td>I-95 St. George</td>
</tr>
<tr>
<td>US 78</td>
<td>I-26 Exit 205 N. Charleston</td>
<td>US 52 N. Charleston</td>
</tr>
<tr>
<td>US 21/78Bypass</td>
<td>US 601 Orangeburg</td>
<td>US 601 Orangeburg</td>
</tr>
<tr>
<td>US 526</td>
<td>I-385 Simpsonville</td>
<td>US 45 Greeneville</td>
</tr>
<tr>
<td>US 301</td>
<td>US 321 Ulmar</td>
<td>I-95 Santee</td>
</tr>
<tr>
<td>US 321</td>
<td>I-26 S. of Columbia</td>
<td>US 95 Hardeville</td>
</tr>
<tr>
<td>US 378</td>
<td>SC 262 Columbia</td>
<td>US 501 Conway</td>
</tr>
<tr>
<td>US 501</td>
<td>SC 576 Marion</td>
<td>US 17 Myrtle Beach</td>
</tr>
<tr>
<td>US 601</td>
<td>SC State Line</td>
<td>US 2151 Pageland</td>
</tr>
<tr>
<td>US 601</td>
<td>I-26 Jamison</td>
<td>US 217/8 Bypass Orangeburg</td>
</tr>
<tr>
<td>SC 121</td>
<td>SC 72 Whitmirre</td>
<td>US 25 Trenton</td>
</tr>
<tr>
<td>SC 151</td>
<td>US 601 Pageland</td>
<td>US 52 Darlington</td>
</tr>
<tr>
<td>SC 2</td>
<td>I-77 Columbia</td>
<td>US 76 Columbia</td>
</tr>
<tr>
<td>SC 576</td>
<td>US 76 Marion</td>
<td>US 501 Marion</td>
</tr>
</tbody>
</table>
The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.

### South Dakota
No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

<table>
<thead>
<tr>
<th>Route</th>
<th>From To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 25E</td>
<td>I-81 .............</td>
</tr>
<tr>
<td>US 27</td>
<td>TN 153 Chattanooga</td>
</tr>
<tr>
<td>US 43</td>
<td>AL State Line St. Jo seph.</td>
</tr>
<tr>
<td>US 45</td>
<td>MS State Line ......</td>
</tr>
<tr>
<td>US 45 By-pass US 45W</td>
<td></td>
</tr>
<tr>
<td>US 51</td>
<td>TN 300 Memphis ......</td>
</tr>
<tr>
<td>US 64</td>
<td>I-40 E. Int. Memphis</td>
</tr>
<tr>
<td>US 70 Alt</td>
<td>US 79 Abwood ......</td>
</tr>
<tr>
<td>US 70</td>
<td>TN 22 Huntingdon ......</td>
</tr>
<tr>
<td>US 70</td>
<td>TN 155 Nashville ......</td>
</tr>
<tr>
<td>US 70S</td>
<td>US 70/TN 111 Sanders.</td>
</tr>
<tr>
<td>US 72</td>
<td>AL State Line ......</td>
</tr>
<tr>
<td>US 74</td>
<td>I-75 Cleveland ......</td>
</tr>
<tr>
<td>US 79</td>
<td>I-40 Memphis ......</td>
</tr>
<tr>
<td>US 127</td>
<td>US 27 Chattanooga</td>
</tr>
<tr>
<td>US 127</td>
<td>TN 28 Dunlap ......</td>
</tr>
<tr>
<td>US 231</td>
<td>AL State Line S. of Fayetteville.</td>
</tr>
<tr>
<td>US 412</td>
<td>I-40 Jackson ......</td>
</tr>
<tr>
<td>US 641</td>
<td>I-40 near Natchez Trace State Park.</td>
</tr>
<tr>
<td>TN 96</td>
<td>US 70 Dickson......</td>
</tr>
<tr>
<td>TN 153</td>
<td>US 27 Chattanooga.</td>
</tr>
<tr>
<td>TN 300</td>
<td>I-40 Memphis ......</td>
</tr>
</tbody>
</table>

### Tennessee
No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

<table>
<thead>
<tr>
<th>Route</th>
<th>From To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 11</td>
<td>I-81 Exit 195 ......</td>
</tr>
<tr>
<td>US 11</td>
<td>VA 220 Alt. N. Int. ....</td>
</tr>
<tr>
<td>US 11</td>
<td>VA 100 Dublin ......</td>
</tr>
<tr>
<td>US 11</td>
<td>1.52 Mi. N. of VA 75</td>
</tr>
<tr>
<td>US 13</td>
<td>MD State Line ......</td>
</tr>
<tr>
<td>US 17</td>
<td>US 29 Opal ......</td>
</tr>
<tr>
<td>US 17</td>
<td>VA 134 York County</td>
</tr>
<tr>
<td>US 17</td>
<td>VA 12 South Post News.</td>
</tr>
<tr>
<td>US 19</td>
<td>I-81 Exit 14 (via VA 140) Abingdon.</td>
</tr>
<tr>
<td>US 23</td>
<td>TN State Line ......</td>
</tr>
<tr>
<td>US 23</td>
<td>0.33 Mi. N. of US 23 BR Norton.</td>
</tr>
<tr>
<td>US 25E</td>
<td>TN State Line ......</td>
</tr>
<tr>
<td>US 29</td>
<td>NC State Line ......</td>
</tr>
<tr>
<td>US 33</td>
<td>N. Carlton Street Hamsburg.</td>
</tr>
<tr>
<td>US 33</td>
<td>I-295 Exit 49 ..........</td>
</tr>
<tr>
<td>US 50</td>
<td>VA 259 Gore ......</td>
</tr>
<tr>
<td>US 50</td>
<td>Apple Blossom Loop Road Winchester.</td>
</tr>
<tr>
<td>US 58</td>
<td>VA 721 W. of Martinsville.</td>
</tr>
<tr>
<td>US 58</td>
<td>S. Fairy Street Martinsville.</td>
</tr>
<tr>
<td>US 58</td>
<td>0.6 Mi. E. of ECL Emporia.</td>
</tr>
<tr>
<td>US 58 Alt</td>
<td>US 22 Norton ......</td>
</tr>
<tr>
<td>US 58 Alt</td>
<td>0.4 Mi. W. of US 11</td>
</tr>
<tr>
<td>US 58 BR</td>
<td>VA 35 Courtland ......</td>
</tr>
<tr>
<td>US 58</td>
<td>W. Int. VA 337 Claremont St. Norfolk.</td>
</tr>
<tr>
<td>US 60</td>
<td>0.03 Mi. W. of US 887 Chesterfield County.</td>
</tr>
<tr>
<td>US 220</td>
<td>NC State Line ......</td>
</tr>
<tr>
<td>US 220</td>
<td>VA 230 I-81 Exit 150 ......</td>
</tr>
<tr>
<td>US 220</td>
<td>US 220 S. Int. ......</td>
</tr>
<tr>
<td>US 220 BR</td>
<td>US 220 S. Int. ......</td>
</tr>
<tr>
<td>US 250</td>
<td>VA 340 Int. Waynesboro.</td>
</tr>
<tr>
<td>US 250</td>
<td>I-81 Exit 222 ......</td>
</tr>
<tr>
<td>US 258</td>
<td>NC State Line ......</td>
</tr>
<tr>
<td>US 258</td>
<td>VA 10 Benns Church</td>
</tr>
<tr>
<td>US 301</td>
<td>VA 1250 S. of I-295</td>
</tr>
</tbody>
</table>

### Texas
No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

<table>
<thead>
<tr>
<th>Route</th>
<th>From To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 4</td>
<td>NY State Line ......</td>
</tr>
<tr>
<td>US 7</td>
<td>End of 4-lane divided hwy. Wallingford.</td>
</tr>
<tr>
<td>VT 9</td>
<td>I-91 Int. 3 N. of Brattleboro.</td>
</tr>
<tr>
<td>US 4</td>
<td>ECL Rutland.</td>
</tr>
<tr>
<td>US 7</td>
<td>NH State Line.</td>
</tr>
</tbody>
</table>

### Utah
No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

### Vermont
No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

<table>
<thead>
<tr>
<th>Route</th>
<th>From To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 4</td>
<td>NY State Line ......</td>
</tr>
<tr>
<td>US 7</td>
<td>End of 4-lane divided hwy. Wallingford.</td>
</tr>
<tr>
<td>VT 9</td>
<td>I-91 Int. 3 N. of Brattleboro.</td>
</tr>
<tr>
<td>US 4</td>
<td>ECL Rutland.</td>
</tr>
<tr>
<td>US 7</td>
<td>NH State Line.</td>
</tr>
</tbody>
</table>

---

276
### Federal Highway Administration, DOT

*Note: The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.*

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 340</td>
<td>VA 7 Berryville</td>
<td>WV State Line.</td>
</tr>
<tr>
<td>US 360</td>
<td>VA 58 South Boston</td>
<td>VA 150 Chesterfield County.</td>
</tr>
<tr>
<td>US 360</td>
<td>I-64 Exit 192 Richmond</td>
<td>VA 617 Village.</td>
</tr>
<tr>
<td>US 460</td>
<td>VA 67 W. Int. Raven</td>
<td>VA 19 Claypool Hill.</td>
</tr>
<tr>
<td>US 460</td>
<td>VA 720 Bluefield</td>
<td>WV State Line at Bluefield.</td>
</tr>
<tr>
<td>US 460</td>
<td>WV State Line at Glen Lyn</td>
<td>I-81 Exit 118 Christiansburg.</td>
</tr>
<tr>
<td>US 460</td>
<td>I-661 Roanoke</td>
<td>0.08 Mi. E. of VA 1512 Lynchburg.</td>
</tr>
<tr>
<td>US 460</td>
<td>US 29 Lynchburg</td>
<td>I-661 Roanoke.</td>
</tr>
<tr>
<td>US 460</td>
<td>0.64 Mi. E. of VA 70 Appomattox County</td>
<td>I-85 Exit 61 Petersburg.</td>
</tr>
<tr>
<td>US 460</td>
<td>I-95 Exit 50 Petersburg</td>
<td>US 58 Suffolk.</td>
</tr>
<tr>
<td>US 522</td>
<td>VA 522</td>
<td>US 50 Frederick County.</td>
</tr>
<tr>
<td>US 522</td>
<td>VA 37 Frederick County.</td>
<td>1.07 Mi. N. of VA 705 Cross Junction.</td>
</tr>
<tr>
<td>VA 3</td>
<td>VA 1 Frederickburg</td>
<td>VA 20 Wilderness.</td>
</tr>
<tr>
<td>VA 7</td>
<td>I-81 Exit 315 Winchester.</td>
<td>0.68 Mi. W. of WCL Round Hill.</td>
</tr>
<tr>
<td>VA 10</td>
<td>US 58 Suffolk</td>
<td>VA 666 Smithfield.</td>
</tr>
<tr>
<td>VA 10</td>
<td>ECs Hopewell</td>
<td>0.37 Mi. W. of W. Int. VA 156 Hopewell.</td>
</tr>
<tr>
<td>VA 10</td>
<td>US 1 Chesterfield County.</td>
<td>VA 827 W. of Hopewell.</td>
</tr>
<tr>
<td>VA 20</td>
<td>I-64 Exit 121</td>
<td>US 1 roadside.</td>
</tr>
<tr>
<td>VA 30</td>
<td>I-95 Exit 96 Osawashie</td>
<td>US 1.</td>
</tr>
<tr>
<td>VA 33</td>
<td>I-64 Exit 220</td>
<td>VA 30 E. Int. West Point.</td>
</tr>
<tr>
<td>VA 36</td>
<td>I-81 Exit 52 Petersburg.</td>
<td>VA 156 Hopewell.</td>
</tr>
<tr>
<td>VA 42</td>
<td>VA 257 S. Int. Bridgewater.</td>
<td>VA 290 Dayton.</td>
</tr>
<tr>
<td>VA 57</td>
<td>VA 753 Bassett</td>
<td>VA 220 Bassett Forks.</td>
</tr>
<tr>
<td>VA 86</td>
<td>VA 29 Danville</td>
<td>NC State Line.</td>
</tr>
<tr>
<td>VA 100</td>
<td>I-81 Exit 98</td>
<td>US 11 Dublin.</td>
</tr>
<tr>
<td>VA 105</td>
<td>VA 107</td>
<td>VA 60 Newport News.</td>
</tr>
<tr>
<td>VA 114</td>
<td>VA 460 Christiansburg</td>
<td>0.09 Mi. E. of VA 750 Montgomery County.</td>
</tr>
<tr>
<td>VA 199</td>
<td>VA 60 Williamsburg</td>
<td>I-64 Exit 242.</td>
</tr>
<tr>
<td>VA 207</td>
<td>I-95 Exit 104</td>
<td>0.2 Mi. S. of VA 619 Milford.</td>
</tr>
<tr>
<td>VA 277</td>
<td>VA 11 N. Int. N. of Cloverdale.</td>
<td>1.6 Mi. E. of I-81 Ext. 307.</td>
</tr>
<tr>
<td>VA 419</td>
<td>I-81 Exit 141 Salem</td>
<td>Midland Ave. Salem Old SCL Waynesboro.</td>
</tr>
<tr>
<td>VA 624</td>
<td>I-64 Exit 96</td>
<td></td>
</tr>
</tbody>
</table>

### Pt. 658, App. A

*Note: The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways.*

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 19</td>
<td>I-77 Bradley</td>
<td>I-79 Gassaway.</td>
</tr>
<tr>
<td>US 3</td>
<td>WV 34 Winfield</td>
<td>OH State Line.</td>
</tr>
<tr>
<td>US 48</td>
<td>I-79 Morgantown</td>
<td>MD State Line.</td>
</tr>
<tr>
<td>US 50</td>
<td>I-77 Parkersburg</td>
<td>I-79 Clarksville.</td>
</tr>
<tr>
<td>US 460</td>
<td>VA State Line Bluefield.</td>
<td>VA State Line.</td>
</tr>
<tr>
<td>WV 34</td>
<td>I-64 Putnam Co</td>
<td>US 35 Winfield.</td>
</tr>
</tbody>
</table>

### Washington

No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

### West Virginia

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 8</td>
<td>US 63 Turtle Lake</td>
<td>MI State Line West of Miller.</td>
</tr>
<tr>
<td>US 18</td>
<td>IA State Line Prairie Du Chien</td>
<td>I-90 Madison.</td>
</tr>
<tr>
<td>US 41</td>
<td>107th St. Milwaukee</td>
<td>MI State Line Marmette.</td>
</tr>
<tr>
<td>US 45</td>
<td>IL State Line Bristol</td>
<td>WI 28 Kewaskum.</td>
</tr>
<tr>
<td>US 45</td>
<td>WI 29 Wittenberg</td>
<td>WI State Line Land O'Lakes.</td>
</tr>
<tr>
<td>US 61</td>
<td>IA State Line Dubuque IA.</td>
<td>MN State Line La Crosse (via WI 129 Lutheran Byp.).</td>
</tr>
</tbody>
</table>
Pt. 658, App. B

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional Federal-aid Primary highways]

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 151 ......</td>
<td>IA State Line</td>
<td>US 18 E. of</td>
</tr>
<tr>
<td></td>
<td>Dubuque IA.</td>
<td>Dodgeville.</td>
</tr>
<tr>
<td>WI 11 ......</td>
<td>IA State Line</td>
<td>US 51 Janesville.</td>
</tr>
<tr>
<td></td>
<td>Dubuque IA.</td>
<td></td>
</tr>
<tr>
<td>WI 11 ......</td>
<td>I-90 Janesville ......</td>
<td>US 14/WI 89 N. of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Darien.</td>
</tr>
<tr>
<td>WI 11 ......</td>
<td>I-43 Elkhorn</td>
<td>WI 31 Racine.</td>
</tr>
<tr>
<td>WI 13 ......</td>
<td>WI 21 Friendship</td>
<td>US 2 Ashland.</td>
</tr>
<tr>
<td>WI 16 ......</td>
<td>WI 78 Portage</td>
<td>I-94 Waukesha.</td>
</tr>
<tr>
<td>WI 20 ......</td>
<td>I-94 Racine</td>
<td>WI 31 Racine.</td>
</tr>
<tr>
<td>WI 21 ......</td>
<td>WI 27 Sparta</td>
<td>US 41 Oshkosh.</td>
</tr>
<tr>
<td>WI 23 ......</td>
<td>WI 32 N. of Sheboygan</td>
<td>Taylor Dr. Sheboygan.</td>
</tr>
<tr>
<td>WI 26 ......</td>
<td>I-94 Johnson Creek</td>
<td>US 16 Watertown.</td>
</tr>
<tr>
<td>WI 26 ......</td>
<td>US 151 Waupun</td>
<td>US 41 SW. of Oshkosh.</td>
</tr>
<tr>
<td>WI 28 ......</td>
<td>US 41 Theresa</td>
<td>US 45 Kewaskum.</td>
</tr>
<tr>
<td>WI 29 ......</td>
<td>I-94 Elk Mound</td>
<td>US 53 Chippewa Falls.</td>
</tr>
<tr>
<td>WI 29 ......</td>
<td>WI 124 S. of Chippewa</td>
<td>US 41 Green Bay.</td>
</tr>
<tr>
<td>WI 31 ......</td>
<td>WI 11 Racine</td>
<td>WI 20 Racine.</td>
</tr>
<tr>
<td>WI 32 ......</td>
<td>WI 29 W. of Green</td>
<td>Gillett.</td>
</tr>
<tr>
<td>WI 34 ......</td>
<td>WI 13 Wisconsin</td>
<td>US 51 Knowlton.</td>
</tr>
<tr>
<td></td>
<td>Rapids.</td>
<td></td>
</tr>
<tr>
<td>WI 42 ......</td>
<td>I-43 Manitowoc</td>
<td>WI 57 SW. of Sturgeon</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bay.</td>
</tr>
<tr>
<td>WI 47 ......</td>
<td>US 10 Appleton</td>
<td>WI 29 Bonduel.</td>
</tr>
<tr>
<td>WI 54 ......</td>
<td>WI 13 Wisconsin</td>
<td>US 51 Plover.</td>
</tr>
<tr>
<td></td>
<td>Rapids.</td>
<td></td>
</tr>
<tr>
<td>WI 57 ......</td>
<td>I-43 Green Bay</td>
<td>Sturgeon Bay.</td>
</tr>
<tr>
<td>WI 69 ......</td>
<td>WI 11 Monroe</td>
<td>CH “PB” Paoli.</td>
</tr>
<tr>
<td>WI 73 ......</td>
<td>US 51 Plainfield</td>
<td>WI 54 Wisconsin</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rapids.</td>
</tr>
<tr>
<td>WI 78 ......</td>
<td>I-90/94 S. of Portage</td>
<td>US 51 N. of portage.</td>
</tr>
<tr>
<td>WI 80 ......</td>
<td>WI 21 Neenah</td>
<td>WI 13 Pittsville.</td>
</tr>
<tr>
<td>WI 119 ......</td>
<td>I-94 Milwaukee</td>
<td>WI 38 Milwaukee.</td>
</tr>
<tr>
<td>WI 124 ......</td>
<td>US 53 N. of Eau</td>
<td>WI 29 S. of Chippewa</td>
</tr>
<tr>
<td></td>
<td>Claire.</td>
<td>Falls.</td>
</tr>
<tr>
<td>WI 139 ......</td>
<td>US 8 Cavour, Forest</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Co.</td>
<td></td>
</tr>
<tr>
<td>WI 145 ......</td>
<td>Broadway Milwaukee</td>
<td>US 41/45 Milwaukee.</td>
</tr>
<tr>
<td>WI 172 ......</td>
<td>US 41 Ashwaubenon</td>
<td>CH “x” S. of Green</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bay.</td>
</tr>
<tr>
<td>CH “PB” ......</td>
<td>WI 69 Paoli</td>
<td>US 18/151 E. of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Verona.</td>
</tr>
</tbody>
</table>

Wyoming

No additional routes have been federally designated; STAA-dimensional commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

Note: Information on additional highways on which STAA-dimensional vehicles may legally operate may be obtained from the respective State highway agencies.

APPENDIX B TO 658—GRANDFATHERED SEMITRAILER LENGTHS

<table>
<thead>
<tr>
<th>State</th>
<th>Feet and inches</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>53-6</td>
</tr>
<tr>
<td>Alaska</td>
<td>48-0</td>
</tr>
<tr>
<td>Arizona</td>
<td>57-6</td>
</tr>
<tr>
<td>Arkansas</td>
<td>53-6</td>
</tr>
<tr>
<td>California</td>
<td>48-0</td>
</tr>
<tr>
<td>Colorado</td>
<td>57-4</td>
</tr>
<tr>
<td>Connecticut</td>
<td>46-0</td>
</tr>
<tr>
<td>Delaware</td>
<td>53-0</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>48-0</td>
</tr>
<tr>
<td>Florida</td>
<td>46-0</td>
</tr>
<tr>
<td>Georgia</td>
<td>48-0</td>
</tr>
<tr>
<td>Hawaii</td>
<td>48-0</td>
</tr>
<tr>
<td>Idaho</td>
<td>48-0</td>
</tr>
<tr>
<td>Illinois</td>
<td>53-0</td>
</tr>
<tr>
<td>Indiana</td>
<td>24-6</td>
</tr>
<tr>
<td>Iowa</td>
<td>53-0</td>
</tr>
<tr>
<td>Kansas</td>
<td>57-6</td>
</tr>
<tr>
<td>Kentucky</td>
<td>53-0</td>
</tr>
<tr>
<td>Louisiana</td>
<td>59-6</td>
</tr>
<tr>
<td>Maine</td>
<td>48-0</td>
</tr>
<tr>
<td>Maryland</td>
<td>48-0</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>48-0</td>
</tr>
<tr>
<td>Michigan</td>
<td>48-0</td>
</tr>
<tr>
<td>Minnesota</td>
<td>48-0</td>
</tr>
<tr>
<td>Mississippi</td>
<td>53-0</td>
</tr>
<tr>
<td>Missouri</td>
<td>53-0</td>
</tr>
<tr>
<td>Montana</td>
<td>53-0</td>
</tr>
<tr>
<td>Nebraska</td>
<td>53-0</td>
</tr>
<tr>
<td>Nevada</td>
<td>53-0</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>48-0</td>
</tr>
<tr>
<td>New Jersey</td>
<td>48-0</td>
</tr>
<tr>
<td>New Mexico</td>
<td>57-4</td>
</tr>
<tr>
<td>New York</td>
<td>48-0</td>
</tr>
<tr>
<td>North Carolina</td>
<td>48-0</td>
</tr>
<tr>
<td>North Dakota</td>
<td>53-0</td>
</tr>
<tr>
<td>Ohio</td>
<td>53-0</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>59-6</td>
</tr>
<tr>
<td>Oregon</td>
<td>53-0</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>53-0</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>48-0</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>48-0</td>
</tr>
<tr>
<td>South Carolina</td>
<td>48-0</td>
</tr>
<tr>
<td>South Dakota</td>
<td>53-0</td>
</tr>
<tr>
<td>Tennessee</td>
<td>50-0</td>
</tr>
<tr>
<td>Texas</td>
<td>59-0</td>
</tr>
<tr>
<td>Utah</td>
<td>48-0</td>
</tr>
<tr>
<td>Vermont</td>
<td>48-0</td>
</tr>
<tr>
<td>Virginia</td>
<td>48-0</td>
</tr>
<tr>
<td>Washington</td>
<td>48-0</td>
</tr>
<tr>
<td>West Virginia</td>
<td>48-0</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>24-0</td>
</tr>
<tr>
<td>Wyoming</td>
<td>57-4</td>
</tr>
</tbody>
</table>

1 Semitrailers up to 53 feet may also operate without a permit by conforming to a kingpin-to-rearmost axle distance of 38 feet. Semitrailers that are consistent with 23 CFR 658.13(h) may operate without a permit provided the distance from the kingpin to the center of the rear axle is 46 feet or less.
This appendix contains the weight and size provisions that were in effect on or before June 1, 1991 (July 6, 1991 for Alaska), for vehicles covered by 23 U.S.C. 127(d) (CMV’s) and 49 U.S.C. app. 2311(j) (commercial motor vehicles (CMV’s) with 2 or more cargo-carrying units). Weights and dimensions are “frozen” at the values shown here, which were in effect on June 1, 1991 (Alaska, July 6, 1991). All vehicles are listed by configuration type.

Trucks Over 80,000 Pounds on the Interstate System

In the State-by-State descriptions, CMV combinations which can also be LCV’s are identified with the letters “LCV” following the type of combination vehicle. The maximum allowable gross vehicle weight is given in this appendix (in thousands of pounds indicated by a “K”), as well as information summarizing the operational conditions, routes, and legal citations. The term “Interstate System” as used herein refers to the Dwight D. Eisenhower System of Interstate and Defense Highways.

Trucks Over STAA Lengths on the National Network

Listed for each State by combination type is either:

1. The maximum cargo-carrying length (shown in feet), or
2. A notation that such vehicle is not allowed (indicated by “NO”).

CMV’s are categorized as follows:

1. A CMV combination consisting of a truck tractor and two trailing units.
2. A CMV combination consisting of a truck tractor and three trailing units.
3. CMV combinations with two or more cargo-carrying units not included in descriptions 1 or 2.

In the following table the left number is the maximum cargo-carrying length measured in feet from the front of the first cargo unit to the rear of the last cargo unit. This distance is not to include length exclusive devices which have been approved by the Secretary or by any State. Devices excluded from length determination shall only include items whose function is related to the safe and efficient operation of the semitainer or trailer. No device excluded from length determination shall be designed or used for carrying cargo. The right number is the maximum gross weight in thousands of pounds that the type of vehicle can carry when operating as an LCV on the Interstate System. For every State where there is a length or weight number in the table that follows, additional information is provided.

**Vehicle Combinations Subject to Pub. L. 102–240**

<table>
<thead>
<tr>
<th>State</th>
<th>1 Truck tractor and 2 trailing units</th>
<th>2 Truck tractor and 3 trailing units</th>
<th>3 Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Alaska</td>
<td>95</td>
<td>110</td>
<td>83</td>
</tr>
<tr>
<td>Arizona</td>
<td>95 129K</td>
<td>95 129K (1)</td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>California</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td>117 110K</td>
<td>115.5 110K</td>
<td>78</td>
</tr>
<tr>
<td>Connecticut</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Dist. of Columbia</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>106 (2)</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td>65 (2)</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td>95 105.5K</td>
<td>95 105.5K (1)</td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>106 127.4K</td>
<td>104.5 127.4K</td>
<td>58</td>
</tr>
<tr>
<td>Iowa</td>
<td>100 129K</td>
<td>100 129K</td>
<td>78</td>
</tr>
<tr>
<td>Kansas</td>
<td>109 120K</td>
<td>109 120K</td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>104 127.4K</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td>58 164K</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td>65 (2)</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>110 120K(4)</td>
<td>109 120K</td>
<td>NO</td>
</tr>
<tr>
<td>Montana</td>
<td>93 137.8K</td>
<td>100 131.06K (1)</td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td>95 95K</td>
<td>95 (2)</td>
<td>68</td>
</tr>
<tr>
<td>Nevada</td>
<td>95 129K</td>
<td>95 129K</td>
<td>96</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>86.4K(3)</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>102 143K</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>103 105.5K</td>
<td>100 105.5K</td>
<td>103'</td>
</tr>
<tr>
<td>Ohio</td>
<td>102 127.4K</td>
<td>95 115K</td>
<td>NO</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>110 90K</td>
<td>95 90K</td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>68 105.5K</td>
<td>96 105.5K</td>
<td>70.5&quot;</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>South Dakota</td>
<td>100 129K</td>
<td>100 129K</td>
<td>1 (1)</td>
</tr>
<tr>
<td>Tennessee</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td>NO</td>
<td>NO</td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td>95 129K</td>
<td>95 129K</td>
<td>1 (1)</td>
</tr>
</tbody>
</table>

279
### VEHICLE COMBINATIONS SUBJECT TO PUB. L. 102-240—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>1 Truck tractor and 2 trailing units</th>
<th>2 Truck tractor and 3 trailing units</th>
<th>3 Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vermont</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Virginia</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Washington</td>
<td>68' 105.5K</td>
<td>NO</td>
<td>68'</td>
</tr>
<tr>
<td>West Virginia</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Wyoming</td>
<td>81' 117K</td>
<td>NO</td>
<td>(1)</td>
</tr>
</tbody>
</table>

(1) State submission includes multiple vehicles in this category—see individual State listings.

### OPERATIONAL CONDITIONS:

- **Weight**: The combination must be in compliance with State laws and regulations. There are no highways in the State subject to Interstate System weight limits. Therefore, the ISTEA freeze as it applies to maximum weight is not applicable.
- **Driver**: The driver must have a commercial driver’s license with the appropriate endorsement. Drivers of this combination must have 10 years of experience in Alaska and certified training in operation of these combinations.
- **Vehicle**: Combinations with an overall length greater than 75 feet, measured bumper-to-bumper, must display an “OVERSIZE” warning sign on the front and rear. In combinations where one cargo-carrying unit is more than 5,000 pounds heavier than the other, the heavier unit shall be placed immediately behind the power unit. Weather restrictions are imposed when hazardous conditions exist, as determined by the Alaska Department of Transportation and Public Facilities (DOT&PF) and the Alaska Department of Public Safety, Division of State Troopers. Time of day travel is not restricted.
- **Permit**: None required.

### LEGAL CITATIONS:

17 AAC 25, and 35; the Administrative Permit Manual.

### STATE: ALASKA

**COMBINATION**: Truck tractor and 3 trailing units

**LENGTH OF THE CARGO-CARRYING UNITS**: 110 feet

**OPERATIONAL CONDITIONS**:

- **Weight and Access**: Same as the AK-TT2 combination.
- **Driver**: The driver must have a commercial driver’s license with the appropriate endorsement. Drivers of this combination must have 10 years of experience in Alaska and certified training in operation of these combinations.
- **Vehicle**: Individual trailer length in a three-trailing unit combination shall not exceed 28.5 feet. Engine horsepower rating shall not be less than 400 horsepower. These combinations are allowed to operate only between May 1 and September 30 of each year. Weather restrictions are imposed when hazardous conditions exist, as determined by the Alaska DOT&PF and the Department of Public Safety, Division of State Troopers. No movement is permitted if visibility is less than 1,000 feet.
- **Permit**: Permits are required with specified durations of not less than 3 months or more than 18 months. There is a fee.
**State: Alaska**

**Combination:** Truck-trailer

**Length of the Cargo-Carrying Units:** 83 feet

**Operational Conditions:**

- **Weight, Driver, Permit, and Access:** Same as the AK–TT2 combination.
- **Vehicle:** Same as the AK–TT2 combination, except that overall combination length may not exceed 90 feet.
- **Routes:** Same as the AK–TT2 combination.

**Legal Citations:** Same as the AK–TT2 combination.

**State: Arizona**

**Combination:** Truck tractor and 2 trailing units—LCV

**Length of the Cargo-Carrying Units:** 95 feet

**Maximum Allowable Gross Weight:** 129,000 pounds

**Operational Conditions:**

- **Weight:** Single-axle maximum weight limit is 20,000 pounds, tandem-axle maximum weight limit is 34,000 pounds, and the gross vehicle weight limit is 129,000 pounds, subject to the Federal Bridge Formula.
- **Driver:** The driver must have a commercial driver’s license with the appropriate endorsement. Drivers must comply with the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation and Title 28, Arizona Revised Statutes.
- **Vehicle:** This vehicle must be able to operate at speeds compatible with other traffic on level roads and maintain 20 miles per hour speed on grades where operated. A heavy-duty fifth wheel is required. The kingpin must be a solid type, not a screw-out or folding type. All hitch connectors must be of a no-sack type, preferably an air-actuated ram. Axles must be those designed for the width of the body. All braking systems must comply with State and Federal requirements. A brake force limiting valve, sometimes called a “slippery road” valve, may be provided on the steering axle. Mud flaps or splash guards are required. When traveling on a smooth, paved surface, trailers must follow in the path of the towing vehicle without shifting or swerving more than 3 inches to either side when the towing vehicle is moving in a straight line.
- **Permits:** Permits are required. Fees are charged. This vehicle is allowed continuous travel, however, the State may restrict or prohibit operations during periods when traffic, weather, or other safety considerations make such operations unsafe or inadvisable. All multiple-trailer combinations shall be driven in the right-hand traffic lane.
- **Access:** Access is allowed for 20 miles from I-15 Exits 8 and 27 or 20 miles from other authorized routes.

**Routes**

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anchorage (Potter Weigh Station)</td>
<td>Jct. AK-3.</td>
</tr>
<tr>
<td>Jct. AK-1</td>
<td>Fairbanks (Gaffney Road Junction)</td>
</tr>
</tbody>
</table>

**Legal Citations:**

<table>
<thead>
<tr>
<th>Route</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-15</td>
<td>Nevada</td>
<td>Utah</td>
</tr>
<tr>
<td>US 89</td>
<td>20 miles south of Utah</td>
<td>Utah</td>
</tr>
<tr>
<td>US 160</td>
<td>US 163</td>
<td>New Mexico</td>
</tr>
<tr>
<td>US 163</td>
<td>US 160</td>
<td>Utah</td>
</tr>
</tbody>
</table>

**State: Arizona**

**Combination:** Truck tractor and 3 trailing units—LCV

**Length of the Cargo-Carrying Units:** 95 feet

**Maximum Allowable Gross Weight:** 123,000 pounds (129,000 pounds on I-15).

**Operational Conditions:**

- **Vehicle, and Access:** Same as the AZ–TT2 combination.
- **Weight:** Single-axle maximum weight limit is 20,000 pounds, tandem-axle maximum weight limit is 34,000 pounds, and the gross vehicle weight is 123,500 pounds (129,000 on I-15), subject to the Federal Bridge Formula.
- **Driver:** The driver must have a commercial driver’s license with the appropriate endorsement. Drivers must comply with the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation and Title 28, Arizona Revised Statutes. Drivers must be trained by an experienced driver of a three trailing unit combination. Training should be through special instructions or by traveling with the new driver until such time as the new driver is deemed adequately
Pt. 658, App. C

qualified by the trainer on the use and operation of these combinations.

PERMIT: Permits are required. Fees are charged. This vehicle is allowed continuous travel, however, the State may restrict or prohibit operations during periods when traffic, weather, or other safety considerations make such operations unsafe or inadvisable. These combinations shall not be dispatched during adverse weather conditions. All multiple-trailer combinations shall be driven in the right-hand traffic lane.

ROUTES: Same as the AZ-TT2 combination.

LEGAL CITATIONS: Same as the AZ-TT2 combination.

STATE: ARIZONA

COMBINATION: Truck-trailer

LENGTH OF THE CARGO-CARRYING UNITS: 69 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER, VEHICLE, PERMIT, and ACCESS: Same as the AZ-TT2 combination.

ROUTES: Same as the AZ-TT2 combination.

LEGAL CITATIONS: Same as the AZ-TT2 combination.

STATE: ARIZONA

COMBINATION: Truck-semitrailer-trailer

LENGTH OF THE CARGO-CARRYING UNITS: 98 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER, VEHICLE, PERMIT, and ACCESS: Same as the AZ-TT2 combination.

ROUTES: Same as the AZ-TT2 combination.

LEGAL CITATIONS: Same as the AZ-TT2 combination.

STATE: COLORADO

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 111 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 110,000 pounds

OPERATIONAL CONDITIONS:

WEIGHT: The maximum gross weight is 110,000 pounds, subject to the formula \( W=800(L+40) \) where "W" equals the gross weight in pounds and "L" equals the length in feet between the centers of the first and last axles, or the gross weight determined by the Federal Bridge Formula, whichever is least. A single axle shall not exceed 20,000 pounds and a tandem axle shall not exceed 36,000 pounds.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement. The driver cannot have had any suspension of driving privileges in any State during the past 3 years where such suspension arose out of the operation of a motor vehicle used as a contract or common carrier of persons or property.

The driver must be certified by the motor carrier permit holder’s safety office. The certification shall demonstrate that the driver has complied with all written requirements, and that the driver has successfully completed a company-approved road test for each type of combination vehicle operated.

VEHICLE: Vehicles shall not have fewer than six axles or more than nine axles. They shall be configured such that the shorter trailer shall be operated as the rear trailer, and the trailer with the heavier gross weight shall be operated as the front trailer. In the event that the shorter trailer is also the heavier, the load must be adjusted so that the front trailer is the longer and heavier of the two.

Vehicles shall have adequate power to maintain a minimum speed of 20 miles per hour on any grade over which the combination operates and can resume a speed of 20 miles per hour after stopping on any such grade.


Vehicles are required to have a heavy-duty fifth wheel and equal strength pick-up plates that meet the standards in the DPS Commercial Vehicle Rules. This equipment must be properly lubricated and located in a position that provides stability during normal operation, including braking. The trailers shall follow in the path of the towing vehicle.
without shifting or swerving more than 3 inches to either side when the towing vehicle is moving in a straight line.

Kingpins must be of a solid type and permanently fastened. Screw-out or folding type kingpins are prohibited.

Hitch connections must be of a no-slip type, preferably air-actuated ram.

Drawbar lengths shall be adequate to provide for the clearances required between the towing vehicle and the trailer(s) for turning and backing maneuvers.

Axles must be those designed for the width of the body of the trailer(s).

Braking systems must comply with the DPS Commercial Vehicle Rules and C.R.S. §42-2-225. Fast air-transmission and release valves must be provided on all trailer(s) and converter dolly axles. A brake force limiting valve, sometimes called a “slippery road” valve, may be provided on the steering axle.

PERMIT: An annual permit is required for which a fee is charged. Also, the vehicle must have an overweight permit pursuant to C.R.S. §42-4-409(11)(A), (R), or (C), and comply with Rule 4-15 in the rules pertaining to Extra-Legal Vehicles or Loads.

A truck tractor and two trailing units wherein at least one of the trailing units exceeds 28.5 feet in length shall not operate on the following designated highway segments during the hours of 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., Monday through Friday, for Colorado Springs, Denver, and Pueblo. (A truck tractor with two trailing units wherein at least one of the trailing units exceeds 28.5 feet in length not operating at greater than the legal maximum weight of 80,000 pounds is subject to different hours-of-operation restrictions. Refer to rules pertaining to Extra-Legal Vehicles or Loads).

Colorado Springs: I-25 between Exit 135 (CO 83 Academy Blvd. So.) and Exit 150 (CO 83, Academy Blvd. No.).


Pueblo: I-25 between Exit 94 (CO 45 Lake Ave.) and Exit 101 (US 50/CO 47).

The holder of a longer vehicle combination (LVC) permit must have an established safety program as provided in Chapter 9 of the “Colorado Department of Highways Rules and Regulations for Operation of Longer Vehicle Combinations on Designated State Highway Segments.” Elements of the program include compliance with minimum safety standards at 8 CCR 1507-1, hazardous materials regulations at 8 CCR 1507-7, -8, and -9, Colorado Uniform Motor Vehicle Law, Articles 1 through 4 of Title 42, C.R.S. as amended, and Public Utility Commission regulations at 4 CCR 723-6, -8, -15, -22, and -23.

ACCESS: A vehicle shall not be operated off the designated portions of the Interstate System except to access food, fuel, repairs, and rest or to access a facility. Access to a facility shall be subject to the following conditions:

1. The facility must:
   a. Be either a manufacturing or a distribution center, a warehouse, or truck terminal located in an area where industrial uses are permitted;
   b. Be a construction site; and
   c. Meet the following criteria:
      1. Vehicles are formed for transport or broken down for delivery on the premises;
      2. Adequate off-roadway space exists on the premises to safely maneuver the vehicles; and
      3. Adequate equipment is available on the premises to handle, load, and unload the vehicle, its trailers, and cargo.

2. The facility must be located within a maximum distance of 10 miles from the point where the vehicle enters or exits the designated portions of the Interstate System. Such 10-mile distance shall be measured by the actual route(s) to be traveled to the facility, rather than by a straight line radius from the designated Interstate System to the facility.

3. The access route(s) between the designated Interstate System and the facility must be approved in advance by the public entity (Colorado DOT, municipality, or county) having jurisdiction for the roadway(s) that make up the route(s). Where the State of Colorado has jurisdiction over the access route(s), it will consider the following safety, engineering, and other criteria in determining whether to approve the route(s):
   a. Safety of the motoring public;
   b. Geometrics of the street and roadway;
   c. Traffic volumes and patterns;
   d. Protection of State highways, roadways, and structures;
   e. Zoning and general characteristics of the route(s) to be encountered; and
   f. Other relevant criteria warranted by special circumstances of the proposed route(s).

Local entities, counties, and municipalities having jurisdiction over route(s), should consider similar criteria in determining whether to approve the proposed ingress and egress route(s); and

4. A permit holder shall access only the facility or location authorized by the permit. If the permit authorizes more than one facility or location, then on any single trip by an LVC from the designated Interstate System the permit holder may access only one facility or location before returning to the designated Interstate System.
LEGAL CITATIONS: Vehicles must comply with all applicable statutes, such as C.R.S. 42-4-402(1), 42-4-404(1), 42-4-407(1)(a)(II) (A), (B) or (C). All LVC’s must comply with the Extra-Legal Vehicles and Loads Rules and the Longer Vehicle Combination Rules. However, when the rules address the same subject, the LVC, since it is operating at greater than 80,000 pounds, must comply with the Extra-Legal Vehicles and Loads Rules. Such rules are: 4-1 concerning holiday travel restrictions, 4-1-5 concerning hours of operation restrictions, 4-8 concerning minimum distance between vehicles and 4-13 concerning maximum allowable gross weight.

STATE: COLORADO

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 115.5 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 110,000 pounds

OPERATIONAL CONDITIONS: Same as the CO-TT2 combination.

ROUTES: Same as the CO-TT2 combination.

LEGAL CITATIONS: Same as the CO-TT2 combination.

STATE: COLORADO

COMBINATION: Truck tractor and 2 trailing units

LENGTH OF THE CARGO-CARRYING UNITS: 106 feet

OPERATIONAL CONDITIONS: All over-dimensional and weight regulations of the Florida Turnpike Authority shall apply to such units unless specifically excluded under the terms of the Tandem Trailer Permit or these regulations.

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement. Proposed drivers of tandem-trailer units shall be registered by the Florida Turnpike Authority prior to driving such equipment on the turnpike system. For further information, see Rule 14-62.016 FAC.

VEHICLE: A complete tandem-trailer combination shall consist of a truck tractor, first semitrailer, fifth-wheel converter dolly, and a second semitrailer. The converter dolly may be either a separate unit or an integral component of the first semitrailer. The width shall not exceed 102 inches and the height shall not exceed 13 feet 6 inches. A tractor used in the tandem-trailer operations shall be capable of hauling the maximum gross load to be transported by a permittee at a speed of not less than 40 miles per hour on all portions of the turnpike system excepting that portion of the roadway, as posted in 1988, between mileposts 234 and 238 where a minimum speed of 30 miles per hour will be permitted.

Every tandem-trailer combination shall be equipped with full air brakes or air-activated hydraulic brakes on the tractor and either air or electric brakes on the dolly and trailers.

A tractor, which will be used to haul a complete tandem-trailer combination with a total gross weight of 110,000 pounds or more, shall be equipped with tandem rear axles and driving power shall be applied to all wheels on both axles. When the above tandem-axle tractor is required, a tandem-axle dolly converter must be used.

Every tandem-trailer combination shall be equipped with emergency equipment that equals or exceeds both the equipment requirements and the performance standards cited in Chapter 316, Florida Statutes and subpart H “Emergency Equipment” of 49 CFR 393.95.

A converter (fifth-wheel) dolly used in the tandem-trailer operations may have either single or tandem axles, according to its total gross weight. In addition to the primary towbars(s), the dolly vehicle must be equipped
with safety chains or cables for connecting the dolly to the lead semitrailer and must be adequate to prevent breakaway.

Lamps and Reflectors. Each tractor, trailer, and converter dolly in a tandem-trailer combination shall be equipped with electric lamps and reflectors mounted on the vehicle in accordance with Chapter 316, Florida Statutes, and subpart H “Lighting Devices, Reflectors and Electrical Equipment,” of 49 CFR 393.9 through 49 CFR 393.33.

Coupling Devices. Coupling devices shall be so designed, constructed, and installed and the vehicles in a tandem-trailer combination shall equal or exceed both the equipment requirements and the performance standards established on 49 CFR 393.70, except that such devices shall be so designed and constructed as to ensure that any such combination traveling on a level, smooth paved surface will follow in the path of the towing vehicle without shifting or swerving from side to side over 2 inches to each side of the path of the vehicle when it is moving in a straight line. (For further information see Rule 14-62.002, 14-62.005, 14-62.006; 14-62.007, 14-62.008; 14-62.009; 14-62.010; 14-62.011; 14-62.012; 14-62.013; and 14-62.015, FAC)

PERMIT: Tandem-trailer units may operate on the turnpike system under a Tandem Trailer Permit issued by the Florida Turnpike Authority upon application, except as provided in subparagraph (2) below.

(1) The Florida Turnpike Authority shall provide a copy of each such permit to the Motor Carrier Compliance Office.

(2) Tandem-trailer trucks of the dimensions mandated by the STAA of 1982 and operating in compliance with Rule Chapter 14-54, FAC, and under the provisions of section 316.515, Florida Statutes shall be exempt from the provisions of this rule chapter to the extent provided in Rule 14-54.0011, FAC. (For further information see Rules 14-62.001; 14-62.022; 14-62.023; 14-62.024; 14-62.026; 14-62.027, FAC)

ACCESS: Staging. Tandem-trailer combinations shall be made up and broken up only in special assembly (staging) areas as designated for this purpose. For further information, see Rule 14-62.017, FAC. Make-up and break-up of tandem-trailer combinations shall not be allowed on a public right-of-way unless the area is designated for such use or unless an emergency exists.

### Routes

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida’s Turnpike</td>
<td>Exit 304 Wilwood</td>
</tr>
</tbody>
</table>


**STATE: HAWAII**

**COMBINATION:** Truck tractor and 2 trailing units

**LENGTH OF CARGO CARRYING UNITS:** 65 feet

**OPERATIONAL CONDITIONS:**

**WEIGHT:** This combination must operate in compliance with State laws and regulations.

**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement.

**VEHICLE:** No load may exceed the carrying capacity of the axles specified by the manufacturer and no combination vehicle shall have a total weight in excess of its designed gross combination weight limit.

**PERMITS:** No permits are required.

**ACCESS:** Designated routes off the NN.

**ROUTES:** All NN routes except HI-95 from H-1 to Barbers Point Harbor.

**LEGAL CITATIONS:** Chapter 291, Section 34, Hawaii Revised Statutes and Chapter 104 of Title 19, Administrative Rules.

**STATE: IDAHO**

**COMBINATION:** Truck tractor and 2 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 95 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 105,500 pounds

**OPERATIONAL CONDITIONS:**

**WEIGHT:** Single axle: 20,000 pounds, tandem axle: 34,000 pounds, and gross vehicle weight up to 105,500 pounds.

**Axle spacing:** must comply with Idaho Code 49–1001.

**Trailer weights:** The respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. Substantially greater shall be defined as more than 4,000 pounds heavier.

**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement.

**VEHICLE:** The rules provide that all CMV’s with two or more cargo-carrying units (except for truck-trailer combinations which are limited to an 85-foot combination length) are subject to calculated maximum off-tracking (CMOT) limits. The CMOT formula is:

\[
CMOT = R - \left[ R^2 - (A^2 + B^2 + C^2 + D^2 + E^2) \right]^{1/2}
\]

**R** = 161

A, B, C, D, E, etc.: measurements between points of articulation or pivot. Squared dimensions to stinger steer points of articulation are negative.
The power unit of LCV’s and extra-length combinations shall have adequate power and traction to maintain a speed of 15 miles per hour under normal operating conditions on any up-grade over which the combination is operated.

Every combination operated under special permit authority shall be covered by insurance meeting State and Federal requirements. Evidence of this insurance must be carried in the permitted vehicle.

PERMIT: Permits are required. Permit duration is for 1 year from the date of issuance.

ACCESS: Combinations with a CMOT limit of less than 6.5 feet may use any Interstate or designated highway system interchange for access. Combinations with a CMOT of 6.5 to 8.75 feet may use only the following Interstate System interchanges:

- I-15 Exits 58 and 119.
- I-84 Exits 3, 49, 50, 52, 54, 57, 95, 168, 173, 182, 208, and 211.
- I-86 Exits 36, 40, 56, and 58.

ROUTES: All NN routes.

LEGAL CITATIONS: Other regulations and restrictions that must be complied with are:

- Idaho Transportation Department Rules 39.C.01, .06, .08, .09, .10, .11, .15, and .19–.23.

STATE: IDAHO

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 95 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 105,500 pounds

OPERATIONAL CONDITIONS:

VEHICLE: Overall combination length limited to 85 feet.

ROUTES: Same as the ID–TT2 combination.

LEGAL CITATIONS: Same as the ID–TT2 combination.

STATE: IDAHO

COMBINATION: Truck-trailer-trailer, and Truck-semitrailer-trailer.

LENGTH OF THE CARGO-CARRYING UNITS: 98 feet

OPERATIONAL CONDITIONS:

VEHICLE: Overall combination length limited to 105 feet.

ROUTES: Same as the ID–TT2 combination.

LEGAL CITATIONS: Same as the ID–TT2 combination.

STATE: INDIANA

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 106 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 127,400 pounds

OPERATIONAL CONDITIONS:

VEHICLE: Lightest trailer to the rear. Distance between coupled trailers shall not exceed 9 feet. The combination vehicle, including coupling devices, shall be designed and constructed so as to ensure that while traveling on a level, smooth paved surface each
trailing unit will follow in the path of the towing vehicle without shifting or swerving from side to side more than 3 inches. The combination vehicle must have at least five axes but not more than nine axes and except on ramps be able to achieve and maintain a speed of 45 miles per hour. Following distance is 500 feet, and passing maneuvers must be completed within 1 mile. The truck tractor must be equipped at a minimum with emergency equipment including fire extinguisher, spare fuses, tire chains, tire tread minimums, and disabled vehicle warning devices. Every dolly must be coupled with safety chain directly to the frame of the semitrailer by which it is towed. Each unit in a multi-trailer combination must be equipped at a minimum with electric lights and reflectors mounted on the vehicle.

**PERMIT:** A free annual tandem-trailer permit must be obtained from the Indiana DOT for loads which exceed 90,000 pounds. A multiple-trip access permit, for which a fee is charged, must also be obtained for access to points of delivery or to breakdown locations. Permission to operate can be temporarily suspended by the Indiana DOT due to weather, road conditions, holiday traffic, or other emergency conditions. Any oversize vehicle whose length exceeds 80 feet shall not be operated at a speed in excess of 45 miles per hour. Oversize loads are not to be operated at any time when wind velocity exceeds 25 miles per hour.

**ACCESS:** 15 miles from toll gates.

<table>
<thead>
<tr>
<th>Routes</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-40/90 (IN Toll Road)</td>
<td>Toll Road Gate 21</td>
<td>Ohio.</td>
</tr>
<tr>
<td>I-90 (IN Toll Road)</td>
<td>Illinois</td>
<td>Toll Road Gate 21.</td>
</tr>
</tbody>
</table>

**LEGAL CITATIONS:**
Indiana Code 9-8-1-16
Indiana Code 8-15-2
135 Indiana Administrative Code 2

**STATE: INDIANA**

**COMBINATION:** Truck tractor and 3 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 194.5 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 127,400 pounds

**OPERATIONAL CONDITIONS:**
**WEIGHT, DRIVER, PERMIT, and ACCESS:** Same as the IN-TT2 combination.
**VEHICLE:** Semitrailers and trailers shall not be longer than 28.5 feet, and the minimum number of axles for the combination is seven. Three trailing unit combinations must be equipped with adequate spray-suppressant mud flaps which are properly maintained.

**ROUTES:** Same as the IN-TT2 combination.

**LEGAL CITATIONS:** Same as the IN-TT2 combination.

**STATE: IOWA**

**COMBINATION:** Combination of three or more vehicles coupled together

**LENGTH OF THE CARGO CARRYING UNITS:** 58 feet

**OPERATIONAL CONDITIONS:**
**WEIGHT:** This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.
**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement.
**VEHICLE:** The maximum width is 102 inches, and the maximum height is 13 feet 6 inches.
**PERMIT:** None required.
**ACCESS:** Unlimited.

**ROUTES:** All roads within the State.

**LEGAL CITATIONS:** Indiana Code 9-8-1-2.

**STATE: MONTANA**

**COMBINATION:** Combination of three or more vehicles coupled together

**LENGTH OF THE CARGO CARRYING UNITS:** 60 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 125,000 pounds

**OPERATIONAL CONDITIONS:**
**WEIGHT, DRIVER, PROMPT, AND ACCESS:** Same conditions which apply to a truck tractor and 2 trailing units—LCV.

**LEGAL CITATIONS:** Montana Code 49-1-104

**STATE: NEBRASKA**

**COMBINATION:** Combination of three or more vehicles coupled together

**LENGTH OF THE CARGO-CARRYING UNITS:** 194.5 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 129,000 pounds when entering Sioux City from South Dakota or South Dakota from Sioux City; 95,000 pounds when entering Sioux City from Nebraska or Nebraska from Sioux City.

**OPERATIONAL CONDITIONS:**
**WEIGHT, DRIVER, PERMIT, and ACCESS:** Same conditions which apply to a truck tractor and 2 trailing units legally operating in South Dakota or Nebraska.

**LEGAL CITATIONS:** Nebraska Revised Statutes 65-601

**STATE: SOUTH DAKOTA**

**COMBINATION:** Combination of three or more vehicles coupled together

**LENGTH OF THE CARGO-CARRYING UNITS:** 194.5 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 125,000 pounds

**OPERATIONAL CONDITIONS:**
**WEIGHT, DRIVER, PERMIT, and ACCESS:** Same conditions which apply to a truck tractor and 2 trailing units legally operating in South Dakota or Nebraska.

**LEGAL CITATIONS:** South Dakota Code 39-1-104
authorized by appropriate State or local authority.

**ROUTES:** LCV combinations may operate on all Interstate System routes in Sioux City and its commercial zone as shown in 49 CFR 1048.101 on November 28, 1995. If subject only to the ISTEA freeze on length, they may operate on all NN routes in Sioux City and its commercial zone, as above.


**STATE:** IOWA

**COMBINATION:** Truck tractor and 3 trailing units—LCV.

**LENGTH OF CARGO-CARRYING UNITS:** 100 feet when entering Sioux City from South Dakota or South Dakota from Sioux City.

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 129,000 pounds when entering Sioux City from South Dakota or South Dakota from Sioux City.

**OPERATIONAL CONDITIONS:**

**WEIGHT, DRIVER, VEHICLE, AND PERMIT:** Same as the SD–TT3 combination.

**ACCESS:** Same as the IA–TT2 combination.

**ROUTES:** Same as IA–TT2 combination.

**LEGAL CITATION:** Same as the IA–TT2 combination.

---

**STATE:** KANSAS

**COMBINATION:** Truck tractor and 2 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 109 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 120,000 pounds

**OPERATIONAL CONDITIONS:**

**WEIGHT:** Combinations consisting of a truck tractor and two trailing units must comply with the Federal Bridge Formula, with maximum weights of 20,000 pounds on a single axle and 34,000 pounds on a tandem axle, and with a maximum gross weight of 120,000 pounds.

**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement.

**VEHICLE:** Truck tractor and two trailing unit combinations must meet legal width and height with no time-of-day travel restrictions or other special requirements.

**PERMIT:** Permits are not required for operation on the Kansas Turnpike. A permit is required for access between the Turnpike and motor freight terminals located within a 10-mile radius of each toll booth, except at the northeastern end of the Turnpike where a 20-mile radius is allowed. Access permits are valid for 6 months.

**ACCESS:** Turnpike access routes include all routes between the Turnpike and a motor freight terminal located within a 10-mile radius of each toll booth, except at the northeastern end of the Turnpike where a 20-mile radius is allowed.


---

**ROUTES**

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I–35 Kansas Tpk. Authority (KTA)</td>
<td>Oklahoma KTA Exit 127.</td>
</tr>
<tr>
<td>I–70 KTA</td>
<td>KTA Exit 182 KTA Exit 223.</td>
</tr>
<tr>
<td>I–355 KTA</td>
<td>KTA Exit 127 KTA Exit 177.</td>
</tr>
<tr>
<td>I–470 KTA</td>
<td>KTA Exit 177 KTA Exit 182.</td>
</tr>
</tbody>
</table>
STATE: KANSAS

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 109 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 120,000 pounds

OPERATIONAL CONDITIONS: The operations of triple trailing unit combinations are governed by two sets of criteria: (1) The Turnpike and Turnpike access rules, and (2) the SVC rules which apply off of the Turnpike except in the case of vehicles operating under Turnpike access authority. The Turnpike and Turnpike access rules allow a maximum combination vehicle length of 119 feet overall. The SVC rules require “Triples” to have trailers of no more than 28.5 feet maximum length or a cargo-carrying length of approximately 95 feet.

The Turnpike and Turnpike access rules have no time-of-day travel restrictions or other special requirements. The SVC rules have several operational conditions. SVC’s cannot operate on holidays or during holiday weekends. SVC’s cannot be dispatched or operated during adverse weather conditions. SVC’s must travel in the right lane, except for passing, and the following distance is 100 feet for every 10 miles per hour. SVC permits can include any restrictions deemed necessary, including specific routes and hours, days, and/or seasons of operation. Rules and regulations can be promulgated regarding driver qualifications, vehicle equipment, and operational standards.

WEIGHT: All triple trailing unit combinations must comply with the Federal Bridge Formula with maximum axle weights of 20,000 pounds on a single axle and 34,000 pounds on a tandem axle. The maximum gross weight is 120,000 pounds on the Turnpike and Turnpike access routes, but the SVC’s have a maximum weight of 110,000 pounds.

DRIVER: A commercial driver’s license with the appropriate endorsement is required under both Turnpike and SVC rules. In addition, for SVC operation drivers must have completed SVC driver training and a company road test. Drivers must also have 2 years of experience driving tractor-semitrailers and 1 year driving doubles.

VEHICLE: Vehicle requirements apply to the SVC program only. All axles, except steering axles, must have dual wheels, and all vehicles must be able to achieve and maintain a speed of 40 miles per hour on all grades. Antispray mud flaps shall be attached to the rear of each axle except the steering axle. Mud flaps shall have a surface designed to absorb and deflect excess moisture to the road surface. Drop and lift axles are prohibited. Vehicles may have a minimum of six and a maximum of nine axles. The heaviest trailers are to be placed forward. Hazardous cargo is prohibited. Convex mirrors are required on both sides of the cab. Equipment must comply with the requirements of 49 CFR 390-399.

Any SVC shall be stable at all times during normal braking and normal operation. When traveling on a level, smooth paved surface, an SVC shall follow the towing vehicle without shifting or swerving beyond the restraints of the lane of travel.

PERMIT: Same as the KS-TT2 combination on the Turnpike and Turnpike access routes. A fee per company plus a permit fee for each power unit is required for the SVC program, and the SVC permits are valid for 1 year. SVC’s operated pursuant to regulation 36-1-33 under an annual permit shall be covered by insurance.

ACCESS: Turnpike access routes include all routes between the Turnpike and a motor freight terminal located within a 10-mile radius of each toll booth, except at the northeastern end of the Turnpike where a 20-mile radius is allowed. SVC access routes include all routes between the Interstate and a motor freight terminal located within 5 miles of the Interstate at Goodland.

Routes:

A. For vehicles subject to the Turnpike and Turnpike access rules:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-35 KTA</td>
<td>Oklahoma</td>
</tr>
<tr>
<td>1-70 KTA</td>
<td>KTA Exit 127</td>
</tr>
<tr>
<td>1-335 KTA</td>
<td>KTA Exit 127</td>
</tr>
<tr>
<td>1-470 KTA</td>
<td>KTA Exit 177</td>
</tr>
<tr>
<td>I-70 Exit 19 Goodland</td>
<td>KTA Exit 182</td>
</tr>
</tbody>
</table>

B. For vehicles subject to the SVC rules:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-70</td>
<td>Colorado</td>
</tr>
</tbody>
</table>

LEGAL CITATIONS: Same as the KS-TT2 combination, plus KSA 8-1915.

STATE: MASSACHUSETTS

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF CARGO-CARRYING UNITS: 104 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 127,400 pounds

OPERATIONAL CONDITIONS:

WEIGHT: Any combination of vehicles may not exceed a maximum gross weight of 127,400 pounds. The maximum gross weight of the tractor and first semitrailer shall not exceed 71,000 pounds. The maximum gross weight of each unit of dolly and semitrailer...
shall not exceed 56,400 pounds. The maximum gross weight for the tractor and first semitrailer is governed by the formula 35,000 pounds plus 1,000 pounds per foot between the centerline of the front axle and the centerline of the rearmost axle of the semitrailer. The maximum gross weight on any one axle is 22,400 pounds, and on any tandem axle it is 36,000 pounds. Axles less than 36 inches between centers are considered to be one axle. DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement and must be registered with the Massachusetts Turnpike Authority (MTA). Registration shall include all specified driving records, safety records, physical examinations, and minimum of 5 years of driving experience with tractor trailers.

VEHICLE:
1. (1) Brake Regulation. The brakes on any vehicle, dolly converter, or combination of vehicles used in tandem-trailer operations as a minimum shall comply with Federal Motor Carrier Safety Regulations in 49 CFR part 393. In addition, any vehicle, dolly converter or combination of vehicles used in tandem-trailer operations shall meet the requirements of the provisions of the Massachusetts Motor Vehicle Law. Tandem-trailer combinations certified on or after June 1, 1968, shall be equipped with suitable devices to accelerate application and release of the brakes of the towed vehicle.

2. (2) Axles. A tractor used to haul a tandem trailer combination with a gross weight of more than 110,000 pounds shall be equipped with tandem rear axles, each of which shall be engaged to bear its full share of the load on the roadway surface.

3. (3) Tandem Assembly. When the gross weight of the trailers vary by more than 20 percent, they shall be coupled with the heaviest trailer attached to the tractor. Coupling devices and towing devices shall comply with the Federal regulations as stated in 49 CFR part 393. When the distance between the rear of the one semitrailer and the front of the following semitrailer is 10 feet or more, the dolly shall be equipped with a device, or the trailers shall be connected along the sides with suitable material, which will indicate to other Turnpike users that the trailers are connected and are in effect one unit. The MTA shall approve the devices or coupling devices shall be so designed, constructed, and installed, and the vehicles in a tandem trailer combination shall be so designed and constructed to ensure that when traveling on a level, smooth paved surface they will follow in the path of the towing vehicle without shifting or swerving over 3 inches to each side of the path of the towing vehicle when it is moving in a straight line. A tandem trailer unit may pass another vehicle traveling in the same direction only if the speed differential will allow the tandem trailer unit to complete the maneuver and return to the normal driving lane within a distance of 1 mile.

Each truck tractor shall be equipped with at least one spare fuse or other overload protective device, if the devices are not of a reset type, for each kind and size used. The vehicle is to carry at least one set of tire chains for at least one driving wheel on each side between October 15 and May 1 of each year. Each truck tractor shall carry a fire extinguisher which shall have an aggregate rating of 20 BC.

PERMIT: A permittee must demonstrate to the MTA that it has insurance coverage of the type and amounts required by Turnpike regulation. Both the tractor manufacturer and the permittee shall certify to the MTA, prior to the approval of a tractor, that it is capable of hauling the maximum permissible gross load to be transported by the permittee at a speed not less than 20 miles per hour on all portions of the turnpike system. The MTA may revoke or temporarily suspend any permit at will and the instructions of the MTA or Massachusetts State Police shall be complied with immediately.

ACCESS: Makeup and breakup areas. Tandem trailer units shall not leave the Turnpike right-of-way and shall be assembled and disassembled only in designated areas.

<table>
<thead>
<tr>
<th>Routes</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I–90 Mass Turnpike</td>
<td>New York State</td>
<td>Turnpike Exit 18</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Boston.</td>
</tr>
</tbody>
</table>

LEGAL CITATIONS:

The MTA, Massachusetts Rules and Regulations 730, and CMR 4.00.

STATE: MICHIGAN

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF CARGO-CARRYING UNITS: 58 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 164,000 pounds

OPERATIONAL CONDITIONS:

WEIGHT: The single-axle weight limit for LCV’s is 18,000 pounds for axles spaced 9 feet or more apart. For axles spaced more than 3.5 but less than 9 feet apart, the single-axle weight limit is 13,000 pounds. The tandem-axle weight limit is 16,000 pounds per axle for the first tandem and 13,000 pounds per axle for all other tandems. Axles spaced less than 3.5 feet apart are limited to 9,000 pounds per axle. Maximum load per inch width of tire is
Federal Highway Administration, DOT

700 pounds. Maximum gross weight is determined based on axle and axle group weight limits.

When restricted seasonal loadings are in effect, load per inch width of tire and maximum axle weights are reduced as follows:

Rigid pavements—525 pounds per inch of tire width, 25 percent axle weight reduction;

Flexible pavements—450 pounds per inch of tire width, 35 percent axle weight reduction.

DRIVER: The driver must have a commercial driver's license with the appropriate endorsement.

VEHICLE: Truck height may not exceed 13.5 feet. There is no overall length for LCV's operating on the Interstate System when semitrailer and trailer lengths do not exceed 28.5 feet. If either the trailer or semitrailer is longer than 28.5 feet, the distance from the front of the first box to the rear of the second box may not exceed 58 feet. A combination of vehicles shall not have more than 11 axles, and the ratio of gross weight to net horsepower delivered to the clutch shall not exceed 400 to 1.

PERMIT: Permits for divisible loads of more than 80,000 pounds must conform to either Federal or grandfathered axle and bridge spacing requirements.

ACCESS: All designated State highways.

ROUTES: All Interstate routes and designated State highways.

LEGAL CITATIONS:

Michigan Public Act 300, section 257.722
Michigan Public Act 300, section 257.719

STATE: MISSISSIPPI

COMBINATION: Truck tractor and 2 trailing units

LENGTH OF THE CARGO-CARRYING UNITS: 65 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations.

DRIVER: The driver must have a commercial driver's license with the appropriate endorsement.

VEHICLE: Each trailing unit may be a maximum of 30 feet long.

PERMIT: None required.

ACCESS: No restrictions, may operate Statewide.

ROUTES: All NN routes.


PERMIT: Annual blanket overdimension permits are issued to allow a truck tractor and three trailing units legally operating in Kansas or Oklahoma, to move to and from terminals in Missouri which are located within a 20-mile band of the State Line for these two States. There is a permit fee per power unit. The permits carry routine permit restrictions, but do not address driver qualifications or any other restrictions not included in the rules and regulations for all permitted movement.

ACCESS: Routes as necessary to reach terminals.

ROUTES: All NN routes within a 20-mile band from the Kansas and Oklahoma borders.


STATE: MONTANA

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF CARGO-CARRYING UNITS: 93 feet

MAXIMUM ALLOWABLE GROSS WEIGHT:

- 137,800 pounds for vehicles operating under the Montana/Alberta Memorandum of Understanding (MOU). For other MT-TR2 combinations, the maximum allowable gross weight is 131,060 pounds.

OPERATIONAL CONDITIONS:

WEIGHT: Except for vehicles operating under the MOU, any vehicle carrying a divisible load over 80,000 pounds must comply with the Federal Bridge Formula found in 23 U.S.C. 127.

- Maximum single-axle limit: 20,000 pounds
- Maximum tandem-axle limit: 34,000 pounds
- Maximum gross weight limit: 131,060 pounds
- Maximum weight allowed per inch of tire width is 600 pounds.

WEIGHT, MONTANA/ALBERTA MOU:

- Maximum single-axle limit: 20,000 pounds
- Maximum tandem-axle limit: 37,500 pounds
- Maximum tridem-axle limit:
  - Axles spaced from 94" to less than 118": 46,300 pounds
  - Axles spaced from 118" to less than 141": 59,700 pounds
  - Axles spaced from 141" to 146": 52,900 pounds
- Maximum gross weight:
  - A-Train: 118,000 pounds
  - B-Train (seven axle): 124,600 pounds
  - B-Train (eight axle): 137,800 pounds

The designation of “A-Train” or “B-Train” refers to the manner in which the two trailing units are connected.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement.

VEHICLE: No special requirements beyond compliance with Federal Motor Carrier Safety Regulations.

PERMIT: Special permit required for double trailer combinations if either trailer exceeds 28.5 feet. Permits are available on an annual or a trip basis and provide for continuous travel. Statutory reference: 61–10–124, MCA. For vehicles being operated under the Montana/Alberta MOU, operators must have paid gross vehicle weight fees for the total weight being carried. In addition, a term Restricted Route and Oversize Permit for which an annual fee is charged must be obtained. Finally, vehicle operators must secure a single-trip, overweight permit prior to each trip.

ACCESS: Access must be authorized by the Montana DOT. For vehicles operated under the Montana/Alberta MOU, access routes from 1–15 into Shelby are authorized when permits are issued. For vehicles with a cargo-carrying length greater than 88 feet, but not more than 93 feet, a 2-mile access from the Interstate System is automatically granted to terminals and service areas. Access outside the 2-mile provision may be granted on a case-by-case basis by the Administrator of the Motor Carrier Services Division.

ROUTES: Combinations with a cargo-carrying length greater than 88 feet, but not more than 93 feet, are limited to the Interstate System. Combinations with a cargo-carrying length of 88 feet or less can use all NN routes except U.S. 87 from milepost 79.3 to 82.5. For vehicles being operated under the Montana/Alberta MOU, the only route available is I-15 from the border with Canada to Shelby.

LEGAL CITATION:

- 61–10–124
- ARM
- MCA.
- 18.8.509(6)
- 61–10–107 (3)  61–10–121
- ARM
- MCA.
- 18.8.517, 518

Montana/Alberta Memorandum of Understanding
Administrative Rules of Montana

STATE: MONTANA

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 100 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 131,060 pounds

OPERATIONAL CONDITIONS:

WEIGHT: Any vehicle carrying a divisible load over 80,000 pounds must comply with the Federal Bridge Formula found in 23 U.S.C. 127.

- Maximum single-axle limit: 20,000 pounds
- Maximum tandem-axle limit: 34,000 pounds
- Maximum gross weight limit: 131,060 pounds
Maximum weight allowed per inch of tire width is 600 pounds.

**DRIVER:** Drivers of three trailing unit combinations must be certified by the operating company. This certification includes an actual driving test and knowledge of Federal Motor Carrier Safety Regulations and State law pertaining to triple vehicle operations. Drivers are also required to have a commercial driver’s license with the appropriate endorsement.

**VEHICLE:** The 100-foot cargo-carrying length is only with a conventional tractor within a 110-foot overall length limit. If a cabover tractor is used, the cargo length is 95 feet within a 105-foot overall length limit. Vehicles involved in three trailing unit operations must comply with the following regulations:
1. Shall maintain a minimum speed of 20 miles per hour on any grade;
2. Kingpins must be solid and permanently affixed;
3. Hitch connections must be no-sag type;
4. Drawbars shall be of minimum practical length;
5. Permanently affixed axles must be designed for the width of the trailer;
6. Anti-sail mudflaps or splash and spray suppression devices are required;
7. The heavier trailers shall be in front of lighter trailers;
8. A minimum distance of 100 feet per 10 miles per hour is required between other vehicles except when passing;
9. Operating at speeds greater than 55 miles per hour is prohibited; and
10. Vehicle and driver are subject to Federal Motor Carrier Safety Regulations.


**PERMIT:** Special triple vehicle permits are required for the operation of these combinations. Permits are available on an annual or trip basis. Permits are good for travel on the Interstate System only and are subject to the following conditions:
1. Travel is prohibited during adverse weather conditions;
2. Transportation of Class A explosives is prohibited; and
3. Companies operating triple combinations must have an established safety program including driver certifications.

**ACCESS:** Access is for 2 miles beyond the Interstate System, or further if granted by the Administrator of the Motor Carrier Services Division.

**LEGAL CITATION:** 18.8.517 Administrative Rules of Montana.

**STATE:** MONTANA

**COMBINATION:** Truck-Trailer

**LENGTH OF CARGO-CARRYING UNITS:** 88 feet

**OPERATIONAL CONDITIONS:**

**WEIGHT:** This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

**DRIVER, PERMIT, and ACCESS:** Same as the MT-TT2 combination.

**VEHICLE:** Same as the MT-TT2 combination, except overall length limited to 95 feet. Special permit required if overall length exceeds 75 feet. Special permits allow continuous travel and are available on an annual or trip basis.

**ROUTES:** Same as the MT-TT2 combination.

**LEGAL CITATIONS:** 61–10–121 and 61–10–124, MCA.

**STATE:** MONTANA

**COMBINATION:** Truck-trailer-trailer

**LENGTH OF THE CARGO-CARRYING UNITS:** 103 feet

**WEIGHT:** This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

**DRIVER, PERMIT, and ACCESS:** Same as the MT-TT2 combination.

**VEHICLE:** The cargo-carrying unit length is 103 feet with a conventional truck within a 110-foot overall length limit, and 98 feet with a cab-over-engine truck within a 105-foot overall length limit. On two-lane highways the cargo-carrying unit length is 88 feet within a 95-foot overall length limit.

**ROUTES:** All NN routes except U.S. 87 between mileposts 79.3 and 82.5.

**LEGAL CITATIONS:**
61–10–124 MCA
61–10–121 MCA
ARM 18–8–509
STATE: NEBRASKA

COMBINATION: Truck tractor and 2 trailing units

LENGTH OF THE CARGO-CARRYING UNITS: 95 feet for combination units traveling empty. 65 feet for combination units carrying cargo, except those carrying seasonally harvested products from the field where they are harvested to storage, market, or stockpile in the field, or from stockpile to market, which may extend the length to 71.5 feet.

OPERATIONAL CONDITIONS:

WEIGHT:
- Maximum weight: 
  - Single axle = 20,000 pounds
  - Tandem axle = 34,000 pounds
  - Gross = Determined by Federal Bridge Formula B, but not to exceed 95,000 pounds.

- Truck tractor and 2 trailing unit combinations with a length of cargo-carrying units of over 65 feet are required to travel empty.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement. There are no additional special qualifications where the cargo-carrying unit lengths are 65 feet or less. For cargo-carrying unit lengths over 65 feet, the driver must comply with all State and Federal requirements and must not have had any accidents while operating such vehicles.

VEHICLE: For combinations with a cargo-carrying length over 65 feet, but not over 85 feet, the semitrailer cannot exceed 48 feet in length and the full trailer cannot be less than 26 feet or more than 28 feet long. The shorter trailer must be placed to the rear. The wheel path of the trailer(s) cannot vary more than 3 inches from that of the towing vehicle.

For combinations with a cargo-carrying length greater than 85 feet, up to and including 95 feet, the trailers must be of approximately equal length.

PERMIT: A weight permit in accordance with Chapter 12 of the Nebraska Department of Roads (NDOR) Rules and Regulations is required for operating on the Interstate System with weight in excess of 80,000 pounds.

A length permit, in accordance with Chapters 8 or 11 of the NDOR Rules and Regulations, is required for two trailing unit combinations with a length of cargo-carrying units over 65 feet. Except for permits issued to carriers hauling seasonally harvested products in combinations with a cargo-carrying length greater than 65 feet but not more than 71.5 feet which may move as necessary to accommodate crop movement requirements, holders of length permits are subject to the following conditions:

Movement is prohibited on Saturdays, Sundays, and holidays; when ground wind speed exceeds 25 miles per hour; when visibility is less than 800 feet; or when steady rain, snow, sleet, ice, or other conditions cause slippery pavement. Beginning November 15 until April 16 permission to move must be obtained from the NDOR Permit Office within 3 hours of movement. Beginning April 16 until November 15 permission to move must be obtained within 3 days of the movement.

Fees are charged for all permits. Length permits for combinations carrying seasonally harvested products are valid for 30 days and are renewable but may not authorize operation for more than 120 days per year.

All permits are subject to revocation if the terms are violated.

ACCESS: Access to NN routes is not restricted for two trailing unit combinations with a cargo-carrying length of 65 feet or less, or 71.5 feet or less if involved in carrying seasonally harvested products. For two trailing unit combinations with a cargo-carrying length greater than 65 feet and not involved in carrying seasonally harvested products. For two trailing unit combinations with a cargo-carrying length greater than 65 feet but not more than 71.5 feet which may use all non-Interstate NN routes, vehicles requiring length permits are restricted for two trailing unit combinations with a cargo-carrying length greater than 65 feet but not more than 71.5 feet which may use all non-Interstate NN routes, vehicles requiring length permits are restricted to Interstate 80 between the Wyoming State Line and Exit 440 (Nebraska Highway 50); and except for weather, emergency, and repair, cannot reenter I-80 after exiting.

ROUTES: Except for length permits issued to carriers hauling seasonally harvested products in combinations with a cargo-carrying length greater than 65 feet but not more than 71.5 feet which may use all non-Interstate NN routes, vehicles requiring length permits are restricted to Interstate 80 between the Wyoming State Line and Exit 440 (Nebraska Highway 50). Combinations not requiring length permits may use all NN routes.

LEGAL CITATIONS:

Nebraska Revised Statutes Reissued 1988
§39-6,179 (Double trailers under 65 feet)
§39-6,179.01 (Double trailers over 65 feet)
§39-6,180.01 (Authorized weight limits)
§39-6,181 (Vehicles; size; weight; load; over-weight; special permits; etc.)

Nebraska Department of Roads Rules and Regulations, Title 408, Chapter 1 (Double trailers over 65 feet)

STATE: NEBRASKA

COMBINATION: Truck tractor and 3 trailing units

LENGTH OF THE CARGO-CARRYING UNITS: 95 feet

OPERATIONAL CONDITIONS:

WEIGHT: A truck tractor and three trailing unit combination is required to travel empty.

DRIVER: Same as the NE-TT2 combination.
PERMIT: A length permit, in accordance with Chapter 11 of the NDOR Rules and Regulations is required for a three trailing unit combination. Conditions of the length permit prohibit movements on Saturdays, Sundays, and holidays; when ground wind speed exceeds 25 miles per hour; and when visibility is less than 800 feet. Movement is also prohibited during steady rain, snow, sleet, ice, or other conditions causing slippery pavement. Beginning November 15 until April 16 permission to move must be obtained from the NDOR Permit Office within 3 hours of movement. Beginning April 16 until November 15 permission to move must be obtained within 3 days of the movement. A fee is charged for the annual length permit. These permits can be revoked if the terms are violated.

ACCESS: Access to and from I-80 is limited to designated staging areas within 6 miles of the route between Wyoming State Line and Exit 440 (Nebraska Route 50). Except for weather, emergency, and repair, three trailing unit combinations cannot reenter the Interstate after having exited.

VEHICLE: A three trailing unit combination must have trailers of approximately equal length and the overall vehicle length cannot exceed 105 feet.

 ROUTES: I-80 from Wyoming to Exit 440 (Nebraska Highway 50).

LEGAL CITATIONS:
Neb. Rev. Stat. §39-6,179.01 (Reissue 1988)
Nebraska Department of Roads Rules and Regulations, Title 408, Chapter 1

STATE: NEBRASKA

COMBINATION: Truck-trailer

LENGTH OF THE CARGO-CARRYING UNITS: 68 feet

OPERATIONAL CONDITIONS:
WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER: The driver must have a commercial driver's license with the appropriate endorsement.

VEHICLE: The overall vehicle length, including load, cannot exceed 75 feet.

ACCESS: No permit is required.

OPERATIONAL CONDITIONS:
WEIGHT: The single-axle weight limit is 20,000 pounds, the tandem-axle weight limit is 34,000 pounds, and the gross weight is subject to the Federal Bridge Formula limits, provided that two consecutive tandems with a distance of 36 feet or more between the first and last axle may carry 34,000 pounds on each tandem.

DRIVER: The driver must have a commercial driver's license with the appropriate endorsement, be at least 25 years old, and have had a medical exam within previous 24 months. Every operator must be covered by a liability insurance policy with personal injury and property damage limits meeting State requirements.

VEHICLE: No trailer may be longer than 48 feet. If one trailer is 48 feet long, the other trailer cannot exceed 42 feet. Towed vehicles must not shift or sway more than 3 inches to right or left and must track in a straight line on a level, smooth paved highway. Vehicles must be able to accelerate and operate on a level highway at speeds which are compatible with other traffic and with the speed limits and must be able to maintain a minimum of 20 miles per hour on any grade on which they may operate. All vehicles must have safety chains on converter dollies. Vehicles must carry snow chains for each drive wheel. Vehicle operations may be suspended in adverse weather and high winds, as determined by police or the Nevada DOT.

The shortest trailer must be in the rear of a combination unless it is heavier than the longer trailer.

Brakes must comply with all State and Federal requirements for commercial vehicles including automatic braking for separation of vehicles, parking brakes, and working lights.

Vehicles must not exceed posted speed limits and cannot operate on any highway on which they cannot at all times stay on the right side of the center line. All LCV's must keep a distance of at least 500 feet from each other.

Every full-sized truck or truck tractor used in a combination of vehicles must be equipped with at least the following emergency and safety equipment:
1. One fire extinguisher which meets “Classification B” of the National Fire Protection Association.
2. One spare light bulb for every electrical lighting device used on the rear of the last vehicle in a combination of vehicles.

3. One spare fuse for each different kind and size of fuse used in every vehicle in the combination of vehicles. If the electrical system of any vehicle in the combination contains any devices for protection of electrical circuits from overloading, other than fuses and circuit breakers which can be reset, one spare of each such device must be kept as emergency and safety equipment.

4. Any flares, reflectors or red electrical lanterns which meet State or Federal law or regulation.

Before operating a combination of vehicles on a highway of this State, the owner or operator of the combination shall certify to the Nevada DOT, on a form provided by it, that all vehicles and equipment in the combination meet the requirements of and will be operated in compliance with NAC 484.300 to 484.440, inclusive.

All axles except for steering axles and axles that weigh less than 10,000 pounds must have at least four tires unless the tire width of each tire on the axles is 14 inches or greater.

PERMIT: Permits are required and a fee is charged. They may be revoked for violation of any of the provisions of the legal regulations. The State may suspend operation on roads deemed unsafe or impracticable. Permits must be carried in the vehicle along with identification devices issued by the Nevada Department of Motor Vehicles.

ACCESS: As authorized by the Nevada DOT.

ROUTES: All NN routes, except US 93 from Nevada State route 500 to Arizona.

LEGAL CITATIONS: NRS 484.400, .405(4), .425, .430, .739, .498.100-4, .100-6(a), and 706.531. Also, "Regulations for the Operation of 70 to 105 foot Combinations" (1990).

STATE: NEVADA

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 95 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS: Same as the NV–TT2 combination.

ROUTES: Same as the NV–TT2 combination.

LEGAL CITATIONS: Same as the NV–TT2 combination.

STATE: NEW MEXICO

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: Not applicable

MAXIMUM ALLOWABLE GROSS WEIGHT: 86,400 pounds

OPERATIONAL CONDITIONS: The cargo-carrying length restriction does not apply to this combination. The length of each trailing unit is limited to 28.5 feet. This describes a two trailing unit vehicle whose operation is guaranteed by the STAA of 1982 regardless of inter-unit spacing. As long as each trailing unit is 28.5 feet long or less, cargo-carrying length is not restricted. This combination is listed as a LCV because it can exceed the 80,000-pound threshold established in the Congressional definition. The 86,400-pound gross weight limit is grandfathered for New Mexico.

WEIGHT: Single axle = 21,600 pounds. Tandem axle = 34,200 pounds. Load per inch of tire width = 600 pounds. The total gross weight with load imposed on the highway by any vehicle or combination of vehicles where the distance between the first and last axles is less than 19 feet shall not exceed that given for the respective distances in the following table:

<table>
<thead>
<tr>
<th>Distance in feet between first and last axles of group</th>
<th>Allowed load in pounds on group of axles</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>34,320</td>
</tr>
</tbody>
</table>
Federal Highway Administration, DOT

<table>
<thead>
<tr>
<th>Distance in feet between first and last axles of group</th>
<th>Allowed load in pounds on group of axles</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>35,100</td>
</tr>
<tr>
<td>6</td>
<td>35,800</td>
</tr>
<tr>
<td>7</td>
<td>36,600</td>
</tr>
<tr>
<td>8</td>
<td>37,400</td>
</tr>
<tr>
<td>9</td>
<td>38,220</td>
</tr>
<tr>
<td>10</td>
<td>39,000</td>
</tr>
<tr>
<td>11</td>
<td>39,780</td>
</tr>
<tr>
<td>12</td>
<td>40,560</td>
</tr>
<tr>
<td>13</td>
<td>41,340</td>
</tr>
<tr>
<td>14</td>
<td>42,120</td>
</tr>
<tr>
<td>15</td>
<td>42,900</td>
</tr>
<tr>
<td>16</td>
<td>43,680</td>
</tr>
<tr>
<td>17</td>
<td>44,460</td>
</tr>
<tr>
<td>18</td>
<td>45,240</td>
</tr>
</tbody>
</table>

The total gross weight with load imposed on the highway by any vehicle or combination of vehicles where the distance between the first and last axles is 19 feet or more shall not exceed that given for the respective distances in the following table:

<table>
<thead>
<tr>
<th>Distance in feet between first and last axles of group</th>
<th>Allowed load in pounds on group of axles</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>53,100</td>
</tr>
<tr>
<td>20</td>
<td>54,000</td>
</tr>
<tr>
<td>21</td>
<td>55,000</td>
</tr>
<tr>
<td>22</td>
<td>56,000</td>
</tr>
<tr>
<td>23</td>
<td>57,000</td>
</tr>
<tr>
<td>24</td>
<td>58,000</td>
</tr>
<tr>
<td>25</td>
<td>59,000</td>
</tr>
<tr>
<td>26</td>
<td>60,000</td>
</tr>
<tr>
<td>27</td>
<td>61,000</td>
</tr>
<tr>
<td>28</td>
<td>62,000</td>
</tr>
<tr>
<td>29</td>
<td>63,000</td>
</tr>
<tr>
<td>30</td>
<td>64,000</td>
</tr>
<tr>
<td>31</td>
<td>65,000</td>
</tr>
<tr>
<td>32</td>
<td>66,000</td>
</tr>
<tr>
<td>33</td>
<td>67,000</td>
</tr>
<tr>
<td>34</td>
<td>68,000</td>
</tr>
<tr>
<td>35</td>
<td>69,000</td>
</tr>
<tr>
<td>36</td>
<td>70,000</td>
</tr>
<tr>
<td>37</td>
<td>71,000</td>
</tr>
<tr>
<td>38</td>
<td>72,000</td>
</tr>
<tr>
<td>39</td>
<td>73,000</td>
</tr>
<tr>
<td>40</td>
<td>74,000</td>
</tr>
<tr>
<td>41</td>
<td>75,000</td>
</tr>
<tr>
<td>42</td>
<td>76,000</td>
</tr>
<tr>
<td>43</td>
<td>77,000</td>
</tr>
<tr>
<td>44</td>
<td>78,000</td>
</tr>
<tr>
<td>45</td>
<td>79,000</td>
</tr>
<tr>
<td>46</td>
<td>80,100</td>
</tr>
<tr>
<td>47</td>
<td>81,000</td>
</tr>
<tr>
<td>48</td>
<td>82,000</td>
</tr>
<tr>
<td>49</td>
<td>83,000</td>
</tr>
<tr>
<td>50</td>
<td>84,000</td>
</tr>
<tr>
<td>51</td>
<td>85,000</td>
</tr>
<tr>
<td>52</td>
<td>86,400</td>
</tr>
<tr>
<td>53</td>
<td></td>
</tr>
<tr>
<td>54</td>
<td></td>
</tr>
<tr>
<td>55</td>
<td></td>
</tr>
<tr>
<td>56 and over</td>
<td></td>
</tr>
</tbody>
</table>

The distance between the centers of the axles shall be measured to the nearest even foot. When a fraction is exactly one-half the next larger whole number shall be used.

**DRIVER:** The driver must have a commercial driver's license with the appropriate endorsement.

**VEHICLE:** No special requirements beyond normal Federal Motor Carrier or State regulations. The maximum length of the trailing units is 28.5 feet.

**PERMIT:** None Required.

**ACCESS:** STAA vehicles must be allowed reasonable access in accordance with 23 CFR 658.19.

**ROUTES:** All Interstate highways.

**LEGAL CITATIONS:**

66-7-409 NMSA 1978
66-7-410 NMSA 1978

**STATE:** NEW YORK

**COMBINATION:** Truck tractor and 2 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 102 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 143,000 pounds

**OPERATIONAL CONDITIONS:**

**WEIGHT:** The following information pertains to tandem trailer combinations with either trailer more than 28.5 feet long but not more than 48 feet long. A nine-axle combination vehicle may not exceed a total maximum gross weight of 143,000 pounds. An eight-axle combination vehicle may not exceed a total maximum gross weight of 138,400 pounds. The maximum gross weight that may be carried upon any combination of units is limited by the maximum gross weight that can be carried upon the axles as follows. For a nine-axle combination: Drive axles—36,000 pounds, axles four/five—36,000 pounds, axles six/seven—27,000 pounds, and axles eight/nine—36,000 pounds. A minimum 12-foot axle spacing between the fifth and sixth axles is also required on the nine-axle LCV. For an eight-axle combination: Drive axles—36,000 pounds, axles four/five—36,000 pounds, sixth axle—22,400 pounds, and axles seven/eight—36,000 pounds. The eight-axle LCV has no minimum axle-spacing requirements. For gross weights in excess of 138,400 pounds the combination must include a tandem-axle dolly to meet the nine-axle requirements. Maximum permissible gross weight for B-train combination is 127,000 pounds.

When the gross weight of the two trailers in a tandem combination vary more than 20 percent, the heaviest of the two must be placed in the lead position.

For tandem trailer combinations in which neither trailing unit exceeds 28.5 feet in length the following maximum allowable weights apply: for a single axle—26,000 pounds.
Pounds (except that steering axles may not exceed 22,400 pounds), for a tandem axle—42,500 pounds, for a tri-axle—52,500 pounds. The gross weight may not exceed 100,000 pounds or be above the manufacturer’s gross weight rating, whichever is lower.

**Driver:** For operation on highways under the jurisdiction of the New York State Thruway Authority (NYSTA), except for the full length of I-84 and that portion of I-287 from Thruway exit 8 to I-95, the driver must have a commercial driver’s license with the appropriate endorsement, and hold a Tandem Trailer Driver’s Permit issued by the NYSTA. In order to obtain an NYSTA driver’s permit, an applicant must (1) hold a valid commercial driver’s license with multiple-trailer endorsement; (2) be over 26 years old, in good health, and have at least 5 years of provable experience driving tractor-trailer combinations; and (3) meet all other application requirements with regard to driving history established by the NYSTA. Qualified drivers receive a Tandem Trailer Driver’s Permit for Tandem Vehicle Operation which is valid only for the operation of the certified equipment owned by the company to which the permit is issued.

For operation on highways under the jurisdiction of the New York State DOT, cities not wholly included in one county, the full length of I-84 and that portion of I-287 from Thruway exit 8 to I-95, the driver must have a commercial driver’s license with the appropriate endorsement.

**Vehicle:** All vehicles must meet the requirements of applicable Federal and State statutes, rules, and regulations. Vehicles operating on highways under the jurisdiction of the NYSTA, except for the full length of I-84 and that portion of I-287 from Thruway exit 8 to I-95, must also meet the following additional requirements. The tractor manufacturer and the permittee shall certify to the NYSTA prior to the approval of the tractor that it is capable of hauling the maximum permissible gross load at a speed of not less than 20 miles per hour on all portions of the thruway system.

The brakes on any vehicle, dolly converter, or combination of vehicles shall comply with 49 CFR part 393 and, in addition, any vehicle or dolly converter shall meet the provisions of the New York State Traffic Law. Tandem trailer operations shall be equipped, at a minimum, with emergency equipment as required by 49 CFR part 393, subpart H, as amended, tire chains from October 15 to May 1 of each year, a fire extinguisher with an aggregate rating of 20BC, and each trailer with specific lamps and reflectors.

All tractors certified by the NYSTA for use with tandem trailers will be assigned an identification number by the NYSTA which must be placed on the vehicle. The number must be at least 3 inches in height and visible to a person standing at ground level opposite the driver’s position in the cab.

**Axle Type:** Tractors to be used for hauling 110,000 pounds or more shall be equipped with tandem rear axles, both with driving power. Tractors to be used for hauling 110,000 pounds or less may have a single drive axle. Tandem combinations using single wheel tires commonly referred to as “Super Singles” are required to use triple-axle trailers, dual-axle trailers, and dual-axle dollies. Dollies. Every converter dolly certified on and after June 1, 1968, used to convert a semitrailer to a full trailer may have either single or tandem axles at the option of the permittee. Single-axle dollies may not utilize low profile tires. Combination vehicles with a gross weight in excess of 138,400 pounds must have a tandem-axle dolly to meet the nine-axle requirement. If the distance between two semitrailers is 10 feet or more, the dolly shall be equipped with a device or the trailers connected along the sides with suitable material to indicate they are in effect one unit. The devices or connection shall be approved by the NYSTA prior to use on a tandem trailer combination. The NYSTA tandem-trailer provisions require that converter dollies shall be coupled with one or more safety chains or cables to the frame or an extension of the frame of the motor vehicle by which it is towed. Each dolly converter must also be equipped with mud flaps. Tandem combinations using a sliding fifth wheel attached to the lead trailer, known as a “B-Train” combination, will require a separate Thruway Engineer Service approval prior to the initial tandem run. Special provisions regarding B-Trains will be reviewed at the time of the application or request for use on the Thruway.

**Permit:** For operation on highways under the jurisdiction of the New York State DOT, cities not wholly included in one county, or the following highway sections under NYSTA jurisdiction; the full length of I-84 and that portion of I-287 from Thruway exit 8 to I-95, a permit to exceed the weight limits set forth in section 385(15) of the New York State Vehicle and Traffic Law must be obtained from the State DOT, city involved, or the NYSTA. A fee is charged for the permit.

For operation on highways under the jurisdiction of the NYSTA, except for the full length of I-84 and that portion of I-287 from Thruway exit 8 to I-95, companies must file a application for a Tandem Trailer Permit with the NYSTA. Permits are issued to such companies upon meeting qualifications, including insurance, for tandem combinations over 65 feet in length. No permit fee is charged; however, Thruway tolls are charged for each use of the Thruway, and the equipment must be certified by the NYSTA annually. The annual re-certification of equipment is handled by: New York State
Thruway Authority, Manager of Traffic Safety Services, P.O. Box 189, Albany, New York 12201-0189

Transportation of hazardous materials is subject to special restrictions plus 49 CFR part 397 of the Federal Motor Carrier Safety Regulations.

ACCESS: For tandem trailer combinations with either trailer more than 28.5 feet long but not more than 48 feet long, the following access is available to authorized operating routes.

I-87 (New York Thruway) Access provided at Thruway Exit 21B to or from a point 1,500 feet north of the Thruway on US 9W.
I-90 (NYSTA-Berkshire Section) access provided at:
1. Thruway Exit B-1 to or from a point 0.8 mile north of the southern most access ramp on US 9.
2. Thruway Exit B-3 within a 2,000-foot radius of the Thruway ramps to NY 22.
I-90 (New York Thruway) access provided at:
1. Thruway Exit 28 within a radius of 1,500 feet of the toll booth at Fultonville, New York.
2. Thruway Exit 32 to or from a point 0.6 mile north of the Thruway along NY 233.
3. Thruway Exit 44 to or from a point 0.6 mile from the Thruway along NY 332 and Collett Road.
4. Thruway Exit 52 to or from:
   a. A point 1.7 miles west and south of the Thruway via Walden Avenue and NY 240 (Harlem Road);
   b. A point 0.83 mile east and south of the Thruway via Walden Avenue and a roadway purchased by the Town of Cheektowaga from Sorrento Cheese, Inc.
5. Thruway Exit 54 to or from a point approximately 2.5 miles east and north of the Thruway via routes NY 490 and NY 277.
6. Thruway Exit 56 to or from a point approximately 2 miles west and south of the Thruway via NY 179 and Old Mile Strip Road.
I-190 (NYSTA—Niagara Section) access provided at:
1. Thruway Exit N1 to or from:
   a. A point 0.8 mile west of the Thruway exit along Dinges Street.
   b. A point 0.45 mile from the Thruway exit via Dinges Street and James E. Casey Drive.
2. Thruway Exit N5 to or from a point approximately 1.6 miles south of the Thruway via Louisiana Street and South Street.
3. Thruway Exit N15 to or from a point 0.5 mile southeast of the Thruway via NY 322 (Sheridan Drive) and Kenmore Avenue.
4. Thruway Exit N17 to or from:
   a. A point 1.5 miles north of the Thruway on NY 266 (River Road).

(b) A point approximately 0.4 mile south of the Thruway on NY 266 (River Road).

Tandem trailer combinations in which neither trailing unit exceeds 28.5 feet in length are restricted to the Designated Qualifying and Access Highway System. ROUTES: For tandem trailer combinations with either trailer more than 28.5 feet long, but not more than 48 feet long, the following routes are available:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thruway Exit 21A</td>
<td>Thruway Exit B-1</td>
</tr>
<tr>
<td>Thruway Exit B-1</td>
<td>Thruway Exit 24</td>
</tr>
<tr>
<td>Thruway Exit 32</td>
<td>Massachusetts</td>
</tr>
<tr>
<td>Thruway Exit 53</td>
<td>Int’l Border with Canada</td>
</tr>
<tr>
<td>Thruway Exit 55</td>
<td>Thruway Exit 21A</td>
</tr>
</tbody>
</table>

LEGAL CITATIONS:
Public Authorities Law—Title 9, sec. 350, et. seq. (section 361 is most relevant) New York State Thruway Authority Rules & Regulations, sections 100.6, 100.8, and 103.13 New York State Vehicle & Traffic Law, sections 385 and 1620

STATE: NORTH DAKOTA

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 103 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 105,500 pounds

OPERATIONAL CONDITIONS:

WEIGHT: The Gross Vehicle Weight (GVW) of any vehicle or combination of vehicles is determined by the Federal Bridge Formula, including the exception for two sets of tandems spaced 36 feet apart. No single axle shall carry a gross weight in excess of 20,000 pounds. Axles spaced 40 inches or less apart are considered one axle. Axles spaced 8 feet or more apart are considered as individual axles. The gross weight of two individual axles may be restricted by the weight formula. Spacing between axles shall be measured from axle center to axle center. Axles spaced over 40 inches but less than 8 feet apart shall not carry a gross weight in excess of 17,000 pounds per axle. The gross weight of three or more axles in a grouping
is determined by the measurement between the extreme axle centers. During the spring breakup season or on otherwise posted highways, reductions in the above axle weights may be specified.

The weight in pounds on any one wheel shall not exceed one-half the allowable axle weight. Dual tires are considered one wheel. The weight per inch of tire width shall not exceed 550 pounds. The width of tire shall be the manufacturer’s rating.

**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement.

**VEHICLE:** The cargo length of a two trailing unit combination may not exceed 100 feet (when the power unit is a truck tractor) or 103 feet (when the power unit is a truck) when traveling on the NN or local highways designated by local authorities. All hitches must be of a load-bearing capacity capable of bearing the weight of the towed vehicles. The towing vehicle must have a hitch commonly described as a fifth wheel or gooseneck design, or one that is attached to the frame.

The hitch on the rear of the vehicle connected to the towing vehicle must be attached to the frame of the towed vehicle. All hitches, other than a fifth wheel or gooseneck design, must be of a ball and socket type with a locking device or a pintle hook. The drawn vehicles shall be equipped with brakes and safety chains adequate to control the movement of, and to stop and hold, such vehicles. When the drawn vehicle is of a fifth wheel or gooseneck design, safety chains are not required. In any truck or truck tractor and two trailer combination, the lighter trailer must always be operated as the rear trailer, except when the gross weight differential with the other trailer does not exceed 5,000 pounds.

The power unit shall have adequate power and traction to maintain a minimum speed of 15 miles per hour on all grades.

**PERMIT:** No permits are required for GVW of 80,000 pounds or less. Single-trip permits are required for GVW exceeding 80,000 pounds. Weather restrictions (37–06–04–06, NDAC), weight distribution on trailers (37–06–04, NDAC), and signing requirements (37–06–04–05, NDAC) are applicable. Movements of LCV’s are prohibited when:

1. Road surfaces, due to ice, snow, slush, or frost present a slippery condition which may be hazardous to the operation of the unit or to other highway users;
2. Wind or other conditions may cause the unit or any part thereof to swerve, whip, sway, or fail to follow substantially in the path of the towing vehicle; or
3. Visibility is reduced due to snow, ice, sleet, fog, mist, rain, dust, or smoke.

The North Dakota Highway Patrol may restrict or prohibit operations during periods when in its judgment traffic, weather, or other safety conditions make travel unsafe.

The last trailer in any combination must have a “LONG LOAD” sign mounted on the rear. It must be a minimum of 12 inches in height and 60 inches in length. The lettering must be 8 inches in height with 1-inch brush strokes. The letters must be black on a yellow background.

Legal width—3 feet 6 inches on all highways.

Legal height—13 feet 6 inches.

**ACCESS:** Access for vehicles with cargo-carrying length of 68 feet or more is 10 miles off the NN. Vehicles with a cargo-carrying length less than 68 feet may travel on all highways in North Dakota.

**ROUTES:** All NN routes.

**LEGAL CITATIONS:** North Dakota Century Code, section 38–12–04; North Dakota Administrative Code, article 37–06.

**STATE: NORTH DAKOTA**

**COMBINATION:** Truck tractor and 3 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 100 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 105,500 pounds

**OPERATIONAL CONDITIONS:**

**WEIGHT, DRIVER, PERMIT, and ACCESS:** Same as the ND-TT2 combination.

**VEHICLE:** Same as the ND-TT2 combination, and in addition, in any combination with three trailing units the lightest trailer must always be operated as the rear trailer. For the first two trailing units the lighter trailer must always be second except when the gross weight differential with the other trailer does not exceed 5,000 pounds.

**ROUTES:** Same as the ND-TT2 combination.

**LEGAL CITATIONS:** Same as the ND-TT2 combination.

**STATE: NORTH DAKOTA**

**COMBINATION:** Truck-trailer, and Truck-trailer-trailer

**LENGTH OF THE CARGO-CARRYING UNITS:** 103 feet

**OPERATIONAL CONDITIONS:**

**WEIGHT:** This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

**DRIVER, VEHICLE, PERMIT, and ACCESS:** Same as the ND-TT2 combination.
Federal Highway Administration, DOT

**ROUTES:** Same as the ND–TT2 combination.

**LEGAL CITATIONS:** Same as the ND–TT2 combination.

**STATE:** OHIO

**COMBINATION:** Truck tractor and 2 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 102 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 127,400 pounds

**OPERATIONAL CONDITIONS:** Long double combination vehicles are only allowed on that portion of Ohio’s Interstate System which is under the jurisdiction of the Ohio Turnpike Commission (OTC). These same vehicles are not allowed on any portion of the Interstate System under the jurisdiction of the Ohio DOT.

**WEIGHT:** The OTC has established the following provisions for operation:

- Maximum Weight: Single axle = 21,000 pounds; tandem axle spaced 4 feet or less apart = 24,000 pounds; tandem axle spaced more than 4 feet but less than 8 feet apart = 34,000 pounds; gross weight for doubles 90 feet or less in length = 90,000 pounds; gross weight for doubles over 90 feet but less than 112 feet in length = 127,400 pounds.

**DRIVER:** The driver must have a commercial driver’s license with the appropriate endorsement, be over 26 years of age, in good health, and have not less than 3 years of experience driving tractor-trailer or tractor-short double trailer motor vehicles. Such driving experience shall include experience throughout the four seasons. Drivers must comply with the applicable current requirements of the Federal Motor Carrier Safety Regulations, Federal Hazardous Materials Regulations, and the Economic and Safety regulations of the Ohio Public Utility Commission.

**VEHICLE:** Vehicles being operated under permit at night must be equipped with all lights and reflectors required by the Ohio Public Utilities Commission and the Federal Motor Carrier Safety Regulations, except that the trailer shall be equipped with two red tail lights and two red or amber stop lights mounted with one set on each side. Trailer and semitrailer length for doubles cannot exceed 48 feet, and mixed trailer length combinations are not allowed for combination vehicles over 90 feet in length. Combined cargo-carrying length, including the trailer hitch, cannot be less than 80 feet or more than 102 feet. The number of axles on a double shall be a minimum of five and a maximum of nine. A tractor used in the operation of a double shall be capable of hauling the maximum weight at a speed of not less than 40 miles per hour on all portions of the Turnpike.

**PERMIT:** A special permit is required if the vehicle is over 102 inches wide, 14 feet high, or 65 feet in length including overhang. Tractor-semitrailer-semitrailer combinations require a permit if over 75 feet in length, excluding an allowed 3-foot front overhang and a 4-foot rear overhang. For vehicles over 120 inches wide, 14 feet high, or 80 feet long or if any unit of the combination vehicle is over 60 feet in length, travel is restricted to daylight hours Monday through noon Saturday, except holidays and the day before and after holidays. Operators are restricted to daylight driving if the load overhang is more than 4 feet. A “Long Double Trailer Permit” issued by the OTC is required for operation of doubles in excess of 90 feet in length. Towing units and coupling devices shall have sufficient structural strength to ensure safe operation. Vehicles and coupling devices shall be so designed, constructed, and installed in a double so as to ensure that any towed vehicles when traveling on a level, smooth paved surface will follow in the path of the towing vehicle without shifting or swerving more than 3 inches to either side of the path of the towing vehicle when the latter is moving in a straight line. Vehicle coupling devices and brakes shall meet the requirements of the Ohio Public Utilities Commission and Federal Motor Carrier Safety Regulations. The distance between the rearmost axle of a semitrailer and the front axle of the next semitrailer in a coupled double unit shall not exceed 12 feet 6 inches. In no event shall the distance between the semitrailers coupled in a double exceed 9 feet. Double and triple trailer combinations must be equipped with adequate, properly maintained spray-suppressant mud flaps on all axles except the steering axle. In the event that the gross weights of the trailers vary by more than 20 percent, they shall be coupled according to their gross weights with the heavier trailer forward. A minimum distance of 500 feet shall be maintained between double units and/or triple units except when overtaking and passing another vehicle. A double shall remain in the right-hand, outside lane except when passing or when emergency or work zone conditions exist. When, in the opinion of the OTC, the weather conditions are such that operation of a double is inadvisable, the OTC will notify the permittee that travel is prohibited for a certain period of time.

Class A and B explosives; Class A poisons; and Class 1, 2, and 3 radioactive material cannot be transported in double trailer combinations. Other hazardous materials may be transported in one trailer of a double. The hazardous materials should be placed in the front trailer unless doing so will result in the second trailer weighing more than the first trailer.

**ACCESS:** Tandem trailer units shall not leave the Turnpike right-of-way and shall be...
assembled and disassembled only in designated areas located at Exits 4, 7, 10, 11, 13, 14, and 16.

### ROUTES

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-76 Ohio Turnpike</td>
<td>Tunkpike Exit 15</td>
</tr>
<tr>
<td>I-80 Ohio Turnpike</td>
<td>Indiana</td>
</tr>
<tr>
<td>I-80/90 Ohio Turnpike</td>
<td>Pennsylvania</td>
</tr>
</tbody>
</table>

#### LEGAL CITATIONS: Statutory authority, as contained in Chapter 5537 of the Ohio Revised Code, to regulate the dimensions and weights of vehicles using the Turnpike.

#### STATE: OHIO

#### COMBINATION: Truck tractor and 3 trailing units—LCV

#### LENGTH OF THE CARGO-CARRYING UNITS: 95 feet

#### MAXIMUM ALLOWABLE GROSS WEIGHT: 115,000 pounds

#### OPERATIONAL CONDITIONS: Same as the OH-TT2 combination, except as follows:

**WEIGHT:** Gross weight for triples with an overall length greater than 90 feet but not over 105 feet in length = 115,000 pounds.

**DRIVER:** The driver must have a commercial driver's license with the appropriate endorsement, be over 26 years of age, in good health, and shall have not less than 5 years of experience driving double trailer combination units. Such driving experience shall include experience throughout the four seasons. Each driver must have special training on triple combinations to be provided by the Permittee.

**VEHICLE:** Triple trailer combination vehicles are allowed to operate on the Turnpike provided the combination vehicle is at least 90 feet long but less than 105 feet long and each trailer is not more than 28.5 feet in length. The minimum number of axles on the triple shall be seven and the maximum is nine.

**PERMIT:** A triple trailer permit to operate on the Turnpike is required for triple trailer combinations in excess of 90 feet in length. There is an annual fee for the permit. Class A and B explosives; Class A poisons; and Class 1, 2, and 3 radioactive material cannot be transported in triple trailer combinations. Other hazardous materials may be transported in two trailers of a triple. The hazardous materials should be placed in the front two trailers unless doing so will result in the third trailer weighing more than one of the lead trailers.

**ACCESS:** With two exceptions, triple trailer units shall not leave the Turnpike right-of-way and shall be assembled and disassembled only in designated areas located at exits 4, 7, 10, 11, 13, 14, and 16. The first exception is that triple trailer combinations are allowed on State Route 21 from I-80 Exit 11 (Ohio Turnpike) to a terminal located approximately 500 feet to the north in the town of Richfield. The second exception is for a segment of State Route 7 from Ohio Turnpike Exit 16 to 1 mile south.

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-76 Ohio Turnpike</td>
<td>Tunkpike Exit 15</td>
</tr>
<tr>
<td>I-80 Ohio Turnpike</td>
<td>Pennsylvania</td>
</tr>
<tr>
<td>I-80/90 Ohio Turnpike</td>
<td>Exit 15</td>
</tr>
<tr>
<td>Indiana</td>
<td>Exit 8A</td>
</tr>
<tr>
<td>OH-7</td>
<td>Tunkpike Exit 16</td>
</tr>
<tr>
<td></td>
<td>Extending 1 mile south.</td>
</tr>
</tbody>
</table>

#### LEGAL CITATIONS: Same as the OH-TT2 combination.

#### STATE: OKLAHOMA

#### COMBINATION: Truck tractor and 2 trailing units—LCV

#### LENGTH OF THE CARGO-CARRYING UNITS: 110 feet

#### MAXIMUM ALLOWABLE GROSS WEIGHT: 90,000 pounds

#### OPERATIONAL CONDITIONS:

**WEIGHT:** Single axle = 20,000 pounds; tandem axle = 34,000 pounds; gross vehicle weight = 90,000 pounds. The total weight on any group of two or more consecutive axles shall not exceed the amounts shown in Table 1.

### TABLE 1—OKLAHOMA ALLOWABLE AXLE GROUP WEIGHT

<table>
<thead>
<tr>
<th>Axle Spacing (ft)</th>
<th>2 Axles</th>
<th>3 Axles</th>
<th>4 Axles</th>
<th>5 Axles</th>
<th>6 Axles</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>34,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>34,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>34,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>34,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>34,000</td>
<td>42,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>39,000</td>
<td>42,500</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>40,000</td>
<td>43,500</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td>44,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td></td>
<td>45,000</td>
<td>50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>45,500</td>
<td>50,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td></td>
<td></td>
<td>46,500</td>
<td>51,500</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td></td>
<td></td>
<td>47,000</td>
<td>52,000</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td></td>
<td></td>
<td>48,000</td>
<td>52,500</td>
<td>58,000</td>
</tr>
<tr>
<td>17</td>
<td></td>
<td></td>
<td>48,500</td>
<td>53,500</td>
<td>58,500</td>
</tr>
<tr>
<td>18</td>
<td></td>
<td></td>
<td>49,000</td>
<td>54,000</td>
<td>59,000</td>
</tr>
<tr>
<td>19</td>
<td></td>
<td></td>
<td>50,000</td>
<td>54,500</td>
<td>60,000</td>
</tr>
<tr>
<td>20</td>
<td></td>
<td></td>
<td>51,000</td>
<td>55,500</td>
<td>60,500</td>
</tr>
<tr>
<td>21</td>
<td></td>
<td></td>
<td>51,500</td>
<td>56,000</td>
<td>61,000</td>
</tr>
<tr>
<td>22</td>
<td></td>
<td></td>
<td>52,500</td>
<td>56,500</td>
<td>61,500</td>
</tr>
<tr>
<td>23</td>
<td></td>
<td></td>
<td>53,000</td>
<td>57,500</td>
<td>62,500</td>
</tr>
<tr>
<td>24</td>
<td></td>
<td></td>
<td>54,000</td>
<td>58,000</td>
<td>63,000</td>
</tr>
<tr>
<td>25</td>
<td></td>
<td></td>
<td>54,500</td>
<td>58,500</td>
<td>63,500</td>
</tr>
<tr>
<td>26</td>
<td></td>
<td></td>
<td>56,000</td>
<td>59,500</td>
<td>64,000</td>
</tr>
<tr>
<td>27</td>
<td></td>
<td></td>
<td>57,500</td>
<td>60,000</td>
<td>65,000</td>
</tr>
</tbody>
</table>

302
### Table 1—Oklahoma Allowable Axle Group Weight—Continued

<table>
<thead>
<tr>
<th>Axle Spacing (ft)</th>
<th>Maximum Load (lbs) by Axle Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2 Axles</td>
</tr>
<tr>
<td>28</td>
<td>59,000</td>
</tr>
<tr>
<td>29</td>
<td>55,500</td>
</tr>
<tr>
<td>30</td>
<td>55,000</td>
</tr>
<tr>
<td>31</td>
<td>55,000</td>
</tr>
<tr>
<td>32</td>
<td>54,500</td>
</tr>
<tr>
<td>33</td>
<td>54,000</td>
</tr>
<tr>
<td>34</td>
<td>54,000</td>
</tr>
<tr>
<td>35</td>
<td>54,000</td>
</tr>
<tr>
<td>36</td>
<td>54,000</td>
</tr>
<tr>
<td>37</td>
<td>54,000</td>
</tr>
<tr>
<td>38</td>
<td>54,000</td>
</tr>
<tr>
<td>39</td>
<td>54,000</td>
</tr>
<tr>
<td>40</td>
<td>54,000</td>
</tr>
<tr>
<td>41</td>
<td>54,000</td>
</tr>
<tr>
<td>42</td>
<td>54,000</td>
</tr>
<tr>
<td>43</td>
<td>54,000</td>
</tr>
<tr>
<td>44</td>
<td>54,000</td>
</tr>
<tr>
<td>45</td>
<td>54,000</td>
</tr>
<tr>
<td>46</td>
<td>54,000</td>
</tr>
<tr>
<td>47</td>
<td>54,000</td>
</tr>
<tr>
<td>48</td>
<td>54,000</td>
</tr>
<tr>
<td>49</td>
<td>54,000</td>
</tr>
<tr>
<td>50</td>
<td>54,000</td>
</tr>
<tr>
<td>51</td>
<td>54,000</td>
</tr>
<tr>
<td>52</td>
<td>54,000</td>
</tr>
<tr>
<td>53</td>
<td>54,000</td>
</tr>
<tr>
<td>54</td>
<td>54,000</td>
</tr>
<tr>
<td>55</td>
<td>54,000</td>
</tr>
<tr>
<td>56</td>
<td>54,000</td>
</tr>
<tr>
<td>57</td>
<td>54,000</td>
</tr>
<tr>
<td>58</td>
<td>54,000</td>
</tr>
<tr>
<td>59</td>
<td>54,000</td>
</tr>
<tr>
<td>60</td>
<td>54,000</td>
</tr>
</tbody>
</table>

**DRIVER:** All drivers must have a commercial driver’s license with the appropriate endorsement and must meet the requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 390-397). State requirements are more stringent and not in conflict with Federal requirements take precedence.

**VEHICLE:** All vehicles must meet the requirements of applicable Federal and State statutes, rules, and regulations. Vehicles and load shall not exceed 102 inches in width on the Interstate System and four-lane divided highways. Maximum semitrailer length is 55 feet.

Multiple trailer combinations must be stable at all times during braking and normal operation. A multiple trailer combination when traveling on a level, smooth, paved surface must follow in the path of the towing vehicle without shifting or swerving more than 3 inches to either side when the towing vehicle is moving in a straight line. Heavier trailers are to be placed to the front in multiple trailer combinations.

**PERMIT:** An annual special authorization permit is required for tandem trailer vehicles operating on the Interstate System having a gross weight of more than 80,000 pounds. A fee is charged for the special authorization permit.

**ACCESS:** Access is allowed from legally available routes (listed below) to service facilities and terminals within a 5-mile radius. Access is also authorized on two-lane roadways which connect multi-lane divided highways when such connection does not exceed 15 miles.

**ROUTES:** Doubles with 29-foot trailers may use any route on the NN. Doubles with at least one trailer or semitrailer over 29 feet in length are limited to the Interstate and other multi-lane divided highways listed below.

### Table 2—Connections

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>Kansas</td>
</tr>
<tr>
<td>Texas</td>
<td>Arkansas</td>
</tr>
<tr>
<td>Texas</td>
<td>Missouri</td>
</tr>
<tr>
<td>Entire length in Oklahoma City</td>
<td>US 81 E. Reno.</td>
</tr>
<tr>
<td>Entire length in Oklahoma City</td>
<td>US 177 Ponca City.</td>
</tr>
<tr>
<td>Entire length in Tulsa</td>
<td>OK 80 Ft. Gibson.</td>
</tr>
<tr>
<td>Entire length in Tulsa</td>
<td>OK 115 Cache.</td>
</tr>
<tr>
<td>I-40 Exit 119</td>
<td>I-244 Tulsa.</td>
</tr>
<tr>
<td>US 60</td>
<td>US 77 Perry.</td>
</tr>
<tr>
<td>I-35 Exit 214</td>
<td>Arkansas</td>
</tr>
<tr>
<td>US 63</td>
<td>I-44 Exit 39A Lawton</td>
</tr>
<tr>
<td>US 69 Muskogee</td>
<td>I-244 Tulsa.</td>
</tr>
<tr>
<td>US 62</td>
<td>CIMARRON TUMPKINE</td>
</tr>
<tr>
<td>US 64</td>
<td>I-35 Exit 166 Perry</td>
</tr>
<tr>
<td>US 64</td>
<td>I-40 Exit 325 Roland</td>
</tr>
<tr>
<td>US 69</td>
<td>Texas</td>
</tr>
<tr>
<td>US 70</td>
<td>OK 76 Wilson</td>
</tr>
<tr>
<td>US 75</td>
<td>I-40 Exit 240A-B Henryetta</td>
</tr>
<tr>
<td>US 75</td>
<td>I-44 Exit 6A-B Tulsa</td>
</tr>
<tr>
<td>US 77</td>
<td>I-35 Exit 141 Edmond</td>
</tr>
<tr>
<td>US 81</td>
<td>I-44 (Bailey Tpk.) Exit 80</td>
</tr>
<tr>
<td>US 81</td>
<td>OK 51 Hennessey</td>
</tr>
<tr>
<td>US 81</td>
<td>I-44 Exit 2 Tulsa.</td>
</tr>
<tr>
<td>US 81</td>
<td>South Intersection OK 7 Duncan.</td>
</tr>
<tr>
<td>US 169</td>
<td>US 69 McAlester.</td>
</tr>
<tr>
<td>US 270</td>
<td>I-40 Exit 181.</td>
</tr>
<tr>
<td>US 271</td>
<td>Indian Nation Tpk. Hugs.</td>
</tr>
<tr>
<td>US 412</td>
<td>I-44 Exit 241 Catossa</td>
</tr>
<tr>
<td>US 412</td>
<td>OK 58 Ringwood</td>
</tr>
<tr>
<td>US 412</td>
<td>I-35 Exit 194A B.</td>
</tr>
<tr>
<td>US 412</td>
<td>OK 412 B.</td>
</tr>
</tbody>
</table>

303
**LEGAL CITATIONS:**

Title 47 1981 O.S. 14–101
Title 47 1990 O.S. 14–103, –109, and –116

**STATE: OKLAHOMA**

**COMBINATION:** Truck tractor and 3 trailing units—LCV

**LENGTH OF THE CARGO-CARRYING UNITS:** 95 feet

**MAXIMUM ALLOWABLE GROSS WEIGHT:** 90,000 pounds

**OPERATIONAL CONDITIONS:**

**WEIGHT and ACCESS:** Same as the OK-TT2 combination.

**DRIVER:** Same as the OK-TT2 combination except that in addition, a driver of a three-trailer unit combination must have had at least 2 years of experience driving tractor-trailer combinations.

**VEHICLE:** All vehicles must meet the requirements of applicable Federal and State statutes, rules, and regulations. Vehicle and load shall not exceed 102 inches in width on the Interstate System and other four-lane divided highways. Maximum unit length of triple trailers is 29 feet. Truck tractors pulling triple trailers must have sufficient horsepower to maintain a minimum speed of 40 miles per hour on the level and 20 miles per hour on grades under normal operating conditions. Heavy-duty fifth wheels, pick-up plates equal in strength to the fifth wheel, solid kingpins, no-sack hitch connections, mud flaps and splash guards, and full-width axles are required on triple trailer combinations. All braking systems must comply with State and Federal requirements.

Multiple trailer combinations must be stable at all times during braking and normal operation. A multiple trailer combination when traveling on a level, smooth paved surface must follow in the path of the towing vehicle without shifting or swerving more than 3 inches to either side when the towing vehicle is moving in a straight line. Heavier trailers are to be placed to the front in multiple trailer combinations.

**PERMIT:** An annual special combination permit is required for the operation of triple-trailer combinations on the Interstate System and other four-lane divided primary highways. This permit also authorizes such combinations to exceed 80,000 pounds on the Interstate System.

The permit holder must certify that the driver of a triple-trailer combination is qualified. Operators of triple-trailer combinations must maintain a 500-foot following distance and must drive in the right lane, except when passing or in an emergency.

Speed shall be reduced and extreme caution exercised when operating triple-trailer combinations under hazardous conditions, such as those caused by snow, wind, ice, sleet, fog, mist, rain, dust, or smoke. When conditions become sufficiently dangerous, as determined by the company or driver, operations shall be discontinued and shall not resume until the vehicle can be safely operated. The State may restrict or prohibit operations during periods when, in the State’s judgment, traffic, weather, or other safety conditions make such operations unsafe or inadvisable.

Class A and B explosives; Class A poisons; Class 1, 2, and 3 radioactive material; and any other material deemed to be unduly hazardous by the U.S. Department of Transportation cannot be transported in triple-trailer combinations.

A fee is charged for the annual special authorization permit.

** ROUTES:** Same as the OK-TT2 combination.
Federal Highway Administration, DOT

LEGAL CITATIONS:
Title 47 1981 O.S. 14–101
Title 47 1990 O.S. 14–109, –116, –121
DPS Size and Weight Permit Manual 595.30.

STATE: OREGON

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 68 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 105,500 pounds

OPERATIONAL CONDITIONS:

WEIGHT: Maximum allowable weights are as follows: single wheel—10,000 pounds, single axle—20,000 pounds, tandem axle—34,000 pounds. Gross vehicle weights over 80,000 pounds must follow the Oregon extended weight table, with a maximum of 105,500 pounds. Weight is also limited to 600 pounds per inch of tire width.

EXTENDED WEIGHT TABLE
Gross weights over 80,000 pounds are authorized only when operating under the authority of a Special Transportation Permit.

MAXIMUM ALLOWABLE WEIGHTS
1. The maximum allowable weights for single axles and tandem axles shall not exceed those specified under ORS 810.010.
2. The maximum allowable weight for groups of axles spaced at 46 feet or less apart shall not exceed those specified under ORS 810.010.
3. The maximum weights for groups of axles spaced at 47 feet or more and the gross combined weight for any combination of vehicles shall not exceed those set forth in the following table:

<table>
<thead>
<tr>
<th>Axle spacing in feet</th>
<th>5 Axles</th>
<th>6 Axles</th>
<th>7 Axles</th>
<th>8 or More axles</th>
</tr>
</thead>
<tbody>
<tr>
<td>64</td>
<td>88,000</td>
<td>92,500</td>
<td>97,500</td>
<td>101,000</td>
</tr>
<tr>
<td>65</td>
<td>88,500</td>
<td>93,000</td>
<td>98,000</td>
<td>102,000</td>
</tr>
<tr>
<td>66</td>
<td>89,000</td>
<td>93,500</td>
<td>98,500</td>
<td>103,000</td>
</tr>
<tr>
<td>67</td>
<td>90,000</td>
<td>94,000</td>
<td>99,000</td>
<td>104,000</td>
</tr>
<tr>
<td>68</td>
<td>90,000</td>
<td>95,000</td>
<td>99,500</td>
<td>105,000</td>
</tr>
<tr>
<td>69</td>
<td>90,000</td>
<td>95,500</td>
<td>100,000</td>
<td>105,500</td>
</tr>
<tr>
<td>70</td>
<td>90,000</td>
<td>96,000</td>
<td>101,000</td>
<td>106,000</td>
</tr>
<tr>
<td>71</td>
<td>90,000</td>
<td>96,500</td>
<td>101,500</td>
<td>106,500</td>
</tr>
<tr>
<td>72</td>
<td>90,000</td>
<td>97,000</td>
<td>102,000</td>
<td>107,000</td>
</tr>
<tr>
<td>73</td>
<td>90,000</td>
<td>97,500</td>
<td>102,500</td>
<td>107,500</td>
</tr>
<tr>
<td>74</td>
<td>90,000</td>
<td>98,000</td>
<td>103,000</td>
<td>108,000</td>
</tr>
<tr>
<td>75</td>
<td>90,000</td>
<td>98,500</td>
<td>103,500</td>
<td>108,500</td>
</tr>
<tr>
<td>76</td>
<td>90,000</td>
<td>99,000</td>
<td>104,000</td>
<td>109,000</td>
</tr>
<tr>
<td>77</td>
<td>90,000</td>
<td>99,500</td>
<td>104,500</td>
<td>109,500</td>
</tr>
<tr>
<td>78</td>
<td>90,000</td>
<td>100,000</td>
<td>105,000</td>
<td>110,000</td>
</tr>
</tbody>
</table>

Distance measured to nearest foot; when exactly one-half foot, take next larger number.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement.

VEHICLE: For a combination which includes a truck tractor and two trailing units, the lead trailing unit (semitrailer) may be up to 40 feet long. The second trailing unit may be up to 33 feet long. However, the primary control is the total cargo-carrying distance which has a maximum length of 68 feet. Any towed vehicles in a combination must be equipped with safety chains or cables to prevent the towbar from dropping to the ground in the event the coupling fails. The chains or cables must have sufficient strength to control the towed vehicle in the event the coupling device fails and must be attached with no more slack than necessary to permit proper turning. However, this requirement does not apply to a fifth-wheel coupling if the upper and lower halves of the fifth wheel must be manually released before they can be separated.

PERMIT: A permit is required for operation if the gross combination weight exceeds 80,000 pounds. A fee is charged. Permitted movements must have the lighter trailing unit placed to the rear, and use splash and spray devices when operating in rainy weather. Movement is not allowed when road surfaces are hazardous due to ice or snow, or when other atmospheric conditions make travel unsafe.

ACCESS: As allowed by the Oregon DOT.

ROUTES: All NN routes.

LEGAL CITATIONS: ORS 810.010, ORS 810.030 through 810.060, and ORS 818.010 through 818.235.
STATE: OREGON

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 96 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 105,500 pounds

OPERATIONAL CONDITIONS:

WEIGHT, DRIVER, PERMIT, and ACCESS:
Same as the OR-TT2 combination.

VEHICLE: Trailing units must be of equal length. The overall length of the combination is limited to 105 feet. Any towed vehicles in a combination must be equipped with safety chains or cables to prevent the towbar from dropping to the ground in the event the coupling fails. The chains or cables must have sufficient strength to control the towed vehicle in the event the coupling device fails and must be attached with no more slack than necessary to permit proper turning. However, this requirement does not apply to a fifth-wheel coupling if the upper and lower halves of the fifth wheel must be manually released before they can be separated.

 ROUTES: The following NN routes are also open to truck tractor and three trailing unit combinations.

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>US 395</td>
<td>I-82 Exit 1 Umatilla.</td>
</tr>
<tr>
<td>US 730</td>
<td>I-84 Exit 168 US 26 near Banks.</td>
</tr>
<tr>
<td>OR 6</td>
<td>US 101 Tillamook OR 217 Beaverton.</td>
</tr>
<tr>
<td>OR 8</td>
<td>OR 47 Forest Grove.</td>
</tr>
<tr>
<td>OR 11</td>
<td>Washington Mission Cutoff near Pendleton.</td>
</tr>
<tr>
<td>OR 18</td>
<td>US 101 Otis ... OR 99W Dayton.</td>
</tr>
<tr>
<td>OR 19</td>
<td>I-84 Exit 137 South 2.5 miles.</td>
</tr>
<tr>
<td>OR 22</td>
<td>OR 18 near Willamina. OR 96E Salem.</td>
</tr>
<tr>
<td>OR 31</td>
<td>US 97 La Pine Falls. US 395 Valley Falls.</td>
</tr>
<tr>
<td>OR 34</td>
<td>Jct US 20/OR 99W Corvallis.</td>
</tr>
<tr>
<td>OR 35</td>
<td>I-5 Exit 64 Mt. Hood Hood River. California.</td>
</tr>
<tr>
<td>OR 39</td>
<td>OR 140 East of Klamath Falls.</td>
</tr>
<tr>
<td>OR 58</td>
<td>I-5 Exit 188 Goose. OR 97 near Chemult.</td>
</tr>
<tr>
<td>OR 62</td>
<td>OR 99 Medford OR 140 White City.</td>
</tr>
<tr>
<td>OR 99E</td>
<td>I-5 Exit 307 Portland. I-205 Exit 9 Oregon City.</td>
</tr>
<tr>
<td>OR 99E</td>
<td>I-5 Exit 233 Albany. Harrisburg.</td>
</tr>
<tr>
<td>OR 99E</td>
<td>OR 228 Halsey Jct US 20/OR 34 Corvallis.</td>
</tr>
<tr>
<td>OR 126</td>
<td>Jct OR 207/OR 74 US 26 near Banks. East 2 miles.</td>
</tr>
<tr>
<td>OR 138</td>
<td>Jct OR 101/Sisters US 26 Prineville.</td>
</tr>
<tr>
<td>OR 140</td>
<td>OR 62 White City US 97 near Chemult.</td>
</tr>
<tr>
<td>OR 201</td>
<td>Jct US 97/OR 66 Klamath Falls.</td>
</tr>
<tr>
<td>OR 207/OR 74</td>
<td>US 26 Prineville. US 97 near Pendleton.</td>
</tr>
<tr>
<td>OR 212</td>
<td>I-5 Exit 12 US 26 Boring.</td>
</tr>
<tr>
<td>OR 214</td>
<td>I-5 Exit 271 OR 96E Woodburn.</td>
</tr>
<tr>
<td>OR 217</td>
<td>I-5 Exit 292 Tigard US 26 Beaverton.</td>
</tr>
<tr>
<td>OR 224</td>
<td>OR 99E Milwaukee I-205 Exit 13.</td>
</tr>
</tbody>
</table>

LEGAL CITATIONS: Same as the OR-TT2 combination.
STATE: OREGON

COMBINATION: Truck-trailer

LENGTH OF CARGO-CARRYING UNITS: 70 feet, 5 inches.

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER, ACCESS, ROUTES, AND LEGAL CITATIONS: Same as OR-TT2 combination.

VEHICLE: The truck or trailer may be up to 40 feet long not to exceed 75 feet overall. The truck may have a built-in hoist to load cargo. Any towed vehicle in a combination must be equipped with safety chains or cables to prevent the towbar from dropping to the ground in the event the coupling fails. The chains or cables must have sufficient strength to control the towed vehicle in the event the coupling device fails and must be attached with no more slack than necessary to permit proper turning. However, this requirement does not apply to a fifth-wheel coupling if the upper and lower halves of the fifth wheel must be manually released before they can be separated.

PERMIT: No overlength permit required.

STATE: SOUTH DAKOTA

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF CARGO-CARRYING UNITS: 100 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS:

WEIGHT: For all combinations, the maximum gross weight on two or more consecutive axles is limited by the Federal Bridge Formula but cannot exceed 129,000 pounds. The weight on single axles or tandem axles spaced 40 inches or less apart may not exceed 20,000 pounds. Tandem axles spaced more than 40 inches but 96 inches or less may not exceed 34,000 pounds. Two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each, provided the overall distance between the first and last axles of the tandems is 36 feet or more. The weight on the steering axle may not exceed 600 pounds per inch of tire width. For combinations with a cargo-carrying length greater than 81.5 feet the following additional regulations also apply. The weight on all axles (other than the steering axle) may not exceed 500 pounds per inch of tire width. Lift axles and belly axles are not considered load-carrying axles and will not count when determining allowable vehicle weight.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement.

VEHICLE: For all combinations, a semitrailer or trailer may not be longer than 80,000 pounds more than the trailer located immediately in front of it. Towbars longer than 19 feet must be flagged during daylight hours and lighted at night.

For combinations with a cargo-carrying length of 81.5 feet or less, neither trailer may exceed 45 feet, including load overhang. Vehicles may be 12 feet wide when hauling baled feed during daylight hours.

For combinations with a cargo-carrying length over 81.5 feet long, neither trailer may exceed 48 feet, including load overhang. Loading the rear of the trailer heavier than the front is not allowed. All axles except the steering axle require dual tires. Axles spaced 8 feet or less apart must weigh within 500 pounds of each other. The trailer hitch offset may not exceed 6 feet. The maximum effective rear trailer overhang may not exceed 35 percent of the trailer’s wheelbase. The power unit must have sufficient power to maintain 40 miles per hour. A “LONG LOAD” sign measuring 18 inches high by 7 feet long with black on yellow lettering 10 inches high is required on the rear. Offtracking is limited to 0.75 feet for a turning radius of 161 feet.

Offtracking Formula = 161 - [(161² - (L₁² + L₂² + L₃² + L₄² + L₅² + L₆² + L₇² + L₈² + L₁²))²]

Note:  L₁ through L₈ are measurements between points of articulation or vehicle pivot points. Squared dimensions to stinger steer points of articulation are negative. For two trailing unit combinations where at least one trailer is 45 feet long or longer, all the dimensions used to calculate offtracking must be written in the “Permit Restriction” area of the permit along with the offtracking value derived from the calculation.

PERMIT: For combinations with a cargo-carrying length of 81.5 feet or less, a single-trip permit is required for movement on the Interstate System if the gross vehicle weight exceeds 80,000 pounds. An annual or single-trip permit is required for hauling baled feed over 162 inches wide.

For combinations with a cargo-carrying length greater than 81.5 feet, a single-trip permit is required for all movements. Operations must be discontinued when roads are slippery due to moisture, visibility must be good, and wind conditions must not cause trailer whip or sway.

For all combinations, a fee is charged for any permit.

ACCESS: For combinations with a cargo-carrying length of 81.5 feet or less, access is Statewide off the NN unless restricted by the South Dakota DOT.
For combinations with a cargo-carrying length greater than 81.5 feet, access to operating routes must be approved by the South Dakota DOT.

OPERATIONAL CONDITIONS:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bypass US 14</td>
<td>I-29 Exit 133 Brookes.</td>
</tr>
<tr>
<td>US 85</td>
<td>I-90 Exit 10 Spearfish.</td>
</tr>
<tr>
<td>US 281</td>
<td>I-90 Exit 310.</td>
</tr>
<tr>
<td>US 281</td>
<td>8th Ave. Aberdeen</td>
</tr>
<tr>
<td>SD 50</td>
<td>Yankton.</td>
</tr>
</tbody>
</table>


STATE: SOUTH DAKOTA

COMBINATION: Truck-trailer

LENGTH OF CARGO-CARRYING UNITS: 100 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS:

VEHICLE: Same as the SD-TT2 combination.

ACCESS: Same as the access provisions for the SD-TT2 combination with a cargo-carrying length greater than 81.5 feet.

ROUTES: Same as the route provisions for the SD-TT2 combination with a cargo-carrying length greater than 81.5 feet.


STATE: SOUTH DAKOTA

COMBINATION: Truck-Trailer

LENGTH OF CARGO-CARRYING UNITS: 78 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS:

VEHICLE: Same as the SD-TT2 combination.

ACCESS: Same as the access provisions for the SD-TT2 combination with a cargo-carrying length greater than 81.5 feet.

ROUTES: Same as the route provisions for the SD-TT2 combination with a cargo-carrying length greater than 81.5 feet.


STATE: UTAH

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 90 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS:

VEHICLE: Weight limits are as follows:

<table>
<thead>
<tr>
<th>Axle</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>20,000 pounds</td>
</tr>
<tr>
<td>Tandem</td>
<td>34,000 pounds</td>
</tr>
<tr>
<td>Gross</td>
<td>129,000 pounds</td>
</tr>
</tbody>
</table>

Vehicles must comply with the Federal Bridge Formula:

Tire loading on vehicles requiring an overweight or oversize permit shall not exceed 500 pounds per inch of tire width for tires 11 inches wide and greater, and 450 pounds per inch of tire width for tires less than 11 inches wide.
A heavy-duty fifth wheel is required. All fifth wheels must be clean and lubricated with a light-duty grease prior to each trip. The fifth wheel must be located in a position which provides adequate stability. Pick-up plates must be of equal strength to the fifth wheel. The kingpin must be of a solid type and permanently fastened. Screw-out or folding-type kingpins are prohibited.

All hitch connections must be of a no-swell type, preferably a power-actuated ram. Air-actuated hitches which are isolated from the primary air transmission system are recommended.

The drawbar length should be the practical minimum consistent with the clearances required between trailers for turning and backing maneuvers.

Axles must be those designed for the width of the body.

All braking systems must comply with State and Federal requirements. In addition, fast air transmission and release valves must be provided on all semitrailer and converter-dolly axles. A brake force limiting valve, sometimes called a “slippery road” valve, may be provided on the steering axle. Anti-sail type mud flaps are recommended.

The use of single tires on any combination vehicle requiring an overweight or oversize permit shall not be allowed on single axles. A single axle is defined as one having more than 8 feet between it and the nearest axle or group of axles on the vehicle.

When traveling on a level, smooth paved surface, the trailing units must follow in the path of the towing vehicle without shifting or swerving more than 3 inches to either side when the towing vehicle is moving in a straight line. Each combination shall maintain a minimum distance of 500 feet from another commercial vehicle traveling in the same direction on the same highway. Loads shall be securely fastened to the transporter with material and devices of sufficient strength to prevent the load from becoming loose, detached, dangerously displaced, or in any manner a hazard to other highway users. The components of the load shall be reinforced or bound securely in advance of travel to prevent debris from being blown off the unit and endangering the safety of the traveling public. Any debris from the special permit vehicle deposited on the highway shall be removed by the permittee.

Bodily injury and property damage insurance is required before a special Transportation Permit will be issued.

In the event any claim arises against the State of Utah, Utah Department of Transportation, Utah Highway Patrol, or their employees from the operation granted under the permit, the permittee shall agree to indemnify and hold harmless each of them from such claim.

**PERMIT:** Permits must be purchased. The Utah DOT Motor Carrier Safety Division will, on submission of an LCV permit request, assign an investigator to perform an audit on the carrier, which must have an established safety program that is in compliance with the Federal Motor Carrier Safety Regulations (49 CFR parts 387–399), the Federal Hazardous Materials Regulations (49 CFR parts 171–178), and a “Satisfactory” safety rating. The request must show a travel plan for the operation of the vehicles. Permits are subject to Highway Patrol supervision and permitted vehicles may be subject to temporary delays or removed from the highways when necessary during hazardous road, weather, or traffic conditions. The permit will be cancelled without refund if violated. Expiration dates cannot be extended except for reasons beyond the control of the permittee, including adverse weather. Permits are void if defaced, modified, or obliterated. Lost or destroyed permits cannot be duplicated and are not transferable.

**ACCESS:** Routes approved by the Utah DOT plus local delivery destination travel on two-lane roads.

**ROUTES:** For combinations with a cargo-carrying length of 86 feet or less, all NN routes. Combinations with a cargo-carrying length over 85 feet are restricted to the following NN routes:

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-15</td>
<td>Arizona</td>
</tr>
<tr>
<td>1-70</td>
<td>Jct. I-15</td>
</tr>
<tr>
<td>1-85</td>
<td>Nevada</td>
</tr>
<tr>
<td>1-84</td>
<td>Idaho</td>
</tr>
<tr>
<td>1-215</td>
<td>Entire length in the Salt Lake City area</td>
</tr>
</tbody>
</table>

Federal Highway Administration, DOT
Pt. 658, App. C

LEGAL CITATIONS:

STATE: UTAH

COMBINATION: Truck tractor and 3 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 95 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 129,000 pounds

OPERATIONAL CONDITIONS: Same as the UT–TT2 combination.

ROUTES: Same as the UT–TT2 combination with a cargo-carrying length greater than 85 feet.

LEGAL CITATIONS: Same as the UT–TT2 combination.

STATE: UTAH

COMBINATION: Truck-trailer

LENGTH OF THE CARGO-CARRYING UNITS: 88 feet

OPERATIONAL CONDITIONS:
WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.
DRIVER, VEHICLE, PERMIT, and ACCESS: Same as the UT–TT2 combination.

ROUTES: 1. Truck-trailer combinations hauling bulk gasoline or LP gas: cargo-carrying length less than or equal to 78 feet, all NN routes; cargo-carrying lengths over 78 feet up to and including 88 feet, same as UT–TT2 with cargo-carrying length over 85 feet.

2. All other truck-trailer combinations: cargo-carrying length less than or equal to 70 feet, all NN routes; cargo-carrying lengths over 70 feet up to and including 78 feet, same as UT–TT2 with cargo-carrying length over 85 feet.

LEGAL CITATIONS: Same as the UT–TT2 combination.

STATE: WASHINGTON

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 68 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 105,500 pounds

OPERATIONAL CONDITIONS:
WEIGHT: Single axle limit=20,000 pounds; tandem axle limit=34,000 pounds; gross weight must comply with the Federal Bridge Formula.
DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement.

VEHICLE: Operating conditions are the same for permitted doubles as for STAA of 1982 doubles.

PERMIT: Combinations with a cargo-carrying length over 60 feet in length but not exceeding 68 feet must obtain an annual overlength permit to operate. A fee is charged.
ACCESS: All State routes except SR 410 and SR 123 in or adjacent to Mt. Rainier National Park. In addition, restrictions may be imposed by local governments having maintenance responsibilities for local highways.

ROUTES: All NN routes except SR 410 and SR 123 in the vicinity of Mt. Rainier National Park.

LEGAL CITATIONS: RCW 46.37, 46.44.030, .037(3), .041, and .0941.
STATE: WASHINGTON

COMBINATION: Truck-trailer

LENGTH OF THE CARGO-CARRYING UNITS: 68 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER, PERMIT, and ACCESS: Same as the WA-TT2 combination.

VEHICLE: Overall length limited to 75 feet.

ROUTES: Same as the WA-TT2 combination.

LEGAL CITATIONS: Same as the WA-TT2 combination.

STATE: WYOMING

COMBINATION: Truck tractor and 2 trailing units—LCV

LENGTH OF THE CARGO-CARRYING UNITS: 81 feet

MAXIMUM ALLOWABLE GROSS WEIGHT: 117,000 pounds

OPERATIONAL CONDITIONS:

WEIGHT: No single axle shall carry a load in excess of 20,000 pounds. No tandem axle shall carry a load in excess of 36,000 pounds. No triple axle, consisting of three consecutive load-bearing axles that articulate from an attachment to the vehicle including a connecting mechanism to equalize the load between axles having a spacing between the first and third axle of at least 96 inches and not more than 108 inches, shall carry a load in excess of 42,500 pounds. No vehicles operated on the Interstate System shall exceed the maximum weight allowed by application of Federal Bridge Weight Formula B. No wheel shall carry a load in excess of 10,000 pounds. No tire on a steering axle shall carry a load in excess of 750 pounds per inch of tire width and no other tire on a vehicle shall carry a load in excess of 600 pounds per inch of tire width. ‘Tire width’ means the width stamped on the tire by the manufacturer. Dummy axles may not be considered in the determination of allowable weights.

DRIVER: The driver must have a commercial driver’s license with the appropriate endorsement.

VEHICLE: The lead semitrailer can be up to 48 feet long with the trailing unit up to 40 feet long. In a truck tractor-semi-trailer combination, the heavier towed vehicle shall be directly behind the truck-tractor and the lighter towed vehicle shall be last if the weight difference between consecutive towed vehicles exceeds 5,000 pounds.

PERMITS: No permits required.

ACCESS: Unlimited access off the NN to terminals.

ROUTES: All NN routes.


STATE: WYOMING

COMBINATION: Automobile/Boat Transporter

LENGTH OF CARGO CARRYING UNITS: 85 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

DRIVER, PERMIT, and ACCESS: Same as the WY–TT2 combination.

VEHICLE: The cargo-carrying length of automobile transporters that carry vehicles on the power unit is the same as the overall length. No single vehicle shall exceed 60 feet in length within an overall limit of 85 feet.

ROUTES: Same as the WY–TT2 combination.

LEGAL CITATIONS: Same as the WY–TT2 combination.

STATE: WYOMING

COMBINATION: Saddlemount Combination

LENGTH OF CARGO CARRYING UNITS: 85 feet

OPERATIONAL CONDITIONS:

WEIGHT: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.
Pt. 660

DRIVER, PERMIT, and ACCESS: Same as the WY-TT2 combination.

VEHICLE: The cargo-carrying length of saddlemount combinations that carry vehicles on the power unit is the same as the overall length. No single vehicle shall exceed 60 feet in length within an overall limit of 85 feet.

No more than three saddlemounts may be used in any combination, except additional vehicles may be transported when safely loaded upon the frame of a vehicle in a properly assembled saddlemount combination.

Towed vehicles in a triple saddlemount combination shall have brakes acting on all wheels which are in contact with the roadway.

All applicable State and Federal rules on coupling devices shall be observed and complied with.

ROUTES: Same as the WY-TT2 combination.

LEGAL CITATIONS: Same as the WY-TT2 combination.

§ 660.101 Purpose.

The purpose of this subpart is to implement the Forest Highway (FH) Program which enhances local, regional, and national benefits of FHs funded under the public lands highway category of the coordinated Federal Lands Highway Program. As provided in 23 U.S.C. 202, 203, and 204, the program, developed in cooperation with State and local agencies, provides safe and adequate transportation access to and through National Forest System (NFS) lands for visitors, recreationists, resource users, and others which is not met by other transportation programs. Forest highways assist rural and community economic development and promote tourism and travel.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. 101(a), the following apply to this subpart:

Cooperator means a non-Federal public authority which has jurisdiction and maintenance responsibility for a FH.

Forest highway means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

Forest road means a road wholly or partly within, or adjacent to, and serving the NFS and which is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources.

Jurisdiction means the legal right or authority to control, operate, regulate use of, maintain, or cause to be maintained, a transportation facility, through ownership or delegated authority. The authority to construct or maintain such a facility may be derived from fee title, easement, written authorization, or permit from a Federal agency, or some similar method.

Metropolitan Planning Organization (MPO) means that organization designated as the forum for cooperative transportation decisionmaking pursuant to the provisions of part 450 of this title.
Metropolitan Transportation Plan means the official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area.


Open to public travel means except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

Public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

Public lands highway means: (1) A forest road under the jurisdiction of and maintained by a public authority and open to public travel or (2) any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Renewable resources means those elements within the scope of responsibilities and authorities of the FS as defined in the Forest and Rangeland Renewable Resource Planning Act of August 17, 1974 (88 Stat. 476) as amended by the National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600–1614) such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

Resources means those renewable resources defined above, plus other nonrenewable resources such as minerals, oil, and gas which are included in the FS’s planning and land management processes.

Statewide transportation plan means the official transportation plan that is: (1) Intermodal in scope, including bicycle and pedestrian features, (2) addresses at least a 20-year planning horizon, and (3) covers the entire State pursuant to the provisions of part 450 of this title.

§ 660.105 Planning and route designation.

(a) The FS will provide resource planning and related transportation information to the appropriate MPO and/or State Highway Agency (SHA) for use in developing metropolitan and statewide transportation plans pursuant to the provisions of part 450 of this title. Co-operators shall provide various planning (23 U.S.C. 134 and 135) information to the Federal Highway Administration (FHWA) for coordination with the FS.

(b) The management systems required under 23 U.S.C. 303 shall fulfill the requirement in 23 U.S.C. 204(a) regarding the establishment and implementation of pavement, bridge, and safety management systems for FHs. The results of bridge management systems and safety management systems on all FHs and results of pavement management systems for FHs on Federal-aid highways are to be provided by the SHAs for consideration in the development of programs under § 660.109 of this part. The FHWA will provide appropriate pavement management results for FHs which are not Federal-aid highways.

(c) The FHWA, in consultation with the FS, the SHA, and other cooperators where appropriate, will designate FHs.

(1) The SHA and the FS will nominate forest roads for FH designation.

(2) The SHA will represent the interests of all cooperators. All other agencies shall send their proposals for FHs to the SHA.

(d) A FH will meet the following criteria:

(1) Generally, it is under the jurisdiction of a public authority and open to public travel, or a cooperator has agreed, in writing, to assume jurisdiction of the facility and to keep the
road open to public travel once improvements are made.

(2) It provides a connection between adequate and safe public roads and the resources of the NFS which are essential to the local, regional, or national economy, and/or the communities, shipping points, or markets which depend upon those resources.

(3) It serves:
   (i) Traffic of which a preponderance is generated by use of the NFS and its resources; or
   (ii) NFS-generated traffic volumes that have a substantial impact on roadway design and construction; or
   (iii) Other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS.

§ 660.107 Allocations.

On October 1 of each fiscal year, the FHWA will allocate 66 percent of Public Lands Highway funds, by FS Region, for FHs using values based on relative transportation needs of the NFS, after deducting such sums as deemed necessary for the administrative requirements of the FHWA and the FS; the necessary costs of FH planning studies; and the FH share of costs for approved Federal Lands Coordinated Technology Implementation Program studies.

§ 660.109 Program development.

(a) The FHWA will arrange and conduct a conference with the FS and the SHA to jointly select the projects which will be included in the programs for the current fiscal year and at least the next 4 years. Projects included in each year’s program will be selected considering the following criteria:

   (1) The development, utilization, protection, and administration of the NFS and its resources;
   (2) The enhancement of economic development at the local, regional, and national level, including tourism and recreational travel;
   (3) The continuity of the transportation network serving the NFS and its dependent communities;
   (4) The mobility of the users of the transportation network and the goods and services provided;
   (5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users;
   (6) The protection and enhancement of the rural environment associated with the NFS and its resources; and
   (7) The results for FHs from the pavement, bridge, and safety management systems.

(b) The recommended program will be prepared and approved by the FHWA with concurrence by the FS and the SHA. Following approval, the SHA shall advise any other cooperators in the State of the projects included in the final program and shall include the approved program in the State’s process for development of the Statewide Transportation Improvement Program. For projects located in metropolitan areas, the FHWA and the SHA will work with the MPO to incorporate the approved program into the MPO’s Transportation Improvement Program.

§ 660.111 Agreements.

(a) A statewide FH agreement shall be executed among the FHWA, the FS, and each SHA. This agreement shall set forth the responsibilities of each party, including that of adherence to the applicable provisions of Federal and State statutes and regulations.

(b) The design and construction of FH projects will be administered by the FHWA unless otherwise provided for in an agreement approved under this subpart.

(c) A project agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

   (1) A cooperator’s funds are to be made available for the project or any portion of the project;
   (2) Federal funds are to be made available to a cooperator for any work;
   (3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project; or
   (4) It is necessary to document jurisdiction and maintenance responsibility.

§ 660.112 Project development.

(a) Projects to be administered by the FHWA or the FS will be developed
in accordance with FHWA procedures for the Federal Lands Highway Program. Projects to be administered by a cooperator shall be developed in accordance with Federal-aid procedures and procedures documented in the statewide agreement.

(b) The FH projects shall be designed in accordance with part 625 of this chapter or those criteria specifically approved by the FHWA for a particular project.

§ 660.113 Construction.

(a) No construction shall be undertaken on any FH project until plans, specifications, and estimates have been concurred in by the cooperator(s) and the FS, and approved in accordance with procedures contained in the statewide FH agreement.

(b) The construction of FHs will be performed by the contract method, unless construction by the FHWA, the FS, or a cooperator on its own account is warranted under 23 U.S.C. 204(e).

(c) Prior to final construction acceptance by the contracting authority, the project shall be inspected by the cooperator, the FS, and the FHWA to identify and resolve any mutual concerns.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a FH shall, upon acceptance of the project in accordance with §660.113(c), assume operation responsibilities and maintain, or cause to be maintained, any project constructed under this subpart.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible FH projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of project development and construction, but participation shall not be required.

(b) Funds for FHs may be used for:
   (1) Planning;
   (2) Federal Lands Highway research;
   (3) Preliminary and construction engineering; and
   (4) Construction.

(c) Funds for FHs may be made available for the following transportation-related improvement purposes which are generally part of a transportation construction project:
   (1) Transportation planning for tourism and recreational travel;
   (2) Adjacent vehicular parking areas;
   (3) Interpretive signage;
   (4) Acquisition of necessary scenic easements and scenic or historic sites;
   (5) Provisions for pedestrians and bicycles;
   (6) Construction and reconstruction of roadside rest areas including sanitary and water facilities; and
   (7) Other appropriate public road facilities as approved by the FHWA.

(d) Use of FH funds for right-of-way acquisition shall be subject to specific approval by the FHWA.

(e) Cooperators which administer construction of FH projects shall maintain their FH records according to 49 CFR part 18.

(f) Funds provided to the FHWA by a cooperator should be received in advance of construction procurement unless otherwise specified in a project agreement.

Subparts B–D [Reserved]

Subpart E—Defense Access Roads


SOURCE: 49 FR 21924, May 24, 1984, unless otherwise noted.

§ 660.501 Purpose.

The purpose of this regulation is to prescribe policies and procedures governing evaluations of defense access road needs, and administration of projects financed under the defense access roads and other defense-related special highway programs.

§ 660.503 Objectives.

The defense access roads program provides a means by which the Federal Government may pay its fair share of the cost of:

(a) Highway improvements needed for adequate highway service to defense and defense-related installations;

(b) New highways to replace those which must be closed to permit establishment or expansion of defense installations;
(c) Repair of damage to highways caused by major military maneuvers;
(d) Repair of damages due to the activities of contractors engaged in the construction of missile sites; and
(e) Missile routes to ensure their continued ability to support the missile transporter-erector (TE) vehicle.

§ 660.505 Scope.
This regulation focuses on procedures as they apply to the defense access roads and other special highway programs of the Department of Defense (DOD).

§ 660.507 Definitions.
(a) Defense installation. A military reservation or installation, or defense related industry or source of raw materials.
(b) Military Traffic Management Command (MTMC). The military transportation agency with responsibilities assigned by the Secretary of Defense for maintaining liaison with the Federal Highway Administration (FHWA) and other agencies for the integration of defense needs into the Nation’s highway program.
(c) Certification. The statement to the Secretary of Transportation by the Secretary of Defense (or such other official as the President may designate) that certain roads are important to the national defense.
(d) Access road. An existing or proposed public highway which is needed to provide essential highway transportation services to a defense installation. (This definition may include public highways through military installations only when right-of-way for such roads is dedicated to public use and the roads are maintained by civil authority.)
(e) Replacement road. A public road constructed to replace one closed by establishment of a new, or the expansion of an old, defense installation.
(f) Maneuver area road. A public road in an area delineated by official orders for field maneuvers or exercises of military forces.
(g) Transporter-erector route. A public road specifically designated for use by the TE vehicle for access to missile sites.

§ 660.509 General principles.
(a) State and local highway agencies are expected to assume the same responsibility for developing and maintaining adequate highways to permanent defense installations as they do for highways serving private industrial establishments or any other permanent traffic generators. The Federal Government expects that highway improvements in the vicinity of defense installations will receive due priority consideration and treatment as State and local agencies develop their programs of improvement. The FHWA will provide assistance, as requested by MTMC, to ascertain State program plans for improvements to roads serving as access to defense installations. Roads which serve permanent defense installations and which qualify under established criteria as Federal-aid routes should be included in the appropriate Federal-aid system.

(b) It is recognized that problems may arise in connection with the establishment, expansion, or operation of defense installations which create an unanticipated impact upon the long-range requirements for the development of highways in the vicinity. These problems can be resolved equitably only by Federal assistance from other than normal Federal-aid highway programs for part or all of the cost of highway improvements necessary for the functioning of the installation.

§ 660.511 Eligibility.
(a) The MTMC has the responsibility for determining the eligibility of proposed improvements for financing with defense access roads funds. The evaluation report will be furnished to MTMC for its use in making the determination of eligibility and certification of importance to the national defense. The criteria upon which MTMC will base its determination of eligibility are included in the Federal-Aid Highway Program Manual, Volume 6, Chapter 9, Section 5, Attachment 2.1
(b) If the project is determined to be eligible for financing either in whole or

\[1\] This document is available for inspection and copying from the FHWA headquarters and field offices as prescribed by 49 CFR part 7, appendix D.
§ 660.517 Maneuver area roads.

(a) Claims by a highway agency for costs incurred to restore, to their former condition, roads damaged by maneuvers involving a military force at least equal in strength to a ground division or an air wing will be paid from funds appropriated for the maneuver and transferred to FHWA by the DOD agency. Defense access road funds may be used to reimburse the highway authority pending transfer of funds by the DOD agency.

(b) Costs incurred by State or local highway authorities while conducting a pre- or post-condition survey may be included in the claim to DOD for direct settlement or in the damage repair project as appropriate.
§ 660.519 Missile installations and facilities.

Should damage occur to public highways as a result of construction activities, the contractor would normally be held responsible for restoring the damages. However, should the contractor deny responsibility on the basis of contract terms, restoration is provided for under 23 U.S.C. 210(h).

(a) Restoration under the contract. (1) The highway agency having jurisdiction over the road shall take appropriate actions, such as load and speed restrictions, to protect the highway.

(2) When extensive damage is anticipated and the contractor under the terms of the contract is responsible, it may be necessary to require a performance bond to assure restoration.

(b) Restoration under 23 U.S.C. 210(h).

(1) To implement 23 U.S.C. 210(h), DOD must make the determination that a contractor for a missile installation or facility did not include in the bid the cost of repairing damage caused to public highways by the operation of the contractor’s vehicles and equipment. The FHWA must then make the determination that the State highway agency is, or has been, unable to prevent such damage by restrictions upon the use of the highways without interference with, or delay in, the completion of the contract. If these determinations are made, the Division Administrator will be authorized by the Washington Headquarters to reimburse the highway agency for the cost of the work necessary to keep the roads in a serviceable condition.

(2) Upon receipt of a damage claim, division office representatives accompanied by representatives of the agencies that made the original condition survey will inspect the roads on which damage is claimed. The Division Administrator shall then prepare an estimate of the cost of restoring the roads to original condition as well as any documented cost for extraordinary maintenance for which reimbursement has not been received. No allowance for upgrading the roads shall be included.

PART 661—INDIAN RESERVATION ROAD BRIDGE PROGRAM

Sec.

661.1 What is the purpose of this regulation?
661.3 Who must comply with this regulation?
661.5 What definitions apply to this regulation?
661.7 What is the Indian Reservation Road Bridge Program (IRRBP)?
661.9 How will the bridge project be funded/programmed once eligibility has been determined?
661.11 After a bridge project has been completed what happens with the excess or surplus funding?
661.13 What restrictions are there on the use of the IRRBP funds?
661.15 What is the total funding available for the IRR Bridge Program?
661.17 When will these funds become available?
661.19 When does an eligible project receive funding?
661.21 How long will these funds be available?
661.23 What can these IRR bridge funds be used for?
661.25 What are the criteria for bridge eligibility?
661.27 When is a bridge eligible for replacement?
661.29 When is a bridge eligible for rehabilitation?
661.31 How does ownership impact project selection?
661.33 Do IRRBP projects have to be on a transportation improvement program (TIP)?
661.35 What percent of the funding in any fiscal year is available for use on BIA owned IRR bridges and non-BIA owned IRR bridges?
661.37 What percent of a specific project’s construction costs is covered under this program?
661.39 When are IRR bridge projects eligible for funding?
§ 661.41 What does a complete application package consist of?
§ 661.43 How are the FY 1998 projects to be treated?
§ 661.45 How is a list of deficient bridges to be generated?
§ 661.47 In the event of project cost overruns, how would they be funded?
§ 661.49 Could regular IRR funds be used to fund a bridge project?
§ 661.51 Could bridge maintenance be performed with these funds?

AUTHORITY: 23 U.S.C. 120(j) and (k), 202, and 315; 49 CFR 1.48.
SOURCE: 64 FR 38572, July 19, 1999, unless otherwise noted.

§ 661.1 What is the purpose of this regulation?

The purpose of this regulation is to prescribe policies for project selection and fund allocation procedures for administering the Indian Reservation Road Bridge Program (IRRBP).

§ 661.3 Who must comply with this regulation?

Public authorities must comply to participate in the IRRBP by preparing plans, specification and estimates (PS&E) for deficient Indian Reservation Road (IRR) bridges and make application for construction funds for the replacement or rehabilitation of these bridges.

§ 661.5 What definitions apply to this regulation?

The following definitions apply to this regulation:

Construction engineering (CE) is the supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.

Functional obsolescence (FO) is the state or process of being one in which the deck geometry, load carrying capacity (comparison of the original design load to the State legal load), clearance, or approach roadway alignment no longer meets the usual criteria for the system of which it is an integral part.

Indian reservation road means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

Indian reservation road bridge means a structure located on an Indian reservation road (IRR), including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

Public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Structural deficient (SD) bridge means a bridge that has been restricted to light vehicles only, is closed or requires immediate rehabilitation to remain open.

Sufficiency rating (SR) means the numerical rating of a bridge based on its structural adequacy and safety, essentiality for public use, and its serviceability and functional obsolescence.

§ 661.7 What is the Indian Reservation Road Bridge Program (IRRBP)?

Section 202(d)(4) of title 23, U.S.C., establishes a nationwide priority program for improving deficient Indian reservation road (IRR) bridges and reserves not less than $13 million of IRR.
§ 661.9 Funds per year to replace and rehabilitate bridges that are in poor condition. This program which addresses the replacement of deficient IRR bridges is referred to as the IRRBP.

§ 661.9 How will the bridge project be funded/programmed once eligibility has been determined?

(a) Funding and/or programming of construction projects for IRR bridges would be based on the order of receipt of a complete application package, i.e., eligibility requirements met, PS&E package is complete, etc. All application packages would be placed in a queue upon submission to the BIADOT and date stamped. This submission queue would form the basis for prioritization during any fiscal year (FY). After the queue for the FY is filled up, that is, the IRRBP funding is used up, a queue for the following FY would be established.

(b) In those cases where application packages have arrived at the same time, application packages would be ranked and prioritized based on the following criteria:

1. Bridge sufficiency rating (SR);
2. Bridge status with structurally deficient (SD) having precedence over functionally obsolete (FO);
3. Bridges on school bus routes;
4. Detour length;
5. Average daily traffic; and
6. Truck average daily traffic.

§ 661.11 After a bridge project has been completed what happens with the excess or surplus funding?

Since the funding is project specific, once a bridge construction project has been completed under this program, any excess or surplus funding would be returned to BIADOT/FHWA for use on additional approved deficient IRR bridge projects.

§ 661.13 What restrictions are there on the use of the IRRBP funds?

The IRRBP funds can only be used for construction and construction engineering (CE) and may not be used for project development.

§ 661.15 What is the total funding available for the IRR Bridge Program?

The statute provides a total program funding of not less than $13 million for each fiscal year.

§ 661.17 When will these funds become available?

These funds become available on October 1 of each fiscal year.

§ 661.19 When does an eligible project receive funding?

The statute provides that these funds are provided after the Secretary of Transportation (FHWA) approves a completed PS&E.

§ 661.21 How long will these funds be available?

The statute provides that the funds for each fiscal year are available for the year authorized plus three years (a total of four years).

§ 661.23 What can these IRR bridge funds be used for?

The statute provides that these funds can be used to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions, or install scour countermeasures for deficient IRR bridges, including multiple pipe culverts.

§ 661.25 What are the criteria for bridge eligibility?

(a) Bridge eligibility requires the following:

1. Have an opening of 20 feet or more;
2. Be on an IRR;
3. Be unsafe because of structural deficiencies, physical deterioration or functional obsolescence; and
4. Be recorded in the national bridge inventory (NBI) maintained by the FHWA.

(b) Bridges that were constructed, rehabilitated or replaced in the last 10 years, will be eligible only for seismic retrofit or installation of scour countermeasures.
§ 661.27 When is a bridge eligible for replacement?

To be eligible for replacement, the bridge must be considered deficient for reasons of structural deficiency or functional obsolescence. Also, the bridge must have a sufficiency rating of less than 50 to be eligible for replacement.

§ 661.29 When is a bridge eligible for rehabilitation?

To be eligible for rehabilitation, the bridge must be considered deficient for reasons of structural deficiency or functional obsolescence. Also, the bridge must have a sufficiency rating of less than or equal to 80 to be eligible for rehabilitation. A bridge would be eligible for replacement if the total life cycle cost for bridge rehabilitation exceeds the costs to replace.

§ 661.31 How does ownership impact project selection?

Since the Federal government has both a trust responsibility and owns the BIA bridges on Indian reservations, primary consideration would be given to funding construction projects for deficient BIA owned IRR bridges. We emphasize that consideration could also be given to the funding of construction projects for the deficient non-BIA, IRR bridges; however, these projects must be supported by a tribal resolution.

§ 661.33 Do IRRBP projects have to be on a transportation improvement program (TIP)?

Yes. All IRRBP projects have to be listed on an approved TIP. Under 23 U.S.C. 204(j), IRR bridges must appear on the BIA’s IRRBP TIP and be forwarded to the State.

§ 661.35 What percent of the funding in any fiscal year is available for use on BIA owned IRR bridges and non-BIA owned IRR bridges?

Up to 80 percent ($10.4 million) of funding in any fiscal year would be available for use on BIA owned IRR bridges. This would leave 20 percent ($2.6 million) of funding in any fiscal year that would be available for use on non-BIA owned IRR bridges. A smaller percentage of available funds has been set aside for non-BIA IRR bridges, since States and counties have access to Federal-aid and other funding to replace and rehabilitate their bridges and that 23 U.S.C. 204(c) requires that IRR funds be supplemental to and not in lieu of other funds apportioned to the State. The program policy will be to maximize the number of IRR bridges participating in the IRRBP in a given fiscal year regardless of ownership.

§ 661.37 What percent of a specific project’s construction costs is covered under this program?

The following funding provisions apply in administration of the IRRBP:

(a) 100 percent IRRBP funding would be provided for a BIA owned IRR bridge;
(b) Up to 80 percent of the IRRBP funding would be provided for a State, county, or locally owned non-BIA IRR bridge;
(c) States, counties, local and tribal governments would be required to provide at least 20 percent of the funds for non-BIA owned IRR bridges;
(d) The IRRBP funding ceiling for any single non-BIA owned IRR bridge project would be $1.5 million.

§ 661.39 When are IRR bridge projects eligible for funding?

The statute provides that IRR funds to carry out IRRBP projects shall be made available only on approval of the PS&E by the Secretary (FHWA). Approval consists of having completed and approved bridge design, specifications and estimates. The project must be ready for construction, right of way must have been acquired, and the project contract must be awarded within 120 calendar days of funding. A copy of the FHWA or BIADOT PS&E approval letter, certification checklist and IRRBP TIP must be forwarded by the area office to the BIADOT/FLH for review and acceptance. For non-BIA IRR bridges, the application package must also include a tribal resolution supporting the project. Submittal of an incomplete application package would form the basis for project disapproval and the BIA area office would have to revise and resubmit the package.
§ 661.41 What does a complete application package consist of?

A complete application package would consist of the following: the FHWA or BIADOT PS&E approval letter, certification checklist and IRRBP TIP. In addition to the preceding items, for non-BIA IRR bridges, the application package must also include a tribal resolution supporting the project.

§ 661.43 How are the FY 1998 projects to be treated?

In order not to penalize any BIA area office which completed PS&E packages in FY 1998 that were not funded because the project selection/fund allocation procedures for distribution of funds for FY 1998 were not in place, the funds for approved projects would be made available to the BIA area offices on receipt and acceptance of their application packages.

§ 661.45 How is a list of deficient bridges to be generated?

(a) In consultation with the BIA, a list of deficient BIA IRR bridges will be developed each fiscal year by the FHWA based on the annual April update of the NBI. The NBI is based on data from the inspection of all bridges. Likewise, a list of non-BIA IRR bridges will be obtained from the NBI. These lists would form the basis for identifying bridges that would be considered potentially eligible for participation in the IRRBP. Two separate master bridge lists (one each for BIA and non-BIA IRR bridges) will be developed and will include, at a minimum, the following:

(1) Sufficiency rating (SR);
(2) Status (structurally deficient or functionally obsolete);
(3) Average daily traffic (NBI item 29);
(4) Detour length (NBI item 19); and
(5) Truck average daily traffic (NBI item 109).

(b) These lists would be provided by the FHWA to the BIADOT for publication and notification of affected BIA area offices, Indian tribal governments (ITGs), and State and local governments.

(c) BIA area offices in consultation with ITGs, are encouraged to prioritize the design for bridges that are structurally deficient over bridges that are simply functionally obsolete, since the former is more critical structurally than the latter. Bridges that have higher average daily traffic (ADT) should be considered before those that have lower ADT. Detour length should also be a factor in selection and submittal of bridges, with those having a higher detour length being of greater concern. Lastly, bridges with higher truck ADT should take precedence over those which have lower truck ADT. Other items of note should be whether school buses use the bridge and the types of trucks that may cross the bridge and the loads imposed.

§ 661.47 In the event of project cost over runs, how would they be funded?

(a) Because of the critical nature of this program, BIA area road engineer (ARE) approved costs in excess of the project estimate could be funded out of this program depending on the availability of funds and subject to BIADOT/FLH project approval procedures. The ARE would request additional IRRBP funding for a specific bridge project and submit a request with appropriate justification along with an explanation as to why this additional IRRBP funding is necessary.

(b) In addition, project cost over runs may be funded out of regular IRR program funds.

§ 661.49 Could regular IRR funds be used to fund a bridge project?

Yes. Regular IRR construction funds can be used to fund a bridge project with the concurrence of the FHWA, BIADOT and the BIA ARE.

§ 661.51 Could bridge maintenance be performed with these funds?

No. Bridge maintenance repairs would not be within the scope of funding, e.g., guard rail repair, deck repairs, repair of traffic control devices, striping, cleaning scuppers, deck sweeping, snow and debris removal, etc. There are maintenance funds available through annual Department of the Interior appropriations for use on BIA owned bridges. The Department of the Interior maintenance funds
§ 668.101 Purpose.

To establish policy and provide program guidance for the administration of emergency funds for the repair or reconstruction of Federal-aid highways, which are found to have suffered serious damage by natural disasters over a wide area or serious damage from catastrophic failures. Guidance for application by Federal agencies for reconstruction of Federal roads that are not part of the Federal-aid highways is contained in 23 CFR part 668, subpart B.

§ 668.103 Definitions.

In addition to others contained in 23 U.S.C. 101(a), the following definitions shall apply as used in this regulation:

Applicant. The State highway agency is the applicant for Federal assistance under 23 U.S.C. 125 for State highways and local roads and streets which are a part of the Federal-aid highways.

Betterments. Added protective features, such as rebuilding of roadways at a higher elevation or the lengthening of bridges, or changes which modify the function or character of a highway facility from what existed prior to the disaster or catastrophic failure, such as additional lanes or added access control.

Catastrophic failure. The sudden failure of a major element or segment of the highway system due to an external cause. The failure must not be primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.

Emergency repairs. Those repairs including temporary traffic operations undertaken during or immediately following the disaster occurrence for the purpose of:

(1) Minimizing the extent of the damage,
(2) Protecting remaining facilities, or
(3) Restoring essential traffic.

External cause. An outside force or phenomenon which is separate from the damaged element and not primarily the result of existing conditions.

Heavy maintenance. Work usually done by highway agencies in repairing damage normally expected from seasonal and occasionally unusual natural conditions or occurrences. It includes work at a site required as a direct result of a disaster which can reasonably be accommodated by a State or local road authority’s maintenance, emergency or contingency program.

Natural disaster. A sudden and unusual natural occurrence, including but not limited to intense rainfall, floods, hurricanes, tornadoes, tidal waves, landslides, volcanoes or earthquakes which cause serious damage.
$668.105

Proclamation. A declaration of emergency by the Governor of the affected State.

Serious damage. Heavy, major or unusual damage to a highway which severely impairs the safety or usefulness of the highway or results in road closure. Serious damage must be beyond the scope of heavy maintenance.

State. Any one of the United States, the District of Columbia, Puerto Rico or the Virgin Islands, Guam, American Samoa or Commonwealth of the Northern Mariana Islands.

§668.105 Policy.

(a) The Emergency Relief (ER) program is intended to aid States in repairing road facilities which have suffered widespread serious damage resulting from a natural disaster over a wide area or serious damage from a catastrophic failure.

(b) ER funds are not intended to supplant other funds for correction of pre-existing, nondisaster related deficiencies.

(c) The expenditure of ER funds for emergency repair shall be in such a manner so as to reduce, to the greatest extent feasible, the cost of permanent restoration work.

(d) The approval to use available ER funds to repair or restore highways damaged by a natural disaster shall be based on the combination of the extraordinary character of the natural disturbance and the wide area of impact as well as the seriousness of the damage. Storms of unusual intensity occurring over a small area may not meet the above conditions.

(e) ER funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Partial compensation for a loss by other sources will not preclude emergency fund assistance for the part of such loss not compensated otherwise. Any compensation for damages or insurance proceeds including interest recovered by the State or political subdivision or by a toll authority for repair of the highway facility must be used upon receipt to reduce ER fund liability on the project.

(f) Prompt and diligent efforts shall be made by the State to recover repair costs from the legally responsible parties to reduce the project costs particularly where catastrophic damages are caused by ships, barge tows, highway vehicles, or vehicles with illegal loads or where damage is increased by improperly controlled objects or events.

(g) The processing of ER requests shall be given prompt attention and shall be given priority over non-emergency work.

(h) ER projects shall be promptly constructed. Any project that has not advanced to the construction obligation stage by the end of the second fiscal year following the disaster occurrence will not be advanced unless suitable justification to warrant retention is furnished to the FHWA.

(i) Permanent repair and reconstruction work, not accomplished as emergency repairs, shall be done by the contract method unless the State Highway agency adequately demonstrates that some other method is more cost effective as described in 23 CFR 635.204. Emergency repair work may be accomplished by the contract, negotiated contract or highway agency force account methods as determined by the Highway agency as best suited to protect the public health and safety.

(j) ER program funding is only to be used to repair highways which have been seriously damaged and is not intended to fund heavy maintenance or routine emergency repair activities which should normally be funded as contingency items in the State and local road programs. An application for ER funds in the range of $700,000 or less must be accompanied by a showing as to why the damage repair involved is considered to be beyond the scope of heavy maintenance or routine emergency repair. As a general rule, widespread nominal road damages in this range would not be considered to be of a significant nature justifying approval by the FHWA Division Administrator for ER funding.

§ 668.107 Federal share payable.

(a) The Federal share payable on account of any repair or reconstruction provided for by funds made available under 23 U.S.C. 125 of this title on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in 23 U.S.C. 120; except that the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof.

(b) Total obligations of ER funds in any State, excluding the Virgin Islands, Guam, American Samoa or Commonwealth of the Northern Mariana Islands, for all projects (including projects on both the Federal-aid systems and those on Federal roads under 23 CFR part 668, subpart B), resulting from a single natural disaster or a single catastrophic failure, shall not exceed $100 million per disaster or catastrophic failure. The total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall not exceed $20 million.


§ 668.109 Eligibility.

(a) The eligibility of all work is contingent upon approval by the FHWA Division Administrator of an application for ER and inclusion of the work in an approved program of projects.

(1) Prior FHWA approval or authorization is not required for emergency repairs and preliminary engineering (PE).

(2) Permanent repairs or restoration must have prior FHWA program approval and authorization, unless done as part of the emergency repairs.

(b) ER funds may participate in:

(1) Repair to or reconstruction of seriously damaged highway elements as necessary to restore the facility to pre-disaster conditions, including necessary clearance of debris and other deposits in drainage courses within the right-of-way (ROW);

(2) Restoration of stream channels outside the highway ROW when:

(i) The public highway agency has responsibility for the maintenance and proper operation of the stream channel section, and

(ii) The work is necessary for satisfactory operation of the highway system involved;

(3) Actual PE and construction engineering costs on approved projects;

(4) Emergency repairs;

(5) Temporary operations, including emergency traffic services such as flagging traffic through inundated sections of highways, undertaken by the applicant during or immediately following the disaster;

(6) Betterments, only where clearly economically justified to prevent future recurring damage. Economic justification must weigh the cost of betterment against the risk of eligible recurring damage and the cost of future repair;

(7) Temporary work to maintain essential traffic, such as raising roadway grade during a period of flooding by placing fill and temporary surface material;

(8) Raising the grades of critical Federal-aid highways faced with long-term loss of use due to basin flooding as defined by an unprecedented rise in basin water level both in magnitude and time frame. Such grade raises are not considered to be a betterment for the purpose of 23 CFR 668.109(b)(6); and

(9) Repair of toll facilities when the provisions of 23 U.S.C. 129 are met. If a toll facility does not have an executed toll agreement with the FHWA at the time of the disaster, a toll agreement may be executed after the disaster to qualify for that disaster.

(c) ER funds may not participate in:

(1) Heavy maintenance such as repair of minor damages consisting primarily of eroded shoulders, filled ditches and culverts, pavement settlement, mud and debris deposits off the traveled way, slope sloughing, slides, and slipouts in cut or fill slopes. In order to simplify the inspection and estimating process, heavy maintenance may be defined using dollar guidelines developed
§ 668.111 Application procedures.

(a) Notification. As soon as possible after the disaster, the applicant shall notify the FHWA Division Administrator of its intent to apply for ER funds.

(b) Damage survey. As soon as practical after occurrence, the State will make a preliminary field survey, working cooperatively with the FHWA Division Administrator and other governmental agencies with jurisdiction over eligible highways. The preliminary field survey should be coordinated with the Federal Emergency Management Agency work, if applicable, to eliminate duplication of effort. The purpose of this survey is to determine the general nature and extent of damage to eligible highways.

(1) A damage survey summary report is to be prepared by the State. The purpose of the damage survey summary report is to provide a factual basis for the FHWA Division Administrator’s finding that serious damage to Federal-
aid highways has been caused by a natural disaster over a wide area or a catastrophe. The damage survey summary report should include by political subdivision or other generally recognized administrative or geographic boundaries, a description of the types and extent of damage to highways and a preliminary estimate of cost of restoration or reconstruction for damaged Federal-aid highways in each jurisdiction. Pictures showing the kinds and extent of damage and sketch maps detailing the damaged areas should be included, as appropriate, in the damage survey summary report.

(2) Unless very unusual circumstances prevail, the damage survey summary report should be prepared within 6 weeks following the applicant’s notification.

(3) For large disasters where extensive damage to Federal-aid highways is readily evident, the FHWA Division Administrator may approve an application under §668.111(d) prior to submission of the damage survey summary report. In these cases, an abbreviated damage survey summary report, summarizing eligible repair costs by jurisdiction, is to be prepared and submitted to the FHWA Division Administrator after the damage inspections have been completed.

(c) Application. Before funds can be made available, an application for ER must be made to, and approved by the FHWA Division Administrator. The application shall include:

(1) A copy of the Governor’s proclamation, request for a Presidential declaration, or a Presidential declaration; and

(2) A copy of the damage survey summary report, as appropriate.

(d) Approval of application. The FHWA Division Administrator’s approval of the application constitutes the finding of eligibility under 23 U.S.C. 125 and shall constitute approval of the application.

§668.113 Program and project procedures.

(a) Immediately after approval of an application, the FHWA Division Administrator will notify the applicant to proceed with preparation of a program which defines the work needed to restore or replace the damaged facilities. It should be submitted to the FHWA Division Administrator within 3 months of receipt of this notification. The FHWA field office will assist the applicant and other affected agencies in preparation of the program. This work may involve joint site inspections to view damage and reach tentative agreement on type of permanent corrective work to be undertaken. Program data should be kept to a minimum, but should be sufficient to identify the approved disaster or catastrophe and to permit a determination of the eligibility and propriety of proposed work. If the damage survey summary report is determined by the FHWA Division Administrator to be of sufficient detail to meet these criteria, additional program support data need not be submitted.

(b) Project procedures. (1) Projects for permanent repairs shall be processed in accordance with regular Federal-aid procedures. In those cases where a regular Federal-aid project in a State similar to the ER project would be handled under the project oversight exceptions found in title 23, United States Code, the ER project can be handled in a similar fashion subject to the following two conditions:

(i) Any betterment to be incorporated into the project and for which ER funding is requested must receive prior FHWA approval; and

(ii) The FHWA reserves the right to conduct final inspections on all ER projects. The FHWA Division Administrator has the discretion to undertake final inspections on ER projects as deemed appropriate.

(2) Simplified procedures, including abbreviated plans should be used where appropriate.

(3) Emergency repair meets the criteria for categorical exclusions pursuant to 23 CFR 771.117 and normally does not require any further NEPA approvals.

Subpart B—Procedures for Federal Agencies for Federal Roads

§ 668.201 Purpose.

To establish policy, procedures, and program guidance for the administration of emergency relief to Federal agencies for the repair or reconstruction of Federal roads which are found to have suffered serious damage by a natural disaster over a wide area or by catastrophic failure.

[43 FR 59485, Dec. 21, 1978]

§ 668.203 Definitions.

(a) Applicant. Any Federal agency which submits an application for emergency relief and which has authority to repair or reconstruct Federal roads.

(b) Betterments. Added protective features, such as, the relocation or rebuilding of roadways at a higher elevation or the extension, replacement or raising of bridges, and added facilities not existing prior to the natural disaster or catastrophic failure such as additional lanes, upraised surfacing, or structures.

(c) Catastrophic failure. The sudden failure of a major element or segment of a Federal road which is not primarily attributable to gradual and progressive deterioration or lack of proper maintenance. The closure of a facility because of imminent danger of collapse is not in itself a sudden failure.

(d) Emergency repairs. Those repairs, including necessary preliminary engineering (PE), construction engineering (CE), and temporary traffic operations, undertaken during or immediately after a natural disaster or catastrophic failure (1) to restore essential travel, (2) to protect remaining facilities, or (3) to minimize the extent of damage.

(e) Federal roads. Forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads as defined under 23 U.S.C. 101(a).

(f) Finding. A letter or other official correspondence issued by the Direct Federal Division Engineer (DFDE) to a Federal agency giving notification that pursuant to 23 U.S.C. 125, Federal roads have (Affirmative Finding) or have not (Negative Finding) been found to have suffered serious damage as the result of (1) a natural disaster over a wide area, or (2) a catastrophic failure.

(g) Natural disaster. An unusual natural occurrence such as a flood, hurricane, severe storm, tidal wave, earthquake, or landslide which causes serious damage.

(h) Permanent work. Repair or reconstruction to pre-disaster or other allowed geometric and construction standards and related PE and CE.

(i) Direct Federal Division Engineer. Director of one of the Direct Federal field offices located in Vancouver, WA; Denver, CO; and Arlington, VA.


§ 668.205 Policy.

(a) This emergency relief program is intended to pay the unusually heavy expenses in the repair and reconstruction of Federal roads resulting from damage caused by natural disasters over a wide area or catastrophic failures.

(b) Emergency relief work shall be given prompt attention and priority over non-emergency work.

(c) Permanent work shall be done by contract awarded by competitive bidding through formal advertising, where feasible.

(d) It is in the public interest to perform emergency repairs immediately and prior approval or authorization from the DFDE is not required. Emergency repairs may be performed by the method of contracting (advertised contract, negotiated contract, or force account) which the applicant or the Federal Highway Administration (FHWA) (where FHWA performs the work) determines to be most suited for this work.

(e) Emergency relief projects shall be promptly constructed. Projects not under construction by the end of the second fiscal year following the year in which the disaster occurred will be re-evaluated by the DFDE and will be withdrawn from the approved program of projects unless suitable justification is provided by the applicant to warrant retention.

(f) The Finding for natural disasters will be based on both the extraordinary...
§ 668.211 Notification, damage assessment, and finding.

(a) Notification. During or as soon as possible after a natural disaster or catastrophic failure, each applicant will notify the DFDE of its tentative intent to apply for emergency relief and request that a Finding be made.

(b) Acknowledgment. The DFDE will promptly acknowledge the notification and briefly describe subsequent damage assessment, Finding, and application procedures.

(c) Field report. The applicant shall cooperate with the DFDE to promptly make a field survey of overall damage and in the preparation of a field report.

(d) Finding. Using the field report and other information deemed appropriate, the DFDE will promptly issue a Finding and if an Affirmative Finding is one which meets current geometric and construction standards for the type and volume of traffic it will carry during its design life.

(e) Emergency relief funds may participate to the extent of eligible repair costs when proposed projects contain betterments or other work not eligible for emergency funds.

(f) Diligent efforts shall be made to recover repair costs from the legally responsible parties to reduce the project costs where highway damages are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, and similar improperly controlled objects or events.

(g) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of an eligible cost, emergency relief funding can be used to pay the remaining costs.

(h) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of an eligible cost, emergency relief funding can be used to pay the remaining costs.

§ 668.209 Eligibility of work.

(a) Permanent work must have prior program approval in accordance with paragraph (a) of § 668.215 unless such work is performed as emergency repairs.

(b) Emergency repairs, including permanent work performed incidental to emergency repairs, and all PE may begin immediately and do not need prior program approval. Reimbursement shall be contingent upon the work ultimately being approved in accordance with the requirements of paragraph (a) of § 668.215.

(c) To qualify for emergency relief, the damaged or destroyed road or trail shall be designated as a Federal road.

(d) Replacement highway facilities are appropriate when it is not practical and economically feasible to repair or restore a damaged element to its pre-existing condition. Emergency relief is limited to the cost of a new facility constructed to current design standards of comparable capacity and character to the destroyed facility. With respect to a bridge, a comparable facility is one which meets current geometric and construction standards for the type and volume of traffic it will carry during its design life.

(e) Emergency relief funds may participate to the extent of eligible repair costs when proposed projects contain betterments or other work not eligible for emergency funds.

(f) Diligent efforts shall be made to recover repair costs from the legally responsible parties to reduce the project costs where highway damages are caused by ships, barge tows, highway vehicles, vehicles with illegal loads, and similar improperly controlled objects or events.

(g) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of an eligible cost, emergency relief funding can be used to pay the remaining costs.

(h) Emergency funds shall not duplicate assistance under another Federal program or compensation from insurance or any other source. Where other funding compensates for only part of an eligible cost, emergency relief funding can be used to pay the remaining costs.

§ 668.207 Federal share payable from emergency fund.

The Federal share payable under this program is 100 percent of the cost.

§ 668.211 Notification, damage assessment, and finding.

(a) Notification. During or as soon as possible after a natural disaster or catastrophic failure, each applicant will notify the DFDE of its tentative intent to apply for emergency relief and request that a Finding be made.

(b) Acknowledgment. The DFDE will promptly acknowledge the notification and briefly describe subsequent damage assessment, Finding, and application procedures.

(c) Field report. The applicant shall cooperate with the DFDE to promptly make a field survey of overall damage and in the preparation of a field report.

(d) Finding. Using the field report and other information deemed appropriate, the DFDE will promptly issue a Finding and if an Affirmative Finding is
§ 668.213 Application procedures.

(a) Based on the detailed site inspections and damage estimates prepared pursuant to paragraph (e) of §668.211, the applicant will submit an application in the form of a letter to the DFDE which shall include a list of projects for which emergency relief is requested. The application shall be submitted within 3 months after an Affirmative Finding.

(b) The list of projects shall include emergency repairs, PE, and permanent work, and provide for each project a location, length, project number, type of damage, description of work with a separate breakdown for betterments including a justification for those intended for emergency relief funding, proposed method of construction, estimated cost, and any other information requested by the DFDE.

(c) If the initial list of projects is incomplete, a subsequent list(s) of projects shall be forwarded to the DFDE for approval consideration as soon as possible.


§ 668.215 Programming and project procedures.

(a) The DFDE will advise the applicant in writing which projects in the application, or in any subsequent submittals pursuant to paragraph (c) of §668.213 are approved including any approval conditions. Approved projects shall constitute the approved program of projects (program).

(b) Plans, specifications, and estimates (PS&E) shall be developed based on work identified in the approved program.

(c) The DFDE will approve PS&E’s, concur in the award of contracts or the rejection of bids, determine that construction by the force account method is in the public interest, and accept completed work in accordance with interagency procedures established by the DFDE.

(d) The applicant shall notify the DFDE in writing of the semi-annual status and completion of each emergency relief project constructed by applicant forces.

heavy vehicle use tax are lawfully registered or within 4 months after being lawfully registered if a suspension registration system is implemented.

§ 669.3 Policy.

It is the policy of the FHWA that each state require registrants of heavy trucks as described in 26 CFR part 41 to provide proof of payment of the vehicle use tax either before lawfully registering or within 4 months after lawfully registering such vehicles as provided for under a suspension registration system.

§ 669.5 Objective.

The objective of this regulation is to establish realistic and workable procedures for an annual certification process to provide suitable evidence that an effective program is being conducted by the states and to ensure that the states are not registering vehicles which have not been accounted for under the tax collection procedures instituted by the Internal Revenue Service (IRS).

§ 669.7 Certification requirement.

The Governor of each state, or his or her designee, shall certify to the FHWA before July 1 of each year that it is obtaining proof of payment of the heavy vehicle use tax as a condition of registration in accordance with 23 U.S.C. 141(d). The certification shall cover the 12-month period (8 months for the initial certification period) ending May 31.

§ 669.9 Certification content.

The certification shall consist of the following elements:

(a) A statement by the Governor of the state or a state official designated by the Governor, that evidence of payment of the heavy vehicle use tax is being obtained as a condition of registration for all vehicles subject to such tax. The statement shall include the inclusive dates of the period during which payment of the heavy vehicle use tax was verified as a condition of registration.

(b) The certifying statement required by paragraph (a) of this section shall be worded as follows:

I (name of certifying official), (position, title), of the State of ( ), do hereby certify that evidence of payment of the heavy vehicle use tax pursuant to section 4481 of the Internal Revenue Code of 1984, as amended, is being obtained as a condition of registration for vehicles subject to such tax in accordance with 23 U.S.C. 141(d) and applicable IRS rules. This certification is for the period ( ) to ( )

(c) For the initial certification, submit a copy of any state law or regulation pertaining to the implementation of 23 U.S.C. 141(d); for subsequent certifications, submit a copy of any new or revised laws and regulations pertaining to the implementation of 23 U.S.C. 141(d).

§ 669.11 Certification submittal.

The Governor or an official designated by the Governor, shall each year submit the certification, including the supporting material specified in §669.9 to the FHWA Division Administrator prior to July 1.

§ 669.13 Effect of failure to certify or to adequately obtain proof of payment.

Beginning July 1, 1986, if a state fails to certify as required by this regulation or if the Secretary of Transportation determines that a state is not adequately obtaining proof of payment of the heavy vehicle use tax as a condition of registration notwithstanding the state’s certification, Federal-aid highway funds apportioned to the state under 23 U.S.C. 104(b)(5) for the next fiscal year shall be reduced in an amount up to 25 percent as determined by the Secretary.

§ 669.15 Procedure for the reduction of funds.

(a) If it appears to the Federal Highway Administrator that a state has not submitted a certification conforming to the requirements of this regulation or that the state is not adequately obtaining proof of payment of the heavy vehicle use tax under 23 U.S.C. 141(d), the Federal Highway Administrator shall make in writing a proposed determination of nonconformity, and shall notify the Governor of the state of the proposed determination by certified mail. The notice shall state the reasons
§ 669.17 Compliance finding.

(a) If, following the conference or review of submitted materials described in §669.15, the Administrator concludes that the state is in compliance, the Administrator shall issue a decision which is the final decision, and the matter shall be concluded.

(b) If, following the conference or review of information submitted under §669.15, the Administrator, with the concurrence of the Secretary, concludes that the state is in noncompliance, the Administrator shall issue a decision, which is the final decision, and the matter be concluded. The decision will be served on the Governor, or his/her designee.

§ 669.19 Reservation and reapportionment of funds.

(a) The Administrator may reserve from obligation up to 25 percent of a state’s apportionment of funds under 23 U.S.C. 104(b)(5), pending a final determination.

(b) Funds withheld pursuant to a final administrative determination under this regulation shall be reapportioned to all other eligible states pursuant to the formulas of 23 U.S.C. 104(b)(5) and the apportionment factors in effect at the time of the original apportionments, unless the Secretary determines, on the basis of information submitted by the state, that the state has come into conformity with this regulation prior to the final determination. If the Secretary determines that the state has come into conformity, the withheld funds shall be released to the state subject to the availability of such funds under 23 U.S.C. 118(b).

(c) The reapportionment of funds under paragraph (b) of this section shall be stayed during the pendency of any judicial review of the Secretary’s final determination of noncomformity.

§ 669.21 Procedure for evaluating state compliance.

The FHWA shall periodically review the state’s procedures for complying with 23 U.S.C. 141(d), including an inspection of supporting documentation and records. The state shall retain a copy of the receipted IRS Schedule 1 (Form 2290), or an acceptable substitute prescribed by 26 CFR part 41, §41.6001–2, for a period of 1 year for purposes of evaluating state compliance with 23 U.S.C. 141(d) by the FHWA. In lieu of retention of Schedule 1, states may make an appropriate entry in an automated file or on registration documents retained by the state or retain a microfilm or microfiche copy of Schedule 1 or of the automated file as evidence that proof of payment has been received before vehicles subject to the Federal heavy vehicle use tax are registered.
§ 710.101 Purpose.

The primary purpose of the requirements in this part is to ensure the prudent use of Federal funds under title 23 of the United States Code in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR part 24.

§ 710.103 Applicability.

This part applies whenever Federal assistance under title 23 of the United States Code is used. The part applies to programs administered by the Federal Highway Administration. Where Federal funds are transferred to other Federal agencies to administer, those agencies’ procedures may be utilized. Additional guidance is available electronically at the FHWA Real Estate services website: http://www.fhwa.dot.gov/realestate/index.htm

§ 710.105 Definitions.

(a) Terms defined in 49 CFR part 24, and 23 CFR part 1 have the same meaning where used in this part, except as modified in this section.

(b) The following terms where used in this part have the following meaning:

Access rights means the right of ingress to and egress from a property that abuts a street or highway.

Acquiring agency means a State agency, other entity, or person acquiring real property for title 23 of the United States Code purposes.

Acquisition means activities to obtain an interest in, and possession of, real property.

Air rights means real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace.

Airspace means that space located above and/or below a highway or other transportation facility’s established grade line, lying within the horizontal...
limits of the approved right-of-way or project boundaries.

*Damages* means the loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner’s property is acquired.

*Disposal* means the sale of real property or rights therein, including access or air rights, when no longer needed for highway right-of-way or other uses eligible for funding under title 23 of the United States Code.

*Donation* means the voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation or with compensation at less than fair market value.

*Early acquisition* means acquisition of real property by State or local governments in advance of Federal authorization or agreement.

*Easement* means an interest in real property that conveys a right to use a portion of an owner’s property or a portion of an owner’s rights in the property.

*NHS* means the National Highway System as defined in 23 U.S.C. 103(b).

*Oversight agreement* means the project approval and agreement concluded between the State and the FHWA to outline which projects will be monitored at the plans, specifications, and estimate stage by FHWA as required by 23 U.S.C. 106(c)(3).

*Real property* means land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.

*Relinquishment* means the conveyance of a portion of a highway right-of-way or facility by a State highway department to another government agency for continued transportation use. (See 23 CFR part 620, subpart B.)

*Right-of-way* means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

*Settlement* means the result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following:

1. An *administrative settlement* is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official.

2. A *legal settlement* is a settlement reached by a responsible State legal representative after filing a condemnation proceeding, including stipulated settlements approved by the court in which the condemnation action had been filed.

3. A *court settlement* or *court award* is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of compensation for a taking under the laws of eminent domain.

*State agency* means a department, agency, or instrumentality of a State, or of a political subdivision of a State; any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.

*State transportation department (STD)* means the State highway department, transportation department, or other State transportation agency or commission to which title 23 of the United States Code funds are apportioned.

*Uneconomic remnant* means a remainder property which the acquiring agency has determined has little or no utility or value to the owner.

Subpart B—Program Administration

§ 710.201 State responsibilities.

(a) Organization. Each STD shall be adequately staffed, equipped, and organized to discharge its real property-related responsibilities.

(b) Program oversight. The STD shall have overall responsibility for the acquisition, management, and disposal of real property on Federal-aid projects. This responsibility shall include assuring that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.

(c) Right-of-way (ROW) operations manual. Each STD which receives funding from the highway trust fund shall maintain a manual describing its right-of-way organization, policies, and procedures. The manual shall describe functions and procedures for all phases of the real estate program, including appraisal and appraisal review, negotiation and eminent domain, property management, and relocation assistance. The manual shall also specify procedures to prevent conflict of interest and avoid fraud, waste, and abuse. The manual shall be in sufficient detail and depth to guide State employees and others involved in acquiring and managing real property. The State manuals should be developed and updated, as a minimum, to meet the following schedule:


(2) Every five years thereafter, the chief administrative officer of the STD shall certify to the FHWA that the current ROW operations manual conforms to existing practices and contains necessary procedures to ensure compliance with Federal and State real estate law and regulation.

(3) The STD shall update the manual periodically to reflect changes in operations and submit the updated materials for approval by the FHWA.

(d) Compliance responsibility. The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements.

(e) Adequacy of real property interest. The real property interest acquired for all Federal-aid projects funded pursuant to title 23 of the United States Code shall be adequate for the construction, operation, and maintenance of the resulting facility and for the protection of both the facility and the traveling public.

(f) Recordkeeping. The acquiring agency shall maintain adequate records of its acquisition and property management activities.

(1) Acquisition records, including records related to owner or tenant displacements, and property inventories of improvements acquired shall be in sufficient detail to demonstrate compliance with this part and 49 CFR part 24. These records shall be retained at least 3 years from either:

(i) The date the State receives Federal reimbursement of the final payment made to each owner of a property and to each person displaced from a property, or

(ii) The date a credit toward the Federal share of a project is approved based on early acquisition activities of the State.

(2) Property management records shall include inventories of real property considered excess to project needs, all authorized uses of airspace, and other leases or agreements for use of real property managed by the STD.

(g) Procurement. Contracting for all activities required in support of State right-of-way programs through use of private consultants and other services shall conform to 49 CFR 18.36.

(h) Use of other public land acquisition organizations or private consultants. The STD may enter into written agreements with other State, county, municipal, or local public land acquisition organizations or with private consultants to carry out its authorities under paragraph (b) of this section. Such organizations, firms, or individuals must comply with the policies and practices of the STD. The STD shall monitor any such real property acquisition activities to assure compliance with State and Federal law and requirements and is responsible for informing such organizations of all such requirements and for imposing sanctions in cases of material non-compliance.
§ 710.203 Funding and reimbursement.

(a) General conditions. The following conditions are a prerequisite to Federal participation in the costs of acquiring real property except as provided in §710.501 for early acquisition:

(1) The project for which the real property is acquired is included in an approved Statewide Transportation Improvement Program (STIP).

(2) The State has executed a project agreement;

(3) Preliminary acquisition activities, including a title search and preliminary property map preparation necessary for the completion of the environmental process, can be advanced under preliminary engineering prior to National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) clearance, while other work involving contact with affected property owners must normally be deferred until after NEPA approval, except as provided in 23 CFR 710.503 for protective buying and hardship acquisition; and in 23 CFR 710.501, early acquisition. Appraisal completion may be authorized as preliminary right-of-way activity prior to completion of the environmental document; and

(4) Costs have been incurred in conformance with State and Federal law requirements.

(b) Direct eligible costs. Federal participation in real property costs is limited to the costs of property incorporated into the final project and the associated direct costs of acquisition, unless provided otherwise. Participation is provided for:

(1) Real property acquisition. Usual costs and disbursements associated with real property acquisition required under the laws of the State, including the following:

(i) The cost of contracting for private acquisition services or the cost associated with the use of local public agencies.

(ii) The amount determined to be just compensation shall be approved by a responsible official of the acquiring agency.

(iii) The cost of acquiring real property, including incidental expenses.

(iv) The cost of administrative settlements in accordance with 49 CFR 24.102(i), legal settlements, court awards, and costs incidental to the condemnation process.

(v) The cost of minimum payments and appraisal waiver amounts included in the State approved manual.

(2) Relocation assistance and payments. Payments made incidental to and associated with the displacement from acquired property under 49 CFR part 24.

(3) Damages. The cost of severance and/or consequential damages to remaining real property resulting from a partial acquisition, actual or constructive, of real property for a project based on elements compensable under applicable State law.

(4) Property management. The net cost of managing real property prior to and during construction to provide for maintenance, protection, and the clearance and disposal of improvements until final project acceptance.

(5) Payroll-related expenses and technical guidance. Salary and related expenses of employees of an acquiring agency.
agency are eligible costs in accordance with OMB Circular A-87 (available at http://www.whitehouse.gov/omb/circulars). This includes State costs incurred for managing or providing technical guidance, consultation or oversight on projects where right-of-way services are performed by a political subdivision or others.

(6) Property not incorporated into a project funded under title 23 of the United States Code. The cost of property not incorporated into a project may be eligible for reimbursement in the following circumstances:

(i) General. Costs for construction material sites, property acquisitions to a logical boundary, or for eligible transportation enhancement, sites for disposal of hazardous materials, environmental mitigation, environmental banking activities, or last resort housing.

(ii) Easements not incorporated into the right-of-way. The cost of acquiring easements outside the right-of-way for permanent or temporary use.

(7) Uneconomic remnants. The cost of uneconomic remnants purchased in connection with the acquisition of a partial taking for the project as required by the Uniform Act.

(8) Access rights. Payment for full or partial control of access on an existing highway (i.e., one not on a new location), based on elements compensable under applicable State law. Participation does not depend on another real property interest being acquired or on further construction of the highway facility.


(ii) Participation in the cost of acquiring non-operating utility or railroad real property shall be in the same manner as that used in the acquisition of other privately owned property.

(d) Indirect costs. Indirect costs may be claimed under the provisions of OMB Circular A-87. Indirect costs may be included on Federal-aid billings after the indirect cost rate has been approved by FHWA.

Subpart C—Project Development

§ 710.301 General.

The project development process typically follows a sequence of actions and approvals in order to qualify for funding. The key steps in this process are provided in this subpart.

§ 710.303 Planning.

State and local governments conduct metropolitan and statewide planning to develop coordinated, financially constrained system plans to meet transportation needs for local and statewide systems, under FHWA’s planning regulations contained in 23 CFR part 450. In addition, air quality non-attainment areas must meet the requirements of the U.S. EPA Transportation conformity regulations (40 CFR parts 51 and 93). Projects must be included in an approved State Transportation Improvement Program (STIP) in order to be eligible for Federal-aid funding.

§ 710.305 Environmental analysis.

The National Environmental Policy Act (NEPA) process, as described in FHWA’s NEPA regulations in 23 CFR part 771, normally must be conducted and concluded with a record of decision (ROD) or equivalent before Federal funds can be placed under agreement for acquisition of right-of-way. Where applicable, a State also must complete Clean Air Act (42 U.S.C. 7401 et seq.) project level conformity analysis. In areas in which the Clean Air Act conformity determination has lapsed, acquiring agencies must coordinate with Federal Highway Administration for special instructions prior to initiating new projects or continuing activity on existing projects. At the time of processing an environmental document, a State may request reimbursement of
§ 710.307 Costs incurred for early acquisition, provided conditions prescribed in 23 U.S.C. 108(c) and 23 CFR 710.501, are satisfied.

§ 710.307 Project agreement.

As a condition of Federal-aid, the STD shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisitions, including hardship acquisition and protective buying (see 23 CFR 710.503). The STD must prepare a project agreement in accordance with 23 CFR part 630, subpart C. The agreement shall be based on an acceptable estimate for the cost of acquisition. On projects where the initial project agreement was executed after June 9, 1998, a State may request credit toward the non-Federal share, for early acquisitions, donations, or other contributions applied to the project provided conditions in 23 U.S.C. 323 and 23 CFR 710.501, are satisfied.

§ 710.309 Acquisition.

The process of acquiring real property includes appraisal, appraisal review, establishing just compensation, negotiations, administrative and legal settlements, and condemnation. The State shall conduct acquisition and related relocation activities in accordance with 49 CFR part 24.

§ 710.311 Construction advertising.

The State must manage real property acquired for a project until it is required for construction. Clearance of improvements can be scheduled during the acquisition phase of the project using sale/removal agreements, separate demolition contracts, or be included as a work item in the construction contract. On Interstate projects, prior to advertising for construction, the State shall develop ROW availability statements and certifications related to project acquisitions as required by 23 CFR 635.309. For non-Interstate projects, the oversight agreement must specify responsibility for the review and approval of the ROW availability statements and certifications. Generally, for non-NHS projects, the State has full responsibility for determining that right-of-way is available for construction.

Subpart D—Real Property Management

§ 710.401 General.

This subpart describes the acquiring agency’s responsibilities to control the use of real property required for a project in which Federal funds participated in any phase of the project. Prior to allowing any change in access control or other use or occupancy of acquired property along the Interstate, the STD shall secure an approval from the FHWA for such change or use. The STD shall specify in the State’s ROW operations manual, procedures for the rental, leasing, maintenance, and disposal of real property acquired with title 23 of the United States Code funds. The State shall assure that local agencies follow the State’s approved procedures, or the local agencies own procedures if approved for use by the STD.

§ 710.403 Management.

(a) The STD must assure that all real property within the boundaries of a federally-aided facility is devoted exclusively to the purposes of that facility and is preserved free of all other public or private alternative uses, unless such alternative uses are permitted by Federal regulation or the FHWA. An alternative use must be consistent with the continued operation, maintenance, and safety of the facility, and such use shall not result in the exposure of the facility’s users or others to hazards.

(b) The STD shall specify procedures in the State manual for determining when a real property interest is no longer needed. These procedures must provide for coordination among relevant STD organizational units, including maintenance, safety, design, planning, right-of-way, environment, access management, and traffic operations.

(c) The STD shall evaluate the environmental effects of disposal and leasing actions requiring FHWA approval as provided in 23 CFR part 771.

(d) Acquiring agencies shall charge current fair market value or rent for the use or disposal of real property interests, including access control, if
§ 710.405 Air rights on the Interstate.

(a) The FHWA policies relating to management of airspace on the Interstate for non-highway purposes are included in this section. Although this section deals specifically with approval actions on the Interstate, any use of airspace contemplated by a STD must assure that such occupancy, use, or reservation is in the public interest and does not impair the highway or interfere with the free and safe flow of traffic as provided in 23 CFR 1.23.

(1) This subpart applies to Interstate facilities which received title 23 of the United States Code assistance in any way.

(2) This subpart does not apply to the following:

(i) Non-Interstate highways.

(ii) Railroads and public utilities which cross or otherwise occupy Federal-aid highway right-of-way.

(iii) Relocations of railroads or utilities for which reimbursement is claimed under 23 CFR part 140, subparts E and H.

(iv) Bikeways and pedestrian walkways as covered in 23 CFR part 652.

(b) A STD may grant rights for temporary or permanent occupancy or use of Interstate system airspace if the STD has acquired sufficient legal right, title, and interest in the right-of-way of a federally assisted highway to permit the use of certain airspace for non-highway purposes; and where such airspace is not required presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility. The STD must obtain prior FHWA approval, except for paragraph (c) of this section.

(c) An STD may make lands and rights-of-way available without charge to a publicly owned mass transit authority for public transit purposes whenever the public interest will be served, and where this can be accomplished without impairing automotive safety or future highway improvements.

(d) An individual, company, organization, or public agency desiring to use airspace shall submit a written request...
§ 710.407 Leasing.

(a) Leasing of real property acquired with title 23 of the United States Code, funds shall be covered by an agreement between the STD and lessee which contains provisions to insure the safety and integrity of the federally funded facility. It shall also include provisions governing lease revocation, removal of improvements at no cost to the FHWA, adequate insurance to hold the State and the FHWA harmless, non-discrimination, access by the STD and the FHWA for inspection, maintenance, and reconstruction of the facility.

(b) Where a proposed use requires changes in the existing transportation facility, such changes shall be provided without cost to Federal funds unless otherwise specifically agreed to by the STD and the FHWA.

(c) Proposed uses of real property shall conform to the current design standards and safety criteria of the Federal Highway Administration for the functional classification of the highway facility in which the property is located.

§ 710.409 Disposals.

(a) Real property interests determined to be excess to transportation needs may be sold or conveyed to a public entity or to a private party in accordance with §710.403(c).

(b) Federal, State, and local agencies shall be afforded the opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the STD shall notify the appropriate resource agencies of its intentions to dispose of the real property interests. The notifications can be accomplished by placing the appropriate agencies on the States’ disposal notification listing.

(c) Real property interests may be retained by the STD to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility.

(d) Where the transfer of properties to other agencies at less than fair market value for continued public use is clearly justified as in the public interest and approved by the FHWA, the deed shall provide for reversion of the property for failure to continue public ownership and use. Where property is sold at fair market value no reversion clause is required. Disposal actions described in 23 CFR 710.403(d)(1) for less than fair market value require a public interest determination and FHWA approval, consistent with that section.

Subpart E—Property Acquisition Alternatives

§ 710.501 Early acquisition.

(a) Real property acquisition. The State may initiate acquisition of real property at any time it has the legal authority to do so based on program or project considerations. The State may undertake early acquisition for corridor preservation, access management, or other purposes.

(b) Eligible costs. Acquisition costs incurred by a State agency prior to executing a project agreement with the FHWA are not eligible for Federal-aid reimbursement. However, such costs may become eligible for use as a credit towards the State’s share of a Federal-aid project if the following conditions are met:

(1) The property was lawfully obtained by the State;
(2) The property was not land described in 23 U.S.C. 138;
(3) The property was acquired in accordance with the provisions of 49 CFR part 24;
(4) The State complied with the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4); and
(5) The State determined and the FHWA concurs that the action taken
§ 710.505 Real property donations.
(a) Donations of property being acquired. A non-governmental owner whose real property is required for a Federal-aid project may donate the property to the STD. Prior to accepting the property, the owner must be informed by the agency of his/her right to receive just compensation for the property. The owner shall also be informed of his/her right to an appraisal of the property by a qualified appraiser, unless the STD determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at no more than $2500, or the State appraisal waiver limit approved by the FHWA, whichever is greater. All donations of property received prior to the approval of the NEPA document must meet environmental requirements as specified in 23 U.S.C. 323(d).

(b) Credit for donations. Donations of real property may be credited to the State’s matching share of the project. Credit to the State’s matching share for donated property shall be based on fair market value established on the
earlier of the following: either the date on which the donation becomes effective, or the date on which equitable title to the property vests in the State. The fair market value shall not include increases or decreases in value caused by the project. Donations may be made at anytime during the development of a project. The STD shall develop sufficient documentation to indicate compliance with paragraph (a) of this section and to support the amount of credit applied. The total credit cannot exceed the State’s pro-rata share under the project agreement to which it is applied.

(c) Donations and conveyances in exchange for construction features or services. A property owner may donate property in exchange for construction features or services. The value of the donation is limited to the fair market value of property donated less the cost of the construction features or services. If the value of the donated property exceeds the cost of the construction features or services, the difference may be eligible for a credit to the State’s share of project costs.

§ 710.507 State and local contributions.

(a) General. Real property owned by State and local governments incorporated within a federally funded project can be used as a credit toward the State matching share of total project cost. A credit cannot exceed the State’s matching share required by the project agreement.

(b) Effective date. Credits can be applied to projects where the initial project agreement is executed after June 9, 1998.

(c) Exemptions. Credits are not available for lands acquired with any form of Federal financial assistance, or for lands already incorporated and used for transportation purposes.

(d) State contributions. Real property acquired with State funds and required for federally-assisted projects may support a credit toward the non-Federal share of project costs. The STD must prepare documentation supporting all credits including:

(1) A certification that the acquisition satisfied the conditions in 23 CFR 710.501(b); and

(2) Justification of the value of credit applied. Acquisition costs incurred by the State to acquire title can be used as justification for the value of the real property.

(e) Credit for local government contributions. A contribution by a unit of local government of real property which is offered for credit, in connection with a project eligible for assistance under this title, shall be credited against the State share of the project at fair market value of the real property. Property may also be presented for project use with the understanding that no credit for its use is sought. The STD shall assure that the acquisition satisfied the conditions in 23 CFR 710.501(b), and that documentation justifies the amount of the credit.

§ 710.509 Functional replacement of real property in public ownership.

(a) General. When publicly owned real property, including land and/or facilities, is to be acquired for a Federal-aid highway project, in lieu of paying the fair market value for the real property, the State may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility.

(b) Federal participation. Federal-aid funds may participate in functional replacement costs only if:

(1) Functional replacement is permitted under State law and the STD elects to provide it.

(2) The property in question is in public ownership and will continue the public use function of the acquired facility.

(3) The replacement facility will be in public ownership and will continue the public use function of the acquired facility.

(4) The State has informed the agency owning the property of its right to an estimate of just compensation based on an appraisal of fair market value and of the option to choose either just compensation or functional replacement.

(5) The FHWA concurs in the STD determination that functional replacement is in the public interest.

(6) The real property is not owned by a utility or railroad.

(c) Federal land transfers. Use of this section for functional replacement of
real property in Federal ownership shall be in accordance with Federal land transfer provisions in subpart F of this part.

(d) **Limits upon participation.** Federal-aid participation in the costs of functional replacement are limited to costs which are actually incurred in the replacement of the acquired land and/or facility and are:

1. Costs for facilities which do not represent increases in capacity or betterments, except for those necessary to replace utilities, to meet legal, regulatory, or similar requirements, or to meet reasonable prevailing standards; and
2. Costs for land to provide a site for the replacement facility.

(e) **Procedures.** When a State determines that payments providing for functional replacement of public facilities are allowable under State law, the State will incorporate within the State’s ROW operating manual full procedures covering review and oversight that will be applied to such cases.

§ 710.511 Transportation enhancements.

(a) **General.** Section 133(b) (8) of title 23 of the United States Code authorizes the expenditure of surface transportation funds for transportation enhancement activities (TEA). Transportation enhancement activities which involve the acquisition, management, and disposition of real property, and the relocation of families, individuals, and businesses, are governed by the general requirements of the Federal-aid program found in titles 23 and 49 of the Code of Federal Regulations (CFR), except as specified in paragraph (b)(3) of this section.

(b) **Requirements.** (1) Displacements for TEA are subject to the Uniform Act.

(2) Acquisitions for TEA are subject to the Uniform Act except as provided in paragraphs (b)(3), (b)(4), and (b)(5) of this section.

(3) Entities acquiring real property for TEA who lack the power of eminent domain may comply with the Uniform Act by meeting the limited requirements under 49 CFR 24.101(a)(2).

(4) The requirements of the Uniform Act do not apply when real property acquired for a TEA was purchased from a third party by a qualified conservation organization, and—

(i) The conservation organization is not acting on behalf of the agency receiving TEA or other Federal-aid funds, and

(ii) There was no Federal approval of property acquisition prior to the involvement of the conservation organization. (“Federal approval of property acquisition” means the date of the approval of the environmental document or project authorization/agreement, whichever is earlier. “Involvement of the conservation organization” means the date the organization makes a legally binding offer to acquire a real property interest, including an option to purchase, in the property.)

(5) When a qualified conservation organization acquires real property for a project receiving Federal-aid highway funds on behalf of an agency with eminent domain authority, the requirements of the Uniform Act apply as if the agency had acquired the property itself.

(b) **Procedures.** When, subsequent to Federal approval of property acquisition, a qualified conservation organization acquires real property for a project receiving Federal-aid highway funds, and there will be no use or recourse to the power of eminent domain, the limited requirements of 49 CFR 24.101(a)(2) apply.

(c) **Property management.** Real property acquired with TEA funds shall be managed in accordance with the property management requirements provided in subpart D of this part. Any use of the property for purposes other than that for which the TEA funds were provided must be consistent with the continuation of the original use. When the original use of the real property is converted by sale or lease to another use inconsistent with the original use, theSTD shall assure that the fair market value or rent is charged and the proceeds reapplied to projects eligible under title 23 of the United States Code.

§ 710.513 Environmental mitigation.

(a) The acquisition and maintenance of land for wetlands mitigation, wetlands banking, natural habitat, or
§ 710.601 Federal land transfer.

(a) The provisions of this subpart apply to any project undertaken with funds for the National Highway System. When the FHWA determines that a strong Federal transportation interest exists, these provisions may also be applied to highway projects that are eligible for Federal-aid under Chapters 1 and 2 of title 23, of the United States Code, and to highway-related transfers that are requested by a State in conjunction with a military base closure under the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510, 104 Stat. 1808, as amended).

(b) Sections 107(d) and 317 of title 23, of the United States Code provide for the transfer of lands or interests in lands owned by the United States to an STD or its nominee for highway purposes.

(c) The STD may file an application with the FHWA, or can make application directly to the land-owning agency if the land-owning agency has its own authority for granting interests in land.

(d) Applications under this section shall include the following information:

1. The purpose for which the lands are to be used;
2. The estate or interest in the land required for the project;
3. The Federal-aid project number or other appropriate references;
4. The name of the Federal agency exercising jurisdiction over the land and identity of the installation or activity in possession of the land;
5. A map showing the survey of the lands to be acquired;
6. A legal description of the lands desired; and

(e) If the FHWA concurs in the need for the transfer, the land-owning agency will be notified and a right-of-entry requested. The land-owning agency shall have a period of four months in which to designate conditions necessary for the adequate protection and utilization of the reserve or to certify that the proposed appropriation is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved. The FHWA may extend the four-month reply period at the timely request of the land-owning agency for good cause.

(f) Deeds for conveyance of lands or interests in lands owned by the United States shall be prepared by the STD and certified by an attorney licensed within the State as being legally sufficient. Such deeds shall contain the clauses required by the FHWA and 49 CFR 21.7(a)(2). After the STD prepares the deed, it will submit the proposed deed with the certification to the FHWA for review and execution.

(g) Following execution, the STD shall record the deed in the appropriate land record office and so advise the FHWA and the concerned Federal agency.

(h) When the need for the interest acquired under this subpart no longer exists, the STD must restore the land to the condition which existed prior to the transfer and must give notice to the FHWA and to the concerned Federal agency that such interest will immediately revert to the control of the Federal agency from which it was appropriated or to its assigns. Alternative arrangements may be made for the sale or reversion or restoration of the lands no longer required as part of
§ 710.603 Direct Federal acquisition.

(a) The provisions of this section apply to any land and or improvements needed in connection with any project on the Interstate System, defense access roads, public lands highways, park roads, parkways, Indian reservation roads, and projects performed by the FHWA in cooperation with Federal and State agencies. For projects on the Interstate System and defense access roads, the provisions of this part are applicable only where the State is unable to acquire the required right-of-way or is unable to obtain possession with sufficient promptness.

(b) To enable the FHWA to make the necessary finding to proceed with the acquisition of the rights-of-way, the STDs written application for Federal acquisition shall include:

1. Justification for the Federal acquisition of the lands or interests in lands;
2. The date the FHWA authorized the STD to commence right-of-way acquisition, the date of the project agreement and a statement that the agreement contains the provisions required by 25 U.S.C. 111;
3. The necessity for acquisition of the particular lands under request;
4. A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access;
5. The STDs intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition;
6. A statement on compliance with the provisions of part 771 of this chapter;
7. Adequate legal descriptions, plats, appraisals, and title data;
8. An outline of the negotiations which have been conducted by the STD with landowners;
9. An agreement that the STD will pay its pro rata share of costs incurred in the acquisition of, or the attempt to acquire rights-of-way; and
10. A statement that assures compliance with the applicable provisions of the Uniform Act. (42 U.S.C. 4601, et seq.)

(c) If the landowner tenders a right-of-entry or other right of possession document required by State law any time before the FHWA makes a determination that the STD is unable to acquire the rights-of-way with sufficient promptness, the STD is legally obligated to accept such tender and the FHWA may not proceed with Federal acquisition.

(d) If the STD obtains title to a parcel prior to the filing of the Declaration of Taking, it shall notify the FHWA and immediately furnish the appropriate U.S. Attorney with a disclaimer together with a request that the action against the landowner be dismissed (ex parte) from the proceeding and the estimated just compensation deposited into the registry of the court for the affected parcel be withdrawn after the appropriate motions are approved by the court.

(e) When the United States obtains a court order granting possession of the real property, the FHWA shall authorize the STD to take over supervision of the property. The authorization shall include, but need not be limited to, the following:

1. The right to take possession of unoccupied properties;
2. The right to give 90 days notice to owners to vacate occupied properties and the right to take possession of such properties when vacated;
3. The right to permit continued occupancy of a property until it is required for construction and, in those instances where such occupancy is to be for a substantial period of time, the right to enter into rental agreements, as appropriate, to protect the public interest;
4. The right to request assistance from the U.S. Attorney in obtaining physical possession where an owner declines to comply with the court order of possession;
5. The right to clear improvements and other obstructions;
6. Instructions that the U.S. Attorney be notified prior to actual clearing, so as to afford him an opportunity to view the lands and improvements, to obtain appropriate photographs, and to
secure appraisals in connection with the preparation of the case for trial.

(7) The requirement for appropriate credits to the United States for any net salvage or net rentals obtained by the State, as in the case of right-of-way acquired by the State for Federal-aid projects; and

(8) Instructions that the authority granted to the STD is not intended to preclude the U.S. Attorney from taking action, before the STD has made arrangements for removal, to reach a settlement with the former owner which would include provision for removal.

(f) If the Federal Government initiates condemnation proceedings against the owner of real property in a Federal court and the final judgment is that the Federal agency cannot acquire the real property by condemnation, or the proceeding is abandoned, the court is required by law to award such a sum to the owner of the real property that in the opinion of the court provides reimbursement for the owner’s reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings.

(g) As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of the compensation in a Federal condemnation, the FHWA shall reimburse the owner to the extent deemed fair and reasonable, the following costs:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States or the effective date of possession, whichever is the earlier.

(h) The lands or interests in lands, acquired under this section, will be conveyed to the State or the appropriate political subdivision thereof, upon agreement by the STD, or said subdivision to:

(1) Maintain control of access where applicable;

(2) Accept title thereto;

(3) Maintain the project constructed thereon;

(4) Abide by any conditions which may set forth in the deed; and

(5) Notify the FHWA at the appropriate time that all the conditions have been performed by the State.

(i) The deed from the United States to the State, or to the appropriate political subdivision thereof, shall include the conditions required by 49 CFR part 21. The deed shall be recorded by the grantee in the appropriate land record office, and the FHWA shall be advised of the recording date.

PART 750—HIGHWAY BEAUTIFICATION

Subpart A—National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec.

750.101 Purpose.
750.102 Definitions.
750.103 Measurements of distance.
750.104 Signs that may not be permitted in protected areas.
750.105 Signs that may be permitted in protected areas.
750.106 Class 3 and 4 signs within informational sites.
750.107 Class 3 and 4 signs outside informational sites.
750.108 General provisions.
750.109 Exclusions.
750.110 State regulations.

Subpart B—National Standards for Directional and Official Signs

750.151 Purpose.
750.152 Application.
750.153 Definitions.
750.154 Standards for directional signs.
750.155 State standards.

Subpart C [Reserved]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

750.301 Purpose.
750.302 Policy.
750.303 Definitions.
750.304 State policies and procedures.
750.305 Federal participation.
§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into
an agreement with the Secretary of Transportation as provided in the act; and

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secretary of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

(d) Entrance roadway means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate Highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Exit roadway means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate Highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) Informational site means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) Legible means capable of being read without visual aid by a person of normal visual acuity.

(i) Maintain means to allow to exist.

(j) Main-traveled way means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) Protected areas means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.

(l) Scenic area means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) State means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) State law means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) Trade name shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) Visible means capable of being seen (whether or not legible) without
§ 750.103 Measurements of distance.

(a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under § 750.107 (a)(2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

[38 FR 16044, June 20, 1973, as amended at 41 FR 9321, Mar. 4, 1976]

§ 750.104 Signs that may not be permitted in protected areas.

Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clean and in good repair.

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be permitted in protected areas.

(a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1—Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State of Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On-premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §750.108 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

Class 3—Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §§750.106, 750.107, and 750.108 and which advertise activities being conducted within 12 air miles of such signs.

Class 4—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by State law which are consistent with the applicable provisions of this section and §§750.106, 750.107, and 750.108 and which are designed to give information in the specific interest of the traveling public.
§ 750.106 Class 3 and 4 signs within informational sites.

(a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with § 1.35 of this chapter. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver’s operation of a motor vehicle.


§ 750.107 Class 3 and 4 signs outside informational sites.

(a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:

(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.

(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either paragraph (a)(1) or (2) of this section.

(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:

(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

<table>
<thead>
<tr>
<th>Distance from intersection</th>
<th>Number of signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–2 miles</td>
<td>0</td>
</tr>
<tr>
<td>2–5 miles</td>
<td>6</td>
</tr>
<tr>
<td>More than 5 miles</td>
<td>Average of one sign per mile</td>
</tr>
</tbody>
</table>

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.
§ 750.151 Purpose.

(a) In section 131 of title 23 U.S.C., Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.

(2) Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by
law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23 U.S.C.

[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

§ 750.152 Application.

The following standards apply to directional and official signs and notices located within six hundred and sixty (660) feet of the right-of-way of the Interstate and Federal-aid primary systems and to those located beyond six hundred and sixty (660) feet of the right-of-way of such systems, outside of urban areas, visible from the main traveled way of such systems and erected with the purpose of their message being read from such main traveled way. These standards do not apply to directional and official signs erected on the highway right-of-way.

[40 FR 21934, May 20, 1975]

§ 750.153 Definitions.

For the purpose of this part:
(a) **Sign** means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.
(b) **Main traveled way** means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.
(c) **Interstate System** means the National System of Interstate and Defence Highways described in section 103(d) of title 23 U.S.C.
(d) **Primary system** means the Federal-aid highway system described in section 103(b) of title 23 U.S.C.
(e) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
(f) **Maintain** means to allow to exist.
(g) **Scenic area** means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.
(h) **Parkland** means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
(i) **Federal or State law** means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.
(j) **Visible** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.
(k) **Freeway** means a divided arterial highway for through traffic with full control of access.
(l) **Rest area** means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.
(m) **Directional and official signs and notices** includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
(n) **Official signs and notices** means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.
(o) **Public utility signs** means warning signs, informational signs, notices, or markers which are customarily erected
and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) Service club and religious notices means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) Public service signs means signs located on school bus stop shelters, which signs:

1. Identify the donor, sponsor, or contributor of said shelters;
2. Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;
3. Contain no other message;
4. Are located on schoolbus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and
5. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) Directional signs means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) State means any one of the 50 States, the District of Columbia, or Puerto Rico.

(t) Urban area means an urbanized area, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

(38 FR 16044, June 30, 1973, as amended at 40 FR 21894, May 20, 1975)
§ 750.155 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and official signs and notices along the Federal-aid highway systems than these national standards.

(38 FR 16044, June 20, 1973, as amended at 40 FR 21934, May 20, 1975)

Subpart C [Reserved]

Subpart D—Outdoor Advertising
(Acquisition of Rights of Sign and Sign Site Owners)

AUTHORITY: 23 U.S.C. 131 and 315; 23 CFR 1.32 and 1.48(b).

SOURCE: 39 FR 27436, July 29, 1974, unless otherwise noted.

§ 750.301 Purpose.

To prescribe the Federal Highway Administration (FHWA) policies relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices on the Federal-aid Primary and Interstate Systems, including toll sections on such systems, regardless of whether Federal funds participated in the construction thereof. This regulation should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

§ 750.302 Policy.

(a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.

(b)(1) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.

(2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR.
§ 750.304 State policies and procedures.

The State’s written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval. The statement should be supported by the State’s regulations implementing its program. Revisions to the State’s policies and procedures shall be submitted to the FHWA for approval. The statement shall contain provisions for the review of its policies and procedure to meet changing conditions, adoption of improved procedures, and for internal review to assure compliance. The statement shall include as a minimum the following:

(a) Project priorities. The following order of priorities is recommended.
   (1) Illegal and abandoned signs.
   (2) Hardship situations.
   (3) Nominal value signs.
   (4) Signs in areas which have been designated as scenic under authority of State law.
   (5) Product advertising on:
      (i) Rural interstate highway.
      (ii) Rural primary highway.
      (iii) Urban areas.
   (6) Nontourist-oriented directional advertising.
   (7) Tourist-oriented directional advertising.

(b) Programing. (1) A sign removal project may consist of any group of proposed sign removals. The signs may

§ 750.303 Definitions.

(a) Sign. An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(b) Lease (license, permit, agreement, contract or easement). An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

(c) Leasehold value. The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.

(d) Illegal sign. One which was erected and/or maintained in violation of State law.

(e) Nonconforming sign. One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(f) 1966 inventory. The record of the survey of advertising signs and junkyards compiled by the State highway department.

(g) Abandoned sign. One in which no one has an interest, or as defined by State law.
§ 750.304  23 CFR Ch. I (4–1–01 Edition)

be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner’s signs in a given State or area, or any similar grouping.

(2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-000B( ), continuing the numbering sequence which began with the sign inventory project in 1966.

(3) Where it would not interfere with the State’s operations, the State should program sign removal projects to minimize disruption of business.

(c) Valuation and review methods—(1) Schedules—formulas. Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.

(2) Appraisals. Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.

(3) Leaseholds. When outdoor advertising signs and sign sites involve a leasehold value, the State’s procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessor.

(4) Severance damages. The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.304(h), and the law of the State before Federal participation will be allowed. Generally, Federal participation will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company’s signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:

(i) One copy of each appraisal in which this was analyzed. One copy of the State’s review appraiser analysis and determination of market value.

(ii) A plan or map showing the location of each sign.

(iii) An opinion by the State highway department’s chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser’s signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State’s position.

(5) Review of value estimates. All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) Nominal value plan. (1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to $250 for each nonconforming sign, and up to $100 for each nonconforming sign site.
(2) The State’s procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.

(4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State’s procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.

(5) Programing and authorizations will be in accord with §750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programed and authorized as one project.

(e) Sign removal. The State’s procedural statement should include provision for:

(1) Owner retention.

(2) Salvage value.

(3) State removal.

§750.305 Federal participation.

(a) Federal funds may participate in:

(1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and maintain the existing nonconforming sign on such site.

(2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.

(3) A duplicate payment for the site owner’s interest of $2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.

(4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State’s normal force account and contractual reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under §750.308 of this regulation.

(5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and re-erecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

(6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State’s policy and procedures.

(7) In the event a sign was omitted in the 1966 inventory, and the State supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.

(b) Federal funds may not participate in:

(1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner’s right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is $2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as

VerDate 11<MAY>2000 13:26 Apr 23, 2001 Jkt 194073 PO 00000 Frm 00357 Fmt 8010 Sfmt 8010 Y:\SGML\194073T.XXX pfrm04 PsN: 194073T
§ 750.306 Documentation for Federal participation.

The following information concerning each sign must be available in the State’s files to be eligible for Federal participation.

(a) Payment to sign owner. (1) A photograph of the sign in place. Exceptions may be made in cases where in one transaction the State has acquired a number of a company’s nominal value signs similar in size, condition and shape. In such cases, only a sample of representative photographs need be provided to document the type and condition of the signs.

(b) Payment to the site owner. (1) Evidence that an agreement has been reached between the State and owner.

(b) Payment to the site owner. (2) Value documentation and proof of obligation of funds.

(b) Payment to the site owner. (3) Satisfactory indication of ownership of the sign and compensable interest therein (e.g., lease or other agreement with the property owner, or an affidavit, certification, or other such evidence of ownership).

(b) Payment to the site owner. (4) Value documentation and proof of obligation of funds.

(b) Payment to the site owner. (5) Satisfactory indication of ownership or compensable interest.

(c) In those cases where Federal funds participate in 100 percent of the cost of removal, the State file shall contain the records of the relocation made prior to January 4, 1975.

§ 750.307 FHWA project approval.

Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following:

(a) A general description of the project.

(b) The total number of signs to be acquired.

(c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

§ 750.308 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1424 and as prescribed.

[39 FR 27436, July 29, 1974, as amended at 41 FR 9321, Mar. 4, 1976]
Subpart E—Signs Exempt From Removal in Defined Areas

§ 750.501 Purpose.

This subpart sets forth the procedures pursuant to which a State may, if it desires, seek an exemption from the acquisition requirements of 23 U.S.C. 131 for signs giving directional information about goods and services in the interest of the traveling public in defined areas which would suffer substantial economic hardship if such signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

§ 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the Interstate and primary systems which are required to be controlled under 23 U.S.C. 131.

§ 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State’s request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:

(1) Have been lawfully erected prior to May 5, 1976, and must continue to be lawfully maintained.

(2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1976. Repair and maintenance of these signs shall conform with the State’s approved maintenance standards as required by subpart G of this part.

(b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:

(1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.

(2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.

(c) In support of its request for exemption, the State shall submit to the FHWA:

(1) Its requirements and method (see §750.503(b)).

(2) The limits of the defined area(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1976.

(3) The application of the requirements and method to the defined areas, demonstrating that the signs provide directional information to goods and services of interest to the traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).

(4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.

(5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to determine if an exemption is still warranted.

(d) The FHWA, upon receipt of a State’s request for exemption, shall prior to approval:

(1) Review the State’s requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.

(2) Review the State’s request and the proposed exempted area for compliance with State requirements and methods.

(e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.

(f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.
§ 750.701 Purpose.

This subpart prescribes the Federal Highway Administration (FHWA) policies and requirements relating to the effective control of outdoor advertising under 23 U.S.C. 131. The purpose of these policies and requirements is to assure that there is effective State control of outdoor advertising in areas adjacent to Interstate and Federal-aid primary highways. Nothing in this subpart shall be construed to prevent a State from establishing more stringent outdoor advertising control requirements along Interstate and Primary Systems than provided herein.

§ 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 660 feet of the nearest edge of the right-of-way. These provisions apply regardless of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

§ 750.703 Definitions.

The terms as used in this subpart are defined as follows:

(a) Commercial and industrial zones are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.

(b) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(c) Federal-aid Primary Highway means any highway on the system designated pursuant to 23 U.S.C. 103(b).

(d) Interstate Highway means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).

(e) Illegal sign means one which was erected or maintained in violation of State law or local law or ordinance.

(f) Lease means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a specified purpose, and which is a valid contract under the laws of a State.

(g) Maintain means to allow to exist.

(h) Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(i) Sign, display or device, hereinafter referred to as “sign,” means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(j) State law means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.

(k) Unzoned area means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.

(l) Unzoned commercial or industrial areas are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).

(m) Urban area is as defined in 23 U.S.C. 101(a).
§ 750.704 Statutory requirements.

(a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:

(1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in subpart B, part 750, chapter I, 23 CFR, National Standards for Directional and Official Signs;

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

(4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;

(5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and

(6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.

(b) 23 U.S.C. 131(d) provides that signs in §750.704(a)(4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.

(c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.

(d) 23 U.S.C. 131 provides that signs not permitted under §750.704 of this regulation must be removed by the State.

§ 750.705 Effective control.

In order to provide effective control of outdoor advertising, the State must:

(a) Prohibit the erection of new signs other than those which fall under §750.704(a)(1) through (6);

(b) Assure that signs erected under §750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;

(c) Assure that signs erected under §750.704(a)(1) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;

(d) Remove illegal signs expeditiously;

(e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (subpart D, part 750, chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);

(f) Assure that signs erected under §750.704(a)(6) comply with §750.710, Landmark Signs, if landmark signs are allowed;

(g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;

(h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;

(i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and

(j) Submit regulations and enforcement procedures to FHWA for approval.

[40 FR 42944, Sept. 16, 1975; 40 FR 49777, Oct. 24, 1975]
§ 750.706 Sign control in zoned and unzoned commercial and industrial areas.

The following requirements apply to signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way adjacent to the Interstate and Federal-aid primary highways.

(a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.

(b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or “V” type signs.

(c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:

1. The local zoning authority’s controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.

2. The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.

3. If the zoning authority has been delegated, extraterritorial, jurisdiction under State law and extends control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

4. The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.

5. Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.

§ 750.707 Nonconforming signs.

(a) General. The provisions of §750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.

(b) Nonconforming signs. A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.

(c) Grandfather clause. At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area
§ 750.707

(d) **Maintenance and continuance.** In order to maintain and continue a nonconforming sign, the following conditions apply:

(1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:

(i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.

(ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.

(2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.

(3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.

(4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.

(5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

(6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.

(e) **Just compensation.** The States are required to pay just compensation for the removal of nonconforming signs lawfully existing signs in accordance with the

Federal Highway Administration, DOT

on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.
§ 750.708 Acceptance of state zoning.

(a) 23 U.S.C. 131(d) provide that signs "may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law." Section 131(d) further provides, "The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act."

(b) State and local zoning actions must be taken pursuant to the State’s zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

(c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

§ 750.709 On-property or on-premise advertising.

(a) A sign which consists solely of the name of the establishment or which identifies the establishment’s principal accessory products or services offered on the property is an on-property sign.

(b) A sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.

(c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.

(d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (subpart A, part 750, chapter I, 23 CFR) in those States which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:

(1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and

(2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.

(3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as "on-property" signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

(a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.

(b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit
other evidence to support a determination that the sign was in existence on October 22, 1965.

(c) Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an “outdoor advertising sign” has then been erected which must comply with the State law in effect on that date.

§ 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

§ 750.713 Bonus provisions.

23 U.S.C. 131(j) specifically provides that any State which had entered into a bonus agreement before June 30, 1965, will be entitled to remain eligible to receive bonus payments provided it continues to carry out its bonus agreement. Bonus States are not exempt from the other provisions of 23 U.S.C. 131. If a State elects to comply with both programs, it must extend controls to the Primary System, and continue to carry out its bonus agreement along the Interstate System except where 23 U.S.C. 131, as amended, imposes more stringent requirements.

PART 751—JUNKYARD CONTROL AND ACQUISITION

Sec.
751.1 Purpose.
751.3 Applicability.
751.5 Policy.
751.7 Definitions.

751.9 Effective control.
751.11 Nonconforming junkyards.
751.13 Control measures.
751.15 Just compensation.
751.17 Federal participation.
751.19 Documentation for Federal participation.
751.21 Relocation assistance.
751.23 Concurrent junkyard control and right-of-way projects.
751.25 Programming and authorization.


SOURCE: 40 FR 8551, Feb. 28, 1975, unless otherwise noted.

§ 751.1 Purpose.

Pursuant to 23 U.S.C. 136, this part prescribes Federal Highway Administration [FHWA] policies and procedures relating to the exercise of effective control by the States of junkyards in areas adjacent to the Interstate and Federal-aid primary systems. Nothing in this part shall be construed to prevent a State from establishing more stringent junkyard control requirements than provided herein.

(40 FR 12260, Mar. 18, 1975)

§ 751.3 Applicability.

The provisions of this part are applicable to all areas within 1,000 feet of the nearest edge of the right-of-way and visible from the main traveled way of all Federal-aid Primary and Interstate Systems regardless of whether Federal funds participated in the construction thereof, including toll sections of such highways. This part does not apply to the Urban System.

§ 751.5 Policy.

In carrying out the purposes of this part:

(a) Emphasis should be placed on encouraging recycling of scrap and junk where practicable, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.);

(b) Every effort should be made to screen nonconforming junkyards which are to continue as ongoing businesses; and

(c) Nonconforming junkyards should be relocated only as a last resort.
§ 751.7 Definitions.

For purposes of this part, the following definitions shall apply:

(a) Junkyard. (1) A Junkyard is an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, autorecycling yards, used auto parts yards and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. The definition includes garbage dumps and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(2) An Automobile Graveyard is an establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles will constitute an automobile graveyard.

(3) An Illegal Junkyard is one which was established or is maintained in violation of State law.

(4) A Nonconforming Junkyard is one which was established or is maintained in violation of State law.

(b) Junk. Old or scrap metal, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof.

(c) Main traveled way. The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(d) Industrial zones. Those districts established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not considered to be an industrial zone. The provisions of part 750, subpart G of this chapter relative to Outdoor Advertising Control shall apply insofar as industrial zones are concerned.

(e) Unzoned industrial areas. An area where there is no zoning in effect and which is used primarily for industrial purposes as determined by the State and approved by the FHWA. An unzoned area cannot include areas which may have a rural zoning classification or land uses established by zoning variances or special exceptions.

§ 751.9 Effective control.

(a) In order to provide effective control of junkyards located within 1,000 feet of Interstate and Federal-aid primary highways, the State must:

(1) Require such junkyards located outside of zoned and unzoned industrial areas to be screened or located so as not to be visible from the main traveled way, or be removed from sight.

(2) Require the screening or removal of nonconforming junkyards within a reasonable time, but no later than 5 years after the date the junkyard becomes nonconforming unless Federal funds are not available in adequate amounts to participate in the cost of such screening or removal as provided in 23 U.S.C. 136(j).

(3) Prohibit the establishment of new junkyards unless they comply with the requirements of paragraph (a)(1) of this section.

(4) Expeditiously require junkyards which are illegally established or maintained to conform to the requirements of paragraph (a)(1) of this section.

(b) Sanitary landfills as described herein need not be screened to satisfy requirements of Title 23, U.S.C., but landscaping should be required when the fill has been completed and operations have ceased, unless the landfill area is to be used for immediate development purposes. A sanitary landfill,
§ 751.15 Just compensation.

(a) Just compensation shall be paid the owner for the relocation, removal,
§ 751.17 Federal participation.

(a) Federal funds may participate in 75 percent of the costs of control measures incurred in carrying out the provisions of this part including necessary studies for particular projects, and the employment of fee landscape architects and other qualified consultants.

(b) Where State control standards are more stringent than Federal control requirements along Interstate and primary highways, the FHWA may approve Federal participation in the costs of applying the State standards on a statewide basis. Where State standards require control of junkyards in zoned or unzoned industrial areas, Federal funds may participate only if such action will make an effective contribution to the character of the area as a whole and the cost is reasonable, but such projects should be deferred until the work in the areas where control is required has progressed well toward completion.

(c) Generally, only costs associated with the acquisition of minimal real property interests, such as easements or temporary rights of entry, necessary to accomplish the purposes of this part are eligible for Federal participation. The State may request, on a case-by-case basis, participation in costs of other interests beyond the minimum necessary, including fee title.

(d) Federal funds may participate in costs to correct the inadequacies of screening in prior control projects where the inadequacy is due to higher screening standards established in this part or due to changed conditions.

(e) Federal funds may participate in the costs of moving junk or scrap to a recycling place of business, or in the case of junk with little or no recycling potential, to a site for permanent disposal. In the latter case, reasonable land rehabilitation costs or fees connected with the use of such a disposal site are also eligible. In a case where the acquisition of a permanent disposal site by the State would be the most economical method of disposal, Federal funds may participate in the net cost (cost of acquisition less a credit after disposal) of a site obtained for this purpose.

(f) Federal funds may participate in control measure costs involved in any junkyard lawfully established or maintained under State law which is reclassified from conforming to nonconforming under revised State regulations and policy pursuant to this part.

(g) Federal funds may participate in the costs of acquisition of a dwelling in exceptional cases where such acquisition is found necessary and in the public interest, and where acquisition of the dwelling can be accomplished without resort to eminent domain.

(h) Federal funds shall not participate in:

1. Costs associated with the control of illegal junkyards except for removal by State personnel on a force account basis or by contract, or in costs of controlling junkyards established after the effective date of the State’s compliance law except where a conforming junkyard later becomes nonconforming due to changed conditions:

2. Any costs associated with the acquisition of any dwelling or its related buildings if acquired through eminent domain in connection with the junkyard control program;

3. Costs of acquisition of interests or rights as a measure for prohibition or control of the establishment of future junkyards;

4. Costs of maintaining screening devices after they have been erected; or

5. Costs of screening junk which has been or will be removed as a part of a junkyard control project.

§ 751.19 Documentation for Federal participation.

The following information concerning each eligible junkyard must be available in the States’ files to be eligible for Federal participation in the costs thereof:
§ 751.21 Relocation assistance.
Relocation assistance benefits pursuant to 49 CFR part 24 are available for:
(a) The actual reasonable moving expenses of the junk, actual direct loss of tangible personal property and actual reasonable expenses in searching for a replacement business or, if the eligibility requirements are met, a payment in lieu of such expenses.
(b) Relocation assistance in locating a replacement business.
(c) Moving costs of personal property from a dwelling and relocation assistance in locating a replacement dwelling, provided the acquisition of the real property used for the business causes a person to vacate a dwelling.
(d) Replacement housing payments if the acquisition of the dwelling is found by FHWA to be necessary for the federally assisted junkyard control project.

§ 751.23 Concurrent junkyard control and right-of-way projects.
The State is encouraged to coordinate junkyard control and highway right-of-way projects. Expenses incurred in furtherance of concurrent projects shall be prorated between projects.

§ 751.25 Programming and authorization.
(a) Junkyard control projects shall be programmed in accordance with the provisions of part 630, subpart A of this chapter. Such projects may include one or more junkyards.
(b) Authorization to proceed with a junkyard control project may be given when the State submits a written request to FHWA which includes the following:
(1) The zoning and validation of the legal status of each junkyard on the project;
(2) The control measures proposed for each junkyard including, where applicable, information relative to permanent disposal sites to be acquired by the State;
(3) The real property interest to be acquired in order to implement the control measures;
(4) Plans or graphic displays indicating the location of the junkyard relative to the highway, the 1,000 foot control lines, property ownership boundaries, the general location of the junk or scrap material, and any buildings, structures, or improvement involved; and
(5) Where screening is to be utilized, the type of screening, and adequately detailed plans and cross sections, or other adequate graphic displays which illustrate the relationship of the motorist, the screen, and the material to be screened at critical points of view.

[40 FR 8551, Feb. 28, 1975, as amended at 41 FR 9321, Mar. 4, 1976]
§ 752.1 Purpose.

The purpose of this part is to furnish guidelines and prescribe policies regarding landscaping and scenic enhancement programs, safety rest areas, and scenic overlooks under 23 U.S.C. 319; information centers and systems under 23 U.S.C. 131(i); and vending machines in safety rest areas under 23 U.S.C. 111.

[48 FR 38610, Aug. 25, 1983]

§ 752.2 Policy.

(a) Highway esthetics is a most important consideration in the Federal-aid highway program. Highways must not only blend with our natural social, and cultural environment, but also provide pleasure and satisfaction in their use.

(b) The FHWA will cooperate with State and local agencies and organizations to provide opportunities for the display of original works of art within the highway rights-of-way.

(c) The development of the roadside to include landscape development, safety rest areas, and the preservation of valuable adjacent scenic lands is a necessary component of highway development. Planning and development of the roadside should be concurrent with or closely follow that of the highway. Further, the development of travel information centers and systems is encouraged as an effective method of providing necessary information to the traveling public.

§ 752.3 Definitions.

(a) Safety rest area. A roadside facility safely removed from the traveled way with parking and such facilities for the motorist deemed necessary for his rest, relaxation, comfort and information needs. The term is synonymous with “rest and recreation areas.”

(b) Scenic overlook. A roadside improvement for parking and other facilities to provide the motorist with a safe opportunity to stop and enjoy a view.

(c) Information centers. Facilities located at safety rest areas which provide information of interest to the traveling public.

(d) Information systems. Facilities located within the right-of-way which provide information of interest to the traveling public. An information system is not a sign, display or device otherwise permitted under 23 U.S.C. 131 or prohibited by any local, State or Federal law or regulation.

(e) Landscape project. Any action taken as part of a highway construction project or as a separate action to enhance the esthetics of a highway through the placement of plant materials consistent with a landscape design plan. Seeding undertaken for erosion control and planting vegetation for screening purposes shall not constitute a landscaping project.


§ 752.4 Landscape development.

(a) Landscape development, which includes landscaping projects and other highway planting programs within the right-of-way of all federally funded highways or on adjoining scenic lands, shall be in general conformity with accepted concepts and principles of highway landscaping and environmental design.

(b) Landscape development should have provisions for plant establishment periods of a duration sufficient for expected survival in the highway environment. Normal 1-year plant establishment periods may be extended to 3-year periods where survival is considered essential to their function, such as junkyard screening or urban landscaping projects.

(c) In urban areas new and major reconstructed highways and completed Interstate and expressway sections are to be landscaped as appropriate for the adjacent existing or planned environment.

(d) In rural areas new and major reconstructed highways should be landscaped as appropriate for the adjacent environment. Planning should include the opportunity for natural regeneration of native growth and the management of that growth.

(e) Landscaping projects shall include the planting of native wildflower seeds or seedlings or both, unless a waiver is granted as provided in §752.11(b).

§ 752.5 Safety rest areas.

(a) Safety rest areas should provide facilities reasonably necessary for the comfort, convenience, relaxation, and information needs of the motorist. Caretakers’ quarters may be provided in conjunction with a safety rest area at such locations where accommodations are deemed necessary. All facilities within the rest area are to provide full consideration and accommodation for the handicapped.

(b) The State may permit the placement of vending machines in existing or newly constructed safety rest areas located on the rights-of-way of the Interstate system for the purpose of dispensing such food, drink, or other articles as the State determines are appropriate and desirable, except that the dispensing by any means, of petroleum products or motor vehicle replacement parts shall not be allowed. Such vending machines shall be operated by the State.

(c) The State may operate the vending machines directly or may contract with a vendor for the installation, operation, and maintenance of the vending machines. In permitting the placement of vending machines the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Randolph-Sheppard Act, U.S.C. 107(a)(5).

(d) Access from the safety rest areas to adjacent publicly owned conservation and recreation areas may be permitted if access to these areas is only available through the rest area and if these areas or their usage does not adversely affect the facilities of the safety rest area.

(e) The scenic quality of the site, its accessibility and adaptability, and the availability of utilities are the prime considerations in the selection of rest area sites. A statewide safety rest area system plan should be maintained. This plan should include development priorities to ensure safety rest areas will be constructed first at locations most needed by the motorist. Proposals for safety rest areas or similar facilities on Federal-aid highways in suburban or urban areas shall be special case and must be fully justified before being authorized by the FHWA Regional Administrator.

(f) Facilities within newly constructed safety rest areas should meet the forecast needs of the design year. Expansion and modernization of older existing rest areas that do not provide adequate service should be considered.

(g) No charge to the public may be made for goods and services at safety rest areas except for telephone and articles dispensed by vending machines.


§ 752.6 Scenic overlooks.

Scenic overlooks shall be located and designed as appropriate to the site and the scenic view with consideration for safety, access, and convenience of the motorist. Scenic overlooks may provide facilities equivalent to those provided in safety rest area.

§ 752.7 Information centers and systems.

(a) The State may establish at existing or new safety rest areas information centers for the purpose of providing specific information to the motorist as to services, as to places of interest within the State and such other information as the State may consider desirable.

(b) The State may construct and operate the facilities, may construct and lease the operation of information facilities, or may lease the construction and operation of information facilities.

(c) Where the information center or system includes an enclosed building, the identification of the operator and all advertising must be restricted to the interior of the building. Where a facility is in the nature of a bulletin board or partial enclosure, none of the advertising, including the trade name, logo, or symbol of the operator shall be legible from the main traveled way.

(d) Subject to FHWA approval, States may establish or permit information systems within the right-of-way of federally funded highways which provide information of specific interest to the traveling public which do not visually intrude upon the main-traveled way of the highway in a manner violating 23 U.S.C. 131 and other applicable local, State, and Federal laws, rules, and regulations.
§ 752.8 Privately operated information centers and systems.

(a) Subject to the FHWA Regional Administrator’s approval of the lease or agreement, the State may permit privately operated information centers and systems which conform with the standards of this directive.

(b) There shall be no violation of control of access, and no adverse effect on traffic in the main traveled way.

(c) The agreement between the State and the private operator shall provide that:

(1) The State shall have title to the information center or system upon completion of construction or termination of the lease.

(2) Advertising must be limited to matters relating to and of interest to the traveling public.

(3) Equal access must be provided at reasonable rates to all advertisers considered qualified by the State.

(4) Forty percent or more of all display areas and audible communications shall be devoted free of charge to providing information to the traveling public and public service announcements.

(5) No charge to the public may be made for goods or services except telephone and articles dispensed by vending machines.

(6) Nondiscrimination provisions must be included in accordance with the State assurance with regard to 42 U.S.C. 2000d–2000d–5 (Civil Rights Act of 1964). The private operator may not permit advertising from advertisers who do not provide their services without regard to race, color, or national origin.

(7) The center or system shall be adequately maintained and kept clean and sanitary.

(8) The State may promulgate reasonable rules and regulations on the conduct of the information center or system in the interests of the public.

(9) The State may terminate the lease or agreement for violation of its terms or for other cause.


§ 752.9 Scenic lands.

(a) Acquisition of interests in and improvement of strips of land or water areas adjacent to Federal-aid highways may be made as necessary for restoration, preservation, and enhancement of scenic beauty.

(b) Scenic strip interests may be acquired in urban or rural areas, combined in one or more projects, authorized separately whether or not there is or has been a Federal-aid project on the adjoining Federal-aid highway.

(c) Approval of acquisition and development of scenic strips on completed Interstate should be conditioned on a showing that the acquisition of scenic strips was considered under the Highway Beautification Program for that particular section of Interstate.

§ 752.10 Abandoned vehicles.

(a) Abandoned motor vehicles may be removed from the right-of-way and from private lands adjacent to Federal-aid highways for the restoration, preservation, or enhancement of scenic beauty as seen from the traveled way of the highway as a landscape or roadside development project.

(b) The State shall obtain permission or sufficient legal authority to go on private land to carry out this program. Where feasible, an agreement should be made with the owner that he will not in the future place junk, or allow junk to be placed, on his land so as to create an eyesore to the traveling public. The permission or authority and the agreement may be informal.

(c) The collection of abandoned motor vehicles from within the right-of-way must be a development project and not a maintenance operation. Once a State completes a development project for the removal of abandoned motor vehicles from within the highway right-of-way, it is obligated to continue the removal of future abandoned motor vehicles from within the development project limits without further participation.

§ 752.11 Federal participation.

(a) Federal-aid highway funds, but generally excluding Interstate construction funds, are available for landscape development; for the acquisition and development of safety rest areas, scenic overlooks, and scenic lands; for
the development of information centers and systems; and for the removal of abandoned motor vehicles.

(b) Federal-aid highway funds may participate in any landscaping project undertaken pursuant to paragraph (a) of this section provided that at least one-quarter of one percent of funds expended for such landscaping project is used to plant native wildflower seeds or seedlings or both. The Administrator may, upon the request of a State highway agency, grant a waiver to this requirement provided the State certifies that:

(1) Native wildflowers or seedlings cannot be grown satisfactorily; or
(2) There is a scarcity of available planting areas; or
(3) The available planting areas will be used for agricultural purposes.

(c) Subject to the requirement of paragraph (b) of this section, Federal-aid highway funds may participate in plant establishment periods in or associated with landscape development.

(d) Notwithstanding the provisions of paragraph (b) of this section, Federal-aid highway funds may participate in the planting of flowering materials, including native wildflowers, donated by garden clubs and other organizations or individuals.

(e) The value of donated plant materials shall not count toward the one-quarter of one percent minimum expenditure required by paragraph (b) of this section.

(f) Federal-aid funds may not be used for assemblage, printing, or distribution of information materials; for temporary or portable information facilities; or for installation, operation, or maintenance of vending machines.

Continued

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Sec.
771.101 Purpose.
771.103 [Reserved]
771.105 Policy.
771.107 Definitions.
771.109 Applicability and responsibilities.
771.111 Early coordination, public involvement, and project development.
771.113 Timing of Administration activities.
771.115 Classes of actions.
771.117 Categorical exclusions.
771.119 Environmental assessments.
771.121 Findings of no significant impact.
771.122 Draft environmental impact statements.
771.125 Final environmental impact statements.
771.127 Record of decision.
771.129 Re-evaluations.
771.130 Supplemental environmental impact statements.
771.131 Emergency action procedures.
771.133 Compliance with other requirements.
771.135 Section 4(f) (49 U.S.C. 303).
771.137 International actions.

AUTHORITY: 42 U.S.C. 4321 et seq.; 23 U.S.C. 109, 110, 128, 138 and 315; 49 U.S.C. 303(c), 5301(e), 5323, and 5324; 40 CFR part 1500 et seq.; 49 CFR 1.46(b) and 1.51.

SOURCE: 52 FR 32660, Aug. 28, 1987, unless otherwise noted.

§ 771.101 Purpose.

This regulation prescribes the policies and procedures of the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) for implementing the National Environmental Policy Act of 1969 as amended (NEPA), and the regulation of the Council on Environmental Quality (CEQ). 40 CFR parts 1500 through 1508. This regulation sets forth all FHWA, UMTA, and Department of Transportation (DOT) requirements under NEPA for the processing of highway and urban mass transportation projects. This regulation also sets forth procedures to comply with 23 U.S.C. 109(h), 128, 138, and 49 U.S.C. 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a-1 and 1610.

§ 771.103 [Reserved]

§ 771.105 Policy.

It is the policy of the Administration that:

(a) To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation.1

1FHWA and UMTA have supplementary guidance on the format and content of NEPA
§ 771.107 Definitions.

The definitions contained in the CEQ regulation and in Titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply.

(a) Environmental studies. The investigations of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) Action. A highway or transit project proposed for FHWA or UMTA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(c) Administration action. The approval by FHWA or UMTA of the applicant's request for Federal funds for construction. It also includes approval of activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(d) Administration. FHWA or UMTA, whichever is the designated lead agency for the proposed action.


§ 771.109 Applicability and responsibilities.

(a)(1) The provisions of this regulation and the CEQ regulation apply to actions where the Administration exercises sufficient control to condition the permit or project approval. Actions taken by the applicant which do not require Federal approvals, such as preparation of a regional transportation plan are not subject to this regulation.

(2) This regulation does not apply to, or alter approvals by the Administration made prior to the effective date of this regulation.

[b]Section 4(f), which protected certain public lands and all historic sites, technically was repealed in 1983 when it was codified without substantive change, as 49 U.S.C. 303. This regulation continues to refer to section 4(f) because it would create needless confusion to do otherwise; the policies section 4(f) engendered are widely referred to as "section 4(f)" matters. A provision with the same meaning is found at 23 U.S.C. 138 and applies only to FHWA actions.\footnote{\textsuperscript{2}}
Federal Highway Administration, DOT

§ 771.111

(a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document. Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, regarding the project concept. The FHWA will assure that the environmental documents prepared pursuant to this regulation are consistent with the CEQ regulations.

(b) Early coordination with appropriate agencies and the public aids in determining the type of environmental document. An applicant for capital assistance under the U.S.C. 110, it shall be the responsibility of the State highway agency to ensure that the project is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless the State requests and receives written Federal Highway Administration approval to modify or delete such mitigation measures.

(c) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document. Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, regarding the project concept.
as possible, of the probable class of action and related environmental laws and requirements and of the need for specific studies and findings which would normally be developed concurrently with the environmental document.

(b) The Administration will identify the probable class of action as soon as sufficient information is available to identify the probable impacts of the action. For UMTA, this is normally no later than the review of the transportation improvement program (TIP) and for FHWA, the approval of the 105 program (23 U.S.C. 105).

(c) When FHWA and UMTA are involved in the development of joint projects, or when FHWA or UMTA acts as a joint lead agency with another Federal agency, a mutually acceptable process will be established on a case-by-case basis.

(d) During the early coordination process, the Administration, in cooperation with the applicant, may request other agencies having special interest or expertise to become cooperating agencies. Agencies with jurisdiction by law must be requested to become cooperating agencies.

(e) Other States, and Federal land management entities, that may be significantly affected by the action or by any of the alternatives shall be notified early and their views solicited by the Administration. The Administration will prepare a written evaluation of any significant unresolved issues and furnish it to the applicant for incorporation into the environmental assessment (EA) or draft EIS.

(f) In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

2. Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(g) For major transportation actions, the tiering of EISs as discussed in the CEQ regulation (40 CFR 1502.20) may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and area wide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures.

(h) For the Federal-aid highway program:

1. Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 40 CFR parts 1500 through 1508.

2. State public involvement/public hearing procedures must provide for:

   (i) Coordination of public involvement activities and public hearings with the entire NEPA process.

   (ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.

   (iii) One or more public hearings or the opportunity for a public hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.

   (iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive orders, and regulations.
(v) Explanation at the public hearing of the following information, as appropriate:
(A) The project’s purpose, need, and consistency with the goals and objectives of any local urban planning,
(B) The project’s alternatives, and major design features,
(C) The social, economic, environmental, and other impacts of the project,
(D) The relocation assistance program and the right-of-way acquisition process,
(E) The State highway agency’s procedures for receiving both oral and written statements from the public.
(vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.

(3) Based on the reevaluation of project environmental documents required by §771.129, the FHWA and the State highway agency will determine whether changes in the project or new information warrant additional public involvement.

(4) Approvals or acceptances of public involvement/public hearing procedures prior to the publication date of this regulation remain valid.

(i) Applicants for capital assistance in the UMTA program achieve public participation on proposed projects by holding public hearings and seeking input from the public through the scoping process for environmental documents. For projects requiring EISs, a public hearing will be held during the circulation period of the draft EIS. For all other projects, an opportunity for public hearings will be afforded with adequate prior notice pursuant to 49 U.S.C. 1602(d), 1604(i), 1607a(f) and 1607a–1(d), and such hearings will be held when anyone with a significant social, economic, or environmental interest in the matter requests it. Any hearing on the action must be coordinated with the NEPA process to the fullest extent possible.

(j) Information on the UMTA environmental process may be obtained from: Director, Office of Planning Assistance, Urban Mass Transportation Administration, Washington, DC 20590.

Information on the FHWA environmental process may be obtained from: Director, Office of Environmental Policy, Federal Highway Administration, Washington, DC 20590.

§771.113 Timing of Administration activities.

(a) The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in §771.117(d)), purchase of construction materials or rolling stock, or project construction shall not proceed until the following have been completed:

(i) The action has been classified as a categorical exclusion (CE), or
(ii) A FONSI has been approved, or
(iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed;

(2) For actions proposed for FHWA funding, the FHWA Division Administrator has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;

(3) For activities proposed for FHWA funding, the programming requirements of 23 CFR part 450, subpart B, and 23 CFR part 630, subpart A, have been met.

(b) For FHWA, the completion of the requirements set forth in paragraphs (a)(1) and (2) of this section is considered acceptance of the general project location and concepts described in the environmental document unless otherwise specified by the approving official. However, such approval does not commit the Administration to approve any future grant request to fund the preferred alternative.
§ 771.115 Letters of Intent issued under the authority of section 3(a)(4) of the UMT Act are used by UMTA to indicate an intention to obligate future funds for multi-year capital transit projects. Letters of Intent will not be issued by UMTA until the NEPA process is completed.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

§ 771.115 Classes of actions.

There are three classes of actions which prescribe the level of documentation required in the NEPA process.

(a) Class I (EISs). Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally required an EIS:

(1) A new controlled access freeway.
(2) A highway project of four or more lanes on a new location.
(3) New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).
(4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

(b) Class II (CEs). Actions that do not individually or cumulative have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CEs normally not requiring NEPA documentation is set forth in § 771.117(c). When appropriately documented, additional projects may also qualify as CEs pursuant to § 771.117(d).

(c) Class III (EAs). Actions in which the significance of the environmental impact is not clearly established. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

§ 771.117 Categorical exclusions.

(a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;
(2) Substantial controversy on environmental grounds;
(3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and § 771.117(a) of this regulation and normally do not require any further NEPA approvals by the Administration:

(1) Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
Federal Highway Administration, DOT

§ 771.117

(2) Approval of utility installations along or across a transportation facility.

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State’s highway safety plan under 23 U.S.C. 402.

(5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.


(10) Acquisition of scenic easements.

(11) Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

(2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

(7) Approvals for changes in access control.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used...
§ 771.119 Environmental assessments.

(a) An EA shall be prepared by the applicant in consultation with the Administration for each action that is not a CE and does not clearly require the preparation of an EIS, or where the Administration believes an EA would assist in determining the need for an EIS.

(b) For actions that require an EA, the applicant, in consultation with the Administration, shall, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which should be performed concurrently with the EA. The applicant shall accomplish this through an early coordination process (i.e., procedures under §771.111) or through a scoping process. Public involvement shall be summarized and the results of agency coordination shall be included in the EA.

(c) The EA is subject to Administration approval before it is made available to the public as an Administration document. The UMTA applicants may circulate the EA prior to Administration approval provided that the document is clearly labeled as the applicant’s document.

(d) The EA need not be circulated for comment but the document must be made available for public inspection at the applicant’s office and at the appropriate Administration field offices in accordance with paragraphs (e) and (f) of this section. Notice of availability of the EA, briefly describing the action and its impacts, shall be sent by the applicant to the affected units of Federal, State and local government. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(e) When a public hearing is held as part of the application for Federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained or reviewed. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the availability of the EA unless the Administration determines, for good cause, that a different

3Hardship acquisition is early acquisition of property by the applicant at the property owner’s request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

23 CFR Ch. I (4–1–01 Edition)
§ 771.123 Draft environmental impact statements.

(a) A draft EIS shall be prepared when the Administration determines that the action is likely to cause significant impacts on the environment. When the decision has been made by the Administration to prepare an EIS, the Administration will issue a Notice of Intent (40 CFR 1508.22) for publication in the Federal Register. Applicants are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.

(b) After publication of the Notice of Intent, the Administration, in cooperation with the applicant, will begin a scoping process. The scoping process will be used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7. For FHWA, scoping is normally achieved through public and agency involvement procedures required by §771.111. For UMTA, scoping is achieved by soliciting agency and public responses to the action by letter or by holding scoping meetings. If a scoping meeting is to be held, it should

§ 771.121 Findings of no significant impact.

(a) The Administration will review the EA and any public hearing comments and other comments received regarding the EA. If the Administration agrees with the applicant’s recommendations pursuant to §771.119(g), it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents.

(b) After a FONSI has been made by the Administration, a notice of availability of the FONSI shall be sent by the applicant to the affected units of Federal, State and local government and the document shall be available from the applicant and the Administration upon request by the public. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(c) If another Federal agency has issued a FONSI on an action which includes an element proposed for Administration funding, the Administration will evaluate the other agency’s FONSI. If the Administration determines that this element of the project and its environmental impacts have been adequately identified and assessed, and concurs in the decision to issue a FONSI, the Administration will issue its own FONSI incorporating the other agency’s FONSI. If environmental issues have not been adequately identified and assessed, the Administration will require appropriate environmental studies.

§ 771.111 Findings of no significant impact.

(a) The Administration will review the EA and any public hearing requirements are as described in §771.111.

(f) When a public hearing is not held, the applicant shall place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the applicant or the Administration unless the Administration determines, for good cause, that a different period is warranted.

(g) If no significant impacts are identified, the applicant shall furnish the Administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI. The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive orders, or provide reasonable assurance that their requirements can be met.

(h) When the Administration expects to issue a FONSI for an action described in §771.115(a), copies of the EA shall be made available for public review (including the affected units of government) for a minimum of 30 days before the Administration makes its final decision (see 40 CFR 1501.4(e)(2).) This public availability shall be announced by a notice similar to a public hearing notice.

(i) If, at any point in the EA process, the Administration determines that the action is likely to have a significant impact on the environment, the preparation of an EIS will be required.
be announced in the Administration’s Notice of Intent and by appropriate means at the local level.

(c) The draft EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The draft EIS shall evaluate all reasonable alternatives to the action and discuss the reasons why other alternatives, which may have been considered, were eliminated from detailed study. The draft EIS shall also summarize the studies, reviews, consultations, and coordination required by environmental laws or Executive orders to the extent appropriate at this stage in the environmental process.

(d) An applicant which is a statewide agency may select a consultant to assist in the preparation of an EIS in accordance with applicable contracting procedures. Where the applicant is a joint lead or cooperating agency, the applicant may select a consultant, after coordination with the Administration to assure compliance with 40 CFR 1506.5(c). The Administration will select any such consultant for other applicants. (See §771.109(c) for definitions of these terms.)

(e) The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet.

(f) A lead, joint lead, or a cooperating agency shall be responsible for printing the EIS. The initial printing of the draft EIS shall be in sufficient quantity to meet requirements for copies which can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the draft EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The draft EIS shall be circulated for comment by the applicant on behalf of the Administration. The draft EIS shall be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency in accordance with 40 CFR 1506.9. The draft EIS shall be transmitted to:

(1) Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;

(2) Federal, State and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action. Copies shall be provided directly to appropriate State and local agencies, and to the State intergovernmental review contacts established under Executive Order 12372; and

(3) States and Federal land management entities which may be significantly affected by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such State or entity advise the Administration in writing of any disagreement with the evaluation of impacts in the statement. The Administration will furnish the comments received to the applicant along with a written assessment of any disagreements for incorporation into the final EIS.

(h) The UMTA requires a public hearing during the circulation period of all draft EISs. FHWA public hearing requirements are as described in §771.111(h). Whenever a public hearing is held, the draft EIS shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS shall be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in a newspaper similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments should be sent.

(i) The Federal Register public availability notice (40 CFR 1506.10) shall establish a period of not less than 45 days for the return of comments on the draft EIS. The notice and the draft EIS transmittal letter shall identify where comments are to be sent.

(j) For UMTA funded major urban mass transportation investments, the
§ 771.125 Final environmental impact statements.

(a)(1) After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. Mitigation measures presented as commitments in the final EIS will be incorporated into the project as specified in §771.109(b). The final EIS should also document compliance, to the extent possible, with all applicable environmental laws and Executive orders, or provide reasonable assurance that their requirements can be met.

(2) Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS shall identify those issues and the consultations and other efforts made to resolve them.

(b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

(c) The Administration will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted to the Administration’s Headquarters for prior concurrence:

(1) Any action for which the Administration determines that the final EIS should be reviewed at the Headquarters office. This would typically occur when the Headquarters office determines that (i) additional coordination with other Federal, State or local governmental agencies is needed; (ii) the social, economic, or environmental impacts of the action may need to be more fully explored; (iii) the impacts of the proposed action are unusually great; (iv) major issues remain unresolved; or (v) the action involves national policy issues.

(2) Any action to which a Federal, State or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

(3) Major urban mass transportation investments as defined by UMTA’s policy on major investments (49 FR 21284; May 18, 1984).

(d) The signature of the UMTA approving official on the cover sheet also indicates compliance with section 14 of the UMT Act and fulfillment of the grant application requirements of sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act.

(e) Approval of the final EIS is not an Administration Action (as defined in §771.107(c)) and does not commit the Administration to approve any future grant request to fund the preferred alternative.

(f) The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The final EIS shall be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is...
§ 771.127 Record of decision.

(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the FEDERAL REGISTER or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision as specified in 40 CFR 1505.2, summarize any mitigation measures that will be incorporated in the project and document any required section 4(f) approval in accordance with § 771.135(l). Until any required ROD has been signed, no further approvals may be given except for administrative activities taken to secure further project funding and other activities consistent with 40 CFR 1506.1.

(b) If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS under § 771.125(c). To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to § 771.125(g).

§ 771.129 Re-evaluations.

(a) A written evaluation of the draft EIS shall be prepared by the applicant in cooperation with the Administration if an acceptable final EIS is not submitted to the Administration within 3 years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether or not a supplement to the draft EIS or a new draft EIS is needed.

(b) A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant.

(c) After approval of the EIS, FONSI, or CE designation, the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]
§ 771.135 Section 4(f) (49 U.S.C. 303).

(a)(1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

(i) There is no feasible and prudent alternative to the use of land from the property; and

(ii) The action includes all possible planning to minimize harm to the property resulting from such use.

(2) Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

(b) The Administration will determine the application of section 4(f). Any use of lands from a section 4(f) property shall be evaluated early in the...
§ 771.135  

23 CFR Ch. I (4–1–01 Edition)

development of the action when alternatives to the proposed action are under study.

(c) Consideration under section 4(f) is not required when the Federal, State, or local officials having jurisdiction over a park, recreation area or refuge determine that the entire site is not significant. In the absence of such a determination, the section 4(f) land will be presumed to be significant. The Administration will review the significance determination to assure its reasonableness.

(d) Where Federal lands or other public land holdings (e.g., State forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. The Administration will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

(e) In determining the application of section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the State Historic Preservation Officer (SHPO) and appropriate local officials to identify all properties on or eligible for the National Register of Historic Places (National Register). The section 4(f) requirements apply only to sites on or eligible for the National Register unless the Administration determines that the application of section 4(f) is otherwise appropriate.

(f) The Administration may determine that section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

(i) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and

(ii) The SHPO and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(i) of this section.

(g)(1) Section 4(f) applies to all archeological sites on or eligible for inclusion on the National Register, including those discovered during construction except as set forth in paragraph (g)(2) of this section. Where section 4(f) applies to archeological sites discovered during construction, the section 4(f) process will be expedited. In such cases, the evaluation of feasible and prudent alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

(g)(2) Section 4(f) does not apply to archeological sites where the Administration, after consultation with the SHPO and the ACHP, determines that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken or where the Administration decides, with agreement of the SHPO and, where applicable, the ACHP not to recover the resource.

(h) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made and determinations of significance changed late in the development of a proposed action. With the exception of the treatment of archeological resources in paragraph (g) of this section, the Administration may permit a project to proceed without consideration under section 4(f) if the property interest in the section 4(f) lands was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by section 4(f) prior to acquisition.

(i) The evaluations of alternatives to avoid the use of section 4(f) land and of possible measures to minimize harm to such lands shall be developed by the applicant in cooperation with the Administration. This information should
be presented in the draft EIS, EA, or, for a project classified as a CE in a separate document. The section 4(f) evaluation shall be provided for coordination and comment to the officials having jurisdiction over the section 4(f) property and to the Department of the Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. A minimum of 45 days shall be established by the Administration for receipt of comments. Uses of section 4(f) land covered by a programmatic section 4(f) evaluation shall be documented and coordinated as specified in the programmatic section 4(f) evaluation.

(j) When adequate support exists for a section 4(f) determination, the discussion in the final EIS, FONSI, or separate section 4(f) evaluation shall specifically address:

(1) The reasons why the alternatives to avoid a section 4(f) property are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the section 4(f) property.

(k) The final Section 4(f) evaluation will be reviewed for legal sufficiency.

(l) For actions processed with EISs, the Administration will make the section 4(f) approval either in its approval of the final EIS or in the ROD. Where the section 4(f) approval is documented in the final EIS, the Administration will summarize the basis for its section 4(f) approval in the ROD. Actions requiring the use of section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notified by the Administration of section 4(f) approval. For these actions, any required section 4(f) approval will be documented separately.

(m) Circulation of a separate section 4(f) evaluation will be required when:

(1) A proposed modification of the alignment or design would require the use of section 4(f) property after the CE, FONSI, draft EIS, or final EIS has been processed;

(2) The Administration determines, after processing the CE, FONSI, draft EIS, or final EIS that section 4(f) applies to a property;

(3) A proposed modification of the alignment, design, or measures to minimize harm (after the original section 4(f) approval) would result in a substantial increase in the amount of section 4(f) land used, a substantial increase in the adverse impacts to section 4(f) land, or a substantial reduction in mitigation measures;

(4) Another agency is the lead agency for the NEPA process, unless another DOT element is preparing the section 4(f) evaluation.

(n) If the Administration determines under §771.135(m) or otherwise, that section 4(f) is applicable after the CE, FONSI, or final EIS has been processed, the decision to prepare and circulate a section 4(f) evaluation will not necessarily require the preparation of a new or supplemental environmental document. Where a separately circulated section 4(f) evaluation is prepared, such evaluation does not necessarily:

(1) Prevent the granting of new approvals;

(2) Require the withdrawal of previous approvals; or

(3) Require the suspension of project activities; for any activity not affected by the section 4(f) evaluation.

(o) An analysis required by section 4(f) may involve different levels of detail where the section 4(f) involvement is addressed in a tiered EIS.

(1) When the first-tier, broad-scale EIS is prepared, the detailed information necessary to complete the section 4(f) evaluation may not be available at that stage in the development of the action. In such cases, an evaluation should be made on the potential impacts that a proposed action will have on section 4(f) land and whether those impacts could have a bearing on the decision to be made. A preliminary determination may be made at this time as to whether there are feasible and prudent locations or alternatives for the action to avoid the use of section 4(f) land. This preliminary determination shall consider all possible planning to minimize harm to the extent that the level of detail available at the first-tier EIS stage allows. It is recognized that
such planning at this stage will normally be limited to ensuring that opportunities to minimize harm at subsequent stages in the development process have not been precluded by decisions made at the first-tier stage. This preliminary determination is then incorporated into the first-tier EIS.

(2) A section 4(f) approval made when additional design details are available will include a determination that:

(i) The preliminary section 4(f) determination made pursuant to paragraph (o)(1) of this section is still valid; and

(ii) The criteria of paragraph (a) of this section have been met.

(p) Use. (1) Except as set forth in paragraphs (f), (g)(2), and (h) of this section, “use” (in paragraph (a)(1) of this section) occurs:

(i) When land is permanently incorporated into a transportation facility;

(ii) When there is a temporary occupancy of land that is adverse in terms of the statute’s preservationist purposes as determined by the criteria in paragraph (p)(7) of this section; or

(iii) When there is a constructive use of land.

(2) Constructive use occurs when the transportation project does not incorporate land from a section 4(f) resource, but the project’s proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the resource are substantially diminished.

(3) The Administration is not required to determine that there is no constructive use. However, such a determination could be made at the discretion of the Administration.

(4) The Administration has reviewed the following situations and determined that a constructive use occurs when:

(i) The projected noise level increase attributable to the project substantially interferes with the use and enjoyment of a noise-sensitive facility of a resource protected by section 4(f), such as hearing the performances at an outdoor amphitheater, sleeping in the sleeping area of a campground, enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site’s significance, or enjoyment of an urban park where serenity and quiet are significant attributes;

(ii) The proximity of the proposed project substantially impairs esthetic features or attributes of a resource protected by section 4(f), where such features or attributes are considered important contributing elements to the value of the resource. Examples of substantial impairment to visual or esthetic qualities would be the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a park or historic site which derives its value in substantial part due to its setting;

(iii) The project results in a restriction on access which substantially diminishes the utility of a significant publicly owned park, recreation area, or a historic site;

(iv) The vibration impact from operation of the project substantially impairs the use of a section 4(f) resource, such as projected vibration levels from a rail transit project that are great enough to affect the structural integrity of a historic building or substantially diminish the utility of the building;

(v) The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to the project or substantially interferes with the access to a wildlife or waterfowl refuge, when such access is necessary for established wildlife migration or critical life cycle processes.

(5) The Administration has reviewed the following situations and determined that a constructive use does not occur when:

(i) Compliance with the requirements of section 106 of the National Historic Preservation Act and 36 CFR part 800 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register of Historic Places, results in an agreement of “no effect” or “no adverse effect”;

(ii) The projected traffic noise levels of the proposed highway project do not
Federal Highway Administration, DOT

§ 771.135

This section is not substantially impair the activities, features, or attributes that qualify a resource for protection under section 4(f);

(vii) Proximity impacts will be mitigated to a condition equivalent to, or better than, that which would occur under a no-build scenario;

(viii) Change in accessibility will not substantially diminish the utilization of the section 4(f) resource; or

(ix) Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of the section 4(f) resource.

(6) When a constructive use determination is made, it will be based, to the extent it reasonably can, upon the following:

(i) Identification of the current activities, features, or attributes of a resource qualified for protection under section 4(f) and which may be sensitive to proximity impacts;

(ii) An analysis of the proximity impacts of the proposed project on the section 4(f) resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should not be attributed to the proposed project;

(iii) Consultation, on the above identification and analysis, with the Federal, State, or local officials having jurisdiction over the park, recreation area, refuge, or historic site.

(7) A temporary occupancy of land is so minimal that it does not constitute a use within the meaning of section 4(f) when the following conditions are satisfied:

(i) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;

(ii) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the section 4(f) resource are minimal;

(iii) There are no anticipated permanent adverse physical impacts, nor will...
§ 771.137 International actions.

(a) The requirements of this part apply to:

(1) Administration actions significantly affecting the environment of a foreign nation not participating in the action or not otherwise involved in the action.

(2) Administration actions outside the U.S., its territories, and possessions which significantly affect natural resources of global importance designated for protection by the President or by international agreement.

(b) If communication with a foreign government concerning environmental studies or documentation is anticipated, the Administration shall coordinate such communication with the Department of State through the Office of the Secretary of Transportation.

PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

§ 772.1 Purpose.

To provide procedures for noise studies and noise abatement measures to help protect the public health and welfare, to supply noise abatement criteria, and to establish requirements for information to be given to local officials for use in the planning and design of highways approved pursuant to title 23 U.S.C.

§ 772.3 Noise standards.

The highway traffic noise prediction requirements, noise analyses, noise abatement criteria, and requirements for informing local officials in this regulation constitute the noise standards mandated by 23 U.S.C. 109(i). All highway projects which are developed in conformance with this regulation shall be deemed to be in conformance with the Federal Highway Administration (FHWA) noise standards.

APPENDIX A TO PART 772—NATIONAL REFERENCE ENERGY MEAN EMISSION LEVELS AS A FUNCTION OF SPEED


SOURCE: 47 FR 29654, July 8, 1982; 47 FR 33956, Aug. 5, 1982, unless otherwise noted.

§ 772.1 Purpose.

To provide procedures for noise studies and noise abatement measures to help protect the public health and welfare, to supply noise abatement criteria, and to establish requirements for information to be given to local officials for use in the planning and design of highways approved pursuant to title 23 U.S.C.

§ 772.3 Noise standards.

The highway traffic noise prediction requirements, noise analyses, noise abatement criteria, and requirements for informing local officials in this regulation constitute the noise standards mandated by 23 U.S.C. 109(i). All highway projects which are developed in conformance with this regulation shall be deemed to be in conformance with the Federal Highway Administration (FHWA) noise standards.

§ 772.5 Definitions.

(a) Design year. The future year used to estimate the probable traffic volume for which a highway is designed. A time, 10 to 20 years, from the start of construction is usually used.

(b) Existing noise levels. The noise, resulting from the natural and mechanical sources and human activity, considered to be usually present in a particular area.

(c) \( L_{10} \). The sound level that is exceeded 10 percent of the time (the 90th percentile) for the period under consideration.

(d) \( L_{10}(h) \). The hourly value of \( L_{10} \).

(e) \( L_{eq} \)—the equivalent steady-state sound level which in a stated period of time contains the same acoustic energy as the time-varying sound level during the same time period.

(f) \( L_{eq}(h) \). The hourly value of \( L_{eq} \).

(g) Traffic noise impacts. Impacts which occur when the predicted traffic noise levels approach or exceed the noise abatement criteria (Table 1), or...
when the predicted traffic noise levels substantially exceed the existing noise levels.

(h) Type I projects. A proposed Federal or Federal-aid highway project for the construction of a highway on new location or the physical alteration of an existing highway which significantly changes either the horizontal or vertical alignment or increases the number of through-traffic lanes.

(i) Type II projects. A proposed Federal or Federal-aid highway project for noise abatement on an existing highway.

§ 772.7 Applicability.
(a) Type I projects. This regulation applies to all Type I projects unless it is specifically indicated that a section applies only to Type II projects.
(b) Type II projects. The development and implementation of Type II projects are not mandatory requirements of 23 U.S.C. 109(i) and are, therefore, not required by this regulation. When Type II projects are proposed for Federal-aid highway participation at the option of the highway agency, the provisions of §§ 772.9(c), 772.13, and 772.19 of this regulation shall apply.

§ 772.9 Analysis of traffic noise impacts and abatement measures.
(a) The highway agency shall determine and analyze expected traffic noise impacts and alternative noise abatement measures to mitigate these impacts, giving weight to the benefits and cost of abatement, and to the overall social, economic and environmental effects.
(b) The traffic noise analysis shall include the following for each alternative under detailed study:
(1) Identification of existing activities, developed lands, and undeveloped lands for which development is planned, designed and programmed, which may be affected by noise from the highway;
(2) Prediction of traffic noise levels;
(3) Determination of existing noise levels;
(4) Determination of traffic noise impacts; and
(5) Examination and evaluation of alternative noise abatement measures for reducing or eliminating the noise impacts.
(c) Highway agencies proposing to use Federal-aid highway funds for Type II projects shall perform a noise analysis of sufficient scope to provide information needed to make the determination required by § 772.13(a) of this chapter.

§ 772.11 Noise abatement.
(a) In determining and abating traffic noise impacts, primary consideration is to be given to exterior areas. Abatement will usually be necessary only where frequent human use occurs and a lowered noise level would be of benefit.
(b) In those situations where there are no exterior activities to be affected by the traffic noise, or where the exterior activities are far from or physically shielded from the roadway in a manner that prevents an impact on exterior activities, the interior criterion shall be used as the basis of determining noise impacts.
(c) If a noise impact is identified, the abatement measures listed in § 772.13(c) of this chapter must be considered.
(d) When noise abatement measures are being considered, every reasonable effort shall be made to obtain substantial noise reductions.
(e) Before adoption of a final environmental impact statement or finding of no significant impact, the highway agency shall identify:
(1) Noise abatement measures which are reasonable and feasible and which are likely to be incorporated in the project, and
(2) Noise impacts for which no apparent solution is available.
(f) The views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.
(g) The plans and specifications will not be approved by FHWA unless those noise abatement measures which are reasonable and feasible are incorporated into the plans and specifications to reduce or eliminate the noise impact on existing activities, developed lands, or undeveloped lands for which development is planned, designed, and programmed.
§ 772.13 Federal participation.

(a) Federal funds may be used for noise abatement measures where:

(1) A traffic noise impact has been identified,

(2) The noise abatement measures will reduce the traffic noise impact, and

(3) The overall noise abatement benefits are determined to outweigh the overall adverse social, economic, and environmental effects and the costs of the noise abatement measures.

(b) For Type II projects, noise abatement measures will only be approved for projects that were approved before November 28, 1995, or are proposed along lands where land development or substantial construction predated the existence of any highway. The granting of a building permit, filing of a plat plan, or a similar action must have occurred prior to right-of-way acquisition or construction approval for the original highway. Noise abatement measures will not be approved at locations where such measures were previously determined not to be reasonable and feasible for a Type I project.

(c) The noise abatement measures listed below may be incorporated in Type I and Type II projects to reduce traffic noise impacts. The costs of such measures may be included in Federal-aid participating project costs with the Federal share being the same as that for the system on which the project is located, except that Interstate construction funds may only participate in Type I projects.

(1) Traffic management measures (e.g., traffic control devices and signing for prohibition of certain vehicle types, time-use restrictions for certain vehicle types, modified speed limits, and exclusive land designations).

(2) Alteration of horizontal and vertical alignments.

(3) Acquisition of property rights (either in fee or lesser interest) for construction of noise barriers.

(4) Construction of noise barriers (including landscaping for esthetic purposes) whether within or outside the highway right-of-way. Interstate construction funds may not participate in landscaping.

(5) Acquisition of real property or interests therein (predominantly unimproved property) to serve as a buffer zone to preempt development which would be adversely impacted by traffic noise. This measure may be included in Type I projects only.

(6) Noise insulation of public use or nonprofit institutional structures.

(d) There may be situations where (1) severe traffic noise impacts exist or are expected, and (2) the abatement measures listed above are physically infeasible or economically unreasonable. In these instances, noise abatement measures other than those listed in §772.13(c) of this chapter may be proposed for Types I and II projects by the highway agency and approved by the Regional Federal Highway Administrator on a case-by-case basis when the conditions of §772.13(a) of this chapter have been met.


§ 772.15 Information for local officials.

In an effort to prevent future traffic noise impacts on currently undeveloped lands, highway agencies shall inform local officials within whose jurisdiction the highway project is located of the following:

(a) The best estimation of future noise levels (for various distances from the highway improvement) for both developed and undeveloped lands or properties in the immediate vicinity of the project.

(b) Information that may be useful to local communities to protect future land development from becoming incompatible with anticipated highway noise levels, and

(c) Eligibility for Federal-aid participation for Type II projects as described in §772.13(b) of this chapter.

§ 772.17 Traffic noise prediction.

(a) Any traffic noise prediction method is approved for use in any noise analysis required by this regulation if it generally meets the following two conditions:

(1) The methodology is consistent with the methodology in the FHWA

(2) The prediction method uses noise emission levels obtained from one of the following:

(i) National Reference Energy Mean Emission Levels as a Function of Speed (appendix A).


(b) In predicting noise levels and assessing noise impacts, traffic characteristics which will yield the worst hourly traffic noise impact on a regular basis for the design year shall be used.

§ 772.19 Construction noise.

The following general steps are to be performed for all Types I and II projects:

(a) Identify land uses or activities which may be affected by noise from construction of the project. The identification is to be performed during the project development studies.

(b) Determine the measures which are needed in the plans and specifications to minimize or eliminate adverse construction noise impacts to the community. This determination shall include a weighing of the benefits achieved and the overall adverse social, economic and environmental effects and the costs of the abatement measures.

(c) Incorporate the needed abatement measures in the plans and specifications.

### TABLE 1—NOISE ABATEMENT CRITERIA

<table>
<thead>
<tr>
<th>Activity Category</th>
<th>Leq(h)</th>
<th>L_{10}(h)</th>
<th>Description of activity category</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>57</td>
<td>60</td>
<td>Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.</td>
</tr>
<tr>
<td>B</td>
<td>67</td>
<td>70</td>
<td>Picnic areas, recreation areas, playgrounds, active sports areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals.</td>
</tr>
<tr>
<td>C</td>
<td>72</td>
<td>75</td>
<td>Developed lands, properties, or activities not included in Categories A or B above.</td>
</tr>
<tr>
<td>D</td>
<td></td>
<td></td>
<td>Undeveloped lands.</td>
</tr>
<tr>
<td>E</td>
<td>52</td>
<td>55</td>
<td>Residences, motels, hotels, public meeting rooms, schools, churches, libraries, hospitals, and auditoriums.</td>
</tr>
</tbody>
</table>

1 Either L_{10}(h) or Leq(h) (but not both) may be used on a project.

*These documents are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.
APPENDIX A TO PART 772—NATIONAL REFERENCE ENERGY MEAN EMISSION LEVELS AS A FUNCTION OF SPEED

LEGEND:

1. AUTOMOBILES: ALL VEHICLES WITH TWO AXLES AND FOUR WHEELS.

2. MEDIUM TRUCKS: ALL VEHICLES WITH TWO AXLES AND SIX WHEELS.

3. HEAVY TRUCKS: ALL VEHICLES WITH THREE OR MORE AXLES.

National Reference Energy Mean Emission Levels as a Function of Speed
PART 777—MITIGATION OF IMPACTS TO WETLANDS AND NATURAL HABITAT

Sec. 777.1 Purpose.
777.2 Definitions.
777.3 Background.
777.5 Federal participation.
777.7 Evaluation of impacts.
777.9 Mitigation of impacts.
777.11 Other considerations.

AUTHORITY: 42 U.S.C. 4321 et seq.; 49 U.S.C. 303; 23 U.S.C. 101(a), 103, 109(h), 133(b)(1), (b)(11), and (d)(2), 138, 315; E.O. 11990; DOT Order 5660.1A; 49 CFR 1.48(b).

SOURCE: 65 FR 82924, Dec. 29, 2000, unless otherwise noted.

§ 777.1 Purpose.

To provide policy and procedures for the evaluation and mitigation of adverse environmental impacts to wetlands and natural habitat resulting from Federal-aid projects funded pursuant to provisions of title 23, U.S. Code. These policies and procedures shall be applied by the Federal Highway Administration (FHWA) to projects under the Federal Lands Highway Program to the extent such application is deemed appropriate by the FHWA.

§ 777.2 Definitions.

In addition to those contained in 23 U.S.C. 101(a), the following definitions shall apply as used in this part:

Biogeochemical transformations means those changes in chemical compounds and substances which naturally occur in ecosystems. Examples are the carbon, nitrogen, and phosphorus cycles in nature, in which these elements are incorporated from inorganic substances into organic matter and recycled on a continuing basis.

Compensatory mitigation means restoration, enhancement, creation, and under exceptional circumstances, preservation, of wetlands, wetland buffer areas, and other natural habitats, carried out to replace or compensate for the loss of wetlands or natural habitat area or functional capacity resulting from Federal-aid projects funded pursuant to provisions of title 23, U.S. Code. Compensatory mitigation usually occurs in advance of or concurrent with the impacts to be mitigated, but may occur after such impacts in special circumstances.

Mitigation bank means a site where wetlands and/or other aquatic resources or natural habitats are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources. For purposes of the Clean Water Act, Section 404 (33 U.S.C. 1344), use of a mitigation bank can only be authorized when impacts are unavoidable.

Natural habitat means a complex of natural, primarily native or indigenous vegetation, not currently subject to cultivation or artificial landscaping, a primary purpose of which is to provide habitat for wildlife, either terrestrial or aquatic. For purposes of this part, habitat has the same meaning as natural habitat. This definition excludes rights-of-way that are acquired with Federal transportation funds specifically for highway purposes.

Net gain of wetlands means a wetland resource conservation and management principle under which, over the long term, unavoidable losses of wetlands area or functional capacity due to highway projects are offset by gains at a ratio greater than 1:1, through restoration, enhancement, preservation, or creation of wetlands or associated areas critical to the protection or conservation of wetland functions. This definition specifically excludes natural habitat, as defined in this section, other than wetlands.

On-site, in-kind mitigation means compensatory mitigation which replaces wetlands or natural habitat area or functions lost as a result of a highway project with the same or like wetland or habitat type and functions adjacent or contiguous to the site of the impact.

Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics, in light of overall project purposes.

Service area of a mitigation bank means that the service area of a wetland or natural habitat mitigation bank shall be consistent with that in
the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 FR 58605, November 28, 1995), i.e., the designated area (e.g., watershed, county) wherein a bank can be expected to provide appropriate compensation for impacts to wetlands and/or other aquatic or natural habitat resources.

Wetland or habitat enhancement means activities conducted in existing wetlands or other natural habitat to achieve specific management objectives or provide conditions which previously did not exist, and which increase one or more ecosystem functions. Enhancement may involve trade-offs between the resource structure, function, and values; a positive change in one may result in negative effects to other functions. Examples of activities which may be carried out to enhance wetlands or natural habitats include, but are not limited to, alteration of hydrologic regime, vegetation management, erosion control, fencing, integrated pest management and control, and fertilization.

Wetland or habitat establishment period means a period of time agreed to by the FHWA, State DOT, and U.S. Army Corps of Engineers, as necessary to establish wetland or natural habitat functional capacity in a compensatory mitigation project sufficient to compensate wetlands or habitat losses due to impacts of Federal-aid highway projects. The establishment period may vary depending on the specific wetland or habitat type being developed.

Wetland or habitat functional capacity means the ability of a wetland or natural habitat to perform natural functions, such as provide wildlife habitat, support biodiversity, store surface water, or perform biogeochemical transformations, as determined by scientific functional assessment. Natural functions of wetlands include, but are not limited to, those listed by the U.S. Army Corps of Engineers at 33 CFR 320.4(b)(2)(i) through (viii).

Wetland or habitat preservation means the protection of ecologically important wetlands, other aquatic resources, or other natural habitats in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation of wetlands for compensatory mitigation purposes may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the aquatic ecosystem.

Wetland or habitat restoration means the reestablishment of wetlands or natural habitats on a site where they formerly existed or exist in a substantially degraded state.

Wetland or wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetlands or habitat mitigation credit means a unit of wetlands or habitat mitigation, defined either by area or a measure of functional capacity through application of scientific functional assessment. With respect to mitigation banks, this definition means the same as that in the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks.

§ 777.3 Background.

(a) Executive Order 11990 (42 FR 26961, 3 CFR, 1977 Comp., p. 121) Protection of Wetlands, and DOT Order 5660.1A,1 Preservation of the Nation’s Wetlands, emphasize the important functions and values inherent in the Nation’s wetlands. Federal agencies are directed to avoid new construction in wetlands unless the head of the agency determines that:

1. There is no practicable alternative to such construction, and
2. The proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

(b) Sections 103 and 133 of title 23, U.S. Code, identify additional approaches for mitigation and management of impacts to wetlands and natural habitats which result from projects funded pursuant to title 23.

1 DOT Order 5660.1A is available for inspection and copying from FHWA headquarters and field offices as prescribed at 49 CFR part 7.
Federal Highway Administration, DOT

§ 777.9 Mitigation of impacts.

(a) Actions eligible for Federal funding. There are a number of actions that can be taken to minimize the impact of highway projects on wetlands or natural habitats. The following actions qualify for Federal-aid highway funding:

(1) Avoidance and minimization of impacts to wetlands or natural habitats through realignment and special design, construction features, or other measures.

(2) Compensatory mitigation alternatives, either inside or outside of the right-of-way. This includes, but is not limited to, such measures as on-site lands and natural habitat mitigation projects, and acquisition of land or interests therein.

§ 777.7 Evaluation of impacts.

(a) The reasonableness of the public expenditure and extent of Federal participation with title 23, U.S. Code, funds shall be directly related to:

(1) The importance of the impacted wetlands and natural habitats;

(2) The extent of highway impacts on the wetlands and natural habitats, as determined through an appropriate, interdisciplinary, impact assessment; and

(3) Actions necessary to comply with the Clean Water Act, Section 404, the Endangered Species Act of 1973, and other relevant Federal statutes.

(b) Evaluation of the importance of the impacted wetlands and natural habitats shall consider:

(1) Wetland and natural habitat functional capacity;

(2) Relative importance of these functions to the total wetland or natural habitat resource of the area;

(3) Other factors such as uniqueness, esthetics, or cultural values; and

(4) Input from the appropriate resource management agencies through interagency coordination.

§ 777.5 Federal participation.

(a) Those measures which the FHWA and a State DOT find appropriate and necessary to mitigate adverse environmental impacts to wetlands and natural habitats are eligible for Federal participation where the impacts are the result of projects funded pursuant to title 23, U.S. Code. The justification for the cost of proposed mitigation measures should be considered in the same context as any other public expenditure; that is, the proposed mitigation represents a reasonable public expenditure when weighed against other social, economic, and environmental values, and the benefit realized is commensurate with the proposed expenditure. Mitigation measures shall give like consideration to traffic needs, safety, durability, and economy of maintenance of the highway.

(b) It is FHWA policy to permit, consistent with the limits set forth in this part, the expenditure of title 23, U.S. Code, funds for activities required for the planning, design, construction, monitoring, and establishment of wetlands and natural habitat mitigation projects, and acquisition of land or interests therein.

(c) 33 CFR parts 320 through 330, Regulatory Program, U.S. Army Corps of Engineers; Section 404, Clean Water Act and 40 CFR part 230, Section 404(b)(1) Guidelines for the Specification of Disposal Sites for Dredged or Fill Material, establish requirements for the permitting of discharge of dredge or fill material in wetlands and other waters of the United States.

(d) Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks presents guidance for the use of ecological mitigation banks as compensatory mitigation in the Section 404 Regulatory Program for unavoidable impacts to wetlands and other aquatic resources.

mitigation, when that alternative is determined to be the preferred approach by the appropriate regulatory agency; improvement of existing degraded or historic wetlands or natural habitats through restoration or enhancement on or off site; creation of new wetlands; and under exceptional circumstances, preservation of existing wetlands or natural habitats on or off site. Restoration of wetlands is generally preferable to enhancement or creation of new wetlands.

(3) Improvements to existing wetlands or natural habitats. Such activities may include, but are not limited to, construction or modification of water level control structures or ditches, establishment of natural vegetation, re-contouring of a site, installation or removal of irrigation, drainage, or other water distribution systems, integrated pest management, installation of fencing, monitoring, and other measures to protect, enhance, or restore the wetland or natural habitat character of a site.

(4) Mitigation banks. In accordance with all applicable Federal law (including regulations), with respect to participation in compensatory mitigation related to a project funded under title 23, U.S. Code, that has an impact on wetlands or natural habitat occurring within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank, if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks, or other agreement between appropriate agencies.

(b) Mitigation banking alternatives eligible for participation with Federal-aid funds including such measures as the following:

(1) Mitigation banks in which mitigation credits are purchased by State DOTs to mitigate impacts to wetlands or natural habitats due to projects funded under title 23, U.S. Code, including privately owned banks or those established with private funds to mitigate wetland or natural habitat losses.

(2) Single purpose banks established by and for the use of a State DOT with Federal-aid participation; or multipurpose publicly owned banks, established with public, non-title 23 Federal highway funds, in which credits may be purchased by highway agencies using title 23 highway funds on a per-credit basis.

(c) Contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands or natural habitats. Federal-aid funds may participate in the development of statewide and regional wetlands conservation plans, including any efforts and plans authorized pursuant to the Water Resources Development Act of 1990 (Pub. L. 101-640, 104 Stat. 4604). Contributions to these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

(d) Mitigation or restoration of historic impacts to wetlands and natural habitats caused by past highway projects funded pursuant to title 23, U.S. Code, even if there is no current federally funded highway project in the immediate vicinity. These impacts must be related to transportation projects funded under the authority of title 23, U.S. Code.

§ 777.11 Other considerations.

(a) The development of measures proposed to mitigate impacts to wetlands or natural habitats shall include consultation with appropriate State and Federal agencies.

(b) Federal-aid funds shall not participate in the replacement of wetlands or natural habitats absent sufficient assurances, such as, but not limited to, deed restrictions, fee ownership, permanent easement, or performance bond, that the area will be maintained as a wetland or natural habitat.

(c) The acquisition of proprietary interests in replacement wetlands or natural habitats as a mitigation measure may be in fee simple, by easement, or by other appropriate legally recognized instrument, such as a banking instrument legally approved by the appropriate regulatory agency. The acquisition of mitigation credits in wetland or natural habitat mitigation banks shall
be accomplished through a legally recognized instrument, such as permanent easement, deed restriction, or legally approved mitigation banking instrument, which provides for the protection and permanent continuation of the wetland or natural habitat nature of the mitigation.

(d) A State DOT may acquire privately owned lands in cooperation with another public agency or third party. Such an arrangement may accomplish greater benefits than would otherwise be accomplished by the individual agency acting alone.

(e) A State DOT may transfer the title to, or enter into an agreement with, an appropriate public natural resource management agency to manage lands acquired outside the right-of-way without requiring a credit to Federal funds. Any such transfer of title or agreement shall require the continued use of the lands for the purpose for which they were acquired. In the event the purpose is no longer served, the lands and interests therein shall immediately revert to the State DOT for proper disposition.

(f) The reasonable costs of acquiring lands or interests therein to provide replacement lands with equivalent wetlands or natural habitat area or functional capacity associated with these areas are eligible for Federal participation.

(g) The objective in mitigating impacts to wetlands in the Federal-aid highway program is to implement the policy of a net gain of wetlands on a program wide basis.

(h) Certain activities to ensure the viability of compensatory mitigation wetlands or natural habitats during the period of establishment are eligible for Federal-aid participation. These include, but are not limited to, such activities as repair or adjustment of water control structures, pest control, irrigation, fencing modifications, replacement of plantings, and mitigation site monitoring. The establishment period should be specifically determined by the mitigation agreement among the mitigation planners prior to beginning any compensatory mitigation activities.
PART 810—MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Subpart A—General

§810.2 Purpose.

The purpose of this regulation is to implement sections 137, 142, and 149 of title 23, U.S.C.

§810.4 Definitions.

(a) Except as otherwise provided terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

(b) The following terms, where used in the regulations in this subpart have the following meanings:

1. Exclusive or preferential high occupancy vehicle, truck, or emergency vehicle lanes—one or more lanes of a highway facility or an entire highway facility where high occupancy vehicles, trucks or emergency vehicles or any combination thereof, are given, at all times or at any regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of mixed highway traffic. Carpool lane(s)—is any high occupancy vehicle lane which allows use by carpools.

2. Fringe and transportation corridor parking facilities—those facilities which are intended to be used for the temporary storage of vehicles and which are located and designed so as to facilitate the safe and convenient transfer of persons traveling in such vehicles to and from high occupancy vehicles and/or public mass transportation systems including rail. The term parking facilities includes but is not limited to access roads, buildings, structures, equipment, improvements and interests in land.

3. High occupancy vehicle—a bus or other motorized passenger vehicle such as a carpool or vanpool vehicle used for ridesharing purposes and occupied by a specified minimum number of persons.

4. Highway traffic control devices—traffic control devices as defined by the...
§ 810.102 Eligible projects.

(1) Projects in an urbanized area must be based on a continuing comprehensive transportation planning process, carried on in accordance with 23 U.S.C. 134 as prescribed in 23 CFR part 450, subpart A and included in the transportation improvement program required by 23 CFR part 450, subpart B.

(a) Metropolitan Planning Organization— that organization designated as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134, as required by 23 U.S.C. 104(f)(3), and capable of meeting the requirements of sections 3(e)(1), 5(1), 6(1) and (c) and 9(e)(3)(G) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1602(e)(1), 1604(1), 1607(a) and (c) and 1607(a)(3)(G). This organization shall be the forum for cooperative transportation decision making.

(b) Nonhighway public mass transit project—a project to develop or improve public mass transit facilities or equipment. A project need not be physically located or operated on a route designated as part of the Federal-aid urban system, but must be included in and related to a program for the development or improvement of an urban public mass transit system which includes the purchase and rehabilitation of passenger buses and rolling stock for fixed rail facilities, and the purchase, construction, reconstruction or improvement of fixed rail passenger operating facilities. Such projects may also include the construction, reconstruction or rehabilitation of passenger loading and unloading facilities for either bus or rail passengers.

(7) Passenger loading areas and facilities (including shelters)— areas and facilities located at or near passenger loading points for safety, protection, comfort, or convenience of high occupancy vehicle passengers. The term areas and facilities includes but is not limited to access roads, buildings, structures, equipment, improvements, and interest in land.

(8) Responsible local officials— (1) In areas under 50,000 population, the principal elected officials of general purpose local governments or (ii) In urbanized areas, the principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization.

Subpart B—Highway Public Transportation Projects and Special Use Highway Facilities

§ 810.100 Purpose.

The purpose of the regulations in this subpart is to implement 23 U.S.C. 137, 142(a)(1), 142(b), and 149, which authorize various highway public mass transportation improvements and special use highway facilities as Federal-aid highway projects.

§ 810.102 Eligible projects.

Under this subpart the Federal Highway Administrator may approve on any Federal-aid system projects which facilitate the use of high occupancy vehicles and public mass transportation systems so as to increase the traffic capacity of the Federal-aid system for the movement of persons. Eligible projects include:

1The MUTCD is incorporated by reference at 23 CFR part 655, subpart F.
§ 810.104 Applicability of other provisions.

(a) Projects authorized under §810.102 shall be deemed to be highway projects for all purposes of title 23 U.S.C., and shall be subject to all regulations of title 23 CFR.

(b) Projects approved under this subpart on the Federal-aid Interstate System for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle lanes are excepted from the minimum four-lane requirement of 23 U.S.C. 109(b).

(c) Exclusive or preferential lanes on the Interstate System, including approaches and directly related facilities, can be constructed with Interstate construction funds only if they were approved in the 1981 Interstate Cost Estimate.

(d) The Federal proportional share of a project approved under this subpart shall be as provided in 23 U.S.C. 120 for the class of funds involved. The Federal share for Interstate substitution projects is 85 percent except for signalization projects which may be 100 percent as provided by 23 U.S.C. 120(d). The provisions of section 120(d) title 23 U.S.C. may also be applied to regularly funded projects under §810.102 of this subpart as follows:

(1) Signalization projects.

(2) Passenger loading area and facilities which principally serve carpools and vanpools.

(3) Fringe and transportation corridor parking facilities or portions thereof which are reserved exclusively for use by carpool and vanpool passengers and vehicles.

(e) As required by section 163 of the Surface Transportation Assistance Act of 1982, approval of Federal-aid highway funding for a physical construction or resurfacing project having a carpool lane(s) within the project limits may not be granted unless the project allows the use of the carpool lane(s) by motorcycles or it is certified by the State that such use will create a safety hazard. This requirement does not apply to high occupancy vehicle lanes which exclude carpools or to carpool lanes constructed by the State without the use of Federal-aid Highway funds. The issue of the extent of utilization of these facilities including those constructed prior to January 6, 1982 with Federal-aid Highway funds is a matter for individual determination by the State Highway Agency.

§ 810.106 Approval of fringe and transportation corridor parking facilities.

(a) In approving fringe and transportation corridor parking facilities, the Federal Highway Administrator:

(1) Shall make a determination that the proposed parking facility will benefit the Federal-aid systems by improving its traffic capacity for the movement of persons;

(2) May approve acquisition of land proximate to the right-of-way of a Federal-aid highway;

(3) May approve construction of publicly-owned parking facilities on land within the right-of-way of any Federal-aid highway, including the use of the airspace above and below the established gradeline of the highway pavement, and on land, acquired with or without Federal-aid funds which is not within the right-of-way of any Federal-aid highway but which was acquired in accordance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (84 Stat. 1894, 42 U.S.C. 4601 et seq.);

(4) May permit the charging of fees for the use of the facility, except that the rate of the fee shall not be in excess of that required for maintenance and operation and the cost of providing shuttle service to and from the facility.
Federal Highway Administration, DOT

§ 810.202

Fringe parking facilities

(1) Eligible activities include the acquisition of or the initial and renewal costs for leasing existing parking space, signing of and modifications to existing facilities, trail blazer signs, and passenger loading areas and facilities.

(2) The approval criteria in 23 CFR 810.106 (a)(1), (4), (5), (7) and (8) apply to these parking facilities.

(b) In accordance with the provisions of 23 CFR 810.102, the Federal Highway Administrator may approve on any Federal-aid system the work necessary to designate existing parking facilities (such as at shopping centers or other public or private locations) for fringe and transportation corridor parking.

(1) Eligible activities include the acquisition of or the initial and renewal costs for leasing existing parking space, signing of and modifications to existing facilities, trail blazer signs, and passenger loading areas and facilities.

(2) The approval criteria in 23 CFR 810.106 (a)(1), (4), (5), (7) and (8) apply to these parking facilities.

§ 810.108 Designation of existing facilities.

(a) In accordance with the provisions of 23 CFR 810.102, the Federal Highway Administrator may approve on any Federal-aid system the work necessary to designate existing parking facilities (such as at shopping centers or other public or private locations) for fringe and transportation corridor parking.

(1) Eligible activities include the acquisition of or the initial and renewal costs for leasing existing parking space, signing of and modifications to existing facilities, trail blazer signs, and passenger loading areas and facilities.

(2) The approval criteria in 23 CFR 810.106 (a)(1), (4), (5), (7) and (8) apply to these parking facilities.

(b) In accordance with the provisions of 23 CFR 810.102, the Federal Highway Administrator may approve on any Federal-aid system the work necessary to designate existing highway lanes as high occupancy vehicle lanes.

(1) Eligible activities include preliminary engineering, signing, pavement marking, traffic control devices, minor physical modifications and initial inspection or monitoring of use.

(2) Such improvements may be approved on any public road if they facilitate more efficient use of any Federal-aid highway.

(c) Interstate construction funds may be used only where the proposed projects were approved in the 1981 Interstate Cost Estimate.

Subpart C—Making Highway Rights-of-Way Available for Mass Transit Projects

§ 810.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize a State to make available to a publicly-owned mass transit authority existing highway rights-of-way for rail or other non-highway public mass transit facilities.

§ 810.202 Applicability.

(a) The provisions of this subpart are applicable to the rights-of-way of all Federal-aid highways in which Federal-aid highway funds have participated or will participate in any part of the cost of the highway.

(b) The provisions of this subpart do not preclude acquisition of rights-of-
way for use involving mass transit facilities under the provisions of subparts B and D of this part. Rights-of-way made available under this subpart may be used in combination with rights-of-way acquired under subparts B and D of this part.

§ 810.204 Application by mass transit authority.

A publicly-owned mass transit authority desiring to utilize land existing within the publically acquired right-of-way of any Federal-aid highway for a rail or other nonhighway public mass transit facility may submit an application therefor to the State highway agency.

§ 810.206 Review by the State Highway Agency.

The State highway agency, after reviewing the application, may request the Federal Highway Administrator to authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility. A request shall be accompanied by evidence that utilization of the land for the proposed purposes will not impair future highway improvements or the safety of highway users.

§ 810.208 Action by the Federal Highway Administrator.

The Federal Highway Administrator may authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility, if it is determined that:

(a) The evidence submitted by the State highway agency under §810.206 is satisfactory;

(b) The public interest will be served thereby; and

(c) The proposed action in urbanized areas is based on a continuing, comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134 as described under 23 CFR part 450, subpart A.

§ 810.210 Authorization for use and occupancy by mass transit.

(a) Upon being authorized by the Federal Highway Administrator, the State shall enter into a written agreement with the publicly-owned mass transit authority relating to the use and occupancy of highway right-of-way subject to the following conditions:

1. That any significant revision in the design, construction, or use of the facility for which the land was made available shall receive prior review and approval by the State highway agency.

2. The use of the lands made available to the publicly-owned mass transit authority shall not be transferred to another party without the prior approval of the State highway agency.

3. That, if the publicly-owned mass transit authority fails within a reasonable or agreed time to use the land for the purpose for which it was made available, or if it abandons the land or the facility developed, such use shall terminate. Any abandoned facility developed or under development by the publicly-owned mass transit authority which was financed all or in part with Federal funds shall be disposed of in a manner prescribed by OMB Circular A–102, Attachment N. The land shall revert to the State for its original intended highway purpose.

(b) A copy of the use and occupancy agreement and any modification under paragraphs (a) (1), (2), and (3) of this section shall be forwarded to the Federal Highway Administrator.

§ 810.212 Use to be without charge.

The use and occupancy of the lands made available by the State to the publicly-owned transit authority shall be without charge. Costs incidental to making the lands available for mass transit shall be borne by the publicly-owned mass transit authority.

Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects

§ 810.300 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 142(a)(2), which allows the Urban Mass Transportation Administrator, by delegation of the Secretary, to approve nonhighway public mass transit projects as Federal-aid urban system projects.
§ 810.302 Eligible projects.
(a) Eligible projects are those defined as nonhighway public mass transit projects in § 810.4 of this part subject to the limitations in paragraph (b) of this section.
(b) All projects under this subpart for the construction, reconstruction, or improvement of fixed rail facilities shall be located within the urban boundaries established under 23 U.S.C. 101(a).

§ 810.304 Submission of projects.
(a) An application for an urban system nonhighway public mass transit project shall be developed by a public body as defined under the UMTA Discretionary Capital Assistance Program and shall be prepared in accordance with procedures for the same Discretionary Capital Assistance program.
(b) The application shall be submitted concurrently to the State highway agency and to the UMTA Administrator. The State highway agency, if it concurs, shall submit a request to the FHWA Administrator for a reservation of apportioned Federal-aid urban system funds. The State shall include in its submission advice that such reservation of funds will not impair its ability to comply with the provisions of section 105(d) of Pub. L. 97–424 (if a State certifies it does not need forty percent of its Federal-aid urban system funds for 4R work, and the Secretary accepts such certification, the State may spend that unneeded amount for other eligible FAUS purpose, including nonhighway public mass transit projects).

§ 810.306 Reservation of funds.
(a) The FHWA Administrator shall review the State request, determine whether sufficient Federal-aid urban system funds are available, and notify the State highway agency and the UMTA Administrator of the reservation of funds.
(b) The apportioned funds reserved for the proposed project under paragraph (a) of this section shall remain available for obligation unless the FHWA Administrator is notified that the application has been disapproved by the UMTA Administrator, or unless the responsible local officials in whose jurisdiction the project is to be located and the State highway agency jointly request the withdrawal of the project application.

§ 810.308 Approval of urban system nonhighway public mass transit projects.
(a) An urban system public mass transit project may be approved by the UMTA Administrator when it is determined that:
(1) The application and project are in accordance with the current UMTA procedures relating to discretionary capital assistance grants; and
(2) Notification has been received from the FHWA Administrator that sufficient apportioned Federal-aid urban system funds are available to finance the Federal share of the cost of the proposed project.
(b) Approval of the plans, specifications, and estimates of a nonhighway public mass transit project shall be deemed to occur on the date the UMTA Administrator approves the project application. This approval which is subject to the availability of obligation authority at the time of approval, will obligate the United States to pay its proportional share of the cost of the project.
(c) Upon approval of an urban system nonhighway public mass transit project, the UMTA Administrator will execute a grant contract covering implementation of the project.

§ 810.310 Applicability of other provisions.
The Federal proportional share of the cost of an urban system nonhighway public mass transit project approved under this subpart shall be equal to the Federal share which would have been paid if the project were a highway project as determined under 23 U.S.C. 120(a).
§ 924.1 Purpose.

The purpose of this regulation is to set forth policy for the development and implementation of a comprehensive highway safety improvement program in each State.

§ 924.3 Definitions.

(a) The term highway, as used in this regulation, includes in addition to those items listed in 23 U.S.C. 101(a), those facilities specifically provided for the accommodation and protection of pedestrians and bicyclists.

(b) The term State, as used in this regulation, means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands except that, for the purpose of implementing section 203 of the Highway Safety Act of 1973, as amended, State means any one of the 50 States, the District of Columbia, and Puerto Rico.

§ 924.5 Policy.

Each State shall develop and implement, on a continuing basis, a highway safety improvement program which has the overall objective of reducing the number and severity of accidents and decreasing the potential for accidents on all highways.

§ 924.7 Program structure.

The highway safety improvement program in each State shall consist of components for planning, implementation, and evaluation of safety programs and projects. These components shall be comprised of processes developed by the States and approved by the Federal Highway Administration (FHWA). Where appropriate, the processes shall be developed cooperatively with officials of the various units of local governments. The processes may incorporate a range of alternate procedures appropriate for the administration of an effective highway safety improvement program on individual highway systems, portions of highway systems and in local political subdivisions, but combined shall cover all public roads in the State.

[49 FR 11544, Mar. 1, 1979; as amended]

§ 924.9 Planning.

(a) The planning component of the highway safety improvement program shall incorporate:

(1) A process for collecting and maintaining a record of accident, traffic, and highway data, including, for railroad-highway grade crossings, the characteristics of both highway and train traffic;

(2) A process for analyzing available data to identify highway locations, sections and elements determined to be hazardous on the basis of accident experience or accident potential;

(3) A process for conducting engineering studies of hazardous locations, sections, and elements to develop highway safety improvement projects as defined in 23 U.S.C. 101(a); and

(4) A process for establishing priorities for implementing highway safety improvement projects, considering:

(i) The potential reduction in the number and/or severity of accidents,

(ii) The cost of the projects and the resources available,

(iii) The relative hazard of public railroad-highway grade crossings based on a hazard index formula,

(iv) Onsite inspection of public grade crossings,

(v) The potential danger to large numbers of people at public grade crossings used on a regular basis by
§ 924.13 Evaluation.

(a) The evaluation component of the highway safety improvement program in each State shall include a process for determining the effect that highway safety improvement projects have in reducing the number and severity of accidents and potential accidents, including:

(1) The cost of, and the safety benefits derived from the various means and methods used to mitigate or eliminate hazards,

(2) A record of accident experience before and after the implementation of a highway safety improvement project, and

(3) A comparison of accident numbers, rates, and severity observed after the implementation of a highway safety improvement project with the accident numbers, rates, and severity expected if the improvement had not been made.

(b) The findings resulting from the evaluation process shall be incorporated as basic source data in the planning process outlined in §924.9(a).

(c) The evaluation component may be financed with funds made available through 23 U.S.C. 402, 307(c), and, where applicable, 104(f). In addition, when highway safety improvement projects are undertaken with funds apportioned under 23 U.S.C. 152 or section 203 of the Highway Safety Act of 1978 and section 103(a) of the Highway Safety Act of 1982, the purposes of which are to improve the nation's highway system, and when projects are undertaken with funds apportioned under 23 U.S.C. 152, Safer Off-System Roads, which may be used to implement highway safety improvement projects on public roads which are not on a Federal-aid system.

(d) Funds apportioned under 23 U.S.C. 152, Hazard Elimination Program, are to be used to implement highway safety improvement projects on any public road other than Interstate.

(e) Funds apportioned under 23 U.S.C. 219, Safer Off-System Roads, may be used to implement highway safety improvement projects on public roads which are not on a Federal-aid system.

(f) Major safety defects on bridges, including related approach improvements, may be corrected as part of a bridge rehabilitation project on any public road with funds apportioned under 23 U.S.C. 144, if such project is considered eligible under 23 CFR part 650, subpart D (Special Bridge Replacement Program).

(g) Award of contracts for highway safety improvement programs shall be in accordance with 23 CFR part 635.

[48 FR 4066, Sept. 26, 1983]
§ 924.15 Reporting.

(a) Each State shall submit to the FHWA Division Administrator no later than August 31 of each year a report (OMB Number 04–R2450) covering the State’s highway safety improvement program during the previous July 1 through June 30 period. In its annual report, the State shall report on the progress made in implementing the hazard elimination program and the grade crossing improvement program, and shall evaluate the effectiveness of completed highway safety improvement projects in these programs.

(b) The preparation of the State’s annual report may be financed with funds made available through 23 U.S.C. 402, 307(c), and, where applicable, 104(f).
PART 940—INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE AND STANDARDS

Sec.
940.1 Purpose.
940.3 Definitions.
940.5 Policy.
940.7 Applicability.
940.9 Regional ITS architecture.
940.11 Project implementation.
940.13 Project administration.


SOURCE: 66 FR 1453, Jan. 8, 2001, unless otherwise noted.

EFFECTIVE DATE NOTE: At 66 FR 1453, Jan. 8, 2001, a new subchapter K, consisting of part 940, was added, effective Feb. 7, 2001. At 66 FR 9198, Feb. 7, 2001, the effective date was delayed until Apr. 8, 2001.

§ 940.1 Purpose.
This regulation provides policies and procedures for implementing section 5206(e) of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 457 (23 U.S.C. 502 note); and 49 CFR 1.48.

§ 940.3 Definitions.

Intelligent Transportation System (ITS) means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

ITS project means any project that in whole or in part funds the acquisition of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the National ITS Architecture.

Major ITS project means any ITS project that implements part of a regional ITS initiative that is multi-jurisdictional, multi-modal, or otherwise affects regional integration of ITS systems.

National ITS Architecture (also “national architecture”) means a common framework for ITS interoperability.

The National ITS Architecture comprises the logical architecture and physical architecture which satisfy a defined set of user services. The National ITS Architecture is maintained by the United States Department of Transportation (DOT) and is available on the DOT web site at http://www.its.dot.gov.

Project level ITS architecture is a framework that identifies the institutional agreement and technical integration necessary to interface a major ITS project with other ITS projects and systems.

Region is the geographical area that identifies the boundaries of the regional ITS architecture and is defined by and based on the needs of the participating agencies and other stakeholders. In metropolitan areas, a region should be no less than the boundaries of the metropolitan planning area.

Regional ITS architecture means a regional framework for ensuring institutional agreement and technical integration for the implementation of ITS projects or groups of projects.

Systems engineering is a structured process for arriving at a final design of a system. The final design is selected from a number of alternatives that would accomplish the same objectives and considers the total life-cycle of the project including not only the technical merits of potential solutions but also the costs and relative value of alternatives.

§ 940.5 Policy.
ITS projects shall conform to the National ITS Architecture and standards in accordance with the requirements contained in this part. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture, and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning.
§ 940.7 Applicability.

(a) All ITS projects that are funded in whole or in part with the highway trust fund, including those on the National Highway System (NHS) and on non-NHS facilities, are subject to these provisions.

(b) The Secretary may authorize exceptions for:

(1) Projects designed to achieve specific research objectives outlined in the National ITS Program Plan under section 5305 of the TEA-21, or the Surface Transportation Research and Development Strategic Plan developed under 23 U.S.C. 508; or

(2) The upgrade or expansion of an ITS system in existence on the date of enactment of the TEA-21, if the Secretary determines that the upgrade or expansion:

(i) Would not adversely affect the goals or purposes of Subtitle C (Intelligent Transportation Systems Act of 1998) of the TEA-21;

(ii) Is carried out before the end of the useful life of such system; and

(iii) Is cost-effective as compared to alternatives that would meet the conformity requirement of this rule.

(c) These provisions do not apply to funds used for operations and maintenance of an ITS system in existence on June 9, 1998.

§ 940.9 Regional ITS architecture.

(a) A regional ITS architecture shall be developed to guide the development of ITS projects and programs and be consistent with ITS strategies and projects contained in applicable transportation plans. The National ITS Architecture shall be used as a resource in the development of the regional ITS architecture. The regional ITS architecture shall be on a scale commensurate with the scope of ITS investment in the region. Provision should be made to include participation from the following agencies, as appropriate, in the development of the regional ITS architecture: Highway agencies; public safety agencies (e.g., police, fire, emergency/medical); transit operators; Federal lands agencies; State motor carrier agencies; and other operating agencies necessary to fully address regional ITS integration.

(b) Any region that is currently implementing ITS projects shall have a regional ITS architecture by February 7, 2005.

(c) All other regions not currently implementing ITS projects shall have a regional ITS architecture within four years of the first ITS project for that region advancing to final design.

(d) The regional ITS architecture shall include, at a minimum, the following:

(1) A description of the region;

(2) Identification of participating agencies and other stakeholders;

(3) An operational concept that identifies the roles and responsibilities of participating agencies and stakeholders in the operation and implementation of the systems included in the regional ITS architecture;

(4) Any agreements (existing or new) required for operations, including at a minimum those affecting ITS project interoperability, utilization of ITS related standards, and the operation of the projects identified in the regional ITS architecture;

(5) System functional requirements;

(6) Interface requirements and information exchanges with planned and existing systems and subsystems (for example, subsystems and architecture flows as defined in the National ITS Architecture);

(7) Identification of ITS standards supporting regional and national interoperability; and

(8) The sequence of projects required for implementation.

(e) Existing regional ITS architectures that meet all of the requirements of paragraph (d) of this section shall be considered to satisfy the requirements of paragraph (a) of this section.

(f) The agencies and other stakeholders participating in the development of the regional ITS architecture shall develop and implement procedures and responsibilities for maintaining it, as needs evolve within the region.

§ 940.11 Project implementation.

(a) All ITS projects funded with highway trust funds shall be based on a systems engineering analysis.

(b) The analysis should be on a scale commensurate with the project scope.
(c) The systems engineering analysis shall include, at a minimum:

(1) Identification of portions of the regional ITS architecture being implemented (or if a regional ITS architecture does not exist, the applicable portions of the National ITS Architecture);

(2) Identification of participating agencies roles and responsibilities;

(3) Requirements definitions;

(4) Analysis of alternative system configurations and technology options to meet requirements;

(5) Procurement options;

(6) Identification of applicable ITS standards and testing procedures; and

(7) Procedures and resources necessary for operations and management of the system.

(d) Upon completion of the regional ITS architecture required in §§940.9(b) or 940.9(c), the final design of all ITS projects funded with highway trust funds shall accommodate the interface requirements and information exchanges as specified in the regional ITS architecture. If the final design of the ITS project is inconsistent with the regional ITS architecture, then the regional ITS architecture shall be updated as provided in the process defined in §940.9(f) to reflect the changes.

(e) Prior to the completion of the regional ITS architecture, any major ITS project funded with highway trust funds that advances to final design shall have a project level ITS architecture that is coordinated with the development of the regional ITS architecture. The final design of the major ITS project shall accommodate the interface requirements and information exchanges as specified in this project level ITS architecture. If the project final design is inconsistent with the project level ITS architecture, then the project level ITS architecture shall be updated to reflect the changes. The project level ITS architecture is based on the results of the systems engineering analysis, and includes the following:

(1) A description of the scope of the ITS project;

(2) An operational concept that identifies the roles and responsibilities of participating agencies and stakeholders in the operation and implementation of the ITS project;

(3) Functional requirements of the ITS project;

(4) Interface requirements and information exchanges between the ITS project and other planned and existing systems and subsystems; and

(5) Identification of applicable ITS standards.

(f) All ITS projects funded with highway trust funds shall use applicable ITS standards and interoperability tests that have been officially adopted through rulemaking by the DOT.

(g) Any ITS project that has advanced to final design by February 7, 2001 is exempt from the requirements of paragraphs (d) through (f) of this section.

§940.13 Project administration.

(a) Prior to authorization of highway trust funds for construction or implementation of ITS projects, compliance with §940.11 shall be demonstrated.

(b) Compliance with this part will be monitored under Federal-aid oversight procedures as provided under 23 U.S.C. 106 and 133.
CHAPTER II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

| Part | Uniform procedures for State highway safety programs | 415 |

SUBCHAPTER B—GUIDELINES

| Part | Highway safety programs; determinations of effectiveness | 422 |
|      | Rules of procedure for invoking sanctions under the Highway Safety Act of 1966 | 423 |
|      | National minimum drinking age | 424 |
|      | Operation of motor vehicles by intoxicated minors | 425 |
|      | Use of safety belts—compliance and transfer-of-funds procedures | 427 |
|      | Operation of motor vehicles by intoxicated persons | 429 |
|      | Uniform system for parking for persons with disabilities | 431 |
|      | Safety incentive grants for use of seat belts—allocations based on seat belt use rates | 436 |

SUBCHAPTER C—GENERAL PROVISIONS

| Part | Political subdivision participation in State highway safety programs | 441 |
|      | State highway safety agency | 442 |
|      | State matching of planning and administration costs | 443 |

SUBCHAPTER D—TRANSFER AND SANCTION PROGRAMS

| Part | Open container laws | 446 |
1275  Repeat intoxicated driver laws ...................................... 449
SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Subpart A—General

§ 1200.1 Purpose.

This part establishes uniform application, approval, implementation, and closeout procedures for State highway safety programs authorized under 23 U.S.C. 402.

§ 1200.2 Applicability.

The provisions of this part apply to highway safety programs conducted by States under 23 U.S.C. 402.

§ 1200.3 Definitions.

As used in this subchapter—Approving Official means a Regional Administrator of the National Highway Traffic Safety Administration, with the concurrence of a Division Administrator of the Federal Highway Administration as necessary. Carry-forward funds means those funds that a State has obligated but not expended in the fiscal year in which they were apportioned, that are being reprogrammed to fund activities in a subsequent fiscal year. Contract authority means the statutory language that authorizes the agencies to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations. Equipment means any tangible personal property acquired for use under the State’s approved highway safety program. FHWA means the Federal Highway Administration. Fiscal year means the Federal fiscal year, consisting of twelve months beginning each October 1 and ending the following September 30. Governor means the Governor of any of the fifty States, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Mayor of the District of Columbia, or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), an official of the Bureau of Indian Affairs who is

VerDate 11<MAY>2000 13:26 Apr 23, 2001 Jkt 194073 PO 00000 Frm 00415 Fmt 8010 Sfmt 8010 Y:\SGML\194073T.XXX pfrm04 PsN: 194073T
§ 1200.10 Application.

Each fiscal year, a State’s application for funds for its highway safety program shall consist of the following components:

(a) A Performance Plan, containing the following elements:

(1) A list of objective and measurable highway safety goals, within the National Priority Program Areas and other program areas, based on highway safety problems identified by the State during the processes under paragraph (a)(2) of this section. Each goal must be accompanied by at least one performance measure that enables the State to track progress, from a specific baseline, toward meeting the goal (e.g., a goal to “increase safety belt use from XX percent in 19__ to YY percent in 20__.” using a performance measure of “percent of restrained occupants in front outboard seating positions in passenger motor vehicles”).

(2) A brief description of the processes used by the State to identify its highway safety problems, define its highway safety goals and performance measures, and develop projects and activities to address its problems and achieve its goals. In describing these processes, the State shall identify the participants in the processes (e.g., highway safety committees, community and constituent groups), discuss the strategies for project or activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted.

(b) A Highway Safety Plan, approved by the Governor’s Representative for Highway Safety, describing the projects and activities the State plans to implement to reach the goals identified in the Performance Plan. The Highway Safety Plan must, at a minimum, describe one year of Section 402 program activities (and may include activities funded from other sources, so long as the source of funding is clearly distinguished).

(c) A Certification Statement, signed by the Governor’s Representative for Highway Safety, providing assurances that the State will comply with applicable laws and regulations, financial and programmatic requirements, and in accordance with §1200.11 of this part, the special funding conditions of the Section 402 program.

(d) A Program Cost Summary (HS Form 217 or its electronic equivalent), completed to reflect the State’s proposed allocations of funds (including carry-forward funds) by program area, based on the goals identified in the Performance Plan and the projects and activities identified in the Highway Safety Plan. The funding level used shall be an estimate of available funding for the upcoming fiscal year.

§ 1200.11 Special funding conditions.

The State’s highway safety program under Section 402 shall be subject to the following conditions, and approval under §1200.13 of this part shall in no event be deemed to waive these conditions:

§ 1200.12 Due date.

Three copies of the application documents identified in §1200.10 of this part must be received by the NHTSA regional office no later than September 1 preceding the fiscal year to which the documents apply. The NHTSA regional office will forward copies to NHTSA headquarters and the FHWA division office. Failure to meet this deadline may result in delayed approval and funding.

§ 1200.13 Approval.

(a) Upon receipt of application documents complying with the provisions of §1200.10 and §1200.11 of this part, the Approving Official will issue a letter of approval to the Governor and the Governor’s Representative for Highway Safety.

(b) The approval letter identified in paragraph (a) of this section will contain the following statement:

We have reviewed (STATE)’s fiscal year 19 Performance Plan, Highway Safety Plan, Certification Statement, and Cost Summary (HS Form 217), as received on (DATE). Based on these submissions, we find your State’s highway safety program to be in compliance with the requirements of the Section 402 program. This determination does not constitute an obligation of Federal funds for the fiscal year identified above or an authorization to incur costs against those funds. The obligation of Section 402 program funds will be effected in writing by the NHTSA Administrator at the commence ment of the fiscal year identified above. However, Federal funds reprogrammed from the prior-year Highway Safety Program (carry-forward funds) will be available for immediate use by the State on October 1. Reimbursement will be contingent upon the submission of an updated HS Form 217 (or its electronic equivalent), consistent with the requirements of 23 CFR 1200.14(d), within 30 days after either the beginning of the fiscal year identified above or the date of this letter, whichever is later.

(c) If approval is withheld, for reasons of non-compliance with §1200.10 or §1200.11 of this part or other applicable law, the Approving Official shall identify in writing the specific area(s) of non-compliance which formed the basis for withholding approval.

§ 1200.14 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year the NHTSA Administrator shall, in writing, distribute funds available for obligation under Section 402 to the States and specify any conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation act has been enacted by October 1 of a
§ 1200.20 General.

Except as otherwise provided in this subpart and subject to the provisions herein, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs carried out under 23 U.S.C. 402. Cost principles include those referenced in 49 CFR 18.22 and those set forth in applicable Department of Transportation, NHTSA, or FHWA Orders.

§ 1200.21 Equipment.

(a) Title. Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under the Section 402 program will vest upon acquisition in the State or its subgrantee, as appropriate.

(b) Use. All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Approving Official, and neither the State nor any of its subgrantees or contractors shall encumber the title or interest while such need exists.

(c) Management and disposition. Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their subgrantees and contractors shall manage and dispose of equipment acquired under the Section 402 program in accordance with State laws and procedures.

(d) Major Purchases and dispositions. All purchases and dispositions of equipment with a useful life of more than one year and an acquisition cost of $5,000 or more must receive prior written approval from the Approving Official.

(e) Right to transfer title. The Approving Official may reserve the right to transfer title to equipment acquired under the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes. Any such transfer shall be subject to the following requirements:

(1) The equipment shall be identified in the grant or otherwise made known to the State in writing;

(2) The Approving Official shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed in the Section 402 program, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

(f) Federally-owned equipment. In the event a State or its subgrantee is provided Federally-owned equipment:

(1) Title shall remain vested in the Federal Government;
(2) Management shall be in accordance with Federal rules and procedures, and an annual inventory listing shall be submitted;

(3) The State or its subgrantee shall request disposition instructions from the Approving Official when the item is no longer needed in the Section 402 program.

§ 1200.22 Changes.

States shall provide documentary evidence of any reallocation of funds between program areas by submitting to the NHTSA regional office an amended HS form 217 (or its electronic equivalent), reflecting the changed allocation of funds, within 30 days of implementing the change.


§ 1200.23 Vouchers and project agreements.

Each State shall submit official vouchers for total expenses incurred to the Approving Official. Copies of the project agreement(s) and supporting documentation for the vouchers, and any amendments thereto, shall be made available for review by the Approving Official upon request.

(a) Content of vouchers. At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

(1) Program Area;
(2) Federal funds obligated;
(3) Amount of Federal funds allocated to local benefit (provided mid-year (by March 31) and with the final voucher);
(4) Cumulative Total Cost to Date;
(5) Cumulative Federal Funds Expended;
(6) Previous Amount Claimed;
(7) Amount Claimed this Period;
(8) Matching rate (or Special matching writeoff used, i.e., sliding scale rate authorized under 23 U.S.C. 120(a), determined in accordance with the applicable NHTSA Order).

(b) Submission requirements. At a minimum, vouchers shall be submitted to the Approving Official on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a State receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. Failure to meet these deadlines may result in delayed reimbursement.

§ 1200.24 Program income.

(a) Inclusions. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the grant agreement, and from payments of principal and interest on loans made with grant funds.

(b) Exclusions. Program income does not include interest on grant funds, rebates, credits, discounts, refunds, taxes, special assessments, levies, fines, proceeds from the sale of real property or equipment, income from royalties and license fees for copyrighted material, patents, and inventions, or interest on any of these.

(c) Use of program income.—(1) Addition. Program income shall ordinarily be added to the funds committed to the Highway Safety Plan. Such program income shall be used to further the objectives of the program area under which it was generated.

(2) Cost sharing or matching. Program income may be used to meet cost sharing or matching requirements only upon written approval of the Approving Official. Such use shall not increase the commitment of Federal funds.

§ 1200.25 Improvement plan.

If a review of the Annual Report required under §1200.33 of this part or of other relevant information indicates little or no progress toward meeting State goals, the Approving Official and State officials will jointly develop an improvement plan. This plan will detail strategies, program activities, and funding targets to meet the defined goals.

§ 1200.26 Non-compliance.

Where a State is found to be in non-compliance with the requirements of the Section 402 program or with applicable law, the special conditions for high-risk grantees and the enforcement procedures of 49 CFR part 18, or the sanctions procedures of part 1206 of
§ 1200.27 Appeals.

Review of any written decision by an Approving Official under this part may be obtained by submitting a written appeal of such decision, signed by the Governor’s Representative for Highway Safety, to the Approving Official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator for State and Community Services or the FHWA Regional Administrator with jurisdiction over the specific division, as appropriate. The decision of the NHTSA Associate Administrator or FHWA Regional Administrator shall be final and shall be transmitted to the Governor’s Representative for Highway Safety through the cognizant Approving Official.

Subpart D—Closeout

§ 1200.30 Expiration of the right to incur costs.

Unless extended in accordance with the provisions of §1200.31 of this part, the right to incur costs under Section 402 expires on the last day of the fiscal year to which it pertains. The State and its subgrantees and contractors may not incur costs for Federal reimbursement past the expiration date.

§ 1200.31 Extension of the right to incur costs.

Upon written request by the State, specifying the reasons therefor, the Approving Official may extend the right to incur costs for some portion of the State highway safety program by a maximum of 90 days. The approval of any such request for extension shall be in writing, shall specify the new expiration date, and shall be signed by the Approving Official. If an extension is granted, the State and its subgrantees and contractors may continue to incur costs in accordance with the Highway Safety Plan until the new expiration date, and the due dates for other submissions covered by this subpart shall be based upon the new expiration date. However, in no case shall any extension be deemed to authorize the obligation of additional Federal funds beyond those already obligated to the State, nor shall any extension be deemed to extend the due date for submission of the Annual Report. Only one extension shall be allowed during each fiscal year.

§ 1200.32 Final voucher.

Each State shall submit a final voucher which satisfies the requirements of §1200.23(a) of this part within 90 days after the expiration of each fiscal year, unless extended in accordance with the provisions of §1200.31 of this part. The final voucher constitutes the final financial reconciliation for each fiscal year.

§ 1200.33 Annual report.

Within 90 days after the end of the fiscal year, each State shall submit an Annual Report. This report shall describe:

(a) The State’s progress in meeting its highway safety goals, using performance measures identified in the Performance Plan. Both Baseline and most current level of performance under each measure will be given for each goal.

(b) How the projects and activities funded during the fiscal year contributed to meeting the State’s highway safety goals. Where data becomes available, a State should report progress from prior year projects that have contributed to meeting current State highway safety goals.

§ 1200.34 Disposition of unexpended balances.

Any funds which remain unexpended after final reconciliation shall be carried forward, credited to the State’s highway safety account for the new fiscal year, and made immediately available for use under the State’s new highway safety program, subject to the approval requirements of §1200.13 of this part. Carry-forward funds must be identified by the program area from which they are removed when they are reprogrammed from the previous fiscal year. Once so identified, such funds are available for use without regard to the program area from which they were carried forward, unless specially earmarked by the Congress.
§ 1200.35 Post-grant adjustments.

The closeout of a highway safety program in a fiscal year does not affect the ability of NHTSA or FHWA to disallow costs and recover funds on the basis of a later audit or other review or the State’s obligation to return any funds due as a result of later refunds, corrections, or other transactions.

§ 1200.36 Continuing requirements.

The following provisions shall have continuing applicability, notwithstanding the closeout of a highway safety program in a fiscal year:

(a) The requirements governing equipment, as provided in §1200.21 of this part;

(b) The audit requirements and records retention and access requirements of 49 CFR part 18.
PART 1205—HIGHWAY SAFETY PROGRAMS; DETERMINATIONS OF EFFECTIVENESS

Sec. 1205.1 Scope.
1205.2 Purpose.
1205.3 Identification of National Priority Program Areas.
1205.4 Funding requirements.

SOURCE: 47 FR 15120, Apr. 8, 1982, unless otherwise noted.

§ 1205.1 Scope.
This part identifies those highway safety programs that are eligible for Federal funding under the State and Community Highway Safety Grant Program (23 U.S.C. 402) and specifies the Federal funding requirements for those programs.

§ 1205.2 Purpose.
The purpose of this part is to establish national highway safety priorities and establish program areas within which highway safety programs developed by the states would be eligible to receive Federal funding.

§ 1205.3 Identification of National Priority Program Areas.
(a) Under statutory provisions administered by NHTSA, the following NHTSA-administered highway safety program areas have been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. Programs developed in such areas are eligible for Federal funding, pursuant to guidelines issued by the National Highway Traffic Safety Administration and the review procedure set forth in §1205.4:
(1) Alcohol and Other Drug Countermeasures
(2) Police Traffic Services
(3) Occupant Protection
(4) Traffic Records
(5) Emergency Medical Services
(6) Motorcycle Safety
(b) Under statutory provisions administered by FHWA, the following FHWA-administered highway safety program area has been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. The program developed in this area is eligible for Federal funding, pursuant to provisions of 23 U.S.C. 402(g), guidelines issued by the Federal Highway Administration and the review procedures set forth in §1205.4: Roadway Safety.
(c) Under statutory provisions jointly administered by NHTSA and FHWA, the following highway safety program areas, jointly administered by NHTSA and FHWA, have been identified as encompassing a major highway safety problem which is of national concern, and for which effective countermeasures have been identified. Programs developed in such areas are eligible for Federal funding, pursuant to guidelines issued by NHTSA and FHWA and the review procedures set forth in §1205.4:
(1) Pedestrian and Bicycle Safety
(2) Speed Control


§ 1205.4 Funding requirements.
A State may use funds made available under 23 U.S.C. 402 to support projects and activities within—
(a) Any National priority program area identified in §1205.3 of this part; or
(b) Any other highway safety program area that is identified in the Highway Safety Plan required under §1200.10(b) of this chapter as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

PART 1206—RULES OF PROCEDURE FOR INVOKING SANCTIONS UNDER THE HIGHWAY SAFETY ACT OF 1966

Sec.
1206.1 Scope.
1206.2 Purpose.
1206.3 Definitions.
1206.4 Sanctions.
1206.5 Review process.

SOURCE: 61 FR 28747, June 6, 1996, unless otherwise noted.

§ 1206.1 Scope.
This part establishes procedures governing determinations to invoke the sanctions applicable to any State that does not comply with the highway safety program requirements in the Highway Safety Act of 1966, as amended (23 U.S.C. 402).

§ 1206.2 Purpose.
The purpose of this part is to prescribe procedures for determining whether and the extent to which the 23 U.S.C. 402 sanctions should be invoked, and to ensure that, should sanctions be proposed to be invoked against a State, the State has a full and fair opportunity to be heard on the issues involved.

§ 1206.3 Definitions.
As used in this part:
(a) Administrators means the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration.
(b) Highway safety program means an approved program in accordance with 23 U.S.C. 402, which is designed by a State to reduce traffic accidents, and death, injuries and property damage resulting therefrom.
(c) Implementing means both having and putting into effect an approved highway safety program.

§ 1206.4 Sanctions.
(a) The Administrators shall not apportion any funds under 23 U.S.C. 402 to any State which is not implementing a highway safety program.

(b) If the Administrators have apportioned funds to a State and subsequently determine that the State is not implementing a highway safety program, the Administrators shall reduce the funds apportioned under 23 U.S.C. 402 to the State by amounts equal to not less than 50 per centum, until such time as the Administrators determine that the State is implementing a highway safety program.

(c) The Administrators shall consider the gravity of the State’s failure to implement a highway safety program in determining the amount of the reduction.

(d) If the Administrators determine that a State has begun implementing a highway safety program before the end of the fiscal year for which the funds were withheld, they shall promptly apportion the State the funds withheld from its apportionment.

(e) If the Administrators determine that the State did not correct its failure before the end of the fiscal year for which the funds were withheld, the Administrators shall reapportion the withheld funds to the other States, in accordance with the formula specified in 23 U.S.C. 402(c), not later than 30 days after such determination.

§ 1206.5 Review process.
(a) In any fiscal year, if the Administrators determine, based on a preliminary review, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, the Administrators shall issue jointly to the State an advance notice, advising the State an advance notice, advising the State that the Administrators expect to either withhold funds from apportionment under 23 U.S.C. 402, or reduce the State’s apportioned funds under 23 U.S.C. 402. The Administrators shall state the amount of the expected withholding or reduction. The advance notice will normally be sent not later than ninety days prior to final apportionment.

(b) If the Administrators issue an advance notice to a State, based on a preliminary review, the State may, within 30 days of its receipt of the advance notice, submit documentation demonstrating that it is implementing a
highway safety program. Documentation shall be submitted to the Administrator for NHTSA, 400 Seventh Street SW, Washington, D.C. 20590. 

(c) If the Administrators decide, after reviewing all relevant information, that a State is not implementing a highway safety program in accordance with 23 U.S.C. 402, they shall issue a final notice, advising the State either of the funds being withheld from apportionment under 23 U.S.C. 402, or of the apportioned funds being reduced under 23 U.S.C. 402 and the amount of the withholding or reduction. The final notice of a withholding will normally be issued on October 1. The final notice of a reduction will be issued at the time of a final decision.

PART 1208—NATIONAL MINIMUM DRINKING AGE

Sec.
1208.1 Scope.
1208.2 Purpose.
1208.3 Definitions.
1208.4 Adoption of National Minimum Drinking Age.
1208.5 Unavailability of withheld funds.
1208.6 Procedures affecting States in noncompliance.


SOURCE: 51 FR 10380, Mar. 26, 1986, unless otherwise noted.

§ 1208.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 158, which establishes the National Minimum Drinking Age.

§ 1208.2 Purpose.

The purpose of this part is to clarify the provisions which a State must have incorporated into its laws in order to prevent the withholding of Federal-aid highway funds for noncompliance with the National Minimum Drinking Age.

§ 1208.3 Definitions.

As used in this part:

Alcoholic beverage means beer, distilled spirits and wine containing one-half of one percent or more of alcohol by volume. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part from any substitute therefor. Distilled spirits include alcohol, ethanol or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

Public possession means the possession of any alcoholic beverage for any reason, including consumption on any street or highway or in any public place or in any place open to the public (including a club which is de facto open to the public). The term does not apply to the possession of alcohol for an established religious purpose; when accompanied by a parent, spouse or legal guardian age 21 or older; for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital or medical institution; in private clubs or establishments; or to the sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful employment of a person under the age of twenty-one years by a duly licensed manufacturer, wholesaler, or retailer of alcoholic beverages.

Purchase means to acquire by the payment of money or other consideration.

§ 1208.4 Adoption of National Minimum Drinking Age.

The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of §§104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 U.S.C. on the first day of each fiscal year in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

§ 1208.5 Unavailability of withheld funds.

Funds withheld under §1208.4 from apportionment to any State will not be available for apportionment to the State.
§ 1208.6 Procedures affecting States in noncompliance.

(a) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age, based on NHTSA’s and FHWA’s preliminary review of its statutes for compliance or non-compliance, will be advised of the funds expected to be withheld under §1208.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is in noncompliance with the National Minimum Drinking Age based on their preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590.

(c) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age based on NHTSA’s and FHWA’s final determination of compliance or non-compliance, will receive notice of the funds being withheld under §1208.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

[53 FR 31322, Aug. 18, 1988. Redesignated at 60 FR 66076, Dec. 21, 1995]
§ 1210.5 Certification requirements.

(a) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, to avoid the withholding of funds in any fiscal year, beginning with FY 1999, the State shall certify to the Secretary of Transportation, before the last day of the previous fiscal year, that it meets the requirements of 23 U.S.C. 161, and this part.

(b) The certification shall contain:

(1) A copy of the State zero tolerance law, regulation, or binding policy directive implementing or interpreting such law or regulation, that conforms to 23 U.S.C. 161 and §1210.4(c); and

(2) A statement by an appropriate State official, that the State has enacted and is enforcing a conforming zero tolerance law. The certifying statement shall be worded as follows:

I, (Name of certifying official), (position title), of the (State or Commonwealth) of ______, do hereby certify that the (State or Commonwealth) of ______, has enacted and is enforcing a zero tolerance law that conforms to the requirements of 23 U.S.C. 161 and 23 CFR 1210.4(c).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications he or she receives to appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State’s zero tolerance legislation changes.

§ 1210.6 Period of availability of withheld funds.

(a) Funds withheld under §1210.4 from apportionment to any State on or before September 30, 2000, will remain available for apportionment until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under §1210.4 from apportionment to any State after September 30, 2000 will not be available for apportionment to the State.

§ 1210.7 Apportionment of withheld funds after compliance.

Funds withheld from a State from apportionment under §1210.4, which remain available for apportionment under §1210.6(a), will be made available to the State if it conforms to the requirements of §§1210.4 and 1210.5 before the last day of the period of availability as defined in §1210.6(a).

§ 1210.8 Period of availability of subsequently apportioned funds.

Funds apportioned pursuant to §1210.7 will remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are apportioned.

§ 1210.9 Effect of noncompliance.

If a State has not met the requirements of 23 U.S.C. 161 and this part at the end of the period for which funds withheld under §1210.4 are available for apportionment to a State under §1210.6, then such funds shall lapse.

§ 1210.10 Procedures affecting states in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 161 and this part, based on NHTSA’s and FHWA’s preliminary review of its law, will be advised of the funds expected to be withheld under §1210.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance
with 23 U.S.C. 161 and this part, based on the agencies’ preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 161 and this part, based on NHTSA’s and FHWA’s final determination, will receive notice of the funds being withheld under §1210.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

PART 1215—USE OF SAFETY BELTS—COMPLIANCE AND TRANSFER-OF-FUNDS PROCEDURES

§ 1215.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 153, as amended, and Section 355 of the National Highway System Designation Act of 1995, for determining compliance with the requirement that States not having safety belt use laws be subject to a transfer of Federal-aid highway apportionments under 23 U.S.C. 104 (b)(1), (b)(2), and (b)(3) to the highway safety program apportionment under 23 U.S.C. 402.

[61 FR 28749, June 6, 1996]

§ 1215.2 Purpose.

This part clarifies the provisions which a State must incorporate into its safety belt law to prevent the transfer of a portion of its Federal-aid highway funds to the section 402 highway safety program apportionment, describes notification and transfer procedures, establishes parameters for the use of transferred funds, and provides alternate compliance criteria for New Hampshire and Maine.

[61 FR 28749, June 6, 1996]

§ 1215.3 Definitions.

As used in this part:

Motor vehicle means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

NHTSA means the National Highway Traffic Safety Administration.

Passenger vehicle means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

Secretary means the Secretary of Transportation.

Safety belt means, with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

§ 1215.4 Compliance criteria.

(a) Except as provided in paragraphs (c) or (d) of this section, in order to avoid the transfer or reservation (as applicable) specified in §1210.4 from apportionment, a State must have and continue in effect at all times during the fiscal year a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child
§ 1215.5 Exemptions.

(a) Safety belt use laws exempting persons with medical excuses, persons in emergency vehicles, persons in the custody of police, persons in public and livery conveyances, persons in parade vehicles, persons in positions not equipped with safety belts, and postal, utility and other commercial drivers who make frequent stops in the course of their business shall be deemed to comply with 23 U.S.C. 153.

(b) Safety belt use laws exempting vehicles equipped with air bags shall be deemed not to comply with 23 U.S.C. 153.

(c) An exemption not identified in paragraph (a) of this section shall be deemed to comply with 23 U.S.C. 153 only if NHTSA and FHWA determine that it is consistent with the intent of §1215.4(a), and applies to situations in which the risk to occupants is very low or in which there are exigent justifications.

[61 FR 28749, June 6, 1996]

§ 1215.6 Review and notification of compliance status.

Review of each State’s laws and notification of compliance status shall occur each fiscal year, in accordance with the following procedures:

(a) NHTSA and FHWA will review appropriate State laws for compliance with 23 U.S.C. 153. States initially found to be in non-compliance will be notified of such finding and of funds expected to be transferred or reserved (as applicable) under §1215.7, through the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) A State notified of non-compliance under paragraph (a) of this section may, within 30 days after its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance to the Associate Administrator for State and Community Services, NHTSA, 400 Seventh Street, SW, Washington, D.C., 20590.

(c) Each fiscal year, States determined to be in non-compliance with 23 U.S.C. 153 will receive notice of the funds being transferred or reserved (as applicable) under §1215.7, through the certification of apportionments required under 23 U.S.C. 104(e), normally on October 1.

§ 1215.7 Transfer of funds.

(a) Except as provided in paragraph (b) of this section, if at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in §1215.4(a), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under 23 U.S.C. 104 (b)(1), (b)(2) and (b)(3) to the apportionment of the State under 23 U.S.C. 402.

(b) For New Hampshire or Maine, except as provided in §1215.4(c), if at any time in a fiscal year beginning after September 30, 1994, the State does not have in effect a law described in §1215.4(a), the Secretary shall reserve 3 percent of the funds to be apportioned to the State for the succeeding fiscal year under 23 U.S.C. 104 (b)(1), (b)(2)
and (b)(3) if the Secretary has not certified, in accordance with §1215.4(d), that the State has achieved the applicable safety belt use rate.

(c) If, at the end of a fiscal year in which the funds are reserved for New Hampshire or Maine under paragraph (b) of this section, the Secretary has not certified that the State achieved the applicable safety belt use rate, the Secretary shall transfer the funds reserved from the State to the apportionment of the State under 23 U.S.C. 402.

(d) Any obligation limitation existing on transferred funds prior to the transfer will apply, proportionately, to those funds after transfer.

[61 FR 28749, June 6, 1996]

§ 1215.8 Use of transferred funds.

(a) Any funds transferred under §1215.7 may be used for approved projects in any section 402 program area.

(b) Any funds transferred under §1215.7 shall not be subject to Federal earmarking of any amounts or percentages for specific program activities.

(c) The Federal share of the cost of any project carried out under section 402 with the transferred funds shall be 100 percent.

(d) In the event of a transfer of funds under §1215.7, the 40 percent political subdivision participation in State highway safety programs and the 10 percent limitation on the Federal contribution for Planning and Administration activities carried out under section 402 shall be based upon the sum of the funds transferred and amounts otherwise available for expenditure under section 402.

PART 1225—OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

Sec.
1225.1 Scope.
1225.2 Purpose.
1225.3 Definitions.
1225.4 General requirements.
1225.5 Adoption of 0.08 BAC per se law.
1225.6 Award procedures.


Source: 63 FR 46886, Sept. 3, 1998, unless otherwise noted.

§ 1225.4 General requirements.

(a) Qualification requirements.

(1) To qualify for a first-year grant under 23 U.S.C. 163, a State must submit a certification by an appropriate State official, that the State has enacted a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and §1225.3 of this part and will become effective and be enforced in the current fiscal year and that the funds will be used for eligible projects and programs.

(1) If the State’s 0.08 BAC per se law is currently in effect and is being enforced, the certification shall be worded as follows:

§ 1225.1 Scope.

This part prescribes the requirements necessary to implement Section 163 of Title 23, United States Code, which encourages States to enact and enforce 0.08 BAC per se laws.

§ 1225.2 Purpose.

The purpose of this part is to specify the steps that States must take to qualify for incentive grant funds in accordance with 23 U.S.C. 163, and to encourage States to enact and enforce 0.08 BAC per se laws.

§ 1225.3 Definitions.

As used in this part:
(a) BAC means either blood or breath alcohol concentration.
(b) BAC per se law means a law that makes it an offense, in and of itself, to operate a motor vehicle with an alcohol concentration at or above a specified level.
(c) Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.
(d) Has enacted and is enforcing means the State’s law is in effect and the State has begun to implement the law.
(e) Operating a motor vehicle means driving or being in actual physical control of a motor vehicle.
(f) Standard driving while intoxicated offense means the non-BAC per se driving while intoxicated offense in the State.
(g) State means any one of the fifty States, the District of Columbia, or Puerto Rico.
§ 1225.5  23 CFR Ch. II (4–1–01 Edition)

(Name of certifying official), (position title), of the (State or Commonwealth) of [State or Commonwealth], do hereby certify that the (State or Commonwealth) of [State or Commonwealth] has enacted and is enforcing a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and that the funds received by the (State or Commonwealth) of [State or Commonwealth] under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(i) If the State’s 0.08 BAC per se law is not currently in effect, but will become effective and be enforced before the end of the current fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of [State or Commonwealth], do hereby certify that the (State or Commonwealth) of [State or Commonwealth] has enacted a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and will become effective and be enforced as of (effective date of the law), and that the funds received by the (State or Commonwealth) of [State or Commonwealth] under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(2) To qualify for a subsequent-year grant under 23 U.S.C. 163, a State must submit a certification by an appropriate State official.

(i) If the State’s 0.08 BAC per se law has not changed since the State last qualified for grant funds under this program, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of [State or Commonwealth], do hereby certify that the (State or Commonwealth) of [State or Commonwealth] has not changed and is enforcing a 0.08 BAC per se law, which conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and that the funds received by the (State or Commonwealth) of [State or Commonwealth] under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(ii) If the State’s 0.08 BAC per se law has changed since the State last qualified for grant funds under this program, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of [State or Commonwealth], do hereby certify that the (State or Commonwealth) of [State or Commonwealth] has amended and is enforcing a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and that the funds received by the (State or Commonwealth) of [State or Commonwealth] under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(3) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications it receives to appropriate NHTSA and FHWA offices.

(4) Each State that submits a certification will be informed by the agencies whether or not it qualifies for funds.

(5) To qualify for grant funds in FY 1999 or in a subsequent fiscal year, certifications must be received by the agencies not later than July 15 of that fiscal year.

(b) Limitation on grants. A State may receive grant funds, subject to the following limitations:

(1) The amount of a grant apportioned to a State under §1225.5 of this part shall be determined by multiplying:

(i) The amount authorized to carry out section 163 of 23 U.S.C. for the fiscal year; by

(ii) The ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(2) A State may obligate grant funds apportioned under this part for any project eligible for assistance under Title 23 of the United States Code.

(3) The Federal share of the cost of a project funded with grant funds awarded under this part shall be 100 percent.

§ 1225.5 Adoption of 0.08 BAC per se law.

To qualify for an incentive grant under this part, a State must demonstrate that it has enacted and is enforcing a law that provides that any
§ 1235.1 Purpose.

The purpose of this part is to provide guidelines to States for the establishment of a uniform system for handicapped parking for persons with disabilities to enhance access and the safety of persons with disabilities which limit or impair the ability to walk.

§ 1235.2 Definitions.

Terms used in this part are defined as follows:

(a) International Symbol of Access means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

(b) Persons with disabilities which limit or impair the ability to walk means persons who, as determined by a licensed physician:

(1) Cannot walk two hundred feet without stopping to rest; or

(2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthesis, wheelchair, or other assistive device; or

(3) Are restricted by lung disease to such an extent that the person’s forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(4) Use portable oxygen; or

(5) Have a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV according to...
§ 1235.3 Special license plates.

(a) Upon application of a person with a disability which limits or impairs the ability to walk, each State shall issue special license plates for the vehicle which is registered in the applicant’s name. The initial application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk. The issuance of a special license plate shall not preclude the issuance of a removable windshield placard.

(b) Upon application of an organization, each State shall issue special license plates for the vehicle registered in the applicant’s name if the vehicle is primarily used to transport persons with disabilities which limit or impair the ability to walk. The application shall include a certification by the applicant, under criteria to be determined by the State, that the vehicle is primarily used to transport persons with disabilities which limit or impair the ability to walk.

(c) The fee for the issuance of a special license plate shall not exceed the fee charged for a similar license plate for the same class vehicle.

§ 1235.4 Removable windshield placards.

(a) The State system shall provide for the issuance and periodic renewal of a removable windshield placard, upon the application of a person with a disability which limits or impairs the ability to walk. The State system shall require that the issuing authority issue, upon request, one additional placard to applicants who do not have special license plates.

(b) The initial application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk.

(c) The State system shall require that the removable windshield placard is displayed in such a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard.

§ 1235.5 Temporary removable windshield placards.

(a) The State system shall provide for the issuance of a temporary removable windshield placard, upon the application of a person with a disability which limits or impairs the ability to walk. The State system shall require that the issuing authority issue, upon request, one additional temporary removable windshield placard to applicants.

(b) The State system shall require that the application shall be accompanied by the certification of a licensed physician that the applicant meets the §1235.2(b) definition of persons with disabilities which limit or impair the ability to walk.
impair the ability to walk. The certification shall also include the period of time that the physician determines the applicant will have the disability, not to exceed six months.

(c) The State system shall require that the temporary removable windshield placard is displayed in such a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities. When there is no rearview mirror, the placard shall be displayed on the dashboard.

(d) The State system shall require that the temporary removable windshield placard shall be valid for a period of time for which the physician has determined that the applicant will have the disability, not to exceed six months from the date of issuance.

§ 1235.6 Parking.
Special license plates, removable windshield placards, or temporary removable windshield placards displaying the International Symbol of Access shall be the only recognized means of identifying vehicles permitted to utilize parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

§ 1235.7 Parking space design, construction, and designation.
(a) Each State shall establish design, construction, and designation standards for parking spaces reserved for persons with disabilities, under criteria to be determined by the State. These standards shall:
(1) Ensure that parking spaces are accessible to, and usable by, persons with disabilities which limit or impair the ability to walk;
(2) Ensure the safety of persons with disabilities which limit or impair the ability to walk who use these spaces and their accompanying accessible routes; and
(3) Ensure uniform sign standards which comply with those prescribed by the “Manual on Uniform Traffic Control Devices for Streets and Highways” (23 CFR part 655, subpart F) to designate parking spaces reserved for persons with disabilities which limit or impair the ability to walk.

(b) The design, construction, and alteration of parking spaces reserved for persons with disabilities for which Federal funds participate must meet the Uniform Federal Accessibility Standards.

§ 1235.8 Reciprocity.
The State system shall recognize removable windshield placards, temporary removable windshield placards, and special license plates which have been issued by issuing authorities of other States and countries, for the purpose of identifying vehicles permitted to utilize parking spaces reserved for persons with disabilities which limit or impair the ability to walk.
APPENDIX A TO PART 1235—SAMPLE REMOVABLE WINDSHIELD PLACARD

COLORS
SYMBOL & LEGEND — WHITE
BACKGROUND — BLUE
PART 1240—SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS—ALLOCATIONS BASED ON SEAT BELT USE RATES

Subpart A—General

Sec. 1240.1 Purpose.
1240.2 Applicability.
1240.3 Definitions.

Subpart B—Determination of Allocations

1240.10 Identification of eligible States.
1240.11 Determination of State seat belt use rate for calendar years 1996 and 1997.
1240.12 Determination of State seat belt use rate for calendar year 1998 and beyond.
1240.13 Determination of national average seat belt use rate.
1240.14 Determination of Federal medical savings and notification of proposed allocations.
1240.15 Allocations.

APPENDIX A—ADJUSTMENT PROCEDURES FOR STATE-SUBMITTED INFORMATION (CALENDAR YEARS 1996 AND 1997)
APPENDIX B—PROCEDURES FOR MISSING OR INADEQUATE STATE-SUBMITTED INFORMATION (CALENDAR YEARS 1996 AND 1997)
APPENDIX C—CERTIFICATION (CALENDAR YEAR 1998 SURVEY BASED ON SURVEY APPROVED UNDER 23 U.S.C. 153)
APPENDIX D—DETERMINATION OF NATIONAL AVERAGE SEAT BELT USE RATE
APPENDIX E—DETERMINATION OF FEDERAL MEDICAL SAVINGS

SOURCE: 63 FR 57909, Oct 29, 1998, unless otherwise noted.

Subpart A—General

§ 1240.1 Purpose.
This part establishes requirements and procedures governing the allocation of funds to States made under 23 U.S.C. 157(c), based on seat belt use rates.

§ 1240.2 Applicability.
These procedures apply to all allocations of funds to States, based on seat belt use rates, beginning with allocations for fiscal year 1999.

§ 1240.3 Definitions.
As used in this part—
Base seat belt use rate means the highest State seat belt use rate for the State for any calendar year during the period from 1996 through the calendar year preceding the previous calendar year;
Federal medical savings means the amount of Federal budget savings relating to Federal medical costs (including savings under the Medicare and Medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.), as determined under this part;
FHWA means the Federal Highway Administration;
NHTSA means the National Highway Traffic Safety Administration;
Passenger motor vehicle means a passenger car, pickup truck, van, minivan, or sport utility vehicle;
State means any of the fifty States, the District of Columbia, or Puerto Rico.
State seat belt use rate means the seat belt use rate for a State, rounded to the nearest tenth of one percent, after any required weighting, adjustment, or substitution under this part, that is used in determining eligibility for and the amount of an allocation under this part.

Subpart B—Determination of Allocations

§ 1240.10 Identification of eligible States.
(a) On or about September 1, 1998, and each September 1 thereafter, NHTSA will identify, on the basis of seat belt use rates determined, as applicable, under §§1240.11, 1240.12, and 1240.13 of this part—
(1) Each State that had a State seat belt use rate during the previous calendar year and the year preceding the previous calendar year that exceeded the national average seat belt use rate for each of those years; and
(2) Each State that does not meet the requirements of paragraph (a)(1) of this section and that had a State seat belt use rate during the previous calendar year that exceeded the State’s base seat belt use rate.
(b) Any seat belt use rate used in making the determinations under this part shall be rounded to the nearest tenth of one percent.
(c) A State identified under paragraph (a)(1) or (a)(2) of this section, and not ineligible under §1240.12(a)(2) of this part, shall receive an allocation of funds reflecting the Federal medical savings, in accordance with the procedures of §§1240.14 and 1240.15 of this part.

§ 1240.11 Determination of State seat belt use rate for calendar years 1996 and 1997.

(a) Review of State-submitted information. NHTSA will review available seat belt use rate information submitted by each State for calendar years 1996 and 1997 to determine whether—

(1) Measurements of seat belt use were based on direct observation;
(2) At least 70 percent of observation sites were surveyed during the calendar year for which the seat belt use rate is reported;
(3) All passenger motor vehicles were sampled; and
(4) All front seat outboard occupants in the sampled vehicles were counted.

(b) Determination of State seat belt use rate. Seat belt use rate information submitted by a State for calendar year 1996 or 1997 will be—

(1) Accepted as the State seat belt use rate if it satisfies paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section.
(2) Accepted after adjustment in accordance with the procedures of Appendix A of this part, as the State seat belt use rate determined under the survey, reported as a percentage to one decimal place, accompanied by a survey report, consisting of all documentation identified in §1340.5 of chapter III of this title and summarizing the results of any analyses conducted under the survey.
(3) Rejected, and the procedures of Appendix B of this part shall apply, if it fails to satisfy paragraph (a)(3) or (a)(4) of this section.

§ 1240.12 Determination of State seat belt use rate for calendar year 1998 and beyond.

(a) State seat belt use survey.

(1) Beginning in calendar year 1998, State seat belt use rates used for determining allocations under this part shall be based on a survey conducted each calendar year by each State that satisfies all the requirements of Part 1340 of this title (the Uniform Criteria for State Observational Surveys of Seat Belt Use).
(2) A State that does not conduct a survey required under paragraph (a)(1) of this section in any calendar year, or that conducts a survey that does not satisfy all the requirements of part 1340 of chapter III of this title, shall be ineligible for an allocation of funds on the basis of both §1240.10(a)(1) and §1240.10(a)(2) of this part during the second and third succeeding fiscal years (e.g., if a State fails to conduct a conforming survey in calendar year 1998, the State is ineligible for an allocation of funds during FY 2000 and FY 2001).

(b) Submission of survey information.

(1) Each State shall submit to NHTSA, no later than March 1st after the calendar year during which a survey required under paragraph (a)(1) of this section is conducted, the seat belt use rate determined under the survey, reported as a percentage to one decimal place, accompanied by a survey report, consisting of all documentation identified in §1340.5 of chapter III of this title and summarizing the results of any analyses conducted under the survey.
(2) NHTSA will review a survey report submitted under paragraph (b)(1) of this section to determine whether the survey complies with all the requirements of §1340 of chapter III of this title. Written notice of approval or disapproval of a survey will be sent to the Governor’s Representative for Highway Safety within 30 days of receipt of the survey report. Any notice of disapproval will be accompanied by a detailed statement of the reasons for disapproval.

(3) A State may elect to submit a description of its proposed survey methodology, consisting of all documentation identified in §1340.5 (a), (b) and (c)(3) of chapter III of this title for advance review, prior to conducting the survey.

(4) NHTSA will review a proposed survey methodology submitted under paragraph (b)(3) of this section and inform the Governor’s Representative for Highway Safety in writing within 30 days of receipt of the proposed methodology whether the survey, if conducted in accordance with the methodology, would comply with all the requirements of §1340 of chapter III of this title.
§ 1240.13 Determination of national average seat belt use rate.

The national average seat belt use rate for a calendar year shall be the sum of the individual State seat belt use rates for all the States, after weighting each individual State seat belt use rate in accordance with the procedures of Appendix D of this part.

§ 1240.14 Determination of Federal medical savings and notification of proposed allocations.

On or about September 1, 1998, and each September 1 thereafter, NHTSA will—

(a) Calculate, in accordance with the procedures in Appendix E of this part, the Federal medical savings and each State’s share of those savings, due to the amount by which the State seat belt use rate for the previous calendar year—

(1) Exceeds the national average seat belt use rate for that calendar year, for each State described in § 1240.10(a)(1) of this part; or

(2) Exceeds the State’s base seat belt use rate, for each State described in § 1240.10(a)(2) of this part; and

(b) Notify the States described in § 1240.10(c) of this part of their proposed allocations, which shall be equal to the amount of the Federal medical savings calculated under paragraphs (a)(1) and (a)(2) of this section, as applicable, reduced proportionately across all States if the allocations would exceed the total amount authorized for allocation during the fiscal year.

§ 1240.15 Allocations.

(a) Funds allocated under this part shall be available for any projects eligible for assistance under title 23, United States Code.

(b) Not later than 25 days after notification under § 1240.14(b) of this part, the Governor’s Representative for Highway Safety and the Secretary of...
the State’s Department of Transportation for each State that receives notification shall jointly identify, in writing to the appropriate NHTSA Regional Administrator and FHWA Division Administrator, the amounts of the State’s proposed allocations that will be used in highway safety programs and in Federal-aid highway programs.

(c) On or about October 1, 1998, and each October 1 thereafter, the funds to which a State is entitled under this part will be allocated in the proportions identified by the State under paragraph (b) of this section, reduced proportionately across all States if the allocations would, in the aggregate, exceed total obligation limitations applicable to 23 U.S.C. 157.

(d) Thereafter, each State shall identify specific NHTSA program areas and FHWA projects for which the allocated funds will be used.

APPENDIX A—ADJUSTMENT PROCEDURES FOR STATE-SUBMITTED INFORMATION (CALENDAR YEARS 1996 AND 1997)

A. In States where State-submitted information on seat belt use rates does not include data for Front outboard occupants in passenger motor vehicles (FOPV), an adjustment will be made based on the national ratio of seat belt use rates for FOPV to the seat belt use rate for the group of occupants and vehicles that were included in the State-submitted information. The national seat belt use rates will be derived from the most recent National Occupant Protection Use Survey (NOPUS). For each affected State, the adjustment will be made by dividing the NOPUS seat belt use rate for FOPV by the NOPUS seat belt use rate for the surveyed group, or the seat belt use rate for the closest available group to the surveyed group. The NOPUS seat belt use rate for FOPV will be derived for each affected State by weighting the NOPUS seat belt use rates for passenger cars and for passenger motor vehicles that are not passenger cars (hereafter LTVs) by the relative number of registrations of passenger cars and LTVs in each State. This method will produce a factor which will be multiplied by the State’s survey-based seat belt use rate to produce an adjusted seat belt use rate reflecting the required vehicle and occupant population.

B. The process may be expressed mathematically as follows:

\[ U_a = \frac{U_s(N_{pc} \times R_{pc} + N_{ltv} \times R_{ltv})}{N_s} \]

Where:

- \( U_a \) = the adjusted State seat belt use rate
- \( U_s \) = the State-submitted seat belt use rate
- \( N_{pc} \) = the national front outboard passenger car seat belt use rate from NOPUS
- \( N_{ltv} \) = the national front outboard LTV seat belt use rate from NOPUS
- \( R_{pc} \) = the portion of State passenger motor vehicle registrations that are passenger cars
- \( R_{ltv} \) = the portion of State passenger motor vehicle registrations that are LTVs
- \( N_s \) = the national seat belt use rate for the State-surveyed vehicle and occupant population (or closest available group from NOPUS)

APPENDIX B—PROCEDURES FOR MISSING OR INADEQUATE STATE-SUBMITTED INFORMATION (CALENDAR YEARS 1996 AND 1997)

A. If State-submitted seat belt use rate information is unavailable or inadequate for both calendar years 1996 and 1997, State seat belt use rates for calendars year 1996 and 1997 will be estimated based on seat belt use rates of fatally-injured occupants. Data from the Fatality Analysis Reporting System (FARS) will be translated into estimated observed seat belt use rates using an algorithm that relates historical belt use by fatally-injured occupants to observed use.1

B. The algorithm is as follows:

\[ u = \frac{(-.221794 + \sqrt{.049193 + .410769F})}{.456410} \]

Where:

- \( u \) = the estimated observed seat belt use
- \( F \) = the seat belt use in potentially fatal crashes

In the above formula, \( F \) is calculated as follows:

\[ F = \frac{f / (1 - e)}{(f / (1 - e)) + 1 - f} \]

Where:

- \( e \) = State-specific weighted average effectiveness of seat belts in passenger cars and passenger motor vehicles that are not passenger cars
- \( f \) = State-specific seat belt use rate of fatally-injured occupants of passenger vehicles

C. If State-submitted seat belt use rate information is available for either calendar year 1996 or 1997, but not both, a State seat belt use rate for the year for which information is missing will be estimated by calculating the percent change in the FARS-based observed seat belt use rate (derived from the above algorithm) between the two years. This factor will then be applied to the seat belt use rate from the known year to derive

an estimate of the seat belt use rate for the unknown year.

APPENDIX C—CERTIFICATION (CALENDAR YEAR 1998 SURVEY BASED ON SURVEY APPROVED UNDER 23 U.S.C. 153)

State Certification—Calendar Year 1998 Seat Belt Use Survey

State of: ____________________

Seat Belt Use Rate Reported for Calendar Year ____________: ______%.

In accordance with the provisions of 23 CFR 1240.12(c)(2), I hereby certify as follows:
1. The seat belt use rate reported above is based on a survey whose design was approved by NHTSA. In writing, on or after June 29, 1992, under the provisions of the grant program authorized by 23 U.S.C. 153.
2. The survey design has remained unchanged since the survey was approved (except to the extent that the requirements of paragraph 3 constitute a change).
3. The survey samples all passenger motor vehicles (including cars, pickup trucks, vans, minivans, and sport utility vehicles), measures seat belt use by all front outboard occupants in the sampled vehicles, and counts seat belt use completely within the calendar year for which the seat belt use rate is reported.

Governor’s Representative for Highway Safety

(Date)

APPENDIX D—DETERMINATION OF NATIONAL AVERAGE SEAT BELT USE RATE

A. To determine the national average seat belt use rate in a calendar year, each State seat belt use rate for the calendar year will be weighted to reflect the percentage of total national vehicle miles traveled attributable to that State.

B. If a State seat belt use rate is unavailable for a State during a calendar year (either because the State did not conduct a seat belt use survey or a survey was conducted but does not comply with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340), NHTSA will calculate a State seat belt use rate, using the last available State seat belt use rate determined under §1240.11 or §1240.12 of this part, as applicable, along with information on seat belt use rates from the FARS, and an algorithm relating FARS seat belt use rates to observed seat belt use rates (see Appendix 1, note). This procedure will produce an estimated State seat belt use rate for the unknown calendar year. The estimated State seat belt use rate will then be weighted in the manner described in paragraph A of this appendix.

C. The national average seat belt use rate for the calendar year will be determined by adding the weighted State seat belt use rates for each of the States (i.e., the national average seat belt use rate is the weighted average of all the State seat belt use rates).

D. NHTSA may elect to use a seat belt use survey that does not comply with the Uniform Criteria for State Observational Surveys of Seat Belt Use in determining the national average seat belt use rate (even though the State that submitted the survey is ineligible to receive an allocation of funds), if in NHTSA’s judgment, the deficiencies in the survey are not so substantial as to render the survey less accurate than the FARS estimate.

APPENDIX E—DETERMINATION OF FEDERAL MEDICAL SAVINGS

A. To determine the savings to the Federal Government from reduced medical costs attributable to seat belt use, NHTSA will first estimate the impact of seat belt use on the number of fatalities and injuries, using methods described in the report “Estimating the Benefits from Increased Safety Belt Use.”1 These methods establish a relationship between the effectiveness of seat belts, current use rates, and existing injury levels to determine the impact of increasing seat belt use on motor vehicle safety. Using these methods, NHTSA will estimate the fatalities prevented and the non-fatal injuries avoided by increased seat belt use.

B. In the 1996 report “The Economic Cost of Motor Vehicle Crashes, 1994,”2 NHTSA measured both the medical costs and payment sources for motor vehicle crashes. NHTSA will adjust the national medical cost figures from this report to individual State income levels to reflect local cost levels. These per-case costs will be further adjusted for inflation, using the most recent annual average Consumer Price Index for medical care, and then multiplied by the injuries and fatalities prevented in each State to derive the total medical care savings from increased seat belt use. The Federal portion of these costs will be derived from the best available data found in the same cost report or in other sources, as they may become available.


SUBCHAPTER C—GENERAL PROVISIONS

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

Sec. 1250.1 Scope.
1250.2 Purpose.
1250.3 Policy.
1250.4 Determining local share.
1250.5 Waivers.

AUTHORITY: 23 U.S.C. 315, 402(b); and delegations of authority at 49 CFR 1.48 and 1.50.

SOURCE: 41 FR 23948, June 14, 1976, unless otherwise noted.

§ 1250.1 Scope.
This part establishes guidelines for the States to assure their meeting the requirements for 40 percent political subdivision participation in State highway safety programs under 23 U.S.C. 402 (b)(1)(C).

§ 1250.2 Purpose.
The purpose of this part is to provide guidelines to determine whether a State is in compliance with the requirement that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 will be expended by political subdivisions of such State.

§ 1250.3 Policy.
To assure that the provisions of 23 U.S.C. 402(b)(1)(C) are complied with, the NHTSA and FHWA field offices will:
(a) Prior to approving the State’s Annual Work Program (AWP), review the AWP and each of the subelement plans which make up the AWP. The NHTSA Regional Administrator will review the 14½ safety standard areas for which NHTSA is responsible and the FHWA Division Administrator will review the 3½ safety standard areas for which FHWA is responsible. The narrative description for each subelement plan should contain sufficient information to identify the funds to be expended by, or for the benefit of the political subdivisions.
(b) Withhold approval of a State’s AWP, as provided in Highway Safety Program Manual volume 103, chapter III, paragraph 3c, where the program does not provide at least 40 percent of Federal funds for planned local program expenditures.
(c) During the management review of the State’s operations, determine if the political subdivisions had an active voice in the initiation, development and implementation of the programs for which such sums were expended.

§ 1250.4 Determining local share.
(a) In determining whether a State meets the requirement that at least 40 percent of Federal 402 funds be expended by political subdivisions, FHWA and NHTSA will apply the 40 percent requirement sequentially to each fiscal year’s apportionments, treating all apportionments made from a single fiscal year’s authorizations as a single entity for this purpose. Therefore, at least 40 percent of each State’s apportionments from each year’s authorizations must be used in the highway safety programs of its political subdivisions prior to the period when funds would normally lapse. The 40 percent requirement is applicable to the State’s total federally funded safety program irrespective of Standard designation or Agency responsibility.
(b) When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision, such expenditures are clearly part of the local share. Local safety project related expenditures and associated indirect costs, which are reimbursable to the grantee local governments, are classifiable as the local share of Federal funds. Illustrations of such expenditures are the cost incurred by a local government in planning and administration of project related safety activities, driver education activities, traffic court programs, traffic records system improvements, upgrading emergency medical services, pedestrian safety activities, improved traffic enforcement, alcohol countermeasures, highway debris removal programs, pupil transportation programs, accident investigation, surveillance of high accident locations, and traffic engineering services.
§ 1250.5

(c) When Federal funds apportioned under 23 U.S.C. 402 are expended by the State or a State agency for the benefit of a political subdivision, such funds may be considered as part of the local share, provided that the political subdivision benefitted has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. In no case may the State arbitrarily ascribe State agency expenditures as "benefitting local government." Where political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, and a political subdivision which has not had such active voice agrees in advance of implementation to accept the benefits of the program, the Federal share of the cost of such benefits may be credited toward meeting the 40 percent local participation requirement. Where no political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, but a political subdivision requests the benefits of the program as part of the local government’s highway safety program, the Federal share of the cost of such benefits may be credited toward meeting the 40 percent local participation requirement. Evidence of consent and acceptance of the work, goods or services on behalf of the local government must be established and maintained on file by the State, until all funds authorized for a specific year are expended and audits completed.

(d) State agency expenditures which are generally not classified as local are within such standard areas as vehicle inspection, vehicle registration and driver licensing. However, where these Standards provide funding for services such as: driver improvement tasks administered by traffic courts, or where they furnish computer support for local government requests for traffic record searches, these expenditures are classifiable as benefitting local programs.

§ 1250.5 Waivers.

While the 40 percent requirement may be waived in whole or in part by the Secretary or his delegate, it is expected that each State program will generate political subdivision participation to the extent required by the Act so that requests for waivers will be minimized. Where a waiver is requested, however, it will be documented at least by a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State and will recommend the appropriate percentage participation to be applied in lieu of the 40 percent.

PART 1251—STATE HIGHWAY SAFETY AGENCY

Sec. 1251.1 Purpose.
1251.2 Policy.
1251.3 Authority.
1251.4 Functions.


SOURCE: 45 FR 59145, Sept. 8, 1980, unless otherwise noted.

§ 1251.1 Purpose.

The purpose of this part is to prescribe the minimum authority and functions of the State Highway Safety Agency established in each State by the Governor under the authority of the Highway Safety Act (23 U.S.C. 402).

§ 1251.2 Policy.

In order for a State to receive funds under the Highway Safety Act, the Governor shall exercise his or her responsibilities through a State Highway Safety Agency that has “adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary.” 23 U.S.C. 402(b)(1)(A). Accordingly, it is the policy of this part that approval of a State’s Highway Safety Plan will depend upon the State’s compliance with §§1251.3 and 1251.4 of this part.

§ 1251.3 Authority.

Each State Highway Safety Agency shall be authorized to:
(a) Develop and implement a process for obtaining information about the highway safety programs administered by other State and local agencies.
(b) Periodically review and comment to the Governor on the effectiveness of highway safety plans and activities in the State regardless of funding source.
(c) Provide or facilitate the provision of technical assistance to other State agencies and political subdivisions to develop highway safety programs.
(d) Provide financial and technical assistance to other State agencies and political subdivisions in carrying out highway safety programs.

§1251.4 Functions.

Each State Highway Safety Agency shall:
(a) Develop and prepare the Highway Safety Plan prescribed by volume 102 of the Highway Safety Program Manual (23 CFR 1204.4, Supplement B), based on evaluation of highway accidents and safety problems within the State.
(b) Establish priorities for highway safety programs funded under 23 U.S.C. 402 within the State.
(c) Provide information and assistance to prospective aid recipients on program benefits, procedures for participation, and development of plans.
(d) Encourage and assist local units of government to improve their highway safety planning and administration efforts.
(e) Review the implementation of State and local highway safety plans and programs, regardless of funding source, and evaluate the implementation of those plans and programs funded under 23 U.S.C. 402.
(f) Monitor the progress of activities and the expenditure of section 402 funds contained in the State’s approved Highway Safety Plan.
(g) Assure that independent audits are made of the financial operations of the State Highway Safety Agency and of the use of section 402 funds by any subrecipient.
(h) Coordinate the State Highway Safety Agency’s Highway Safety Plan with other federally and non-federally supported programs relating to or affecting highway safety.
(i) Assess program performance through analysis of data relevant to highway safety planning.

PART 1252—STATE MATCHING OF PLANNING AND ADMINISTRATION COSTS

§1252.1 Purpose.

This part establishes the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) policy on planning and administration (P&A) costs for State highway safety agencies. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, describes how the requirement will be met, and when States will have to comply with the requirement.

§1252.2 Definitions.

(a) Fiscal year means the twelve months beginning each October 1, and ending the following September 30.
(b) Direct costs are those costs which can be identified specifically with a particular planning and administration or program activity. The salary of a data analyst on the State highway safety agency staff is an example of a direct cost attributable to P&A. The salary of an emergency medical technician course instructor is an example of direct cost attributable to a program activity.
(c) Indirect costs are those costs (1) incurred for a common or joint purpose benefitting more than one program activity and (2) not readily assignable to the program activity specifically benefited. For example, centralized support services such as personnel, procurement, and budgeting would be indirect costs.
(d) Planning and administration (P&A) costs are those direct and indirect costs that are attributable to the overall development and management of the Highway Safety Plan. Such costs could include salaries, related personnel benefits, travel expenses, and rental costs.
(e) Program management costs are those costs attributable to a program activity.
§ 1252.3 Applicability.  
The provisions of this part apply to obligations incurred after November 6, 1978, for planning and administration costs under 23 U.S.C. 402.

§ 1252.4 Policy.  
Federal participation in P&A activities shall not exceed 50 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. The Federal contribution for P&A activities shall not exceed 10 percent of the total funds the State receives under 23 U.S.C. 402. In accordance with 23 U.S.C. 120(1), the Federal share payable for projects in the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian State, as defined by 23 U.S.C. 402(d) and (i), is exempt from the provisions of this part. NHTSA funds shall be used only to finance P&A activities attributable to NHTSA programs and FHWA funds shall be used only to finance P&A costs attributable to FHWA programs.

[47 FR 15121, Apr. 8, 1982]

§ 1252.5 Procedures.  
(a) P&A tasks and related costs shall be described in the P&A module of the State’s Highway Safety Plan. The State’s matching share shall be determined on the basis of the total P&A costs in the module. Federal participation shall not exceed 50 percent (or the applicable sliding scale) of the total P&A costs. A State shall not use NHTSA funds to pay more than 50 percent of the P&A costs attributable to NHTSA programs nor use FHWA funds to pay more than 50 percent of the P&A costs attributable to FHWA programs. In addition, the Federal contribution for P&A activities shall not exceed 10 percent of the total funds in the State received under 23 U.S.C. 402.

(b) FHWA and NHTSA funds may be used to pay for the Federal share of P&A costs up to the amounts determined by multiplying the Federal share by the ratio between the P&A costs attributable to FHWA programs and the P&A costs attributable to NHTSA programs. For example: A State’s total P&A costs are $40,000. The State’s share is 50 percent or $20,000. To pay the remaining $20,000, the State first ascertains the amount spent out of the total costs for each agency’s programs, then applies the ratio between these two amounts to the $20,000. If $36,000 of the total costs are spent for NHTSA programs and $4,000 for FHWA programs, the ratio would be 9/1 and the corresponding allocation of the Federal share would be $18,000 to NHTSA and $2,000 to FHWA.

(c) A State at its option may allocate salary and related costs of State highway safety agency employees to one of the following:

1. The administration and planning functions in the P&A module;
2. The program management functions in one or more Program modules; or
3. A combination of administration and planning functions in the P&A module and the program management functions in one or more program modules.

(d) If an employee is principally performing administration and planning functions under a P&A module, the total salary and related costs may be allocated directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged directly to the appropriate module(s).

(e) If the State highway safety agency elects to allocate costs based on actual time spent on an activity, the State highway safety agency must keep accurate time records showing the work activities for each employee. The State’s record keeping system...
must be approved by the appropriate FHWA and NHTSA officials.

(e) Those tasks and related costs contained in the P&A module, not defined as P&A costs under §1252.2(d) of this part, are not subject to the planning and administration cost matching requirement.

[45 FR 47145, July 14, 1980, as amended at 47 FR 15121, Apr. 8, 1982]

§ 1252.6 Responsibilities.

During the Highway Safety Plan approval process, the responsible FHWA and NHTSA officials shall approve a P&A module only if the projected State expenditure is at least 25 percent (or the appropriate sliding scale rate) of the total P&A costs identified in the module. If a State elects to prorate P&A and program management costs, the appropriate NHTSA and FHWA officials must approve the method that the State highway safety agency will use to record the time spent on these activities. During the process of reimbursement, the responsible FHWA and NHTSA officials shall assure that Federal reimbursement for P&A costs at no time exceeds 75 percent (of the applicable sliding scale rate) of the costs accumulated at the time of reimbursement.
SUBCHAPTER D—TRANSFER AND SANCTION PROGRAMS

PART 1270—OPEN CONTAINER LAWS

Sec.
1270.1 Scope.
1270.2 Purpose.
1270.3 Definitions.
1270.4 Compliance criteria.
1270.5 Certification requirements.
1270.6 Transfer of funds.
1270.7 Use of transferred funds.
1270.8 Procedures affecting States in non-compliance.


SOURCE: 63 FR 53585, Oct. 6, 1998, unless otherwise noted.

§ 1270.1 Scope.

This part prescribes the requirements necessary to implement Section 154 of Title 23 of the United States Code which encourages States to enact and enforce open container laws.

§ 1270.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the transfer of Federal-aid highway funds for noncompliance with 23 U.S.C. 154.

§ 1270.3 Definitions.

As used in this part:
(a) Alcoholic beverage means:
(1) Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
(2) Wine of not less than one-half of 1 per centum of alcohol by volume; or
(3) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).
(b) Enact and enforce means the State’s law is in effect and the State has begun to implement the law.
(c) Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail or rails.
(d) Open alcoholic beverage container means any bottle, can, or other receptacle that:
(1) Contains any amount of alcoholic beverage; and
(2)(i) Is open or has a broken seal; or
(ii) The contents of which are partially removed.
(e) Passenger area means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment.
(f) Public highway or right-of-way of a public highway means the width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel; inclusion of the roadway and shoulders is sufficient.
(g) State means any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.


§ 1270.4 Compliance criteria.

(a) To avoid the transfer of funds as specified in §1270.6 of this part, a State must enact and enforce a law that prohibits the possession of any open alcoholic beverage container, and the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.
(b) The law must apply to:
(1) The possession of any open alcoholic beverage container and the consumption of any alcoholic beverage;
(2) The passenger area of any motor vehicle;
(3) All alcoholic beverages;
(4) All occupants of a motor vehicle; and
(5) All motor vehicles located a
§ 1270.5 Certification requirements.

(a) Until a State has been determined to be in compliance, or after a State has been determined to be in non-compliance, with the requirements of 23 U.S.C. 154, to avoid the transfer of funds in any fiscal year, beginning with FY 2001, the State shall certify to the Secretary of Transportation, on or before September 30 of the previous fiscal year, that it meets the requirements of 23 U.S.C. 154 and this part.

(b) The certification shall be made by an appropriate State official, and it shall provide that the State has enacted and is enforcing an open container law that conforms to the requirements of 23 U.S.C. 154 and §1270.4 of this part.

1. If the State’s open container law is currently in effect and is being enforced, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of ___., do hereby certify that the (State or Commonwealth) of ___, has enacted and is enforcing an open container law that conforms to the requirements of 23 U.S.C. 154 and 23 CFR 1270.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as need ed).

2. If the State’s open container law is not currently in effect, but will become effective and be enforced by October 1 of the following fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of ___, do hereby certify that the (State or Commonwealth) of ___, has enacted an open container law that conforms to the requirements of 23 U.S.C. 154 and 23 CFR 1270.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as need ed), and will become effective and be enforced as of (effective date of the law).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications to the appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 154, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State’s open container law changes or the State ceases to enforce such law.


§ 1270.6 Transfer of funds.

(a) On October 1, 2000, and October 1, 2001, if a State does not have in effect or is not enforcing the law described in §1270.4, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State for that fiscal year under each of 23 U.S.C. 104(b)(1), (b)(3), and (b)(4) to the apportionment of the State under 23 U.S.C. 402.

(b) On October 1, 2002, and each October 1 thereafter, if a State does not have in effect or is not enforcing the
§ 1270.7 Use of transferred funds.

(a) Any funds transferred under §1270.6 may:
(1) Be used for approved projects for alcohol-impaired driving countermeasures; or
(2) Be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).
(b) States may elect to use all or a portion of the transferred funds for hazard elimination activities eligible under 23 U.S.C. 152.
(c) No later than 60 days after the funds are transferred under §1270.6, the Governor’s Representative for Highway Safety and the Secretary of the State’s Department of Transportation for each State shall jointly identify, in writing to the appropriate NHTSA Administrator and FHWA Division Administrator, how the funds will be programmed among alcohol-impaired driving programs, hazard elimination programs and planning and administration costs.
(d) The Federal share of the cost of any project carried out with the funds transferred under §1270.6 of this part shall be 100 percent.

(e) The amount to be transferred under §1270.6 of this part may be derived from one or more of the following:
(1) The apportionment of the State under §104(b)(1);
(2) The apportionment of the State under §104(b)(3); or
(3) The apportionment of the State under §104(b)(4).
(f)(1) If any funds are transferred under §1270.6 of this part to the apportionment of a State under Section 402 for a fiscal year, an amount determined under paragraph (e)(2) of this section, of obligation authority will be distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under Section 402.
(2) The amount of obligation authority referred to in paragraph (e)(1) of this section shall be determined by multiplying:
(i) The amount of funds transferred under §1270.6 of this part to the apportionment of the State under Section 402 for the fiscal year; by
(ii) The ratio that:
(A) The amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to
(B) The total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.
(g) Notwithstanding any other provision of law, no limitation on the total obligations for highway safety programs under Section 402 shall apply to funds transferred under §1270.6 to the apportionment of a State under such section.

§ 1270.8 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 154 and this part, based on NHTSA’s and FHWA’s preliminary review of its certification, will be advised of the funds expected to be transferred
under §1270.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 154 and this part, based on the agencies’ preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the appropriate National Highway Traffic Safety Administration Regional office.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 154 and this part, based on NHTSA’s and FHWA’s final determination, will receive notice of the funds being transferred under §1270.6 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

PART 1275—REPEAT INTOXICATED DRIVER LAWS

Sec. 1275.1 Scope.
1275.2 Purpose.
1275.3 Definitions.
1275.4 Compliance criteria.
1275.5 Certification requirements.
1275.6 Transfer of funds.
1275.7 Use of transferred funds.
1275.8 Procedures affecting States in noncompliance.


SOURCE: 63 FR 55802, Oct. 19, 1998, unless otherwise noted.

§ 1275.1 Scope.

This part prescribes the requirements necessary to implement Section 164 of Title 23, United States Code, which encourages States to enact and enforce repeat intoxicated driver laws.

§ 1275.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the transfer of Federal-aid highway funds for noncompliance with 23 U.S.C. 164.

§ 1275.3 Definitions.

As used in this part:
(a) Alcohol concentration means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.
(b) Driver’s motor vehicle means a motor vehicle with a title or registration on which the repeat intoxicated driver’s name appears.
(c) Driving while intoxicated means driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State, or an equivalent non-BAC intoxicated driving offense.
(d) Driving under the influence has the same meaning as “driving while intoxicated.”
(e) Enact and enforce means the State’s law is in effect and the State has begun to implement the law.
(f) Ignition interlock system means a State-certified system designed to prevent drivers from starting their car when their breath alcohol concentration is at or above a preset level.
(g) Impoundment or immobilization means the removal of a motor vehicle from a repeat intoxicated driver’s possession or the rendering of a repeat intoxicated driver’s motor vehicle inoperative. For the purpose of this regulation, “impoundment or immobilization” also includes the forfeiture or confiscation of a repeat intoxicated driver’s motor vehicle or the revocation or suspension of a repeat intoxicated driver’s motor vehicle license plate or registration.
(h) Imprisonment means confinement in a jail, minimum security facility, community corrections facility, house arrest with electronic monitoring, inpatient rehabilitation or treatment center, or other facility, provided the individual under confinement is in fact being detained.
(i) License suspension means a hard suspension of all driving privileges.
(j) Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.
§ 1275.4

(k) Repeat intoxicated driver means a person who has been convicted of driving while intoxicated or driving under the influence of alcohol more than once in any five-year period.

(l) Repeat intoxicated driver law means a State law that imposes the minimum penalties specified in §1275.4 of this part for all repeat intoxicated drivers.

(m) State means any of the 50 States, the District of Columbia or the Commonwealth of Puerto Rico.


§ 1275.4 Compliance criteria.

(a) To avoid the transfer of funds as specified in §1275.6 of this part, a State must enact and enforce a law that establishes, as a minimum penalty, that all repeat intoxicated drivers shall:

(1) Receive a driver’s license suspension of not less than one year;

(2) Be subject to either—

(i) The impoundment of each of the driver’s motor vehicles during the one-year license suspension;

(ii) The immobilization of each of the driver’s motor vehicles during the one-year license suspension; or

(iii) The installation of a State-approved ignition interlock system on each of the driver’s motor vehicles at the conclusion of the one-year license suspension;

(3) Receive an assessment of their degree of alcohol abuse, and treatment as appropriate; and

(4) Receive a mandatory sentence of—

(i) Not less than five days of imprisonment or 30 days of community service for a second offense; and

(ii) Not less than ten days of imprisonment or 60 days of community service for a third or subsequent offense.

(b) Exceptions.

(1) A State may provide limited exceptions to the requirement to install an ignition interlock system on each of the offender’s motor vehicles, contained in paragraph (a)(2)(iii) of this section, on an individual basis, to avoid undue financial hardship, provided the State law requires that the offender may not operate a motor vehicle without an ignition interlock system.

(3) Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which vehicles may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender’s motor vehicle, and may not result in the unrestricted use of the vehicle by the repeat intoxicated driver.


§ 1275.5 Certification requirements.

(a) Until a State has been determined to be in compliance, or after a State has been determined to be in non-compliance, with the requirements of 23 U.S.C. 164, to avoid the transfer of funds in any fiscal year, beginning with FY 2001, the State shall certify to the Secretary of Transportation, on or before September 30 of the previous fiscal year, that it meets the requirements of 23 U.S.C. 164 and §1275.4 of this part.

(b) The certification shall be made by an appropriate State official, and it shall provide that the State has enacted and is enforcing a repeat intoxicated driver law that conforms to 23 U.S.C. 164 and §1275.4 of this part.

(1) If the State’s repeat intoxicated driver law is currently in effect and is being enforced, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of ______, do hereby certify that the (State or Commonwealth) of ______, has enacted and is enforcing a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed).

(2) If the State’s repeat intoxicated driver law is not currently in effect,
but will become effective and be enforced by October 1 of the following fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of ___ has enacted a repeat intoxicated driver law that conforms to the requirements of 23 U.S.C. 164 and 23 CFR 1275.4, (citations to pertinent State statutes, regulations, case law or other binding legal requirements, including definitions, as needed), and will become effective and be enforced as of (effective date of the law).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications to the appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 164, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State’s repeat intoxicated driver legislation changes or the State ceases to enforce its law.


§ 1275.6 Transfer of funds.

(a) On October 1, 2000, and October 1, 2001, if a State does not have in effect or is not enforcing the law described in §1275.4, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State for the fiscal year under each of 23 U.S.C. 104(b)(1), (b)(3), and (b)(4) to the apportionment of the State under 23 U.S.C. 402.

(b) On October 1, 2002, and each October 1 thereafter, if a State does not have in effect or is not enforcing the law described in §1275.4, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State for the fiscal year under each of 23 U.S.C. 104(b)(1), (b)(3), and (b)(4) to the apportionment of the State under 23 U.S.C. 402.

(c) On October 1, the transfers to section 402 apportionments will be made based on proportionate amounts from each of the apportionments under 23 U.S.C. 104(b)(1), (b)(3) and (b)(4). Then the States will be given until October 30 to notify FHWA, through the appropriate Division Administrator, if they would like to change the distribution among 23 U.S.C. 104(b)(1), (b)(3) and (b)(4).


§ 1275.7 Use of transferred funds.

(a) Any funds transferred under §1275.6 may:

(1) Be used for approved projects for alcohol-impaired driving countermeasures; or

(2) Be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(b) States may elect to use all or a portion of the transferred funds for hazard elimination activities eligible under 23 U.S.C. 152.

(c) The Governor’s Representative for Highway Safety and the Secretary of the State’s Department of Transportation for each State shall jointly identify, in writing to the appropriate NHTSA Administrator and FHWA Division Administrator, how the funds will be programmed among alcohol-impaired driving programs, hazard elimination programs, and planning and administration costs, no later than 60 days after the funds are transferred.

(d) The Federal share of the cost of any project carried out with the funds transferred under §1275.6 of this part shall be 100 percent.

(e) The amount to be transferred under §1275.6 of this Part may be derived from one or more of the following:

1. The apportionment of the State under §104(b)(1);

2. The apportionment of the State under §104(b)(3); or

3. The apportionment of the State under §104(b)(4).
§ 1275.8

(1) If any funds are transferred under §1275.6 of this part to the apportionment of a State under Section 402 for a fiscal year, an amount, determined under paragraph (e)(2) of this section, of obligation authority will be distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under Section 402.

(2) The amount of obligation authority referred to in paragraph (e)(1) of this section shall be determined by multiplying:

(i) The amount of funds transferred under §1275.6 of this Part to the apportionment of the State under Section 402 for the fiscal year; by

(ii) The ratio that:

(A) The amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

(B) The total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(g) Notwithstanding any other provision of law, no limitation on the total obligations for highway safety programs under Section 402 shall apply to funds transferred under §1275.6 to the apportionment of a State under such section.


§ 1275.8 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 164 and this part, based on NHTSA’s and FHWA’s preliminary review of its certification, will be advised of the funds expected to be transferred under §1275.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 164 and this part, based on the agencies’ preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the appropriate National Highway Traffic Safety Administration Regional office.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 164 and this part, based on NHTSA’s and FHWA’s final determination, will receive notice of the funds being transferred under §1275.6 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.
CHAPTER III—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

<table>
<thead>
<tr>
<th>Part</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1313</td>
<td>Incentive grant criteria for alcohol-impaired driving prevention programs</td>
<td>455</td>
</tr>
<tr>
<td>1327</td>
<td>Procedures for participating in and receiving information from the National Driver Register Problem Driver Pointer System</td>
<td>466</td>
</tr>
<tr>
<td>1335</td>
<td>State highway safety data improvements</td>
<td>476</td>
</tr>
<tr>
<td>1340</td>
<td>Uniform criteria for State observational surveys of seat belt use</td>
<td>479</td>
</tr>
<tr>
<td>1345</td>
<td>Incentive grant criteria for occupant protection programs</td>
<td>482</td>
</tr>
<tr>
<td>1346–1399 [Reserved]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PART 1313—INCENTIVE GRANT CRITERIA FOR ALCOHOL IMPAIRED DRIVING PREVENTION PROGRAMS

Sec. 1313.1 Scope.  
1313.2 Purpose.  
1313.3 Definitions.  
1313.4 General requirements.  
1313.5 Requirements for a programmatic basic grant.  
1313.6 Requirements for a performance basic grant.  
1313.7 Requirements for a supplemental grant.  
1313.8 Award procedures.  

APPENDIX A TO PART 1313—TAMPER RESISTANT DRIVER’S LICENSE  

SOURCE: 63 FR 71700, Dec. 29, 1998, unless otherwise noted.  

§ 1313.1 Scope.  
This part establishes criteria, in accordance with 23 U.S.C. 410, for awarding incentive grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol.  

§ 1313.2 Purpose.  
The purpose of this part is to encourage States to adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol.  

§ 1313.3 Definitions.  
(a) Alcoholic beverage means wine containing one-half of one percent or more of alcohol by volume, beer and distilled spirits. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part, or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.  
(b) Blood alcohol concentration or BAC means grams of alcohol per deciliter or 100 milliliters blood or grams of alcohol per 210 liters of breath.  
(c) Controlled substance has the meaning given such term under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).  
(d) FARS means NHTSA’s Fatality Analysis Reporting System, previously called the Fatal Accident Reporting System.  
(e) Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated only on a rail line.  
(f) Operating a motor vehicle while under the influence of alcohol means operating a vehicle while the alcohol concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State that would be deemed to be or equivalent to the standard driving while intoxicated offense in the State.  
(g) Standard driving while intoxicated (DWI) offense means the law in the State that makes it a criminal offense to operate a motor vehicle while under the influence of or intoxicated by alcohol, but does not require a measurement of alcoholic content.  

§ 1313.4 General requirements.  
(a) Qualification requirements. To qualify for a grant under 23 U.S.C. 410, a State must, for each fiscal year it seeks to qualify:  
(1) Submit an application to the appropriate NHTSA Regional Office that demonstrates that it meets the requirements of §1313.5 and/or §1313.6 and, if applicable, §1313.7, and includes certifications that:  
(i) It has an alcohol-impaired driving prevention program that meets the requirements of 23 U.S.C. 410 and 23 CFR Part 1313;  
(ii) It will use the funds awarded under 23 U.S.C. 410 only for the implementation and enforcement of alcohol-impaired driving prevention programs;
§ 1313.5

23 CFR Ch. III (4–1–01 Edition)

(iii) It will administer the funds in accordance with 49 CFR Part 18 and OMB Circulars A–102 and A–87; and

(iv) It will maintain its aggregate expenditures from all other sources for its alcohol-impaired driving prevention programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used); and

2. After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obligating the Section 410 funds to alcohol-impaired driving prevention programs.

3. Submit a State Highway Safety Plan by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR part 1200, that documents how the State intends to use the Section 410 grant funds.

4. Submit an application for grant funds, which must be received by the agency not later than August 1 of the fiscal year for which the State is applying for funds.

b. Limitation on grants. A State may receive grants for up to six fiscal years beginning after September 30, 1997, subject to the following limitations:

1. After September 30, 1998, the amount of each basic grant in a fiscal year, under §1313.5 or §1313.6, shall equal 25 percent of the State’s apportionment under 23 U.S.C. 402 for FY 1997, subject to the availability of funds. If a State qualifies for basic grants in a fiscal year under both §1313.5 and §1313.6, the total amount of basic grants in the fiscal year shall equal 50 percent of the State’s 23 U.S.C. 402 apportionment for FY 1997, subject to the availability of funds.

2. After September 30, 1998, the amount of a State’s supplemental grant in a fiscal year, under §1313.7, shall be determined by multiplying the number of supplemental grant criteria the State meets by five percent of the State’s 23 U.S.C. 402 apportionment for FY 1997, except that the amount shall be subject to the availability of funds. The amount available for supplemental grants for all States in a fiscal year, under §1313.7, shall not exceed ten percent of the total amount made available under 23 U.S.C. 410 for the fiscal year.

3. In the first and second fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

4. In the third and fourth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

5. In the fifth and sixth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

§ 1313.5 Requirements for a programmatic basic grant.

To qualify for a programmatic basic incentive grant of 25 percent of the State’s 23 U.S.C. 402 apportionment for FY 1997, a State must adopt and demonstrate compliance with at least five of the following criteria:

(a) Administrative license suspension or revocation system—(1) Criterion. An administrative driver’s license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that:

(i) In the case of an individual who, in any five-year period beginning after June 9, 1996, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State entity responsible for administering driver’s licenses, upon receipt of the report of the law enforcement officer, shall:

(A) Suspend all driving privileges for a period of not less than 90 days if the individual refused to submit to a chemical test and is a first offender;
(B) Suspend all driving privileges for a period of not less than 90 days, or not less than 30 days followed immediately by a period of not less than 60 days of a restricted, provisional or conditional license, if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol,
and is a first offender. A restricted, provisional or conditional license may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which such a license may be issued, or with statewide published guidelines, and in exceptional circumstances specific to the offender; and

(C) Suspend or revoke all driving privileges for a period of not less than one year if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or refused to submit to such a test, and is a repeat offender; and

(ii) The suspension or revocation shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be operating a motor vehicle while under the influence of alcohol, in accordance with the procedures of the State.

(2) Definitions—(i) First offender means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, once in any five-year period beginning after June 9, 1998.

(ii) Repeat offender means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, more than once in any five-year period beginning after June 9, 1998.

(3) Demonstrating compliance for Law States. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting an existing law or regulation that provides for each element of this criterion.

(ii) For purposes of this paragraph, Law State means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation that provides for each element of this criterion.

(4) Demonstrating compliance for Data States. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Data State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for an administrative license suspension or revocation system, and data showing that the State substantially complies with each element of this criterion not specifically provided for in the State’s law, regulation or binding policy directive.

(ii) The State can provide the necessary data based on a representative sample, on the average number of days it took to suspend or revoke a driver’s license and on the average lengths of suspension or revocation periods, except that data on the average lengths of suspension or revocation periods must not include license suspension periods that exceed the terms actually prescribed by the State, and must reflect terms only to the extent that they are actually completed.

(iv) For the purpose of this paragraph, Data State means a State that has a law, regulation or binding policy directive implementing or interpreting
§ 1313.5

23 CFR Ch. III (4–1–01 Edition)

an existing law or regulation that provides for an administrative license suspension or revocation system, but the State’s laws, regulations or binding policy directives do not specifically provide for each element of this criterion.

(b) Underage drinking prevention program—(1) Criterion. An effective underage drinking prevention program designed to prevent persons under the age of 21 from obtaining alcoholic beverages and to prevent persons of any age from making alcoholic beverages available to persons under the age of 21, that provides for:

(i) The issuance of tamper resistant driver’s licenses to persons under age 21 that are easily distinguishable in appearance from driver’s licenses issued to persons 21 years of age and older;

(ii) Public information programs targeted to underage drivers regarding drinking age laws, zero tolerance laws, and respective penalties;

(iii) A program to educate alcoholic beverage retailers and servers about both on- and off-premise consumption, and the civil, administrative and/or criminal penalties associated with the illegal sale of alcoholic beverages to underage drinkers;

(iv) An overall enforcement strategy directed at the sale and purchase of alcoholic beverages involving persons under the age of 21 that can be implemented locally throughout the State; and

(v) A prevention program that enlists the aid of persons under the age of 21.

(2) Definitions—(i) Tamper resistant driver’s license means a driver’s license that has one or more of the security features listed in Appendix A.

(3) Demonstrating compliance. (i) To demonstrate compliance in subsequent fiscal years, the State shall document any changes to the State’s driver’s licenses or underage drinking prevention program or, if there have been no changes, a statement certifying that there have been no changes in the State’s driver’s licenses or its underage drinking prevention program.

(c) Statewide traffic enforcement program—(1) Criterion. A Statewide traffic enforcement program that emphasizes publicity and is either:

(i) A program for stopping motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving under the influence of alcohol; or

(ii) A special traffic enforcement program to detect impaired drivers operating motor vehicles while under the influence of alcohol.

(ii) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a comprehensive plan to conduct a program under which:

(A) Motor vehicles are stopped or special traffic enforcement is conducted on a Statewide basis, in major areas covering at least 50 percent of the State’s population;

(B) Stops are made or special traffic enforcement is conducted not less than monthly;

(C) Stops are made or special traffic enforcement is conducted by both State and local (county and city) law enforcement agencies; and

(D) Effective public information efforts are conducted to inform the public about these enforcement programs.

(ii) The plan shall include guidelines, policies or operation procedures governing the Statewide enforcement program and provide approximate dates and locations of programs planned in the upcoming year, and the names of the law enforcement agencies expected to participate. The plan shall describe the public information efforts to be conducted.

(iii) to demonstrate compliance in subsequent fiscal years, the State shall submit an updated plan for conducting a Statewide enforcement program in the following year and information
documenting that the prior year’s plan was effectively implemented.

(d) Graduated driver’s licensing system—(1) Criterion. A graduated driver’s licensing system for young drivers that consists of the following three stages:

(i) Stage I. A learner’s permit may be issued after an applicant passes vision and knowledge test, including tests about the rules of the road, signs and signals. The State I learner’s permit must be subject to the following conditions:

(A) Stage I learner’s permit holders under the age of 21 are prohibited from operating a motor vehicle with a BAC of 0.02 or greater;

(B) Stage I learner’s permit holders are prohibited from operating a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with State or local safety belt and child restraint laws;

(C) A licensed driver who is 21 years of age or older must be in any motor vehicle operated by the Stage I learner’s permit holder at all times;

(D) Stage I learner’s permit holders must remain conviction free for not less than three months; and

(E) The Stage I learner’s permit must be distinguishable from Stage I learner’s permits and Stage III driver’s licenses; and

(ii) Stage II. An intermediate driver’s license may be issued after an applicant has successfully complied with the conditions of the Stage I learner’s permit and the driver has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operation of a motor vehicle, to the extent required by State law.

(iii) Stage III. A driver’s license may be issued after an applicant has successfully complied with the conditions of the previous stage(s), or

(b) Definitions.

(i) Conviction free means that, during the term of the permit or license, the driver has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operation of a motor vehicle, to the extent required by State law.

(ii) Successfully complied means that the driver:

(A) Did not violate any of the conditions of the previous stage(s), or

(B) Has been subject to the consequences prescribed by State or local law for violating the conditions of the previous stage(s).

(3) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion. If the State’s law, regulation or binding policy directive does not provide that Stage I permits and Stage II and Stage III licenses must be distinguishable, the State shall submit either:

(A) Sample permits and licenses, which contain visual features that would enable a law enforcement officer to distinguish between the permit and the licenses; or

(B) A description of the State’s system, which enables law enforcement officers in the State during traffic stops...
§ 1313.5

23 CFR Ch. III (4–1–01 Edition)

(1) Program for drivers with high BAC—(i) Criterion. Programs to target individuals with a high BAC who operate a motor vehicle. (ii) The threshold level at which the high BAC sanctions must begin to apply may be any BAC level that is higher than the BAC level established by the State that is deemed to be or equivalent to the standard driving while intoxicated (DWI) offense, and less than or equal to 0.20 BAC. (2) Definitions. Enhanced or additional sanctions means the imposition of longer terms of license suspension, increased fines, additional or extended sentences of confinement, vehicle sanctions, mandatory assessment and treatment as appropriate, or other consequences that do not apply to individuals who were not determined to have a high BAC.

(3) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit: (A) A description and sample materials documenting the State’s Statewide public information and awareness campaign; (B) A description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve at least one of the four components contained in paragraph (f)(1)(ii) of this section; and (C) A plan that outlines proposed efforts to involve in these activities all four components contained in paragraph (f)(1)(ii) of this section.
(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit:
(A) An updated description of its Statewide public information and awareness campaign;
(B) A description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve:
(1) At least two of the four components contained in paragraph (f)(1)(ii) of this section in the second fiscal year the State receives Section 410 funds based on this criterion;
(2) At least three of the four components contained in paragraph (f)(1)(ii) of this section in the third fiscal year the State receives Section 410 funds based on this criterion; and
(3) All four components contained in paragraph (f)(1)(ii) of this section in the fourth or subsequent fiscal year the State receives Section 410 funds based on this criterion; and
(C) An updated plan that outlines proposed efforts to involve all four components contained in paragraph (f)(1)(ii) of this section, until the State’s activities involve all four components.

(g) Testing for BAC—(1) Criterion. (i) In FY 1999 and FY 2000, an effective system for increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes, under which:
(A) BAC testing law. The State’s law provides for mandatory BAC testing for any driver involved in a fatal motor vehicle crash;
(B) BAC testing data. The State’s percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought;
(C) BAC testing symposium. The State has plans to conduct, or conducted no more than two years prior to the date of its application, a symposium or workshop designed to increase the percentage of BAC testing for drivers involved in fatal motor vehicle crashes. The symposium or workshop must be attended by law enforcement officials, prosecutors, hospital officials, medical examiners, coroners, physicians, and judges; and must address the medical, ethical, and legal impediments to increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes.
(ii) In FY 2001 and each subsequent fiscal year, a percentage of BAC testing among drivers involved in fatal motor vehicle crashes that is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

(2) Definitions—(i) Drivers involved in fatal motor vehicle crashes includes both drivers who are fatally injured in motor vehicle crashes and drivers who survive a motor vehicle crash in which someone else is killed.
(ii) Mandatory BAC testing means a law enforcement officer must request each driver involved in a fatal motor vehicle crash to submit to BAC testing.

(3) Demonstrating compliance in FY 1999 and FY 2000. (i) To demonstrate compliance based on this criterion in FY 1999 or FY 2000, the State shall submit:
(A) A copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the mandatory BAC testing requirement, as provided in paragraph (g)(1)(i)(A) of this section;
(B) A statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; or
(C) A description of the planned or completed symposium or workshop, including a copy of the actual or proposed agenda and a list of the names and affiliations of the individuals who attended or who are expected to be invited to attend, except as provided in paragraph (g)(3)(ii)(C).

(ii) To demonstrate compliance in FY 2000:
(A) If in the first fiscal year the State demonstrated compliance under
paragraph (g)(3)(i)(A), the State may submit instead a copy of any changes to the State’s law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the States laws, regulations or binding policy directives.

(B) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(B), the State may submit instead a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State continues to be equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

(C) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(C), the State shall submit instead a copy of the report or other documentation that was generated as a result of the symposium or workshop, with recommendations designed to increase BAC testing for drivers involved in fatal motor vehicle crashes, and a plan that outlines how the recommendations will be implemented in the State.

(4) Demonstrating compliance beginning in FY 2001. To demonstrate compliance for a grant based on this criterion in FY 2001 or any subsequent fiscal year, the State shall submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

§ 1313.6 Requirements for a performance basic grant.

(a) Criterion. A State will qualify for a performance basic incentive grant of 25 percent of the State’s 23 U.S.C. 402 apportionment for FY 1997 if:

(1) The percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has decreased in each of the three most recent calendar years for which statistics for determining such percentages are available as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; and

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA’s method for estimating alcohol involvement.

(b) Calculating percentages. (1) The percentage of fatally injured drivers with a BAC of 0.10 percent or greater in each State is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA’s method for estimating alcohol involvement.

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA’s method for estimating alcohol involvement.

(3) Any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may calculate for submission to NHTSA the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.

(c) Demonstrating compliance. (1) To demonstrate compliance with this criterion, a State shall submit a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(1) and (b)(2) of this section.

(2) Alternatively, a State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may demonstrate compliance with this criterion.
§ 1313.7 Requirements for a supplemental grant.

To qualify for a supplemental grant under this section, a State must qualify for a programmatic basic grant under §1313.5, a performance basic grant under §1313.6, or both, and meet one or more of the following criteria:

(a) Video equipment program—(1) Criterion. A program:
   (i) To acquire video equipment to be installed in law enforcement vehicles and used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance;
   (ii) To effectively prosecute those persons; and
   (iii) To train personnel in the use of that equipment.

   (2) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of video equipment in law enforcement vehicles for the enforcement of impaired driving laws, including:
      (A) A schedule for the areas where the equipment has been and will be installed and used;
      (B) A plan for training law enforcement personnel, prosecutors and judges in the use of this equipment; and
      (C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

   (ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(b) Self-sustaining drunk driving prevention program—(1) Criterion. A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to communities with comprehensive programs for the prevention of such operations of motor vehicles.

   (2) Definitions—(i) A comprehensive drunk driving prevention program means a program that includes, as a minimum, the following components:
      (A) Regularly conducted, peak-hour traffic enforcement efforts directed at impaired driving;
      (B) Prosecution, adjudication and sanctioning resources are adequate to handle increased levels of arrests for operating a motor vehicle while under the influence of alcohol;
      (C) Other programs directed at prevention other than enforcement and adjudication activities, such as school, worksite or community education; server training; or treatment programs; and
      (D) A public information program designed to make the public aware of the problem of impaired driving and of the efforts in place to address it.

      (ii) Fines or surcharges collected means fines, penalties, fees or additional assessments collected.

   (3) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a State shall submit:
      (A) A copy of the law, regulation or biding policy directive implementing or interpreting the law or regulation, which provides:
         (1) For fines or surcharges to be imposed on individuals apprehended for operating a motor vehicle while under the influence of alcohol; and
         (2) For such fines or surcharges collected to be returned to communities with comprehensive drunk driving prevention programs; and
      (B) Statewide data (or a representative sample) showing:
         (1) The aggregate amount of fines or surcharges collected;
         (2) The aggregate amount of revenues returned to communities with comprehensive drunk driving prevention programs under the State’s self-sustaining system; and

§ 1313.7

National Highway Traffic Safety Admin., DOT

by submitting its calculations developed under paragraph (b)(3) of this section and a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(2) and (b)(3) of this section.

§ 1313.7  The aggregate cost of the State’s comprehensive drunk driving prevention programs.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit, in addition to the data identified in paragraph (b)(3)(i) of this section, a copy of any changes to the State’s law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State’s laws, regulations or binding policy directives.

(c) Reduction of driving with a suspended license—(1) Criterion. A law to reduce driving with a suspended driver’s license. The law must impose one of the following sanctions on any individual who has been convicted of driving with a driver’s license that was suspended or revoked by reason of a conviction for an alcohol-related traffic offense. Such sanctions must include at least one of the following for some period of time during the term of the individual’s driver’s license suspension or revocation, as specified by the State:

(i) The suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by the individual;

(ii) The impoundment, immobilization, forfeiture or confiscation of any motor vehicle owned by the individual; or

(iii) The placement of a distinctive license plate on any motor vehicle owned by the individual.

(2) Definitions. Suspension and return means the temporary debarring of the privilege to operate or maintain a particular registered motor vehicle on the public highways and the confiscation or impoundment of the motor vehicle’s license plates.

(3) Exceptions. (i) A State may provide limited exceptions to the sanctions listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this section on an individual basis, to avoid undue hardship to any individual who is completely dependent on the motor vehicle for the necessities of life, including any family member of the convicted individual, and any co-owner of the motor vehicle, but not including the offender.

(ii) Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which motor vehicles or license plates may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender’s motor vehicle, and may not result in the unrestricted use of the motor vehicle by the individual.

(4) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State’s law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State’s laws, regulations or binding policy directives.

(d) Passive alcohol sensor program—(1) Criterion. A program:

(i) To acquire passive alcohol sensors to be used during enforcement activities to enhance the detection of the presence of alcohol in the breath of drivers; and

(ii) To train law enforcement personnel and inform judges and prosecutors about the purpose and use of the equipment.

(2) Definitions. Passive alcohol sensor means a screening device used to sample the ambient air in the vicinity of the driver’s exhaled breath to determine whether or not it contains alcohol.

(3) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of passive alcohol sensors to enhance the enforcement of impaired driving laws, including:

(A) A schedule for the areas where the equipment has been and will be used;
(B) A plan for training law enforcement personnel in the recommended procedures for use of these devices in the field, and for informing prosecutors and judges about the purpose and use of the equipment; and

(C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(e) Effective DWI tracking system—(1)

Criterion. An effective driving while intoxicated (DWI) tracking system containing the ability to:

(i) Collect, store, and retrieve data on individual DWI cases from arrest, through case prosecution and court disposition and sanction (including fines assessed and paid), until dismissal or until all applicable sanctions have been completed;

(ii) Link the DWI tracking system to appropriate data and traffic records systems in jurisdictions and offices within the State to provide prosecutors, judges, law enforcement officers, motor vehicle administration personnel, and other officials with timely and accurate information concerning individuals charged with an alcohol-related driving offense; and

(iii) Provide aggregate data, organized by specific categories (geographic locations, demographic groups, sanctions, etc.), suitable for allowing legislators, policymakers, treatment professionals, and other State officials to evaluate the DWI environment in the State.

(2) Demonstrating compliance. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a description of its DWI tracking system, including:

(A) A description of the means used for the collection, storage and retrieval of data;

(B) An explanation of how the system is linked to data and traffic records systems in appropriate jurisdictions and offices within the State;

(C) An example of available statistical reports and analyses; and

(D) A sample data run showing tracking of a DWI arrest through final disposition.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a report or analysis using the DWI tracking system data, demonstrating that the system is still in operation.

(f) Other innovative programs—(1)

Criterion. An innovative program to reduce traffic safety problems resulting from individuals operating motor vehicles while under the influence of alcohol or controlled substances, through legal judicial, enforcement, educational, technological or other approaches. The program must:

(i) Have been implemented within the last two years;

(ii) Contain one or more substantial components that:

(A) Make this program different from programs previously conducted in the State; and

(B) Have not been used by the State to qualify for a grant in a previous fiscal year based on this criterion or in any fiscal year based on any other criterion contained in §§1313.5, 1313.6 or 1313.7 of this part; and

(iii) Be shown to have been effective.

(2) Demonstrating compliance. To demonstrate compliance for a grant based on this criterion, the State shall submit a description of the innovative program, which includes:

(i) The name of the program;

(ii) The area or jurisdiction where it has been implemented and the population(s) targeted;

(iii) The specific condition or problem the program was intended to address, the goals and objectives of the program and the strategies or means used to achieve those goals;

(iv) The actual results of the program and the means used to measure the results;

(v) All sources of funds that were applied to the problem; and

(vi) The name, address and telephone number of a contact person.
submission and approval of the application required by §1313.4(a) and subject to the limitations in §1313.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State’s application and documentation and the remainder of the full grant amounts up to the State’s proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in §1313.4.

APPENDIX A TO PART 1313—TAMPER RESISTANT DRIVER’S LICENSE

A tamper resistant driver’s license or permit is a driver’s license or permit that has one or more of the following security features:

(1) Ghost image.
(2) Ghost graphic.
(3) Hologram.
(4) Optical variable device.
(5) Microline printing.
(6) State seal or a signature which overlaps the individual’s photograph or information.
(7) Security laminate.
(8) Background containing color, pattern, line or design.
(9) Rainbow printing.
(10) Guilloche pattern or design.
(11) Opacity mark.
(12) Out of gamut colors (i.e., pastel print).
(13) Optical variable ultra-high-resolution lines.
(14) Block graphics.
(15) Security fonts and graphics with known hidden flaws.
(16) Card stock, layer with colors.
(17) Micro-graphics.
(18) Reflective security logos.
(19) Machine readable technologies such as magnetic strips, a 1D bar code or a 2D bar code.

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Sec.
1327.1 Scope.
1327.2 Purpose.
1327.3 Definitions.
1327.4 Certification, termination and reinstatement procedures.
1327.5 Conditions for becoming a participating State.
1327.6 Conditions and procedures for other authorized users of the NDR.
1327.7 Procedures for NDR information requests.

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS AND WITHDRAWALS

APPENDIX B TO PART 1327—OMB CLEARANCE


SOURCE: 56 FR 41463, Aug. 20, 1991, unless otherwise noted.

§ 1327.1 Scope.

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97–364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (i.e. requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation.
The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

§ 1327.2 Purpose.

The purpose of this part is to implement the NDR Act of 1982, as amended.

§ 1327.3 Definitions.

(a) Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) Driver History Record means a detailed description of an individual’s driver record, used in the American Association of Motor Vehicle Administrators’ Commercial Driver's License Information System (CDLIS).

(c) Driver Improvement Purposes means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) Driver License Abstract means the complete driver history of a driver’s convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) Driver Licensing Purposes means information requests made by chief driver licensing officials to determine if individuals applying for original, renewal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) Driver Status Response means a response which indicates whether a driver currently holds a valid license.

(g) For Cause as used in §1327.5(a) means that an adverse action taken by a State against an individual was based on any violation listed in Appendix A, an Abridged Listing of the American Association of Motor Vehicle Administration (AAMVA) Violations Exchange Code, which is used by the NDR for recording license denials and withdrawals.

(h) Fully Electronic Register System means an NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

(i) Interactive Communication means an active two-way computer connection which allows requesters to receive a response from the NDR almost immediately.

(j) Match means the occurrence when the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Probable Identification.

(k) Non-Minimum Age Driver License Applicant means a driver license applicant who is past the minimum age to apply for a license in the State making an NDR inquiry.

(l) Non-PDPS State means a State which operates under the old NDR by submitting complete substantive adverse driver licensing data to the NDR.

(m) Participating State means a State that has notified the agency of its intention to participate in the PDPS and has been certified by the agency as being in compliance with the requirements of the NDR Act of 1982 and §1327.5 of this part.

(n) Pointer Record means a report containing the following data:

1. The legal name, date of birth (including month, day, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

2. The name of the State transmitting such information; and

3. The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator’s license number of such individual (if that number is different from the operator’s social security account number).

(o) Probable Identification means the occurrence when the personal identifying information in an inquiry compares with the identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Match.
§ 1327.4 Certification, termination and reinstatement procedures.

(a) Certification requirement. Only States that have been certified by NHTSA as participating States under PDPS may participate in the NDR. NHTSA will remove all records on file and will not accept any inquiries or reports from a State that has not been certified as a participating State.

(b) Termination or cancellation. (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State shall notify NHTSA in writing, providing the reason for terminating its participation.

(2) The effective date of termination will be no less than 30 days after notification of termination.

(3) NHTSA will notify any participating State that changes its operations such that it no longer meets statutory and regulatory requirements, that its certification to participate in the NDR will be withdrawn if it does not come back into compliance within 30 days from the date of notification.

(4) If a participating State does not come back into compliance with statutory and regulatory requirements within the 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification to participate in the NDR.

(5) NHTSA will remove all records on file and will not accept any inquiries or reports from a State whose participation in the NDR has been terminated or cancelled.

(6) To be reinstated as a participating State after being terminated or cancelled, the chief driver licensing official shall follow the notification procedures in paragraphs (c)(1) and (3) of this section and must be re-certified by NHTSA as a participating State under PDPS, upon a determination by NHTSA that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (c)(2) and (4) of this section.

(c) Reinstatement. (1) The chief driver licensing official of a State that wishes to be reinstated as a participating State in the NDR under the PDPS, shall send a letter to NHTSA certifying that the State wishes to be reinstated.
as a participating State and that it intends to be bound by the requirements of section 205 of the NDR Act of 1982 and §1327.5 of this part. It shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) Within 20 days after receipt of the State’s notification, NHTSA will acknowledge receipt of the State’s certification to be reinstated.

(3) The chief driver licensing official of a State that has notified NHTSA of its intention to be reinstated as a participating State will, at such time as it has completed all changes necessary to meet the statutory and regulatory requirements of PDPS, certify this fact to the agency.

(4) Upon receipt, review and approval of certification from the State, NHTSA will recertify the State as a participating State under PDPS.

[55 FR 45716, July 25, 2000]

§ 1327.5 Conditions for becoming a participating State.

(a) Reporting requirements. (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual—

(i) Who is denied a motor vehicle operator’s license by such State for cause;

(ii) Whose motor vehicle operator’s license is canceled, revoked, or suspended by such State for cause; or

(iii) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(2) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data:

(i) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(ii) The name of the State transmitting such information; and

(iii) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator’s license number of such individual (if that number is different from the operator’s social security account number); except that

(iv) Any report concerning an occurrence identified in paragraph (a)(1) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(3) These records, defined as pointer records, shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the motor vehicle department or 6 months after the date on which such State becomes a participating State.

(4) No State will be required to report information concerning an occurrence which happened before the two-year period preceding the date on which the State becomes a participating State.

(b) State of inquiry function for driver licensing and driver improvement purposes. (1) The chief driver licensing official of a participating State shall submit an inquiry to the NDR for each first-time, non-minimum age driver license applicant before issuing a license to the applicant.

(2) The chief driver licensing official of a participating State may submit inquiries for other driver licensing and driver improvement purposes.

(c) State of inquiry function for transportation safety purposes (on behalf of other authorized users). The chief driver licensing official of a participating
State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from the following groups which are authorized to receive information from the NDR file through participating States:

1. National Transportation Safety Board (NTSB) and Federal Highway Administration (FHWA) for accident investigation purposes. The Chairman of the NTSB and/or the Administrator of the FHWA shall submit requests for NDR searches in writing through the participating State with which previous arrangements have been made to process these requests. The chief driver licensing official shall provide to the requesting agency the NDR response indicating either Probable Identification (match) or No Record Found. In the case of a probable identification, the State of Record will also be identified in the response so that the NTSB or FHWA may obtain additional information regarding the individual’s driving record.

2. Employers and Prospective Employers of individuals licensed to drive a motor vehicle in the State (including Federal Agencies); Federal Aviation Administration regarding any individual who has applied for or received an airman’s certificate; the Federal Railroad Administration and employers/prospective employers regarding individuals who are employed or seeking employment as railroad locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46 of the U.S. Code, or a merchant mariner’s document under section 7302 of that title, or regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve. Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

(i) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the authorized user if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(A) State that NDR records are to be released;

(B) Specifically state who is authorized to receive the records;

(C) Be signed and dated by the individual or the individual’s legal representative;

(D) Specifically state that the authorization is valid for only one search of the NDR; and

(E) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(ii) Any request made by an authorized user may include, in lieu of the actual information described in paragraphs (c)(2)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual’s legal representative, specifically stated that the authorization is valid for only one search of the NDR, and specifically stated that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(iii) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the authorized user may obtain additional information regarding the individual’s driving record.

3. The head of a Federal department or agency that issues motor vehicle operator’s licenses about an individual
applicant for a motor vehicle operator’s license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator’s license for cause; whose motor vehicle operator’s license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;
(B) The name of the agency transmitting such information; and
(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator’s license number of such individual (if that number is different from the operator’s social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

(iii) Upon receiving a request for an NDR search from an individual for information concerning himself or herself, the chief driver licensing official shall inform the individual of the procedure for conducting such a search and provide the individual a request form which, when properly completed, will be forwarded to the NDR either by the chief driver licensing official or by the individual.

(ii) The request form provided by the chief driver licensing official to the individual must provide for the following:

(A) Full legal name;
(B) Other names used (nicknames, professional name, maiden name, etc.);
(C) Month, day and year of birth;
(D) Sex;
(E) Height;
(F) Weight;
(G) Color of eyes;
(H) Social Security Number (SSN) and/or driver license number (provision of SSN is voluntary);
(I) Individual’s full address;
(J) Home and office telephone number (provision of telephone number is voluntary);
(K) Signature;
(L) Proof of identification—Acceptable forms of identification are driver’s license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State; and
(M) Notarization—This is required only if the individual chooses to mail the request directly to the NDR.

(iii) Upon receipt of the individual’s request for a NDR file check, NHTSA will search its computer file and mail the results (i.e., notification of no record found or copies of any records found) directly to the individual.

(iv) The chief driver licensing official shall advise the requesting individual to contact the Chief, National Driver Register by mail or telephone for guidance regarding the procedure for alteration or correction of NDR-maintained records in the event he or she believes they are incorrect.

(d) State of record functions. The chief driver licensing official of a participating State shall implement the necessary computer system and procedures to respond to requests for driver record information. When a request to the NDR results in a match, the chief driver licensing official of a participating State shall also:
§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) NTSB and FHWA. To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been established, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) Federal departments or agencies that issue motor vehicle operator’s licenses. To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator’s licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator’s licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) Employers or prospective employers of motor vehicle operators (including Federal Agencies). (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) Federal Aviation Administration. (1) To initiate an NDR file check, the individual who has applied for or received an airman’s certificate shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the airman concerned before using the information as the basis for any action against the individual.

(e) Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators. (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the
person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) U.S. Coast Guard. (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in §1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) Air carriers. (1) To initiate an NDR file check, the individual seeking employment as a pilot with an air carrier shall follow the procedures specified in §1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104–264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(h) Third Parties. If a third party is used by any of the above authorized users to request the NDR check, both the individual concerned and an authorized representative of the authorized user organization shall sign a written consent authorizing the third party to act in this role. The written consent must:

(1) State that NDR records are to be released;

(2) State as specifically as possible who is authorized to request the records, and that such party is not authorized to receive NDR information;

(3) Be signed and dated by the individual (or legal representative as appropriate) and an authorized representative of the authorized user organization;

(4) Specifically state that the request authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy. The third party may not, however, receive the NDR response to a file search.

(i) Individuals. (1) When a check of the NDR is desired by any individual in order to determine whether the NDR is disclosing any data regarding him or her or the accuracy of such data, or to obtain a copy of the data regarding him or her, the individual shall submit his or her request to a participating State in accordance with the procedures established by that State for this purpose.

(2) The individual will be asked to provide the following information to the chief driver licensing official in order to establish positive identification:

(1) Full legal name;
§ 1327.7  

(ii) Other names used (nickname, professional name, maiden name, etc.);  
(iii) Month, day and year of birth;  
(iv) Sex;  
(v) Height;  
(vi) Weight;  
(vii) Color of eyes;  
(viii) Driver license number and/or Social Security Number (SSN) (provision of SSN is optional);  
(ix) Full address;  
(x) Signature;  
(xi) Proof of identification (acceptable forms of identification are driver’s license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State); and  
(xii) Notarization (this is required only if the individual chooses to mail the request directly to the NDR).  

(3) Individuals are authorized also, under the Privacy Act of 1974, to request such information directly from the NDR.  

(4) Individuals seeking to correct an NDR-maintained record should address their request to the chief of the National Driver Register. When any information contained in the Register is confirmed by the State of Record to be in error, the NDR will correct the record accordingly and advise all previous recipients of the information that a correction has been made.  


§ 1327.7  Procedures for NDR information requests.  

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman’s certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner’s document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as a pilot with an air carrier; shall either:  

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or  

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.  

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.  

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.  

(d) The request for an NDR file check or the written consent, whichever is used, must:  

(1) State that the NDR records are to be released;  

(2) State as specifically as possible who is authorized to receive the records;  

(3) Be signed and dated by the individual (or the individual’s legal representative as appropriate);  

(4) Specifically state that the authorization is valid for only one search of the NDR; and  

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification— that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.  

[64 FR 19273, Apr. 20, 1999]
**APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS AND WITHDRAWALS**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DI</td>
<td>Driving while intoxicated violations pertaining to intoxicants</td>
</tr>
<tr>
<td>DI1</td>
<td>Driving while under the intoxicating influence of alcohol, narcotics, or psychoactive drugs.</td>
</tr>
<tr>
<td>DI2</td>
<td>Driving while under the intoxicating influence of medication or other substances not intended to produce intoxication as a result of normal use.</td>
</tr>
<tr>
<td>DI3</td>
<td>Refusal to submit to test for alcohol after arrest for driving while intoxicated or suspicion of intoxication.</td>
</tr>
<tr>
<td>DI4</td>
<td>Illegal possession of alcohol or drugs in motor vehicle.</td>
</tr>
<tr>
<td>DI5</td>
<td>Administrative per se.</td>
</tr>
<tr>
<td>DI6</td>
<td>Driving while impaired.</td>
</tr>
<tr>
<td>DI7</td>
<td>Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.</td>
</tr>
<tr>
<td>DS</td>
<td>Disability</td>
</tr>
<tr>
<td>DS1</td>
<td>Inability to pass one or more tests required for driver license.</td>
</tr>
<tr>
<td>DS2</td>
<td>Operating a motor vehicle improperly because of physical or mental disability.</td>
</tr>
<tr>
<td>DS3</td>
<td>Failure to discontinue operating vehicle after onset of physical or mental disability (including uncontrollable drowsiness).</td>
</tr>
<tr>
<td>FA</td>
<td>Fatality</td>
</tr>
<tr>
<td>FA1</td>
<td>Violation of a motor vehicle law resulting in the death of another person.</td>
</tr>
<tr>
<td>FE</td>
<td>Felony</td>
</tr>
<tr>
<td>FE1</td>
<td>Using a motor vehicle as the device for committing a felony.</td>
</tr>
<tr>
<td>FE2</td>
<td>Using a motor vehicle in connection with a felony.</td>
</tr>
<tr>
<td>FE3</td>
<td>Using a motor vehicle to aid and abet a felony.</td>
</tr>
<tr>
<td>FE4</td>
<td>Using a commercial motor vehicle in the commission of a felony.</td>
</tr>
<tr>
<td>FE5</td>
<td>Using a commercial motor vehicle in the commission of a felony while transporting a hazardous material.</td>
</tr>
<tr>
<td>FR</td>
<td>Financial Responsibility</td>
</tr>
<tr>
<td>FR1</td>
<td>Unsatisfied judgment.</td>
</tr>
<tr>
<td>FR2</td>
<td>Failure to meet requirements for the security-following-accident provisions of the FR law.</td>
</tr>
<tr>
<td>FR3</td>
<td>Failure to file future proof of financial responsibility following conviction for violation of motor vehicle law.</td>
</tr>
<tr>
<td>HR</td>
<td>Hit and Run</td>
</tr>
<tr>
<td>HR1</td>
<td>Leaving the scene of an accident after involvement in accident resulting in bodily injury.</td>
</tr>
<tr>
<td>HR2</td>
<td>Failure to stop and reveal identity after involvement in accident resulting in property damage only.</td>
</tr>
<tr>
<td>HR3</td>
<td>Leaving the scene of an accident after providing aid or identity but before arrival of police.</td>
</tr>
<tr>
<td>HR4</td>
<td>Evading arrest by fleeing the scene of citation or roadblock.</td>
</tr>
<tr>
<td>HR5</td>
<td>Evading arrest by extinguishing lights (when lights required).</td>
</tr>
<tr>
<td>HR6</td>
<td>Leaving the scene of an accident involving a commercial motor vehicle operated by such person.</td>
</tr>
<tr>
<td>HV**</td>
<td>Habitual Violator</td>
</tr>
<tr>
<td>MR</td>
<td>Misrepresentation</td>
</tr>
<tr>
<td>MR1</td>
<td>Misrepresentation of identity or other facts to obtain a driver license. (If registration or title involved, see RT.)</td>
</tr>
<tr>
<td>MR2</td>
<td>Displaying a driver license which is invalid because of alteration, counterfeiting, or withdrawal (revocation, suspension, etc.).</td>
</tr>
<tr>
<td>MR3</td>
<td>Displaying the driver license of another person.</td>
</tr>
<tr>
<td>MR4</td>
<td>Loaning a driver license.</td>
</tr>
<tr>
<td>MR5</td>
<td>Obtaining or applying for a duplicate driver license during withdrawal.</td>
</tr>
<tr>
<td>MR6</td>
<td>Misrepresentation of identity or other facts to avoid arrest or prosecution.</td>
</tr>
<tr>
<td>RK</td>
<td>Reckless, Careless, or Negligent Driving</td>
</tr>
<tr>
<td>RK1</td>
<td>Heedless, willful, wanton, or reckless disregard of the rights or safety of others in operating a motor vehicle, endangering persons or property.</td>
</tr>
<tr>
<td>RK2</td>
<td>Operating a motor vehicle without the exercise of care and caution required to avoid danger to persons or property.</td>
</tr>
<tr>
<td>RK3</td>
<td>Transporting hazardous substances without required safety devices or precautions.</td>
</tr>
<tr>
<td>RV</td>
<td>Repeated Violations</td>
</tr>
<tr>
<td>RV1</td>
<td>Recurrence of violations requiring mandatory action of the licensing authority as specified by law.</td>
</tr>
<tr>
<td>RV2</td>
<td>Accumulation of violations resulting in mandatory action of the licensing authority because of statutory point system.</td>
</tr>
<tr>
<td>RV3</td>
<td>Accumulation of violations resulting in discretionary action by the licensing authority.</td>
</tr>
<tr>
<td>RV4</td>
<td>Committing serious traffic violation involving a commercial motor vehicle operated by such person.</td>
</tr>
<tr>
<td>SP</td>
<td>Speeding</td>
</tr>
<tr>
<td>SP1</td>
<td>Contest racing on public trafficway.</td>
</tr>
<tr>
<td>SP2</td>
<td>Prima facie speed violation or driving too fast for conditions.</td>
</tr>
<tr>
<td>SP3</td>
<td>Speed in excess of posted maximum.</td>
</tr>
<tr>
<td>SP4</td>
<td>Operating at erratic or suddenly changing speeds.</td>
</tr>
<tr>
<td>SP6*</td>
<td>Excessive speeding in a commercial vehicle.</td>
</tr>
<tr>
<td>VR</td>
<td>Violation of Restriction</td>
</tr>
</tbody>
</table>

**VerDate 11<MAY>2000 13:26 Apr 23, 2001 Jkt 194073 PO 00000 Frm 00475 Fmt 8010 Sfmt 8002 Y:\SGML\194073T.XXX pfrm04 PsN: 194073T**
Licensing Requirements
VR1 Driving while revoked.
VR2 Driving while suspended.
VR3 Driving while license denied.
VR5 Operating without being licensed or without license required for type of vehicle operated.
VR6 Allowing an unlicensed operator to drive.

*Recommended to AAMVA in response to a ballot on approval of a revision to the American National Standards Institute (ANSI) D20.1, ‘‘States’ Model Motorist Data Base’’. **Habitual Violator (HV) code was added to the AAMVA Violations Exchange Code by the NDR to accommodate the many States who enacted an HV law after the AAMVA Violations Exchange Code was developed. To be adjudged a Habitual Violator normally requires having been convicted of three major violations.

[56 FR 41403, Aug. 20, 1991; 56 FR 57256, Nov. 8, 1991]

APPENDIX B TO PART 1327—OMB CLEARANCE

The OMB clearance number of this regulation is OMB 2127–0001.

PART 1335—STATE HIGHWAY SAFETY DATA IMPROVEMENTS

Sec.
1335.1 Scope.
1335.2 Purpose.
1335.3 Definitions.
1335.4 Coordinating committee.
1335.5 Assessment.
1335.6 Strategic plan.
1335.7 Grant requirements.
1335.8 Grant amounts.
1335.9 Availability of funds.
1335.10 Grant limitations.
1335.11 Application procedures.
1335.12 Contents of application.


SOURCE: 63 FR 54048, Oct. 8, 1998, unless otherwise noted.

§ 1335.1 Scope.

This part prescribes the requirements necessary to implement Section 411 of Title 23, United States Code, which encourages States to adopt and implement effective data improvement programs.

§ 1335.2 Purpose.

The purpose of this part is to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data needed by each State to identify highway safety priorities; to evaluate the effectiveness of these improvements; to link highway safety data systems with other data systems within each State; and to improve the compatibility of the data system of each State with national data systems and data systems of other States to enhance the observation and analysis of national trends in crash occurrences, rates, outcomes, and circumstances.

§ 1335.3 Definitions.

As used in this part:
(a) Highway safety data and traffic records means data and records relating to crashes, roadways, drivers, vehicles, traffic offense citations/convictions, emergency medical services, locations and other data and records relating to highway safety.
(b) Coordinating committee means a committee that meets the requirements of §1335.4 of this part.
(c) Assessment means a review of a State’s highway safety data and traffic records system that meets the requirements of §1335.5 of this part. For the purpose of this Part, an assessment includes an audit or a strategic planning analysis.
(d) Strategic plan means a multi-year plan that meets the requirements of §1335.6 of this part.
(e) Model data elements means the data elements contained in the final Model Minimum Uniform Crash Criteria (MMUCC) published by the National Highway Traffic Safety Administration and the Federal Highway Administration (DOT HS 808 745, August 1998).
(f) State means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

§ 1335.4 Coordinating committee.

A coordinating committee shall—
(a) Include representatives from the administrators, collectors, and users of State highway safety data and traffic records, including representatives of highway safety, highway infrastructure, traffic enforcement, public
§ 1335.8 Grant amounts.

(a) Start-up grant. A State that qualifies for a start-up grant under §1335.7(a) of this part shall be eligible to receive $25,000.

(b) Initiation grant. A State that qualifies for an initiation grant under §1335.7(b) of this part shall be eligible to receive $125,000.

(c) Implementation grant. A State that qualifies for an implementation grant under §1335.7(c) of this part shall be eligible to receive an amount determined by multiplying the amount appropriated to carry out 23 U.S.C. 411 by the ratio that the funds apportioned to the State under 23 U.S.C. 402 for fiscal year 1997 bears to the funds apportioned to

§ 1335.9 Final disposition.

A State that has received an implementation grant shall include the results of the assessment and any strategic plan in the State's annual report to the National Highway Traffic Safety Administration.
§ 1335.9 Availability of funds.

(a) The release of grant funds under this part in a fiscal year shall be subject to the availability of funds for that fiscal year. If there are expected to be insufficient funds to award the grant amounts specified in §1335.8 to all eligible States in any fiscal year, NHTSA may release less than these grant amounts upon approval of the State’s application and plan, up to the State’s proportionate share of available funds. Project approval and the contractual obligation of the Federal government to provide grant funds shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 410, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 410 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in §1335.8 and paragraph (a) of this section.

§ 1335.10 Grant limitations.

(a) No State may receive a grant under this part in more than six fiscal years.

(b) Grants may be used by States only to adopt and implement effective highway safety data and traffic records programs:

(1) To improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State and local highway and traffic safety programs;

(2) To evaluate the effectiveness of efforts to make such improvements;

(3) To link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

(4) To improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(c) In the first and second Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 75 percent.

(d) In the third and fourth Federal fiscal year in which a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 50 percent.

(e) In the fifth and sixth Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 25 percent.

§ 1335.11 Application procedures.

(a) A State applying for a grant under this part shall submit an original and two copies of its application to the NHTSA Regional Administrator for the Region in which the State is located.

(b) To be considered for a grant in any fiscal year, an application must be received by the agency not later than January 15 of that fiscal year.

(c) Within 30 days of being informed by NHTSA that it is eligible for a grant, a State shall submit to the agency a Program Cost Summary (HS Form 217) obligating the funds under
this part to highway safety data and traffic records programs.

(d) The State shall document how it intends to use the funds under this part in the Highway Safety Plan it submits pursuant to 23 CFR 1200.

§ 1335.12 Contents of application.

(a) Start-up grant. An application for a start-up grant under §1335.7(a) shall certify that the State—

(1) Does not meet the requirements of §1335.7 (b) or (c) of this part; and

(2) Will use the grant funds to conduct activities necessary to qualify for a grant under §1335.7 (b) or (c) of this part in the next fiscal year.

(b) Initiation grant. An application for an initiation grant under §1335.7(b) shall—

(1) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(2) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment; and

(3) Certify that the State has initiated the development of a strategic plan, with the supervision and approval of the coordinating committee.

(c) Implementation grant. (1) An application for an implementation grant under §1335.7(c), if the State has not received an initiation or an implementation grant under this part in a previous fiscal year, shall—

(i) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(ii) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment; and

(iii) Submit a strategic plan that specifies how the grant funds awarded to the State under this part for the fiscal year will be used to address the needs and goals identified in the plan; and

(iv) Report on the progress of the State in implementing the strategic plan since the State’s previous application.

(d) Any grant under this part. An application for a grant under §1335.7 (a), (b), or (c) of this part shall certify that the State will:

(1) Use the funds awarded under 23 U.S.C. 411 only to adopt and implement an effective highway safety data and traffic records program, in accordance with 23 CFR 1335.10(b);

(2) Administer the funds in accordance with 49 CFR part 18 and OMB Circulars A–102 and A–87; and

(3) Maintain its aggregate expenditures from all other sources, except those authorized under Chapter 1 of Title 23 of the United States Code, for highway safety data and traffic records programs at or above the average level of such expenditures in Federal fiscal years 1996 and 1997 (either State or federal fiscal year 1996 and 1997 can be used).

§ 1340.1 Purpose.
This part establishes uniform criteria for surveys of seat belt use conducted by States under 23 U.S.C. 157.

§ 1340.2 Applicability.
These uniform criteria apply to State surveys of seat belt use, beginning in calendar year 1998 (except as otherwise provided in this part), and continuing annually thereafter through calendar year 2001.

§ 1340.3 Basic design requirements.
Surveys conducted in accordance with this part shall incorporate the following minimum design requirements:
(a) Probability-based requirement. The sample identified for the survey shall have a probability-based design such that estimates are representative of safety belt use for the population of interest in the state and sampling errors may be calculated for each estimate produced.
(b) Observational requirement. Minimum requirements include the following:
(1) The sample data shall be collected through direct observation of seat belt use on roadways within the State, conducted completely within the calendar year for which the seat belt use rate is being reported;
(2) Seat belt use shall be determined by observation of the use or non-use of a shoulder belt;
(3) Observers shall be required to follow a predetermined, clear policy in the event that observations cannot be made at an assigned site at the specified time (due to heavy rain, construction, safety problems, etc.);
(4) Instructions to observers shall specify which road and which direction of traffic on that road are to be observed (observers must not be free to choose between roads at an intersection); and
(5) Observers shall follow clear instructions on how to start and end an observation period and how to stop and start observations if traffic flow is too heavy to observe all vehicles or if vehicles begin moving too quickly for observation (to remove any possible bias, such as starting with the next belted driver).
(c) Precision requirement. The relative error (standard error divided by the estimate) for safety belt use must not exceed 5 percent.

§ 1340.4 Population, demographic, and time/day requirements.
Surveys conducted in accordance with this part shall comply with the following minimum population, demographic, and time/day requirements:
(a) Population of interest. (1) Drivers and front seat outboard passengers in passenger motor vehicles (passenger cars, pickup trucks, vans, and sport utility vehicles) must be observed in the survey. (Only overall restraint use for the population of interest is required. However, in order to assist in the evaluation of trends, it is recommended that data be collected in such a way that restraint use estimates can be reported separately for passenger cars and other covered vehicles, and separately for drivers and front seat outboard passengers within those vehicle groups.)
(2) Surveys conducted during calendar year 1998 shall be deemed to comply with paragraph (a)(1) of this section if passenger motor vehicles registered in-State are included in the survey. For surveys conducted during calendar year 1999 and thereafter, passenger motor vehicles registered both in-state and out-of-state must be included in the survey.
(b) Demographics. Counties, or other primary sampling units, totaling at least 85 percent of the State's population must be eligible for inclusion in the sample. States may eliminate their least populated counties, or other primary sampling units, to a total of fifteen percent or less of the total State population, from the sampling frame.
(c) Time of day and day of week. All daylight hours for all days of the week must be eligible for inclusion in the sample. Observation sites must be randomly assigned to the selected day-of-week/time-of-day time slots. If observation sites are grouped to reduce data collection burdens, a random process
must be used to make the first assignment of a site within a group to an observational time period. Thereafter, assignment of other sites within the group to time periods may be made in a manner that promotes administrative efficiency and timely completion of the survey. [83 FR 46392, Sept. 1, 1998, as amended at 65 FR 13883, Mar. 14, 2000]

§ 1340.5 Documentation requirements.

All sample design, data collection, and estimation procedures used in State surveys conducted in accordance with this part must be well documented. At a minimum, the documentation must:

(a) For sample design—

(1) Define all sampling units, with their measures of size;

(2) Define what stratification was used at each stage of sampling and what methods were used for allocation of the sample units to the strata;

(3) Explain how the sample size at each stage was determined;

(4) List all samples units and their probabilities of selection; and

(5) Describe how observation sites were assigned to observation time periods.

(b) For data collection—

(1) Define an observation period;

(2) Define an observation site and what procedures were implemented when the observation site was not accessible on the date assigned;

(3) Describe what vehicles were observed and what procedures were implemented when traffic was too heavy to observe all vehicles; and

(4) Describe the data recording procedures.

(c) For estimation—

(1) Display the raw data and the weighted estimates;

(2) For each estimate, provide an estimate of one standard error and an approximate 95 percent confidence interval; and

(3) Describe how estimates were calculated and how variances were calculated.

APPENDIX A TO PART 1340—SAMPLE DESIGN

Following is a description of a sample design that meets the final survey guidelines and, based upon NHTSA’s experience in developing and reviewing such designs, is presented as a reasonably accurate and practical design. Depending on the data available in a State, substitutions in this design can be made without loss of accuracy. This information is intended only as an example of a complying survey design and to provide guidance for States concerning recommended design options. These are not design requirements. It is recommended that State surveys of safety belt use be designed by qualified survey statisticians.

I. SAMPLE DESIGN

A. Sample population: It is recommended that all controlled intersections or all roadway segments in the State (or in the parts of the State that have not been excluded by the 85 present demographic guideline) be eligible for sampling.

B. First Stage: Usually, counties are the best candidates for primary sampling units (PSUs). In large States with differing geographic areas, it is recommended that stratification of PSUs by geographic region be employed prior to PSU selection. Counties should be randomly selected, preferably with probabilities proportional to vehicle miles of travel (VMT) in each county. If VMT is not available by county, PSUs can also be selected with probability proportional to county population. When sampling PSUs, States should ensure that an adequate mix of rural and urban areas are represented. In some cases, urban/rural stratification must be employed prior to PSU selection. In other cases, it may be more practical to perform urban/rural stratification at the second sampling stage.

C. Second Stage: Within sampled PSUs, it is recommended that road segments be stratified by road type. For example, a two-strata design might be major roads vs. local roads, a three strata design might be high, medium and low traffic volume roads. The sample should be allocated to these strata by estimated annual VMT in each stratum. The sample of road segments within a stratum should be selected with probability proportional to average daily VMT. When enumerating all local roads is impractical, additional stages of selection can be introduced and alternative sample probabilities can be used. For example, census tracts within counties can be selected with probability proportional to VMT, or, if VMT is not available, proportional to the square root of the population. Next, within each sampled census tract, road segments can be selected.

D. Sample Size: The following tables are provided as rough guidelines for determining sample size for estimating belt use with the required level of precision. The numbers are based on results from previous probability-based seat belt surveys.
Pt. 1345

DETERMINING FIRST STAGE SAMPLE SIZE

<table>
<thead>
<tr>
<th>Number of counties in State</th>
<th>Number of counties in sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>20</td>
<td>11</td>
</tr>
<tr>
<td>30</td>
<td>13</td>
</tr>
<tr>
<td>40</td>
<td>15</td>
</tr>
<tr>
<td>50</td>
<td>16</td>
</tr>
<tr>
<td>60</td>
<td>17</td>
</tr>
<tr>
<td>70</td>
<td>18</td>
</tr>
<tr>
<td>80</td>
<td>19</td>
</tr>
<tr>
<td>90</td>
<td>19</td>
</tr>
<tr>
<td>100-120</td>
<td>20</td>
</tr>
<tr>
<td>130-170</td>
<td>21</td>
</tr>
<tr>
<td>More than 180</td>
<td>22</td>
</tr>
</tbody>
</table>

DETERMINING SECOND STAGE SAMPLE SIZE

<table>
<thead>
<tr>
<th>Average number of road segments in each sampled county</th>
<th>Number of road segments sampled in each sample county</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>19</td>
</tr>
<tr>
<td>60</td>
<td>20</td>
</tr>
<tr>
<td>70</td>
<td>20</td>
</tr>
<tr>
<td>80</td>
<td>21</td>
</tr>
<tr>
<td>90</td>
<td>21</td>
</tr>
<tr>
<td>100</td>
<td>22</td>
</tr>
<tr>
<td>150</td>
<td>23</td>
</tr>
<tr>
<td>200</td>
<td>24</td>
</tr>
<tr>
<td>250</td>
<td>25</td>
</tr>
<tr>
<td>300</td>
<td>26</td>
</tr>
<tr>
<td>350</td>
<td>27</td>
</tr>
<tr>
<td>400</td>
<td>27</td>
</tr>
<tr>
<td>500-900</td>
<td>28</td>
</tr>
<tr>
<td>More than 1000</td>
<td>29</td>
</tr>
</tbody>
</table>

E. Example: To achieve the required level of precision, a State with 100 counties would sample 20 counties at the first stage. At the second stage, assuming an average of 100 road segments in each sampled county, a sample of 23 road segments per county would be selected. The total sample size would be 20\times23 = 460 observational sites.

II. DATA COLLECTION

A. Exact observation sites, such as the specific intersection on a road segment, should be determined prior to conducting the observations.

B. Direction of traffic to be observed should be determined prior to conducting the observations.

C. If traffic volume is too heavy to accurately record information, predetermined protocol should exist for selecting which travel lanes to observe.

D. Observations should be conducted for a predetermined time period, usually one hour. Time periods should be the same at each site.

E. To minimize travel time and distance required to conduct the observations, clustering of sampled sites can be done. Sample sites should be grouped into geographic clusters, with each cluster containing major and local roads. Assignment of sites and times within clusters should be random.

F. Two counts should be recorded for all eligible vehicles:
1. Number of front seat outboard occupants.
2. Number of these occupants wearing shoulder belts.

III. ESTIMATION

A. Observations at each site should be weighted by the site's final probability of selection.

B. An estimate of one standard error should be calculated for the estimate of belt use. Using this estimate, 95 percent confidence intervals for the estimate of safety belt use should be calculated.

PART 1345—INCENTIVE GRANT CRITERIA FOR OCCUPANT PROTECTION PROGRAMS

Sec.

1345.1 Scope.
1345.2 Purpose.
1345.3 Definitions.
1345.4 General requirements.
1345.5 Requirements for a grant.
1345.6 Award procedures.


SOURCE: 63 FR 32597, Oct. 1, 1998, unless otherwise noted.

§ 1345.1 Scope.

This part establishes criteria, in accordance with section 2003 of the Transportation Equity Act for the 21st Century, for awarding incentive grants to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

§ 1345.2 Purpose.

The purpose of this part is to implement the provisions of section 2003 of the Transportation Equity Act for the 21st Century, 23 U.S.C. 405, and to encourage States to adopt effective occupant protection programs.

§ 1345.3 Definitions.

(a) Child restraint system means child safety seat.
§ 1345.5 Requirements for a grant.

To qualify for an incentive grant, a State must adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. A State must adopt and implement at least four of the following criteria:

(a) Safety belt use law. (1) In fiscal years 1999 and 2000, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle does not have a safety belt properly secured about the individual’s body.

(2) Beginning in fiscal year 2001, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in any seating position in the vehicle does not have a safety belt properly secured about the individual’s body.

(b) Limitation on grants. A State may receive a grant for up to six fiscal years beginning after September 30, 1998, subject to the following limitations:

(1) The amount of a grant, under §1345.5 shall equal up to 25 percent of the State’s 23 U.S.C. 402 apportionment for fiscal year 1997, subject to availability of funds.

(2) In the first and second fiscal years a State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(3) In the third and fourth fiscal years a State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(4) In the fifth and sixth fiscal years a State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.
(3) To demonstrate compliance with this criterion, a State shall submit a copy of the State’s safety belt use law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraphs (a)(1) or (a)(2), as appropriate, of this section. The State is also required to identify any exemptions to its safety belt use law.

(b) Primary safety belt use law. (1) A State must provide for primary enforcement of its safety belt use law.

(2) To demonstrate compliance with this criterion, the State shall submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (b)(1) of this section.

(c) Minimum fine or penalty points. (1) A State must provide for the imposition of a minimum fine of not less than $25.00 or one or more penalty points on the driver’s license of an individual:

(i) For a violation of the State’s safety belt use law; and

(ii) For a violation of the State’s child passenger protection law.

(2) To demonstrate compliance with this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (c)(1) of this section.

(i) For purposes of this paragraph, a “Law State” means a State that has a law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the minimum fines or penalty points criterion including the imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State’s safety belt use and child passenger protection laws.

(3) To demonstrate compliance with this criterion, a Data State shall submit data covering a period of at least three months during the past twelve months showing the total number of persons who were convicted of a safety belt use or child passenger protection law violation and that 80 percent or more of all such persons were required to pay at least $25 in fines, fees or court costs or had one or more penalty points assessed against their driver’s license. The State can provide the necessary data based on a representative sample.

(ii) For purposes of this paragraph, a “Data State” means a State that does not require the mandatory imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State’s safety belt use and child passenger protection laws.

(d) Special traffic enforcement program. (1) A State must establish a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program. The program must provide for periodic enforcement efforts. Each enforcement effort must include the following five elements, in chronological order:

(i) A seat belt observed use survey conducted before any enforcement wave;

(ii) A media campaign to inform the public about the risks and costs of traffic crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs.

(iii) Local media events announcing a pending enforcement wave;

(iv) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics.

(v) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

(2) The State’s program must provide for at least two enforcement efforts each year and must require the participation of State and local police in each effort.

(3) The State’s program must cover at least 70% of the State’s population.

(4) To demonstrate compliance with this criterion in the first year the State receives a grant based on this criterion, the State shall submit a plan to conduct a program that covers each element identified in paragraphs (d)(1) through (d)(3) of this section. Specifically, the plan shall:

(i) Provide the approximate dates, durations and locations of the efforts planned in the upcoming year;

(ii) Specify the types of enforcement methods that will be used during each
enforcement effort and provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program; and

(iii) Document the activities the State plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy that the State intends to use to deliver each message to its target audience.

(5) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a special traffic enforcement program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which police agencies were involved; and the dates, duration and location of each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population.

(e) *Child passenger protection education program.* (1) A State must provide an effective system for educating the public about the proper use of child safety seats. The program must, at a minimum:

(i) Provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems;

(ii) Provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, police officers, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety Technician Curriculum;

(iii) Provide periodic child safety seat clinics conducted by State and local agencies (health, medical, hospital, enforcement, etc.); and

(iv) The State's program activities (with the exception of the training and retraining activities) must cover at least 70% of the State's population; that is, the program activities must take place in counties or other subdivisions of the State that collectively contain at least 70% of the State's population.

(2) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a child passenger protection education program that covers each element identified in paragraph (e) (1) of this section. The information shall include:

(i) A sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the targeted population;

(ii) A description of the activities that will be used to train and retrain child passenger safety technicians, police officers, fire and emergency personnel and other educators and provide the durations and locations of such training activities;

(iii) An estimate of the approximate number of people who will participate in the training and retraining activities; and

(iv) A plan to conduct clinics that will serve at least 70% of the targeted population.

(3) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a child passenger protection education program in the following year and information documenting that the prior
§ 1345.6 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by §1345.4(a) and subject to the limitation in §1345.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State’s application and documentation and the remainder of the full grant amounts, up to the State’s proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 410 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 410 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in §1345.4.

PARTS 1346–1399 [RESERVED]
FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids Volume to the Code of Federal Regulations which is published separately and revised annually.

Subject Index
Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected
# Subject Index

**Chapters I and II**

**Federal Highway Administration**

*Editorial Note:* This listing is provided for information purposes only. It is compiled and kept up-to-date by the Federal Highway Administration, Department of Transportation.

<table>
<thead>
<tr>
<th>Part/Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abandoned:</td>
<td></td>
</tr>
<tr>
<td>Frontage roads</td>
<td>620.203</td>
</tr>
<tr>
<td>Mass transit facility</td>
<td>810, Subpart C</td>
</tr>
<tr>
<td>Signs</td>
<td>750, Subpart D</td>
</tr>
<tr>
<td>Utilities</td>
<td>645, Subpart A</td>
</tr>
<tr>
<td>Vehicles</td>
<td>752</td>
</tr>
<tr>
<td>Access:</td>
<td></td>
</tr>
<tr>
<td>Airport</td>
<td>620</td>
</tr>
<tr>
<td>Control on R-O-W defense roads</td>
<td>660, Subpart E</td>
</tr>
<tr>
<td>Handicapped parking</td>
<td>1235</td>
</tr>
<tr>
<td>Information Center</td>
<td>752</td>
</tr>
<tr>
<td>Joint occupancy</td>
<td>1.23</td>
</tr>
<tr>
<td>Reasonable access—trucks—National Network</td>
<td>658</td>
</tr>
<tr>
<td>Right-of-way costs</td>
<td>710</td>
</tr>
<tr>
<td>Safety rest areas</td>
<td>752</td>
</tr>
<tr>
<td>Utility installations on R-O-W</td>
<td>645, Subpart B</td>
</tr>
<tr>
<td>Accident:</td>
<td></td>
</tr>
<tr>
<td>Construction zone</td>
<td>630, Subpart J</td>
</tr>
<tr>
<td>Employee safety contract provisions</td>
<td>633, Subpart B</td>
</tr>
<tr>
<td>Motor carriers (See 49 CFR Chap. III)</td>
<td>658</td>
</tr>
<tr>
<td>National network</td>
<td>646, Subpart A</td>
</tr>
<tr>
<td>Rail-highway issue</td>
<td>625</td>
</tr>
<tr>
<td>Safety design</td>
<td>924</td>
</tr>
<tr>
<td>Safety improvement program</td>
<td>645, Subpart B</td>
</tr>
<tr>
<td>Acquisition:</td>
<td></td>
</tr>
<tr>
<td>Junkyards</td>
<td>751</td>
</tr>
<tr>
<td>Outdoor advertising</td>
<td>750, Subpart D</td>
</tr>
<tr>
<td>Procedures for landscaping and scenic enhancement</td>
<td>752</td>
</tr>
<tr>
<td>Right-of-way by State</td>
<td>1.23(a); 710</td>
</tr>
<tr>
<td>Administrative settlement costs—contract claims</td>
<td>140, Subpart E</td>
</tr>
<tr>
<td>Advance construction of Federal-aid project</td>
<td>630, Subpart G</td>
</tr>
<tr>
<td>Advertising. See Highway beautification; Outdoor advertising.</td>
<td></td>
</tr>
<tr>
<td>Advertising for bids, Federal-aid contracts</td>
<td>635.107</td>
</tr>
<tr>
<td>Aesthetic considerations</td>
<td>620.203; 645, Subpart B; 771; 752</td>
</tr>
<tr>
<td>Agreement(s):</td>
<td></td>
</tr>
<tr>
<td>See Contracts.</td>
<td></td>
</tr>
<tr>
<td>Metropolitan planning organization</td>
<td>450</td>
</tr>
<tr>
<td>Topic</td>
<td>Section</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Airport and highway improvements</td>
<td>620, Subpart A</td>
</tr>
<tr>
<td>Airspace:</td>
<td></td>
</tr>
<tr>
<td>Management on Interstate</td>
<td>710.405</td>
</tr>
<tr>
<td>Use within R-O-W boundaries</td>
<td>1.23</td>
</tr>
<tr>
<td>Alcoholic beverages:</td>
<td></td>
</tr>
<tr>
<td>Drinking age</td>
<td>1208</td>
</tr>
<tr>
<td>Minors (motor vehicle operation)</td>
<td>1210</td>
</tr>
<tr>
<td>Motor carriers, driver use (See 49 CFR Chap. III)</td>
<td>1270</td>
</tr>
<tr>
<td>Open containers</td>
<td>1225</td>
</tr>
<tr>
<td>Antitrust violations. See 49 CFR part 29.</td>
<td></td>
</tr>
<tr>
<td>Appalachian contracts</td>
<td>633, Subpart B</td>
</tr>
<tr>
<td>Appraisal</td>
<td>710.304(r)</td>
</tr>
<tr>
<td>Approach and approach roads:</td>
<td></td>
</tr>
<tr>
<td>Bridge improvement</td>
<td>924; 650 D</td>
</tr>
<tr>
<td>Bridge on Federal dam</td>
<td>630, Subpart H</td>
</tr>
<tr>
<td>Exclusive or preferential lanes on Interstate Systems</td>
<td>810, Subpart B</td>
</tr>
<tr>
<td>Railroad-highway projects</td>
<td>646, Subpart B</td>
</tr>
<tr>
<td>Archeological site</td>
<td>771</td>
</tr>
<tr>
<td>Area-wide plan</td>
<td>230.103</td>
</tr>
<tr>
<td>Audit(s):</td>
<td></td>
</tr>
<tr>
<td>Interagency expenses</td>
<td>140, Subpart H</td>
</tr>
<tr>
<td>Prenegotiation audits</td>
<td>172</td>
</tr>
<tr>
<td>Single audit requirements (see 49 CFR part 90)</td>
<td></td>
</tr>
<tr>
<td>State contract administration</td>
<td>140, Subpart H</td>
</tr>
<tr>
<td>Authorization to proceed on projects</td>
<td>630.114; 810</td>
</tr>
<tr>
<td>Automobile graveyard</td>
<td>751</td>
</tr>
<tr>
<td>Automobile transporters</td>
<td>638</td>
</tr>
<tr>
<td>‘‘B-Train’’ assembly—specialized equipment</td>
<td>658</td>
</tr>
<tr>
<td>Beautification. See Highway beautification.</td>
<td></td>
</tr>
<tr>
<td>Bicycle trails</td>
<td>652</td>
</tr>
<tr>
<td>Bids, contract</td>
<td>635, Subpart A</td>
</tr>
<tr>
<td>Bikeways and walkways in conjunction with Federal and</td>
<td>652</td>
</tr>
<tr>
<td>Federal-aid highways</td>
<td></td>
</tr>
<tr>
<td>Billboards. See Highway beautification.</td>
<td>1210, 1225, 1275</td>
</tr>
<tr>
<td>Boat transporters—specialized equipment</td>
<td>658</td>
</tr>
<tr>
<td>Bond(s):</td>
<td></td>
</tr>
<tr>
<td>Advance I.S. construction; interest costs</td>
<td>630, Subpart G</td>
</tr>
<tr>
<td>Reimbursement</td>
<td>140, Subpart F</td>
</tr>
<tr>
<td>Bonus incentive payments for controlling outdoor advertising on the Interstate System</td>
<td>190</td>
</tr>
<tr>
<td>Bonus program</td>
<td>1.35; 750, Subparts A and G; 190</td>
</tr>
<tr>
<td>Bridge(s):</td>
<td></td>
</tr>
<tr>
<td>Approach improvements</td>
<td>924; 650, Subpart D</td>
</tr>
<tr>
<td>Construction over Federal dams</td>
<td>630, Subpart H</td>
</tr>
<tr>
<td>Design</td>
<td>625</td>
</tr>
<tr>
<td>Discretionary candidate rating factor</td>
<td>650, Subpart G</td>
</tr>
<tr>
<td>Erosion control</td>
<td>650, Subpart B</td>
</tr>
<tr>
<td>Indian Reservation Road</td>
<td>661</td>
</tr>
<tr>
<td>Location and hydraulic design of encroachments on flood plains</td>
<td>650, Subpart A</td>
</tr>
<tr>
<td>National inspection standards</td>
<td>650, Subpart C</td>
</tr>
<tr>
<td>Natural disaster or catastrophic failure</td>
<td>668</td>
</tr>
</tbody>
</table>
# Index to Chapters I and II

**Bridge(s)—Continued**

- Navigational clearances .......................................................... 650, Subpart H
- Off-system roads ....................................................................... 924.11
- Pedestrian overpass and underpass .......................................... 652
- Railroad-highway ....................................................................... 646, 210
- Replacement and rehabilitation (HBRR) ................................... 650, Subpart D
- Structures and hydraulics ......................................................... 650

**Brooks bill** ............................................................................... 172

**Business enterprises, minority, in Federal-aid highway construction** ............................................................... 230, Subpart B; 635, Subpart A

**Buy America requirements** ..................................................... 635.410

**C**

- **Carpool** ..................................................................................... 656
- **Carpool lane, motorcycle use** ................................................... 810
- **Certification acceptance** .......................................................... 640
- **Certification on heavy vehicle use tax** ...................................... 669

**Civil rights:**

- **Act, application to contracts** ................................................... 633, Subparts A and B; 635, Subpart A
  - Advertising for bids ........................................................................ 635, Subpart A
  - **EEO:**
    - Construction contract compliance ........................................... 230, Subpart D
    - Federal and Federal-aid construction ....................................... 230, Subpart A
    - Fellowship and scholarship grants .......................................... 260, Subpart A
    - SHA internal compliance program ......................................... 230, Subpart C
    - **Title VII Program and related statutes** ................................. 200
- **Claims by Federal-aid contractors** ........................................... 635, Subpart A

**Claims collection (owed to United States). See 49 CFR 89.**

**Clean Air Act:**

- **Contract implementation** ....................................................... 633, Subparts A and B
  - Environmental Impact Statement .............................................. 771
  - R-O-W project development ...................................................... 710, Subpart C
- **Commercial motor vehicle (National Network)** ......................... 658
- **Commuting:**
  - Carpool/Vanpool ........................................................................ 656
  - Bikeways .................................................................................... 652
- **Compliance with Federal laws and regulations** ......................... 1.36
- **Conflicts of interest** .................................................................. 1.33
- **Construction:**
  - Engineering costs ....................................................................... 140, Subpart B
  - Noise ........................................................................................... 772
  - Sampling and testing of materials .............................................. 637, Subpart B
- **Construction and maintenance:**
  - Certification acceptance ............................................................ 640
  - Contract procedures ................................................................... 635, Subpart A
  - Force account construction ....................................................... 635, Subpart B
  - General material requirements ................................................ 635, Subpart D
  - Physical construction authorization .......................................... 635, Subpart C
  - Reconstruction due to natural disaster ...................................... 668
  - Reconstruction on relinquished off-system facility .................... 620, Subpart B
  - Safety in work zones ................................................................. 630, Subpart J
- **Consultant(s), Engineering** ..................................................... 172; 635, Subpart A
- **Consumer involvement** ............................................................ 771
Contract(s):

Construction contracts:

Direct Federal:
- Forest highways ..................................................... 660, Subpart A
- Labor provisions .................................................... 633, Subpart C, App. A
- Nonsegregated facilities ........................................ 633, Subpart C
- Required provisions ............................................... 633, Subpart C

Federal-aid:
- Appalachian program ............................................. 633, Subpart B
- Awards ................................................................... 635, Subpart A
- Bids ........................................................................ 635, Subpart A
- Claims (expenses) ................................................... 140, Subpart E
- Consulting (engineering) ........................................ 172
- General procedures ................................................ 635, Subpart E
- Insurance ............................................................... 646.105
- Required provisions ............................................... 633, Subpart A
- Special provisions .................................................. 633, Subpart A
- Subcontracting ...................................................... 635, Subpart A

Federal-State agreements:

Advertising control ..................................................... 190
- Forest highway ...................................................... 660,111
- Project agreements ................................................... 630, Subpart C

Required provisions:

- Anticollusion ............................................................... 635, Subpart A
- Appalachian program ................................................... 633, Subpart B
- Appraiser contracts ..................................................... 720, Subpart B
- Buy America .......................................................... 635,410
- Federal contracts ...................................................... 633, Subpart C
- Federal-aid contracts ................................................... 633, Subpart A

Labor and employment ................................................... 635, Subpart A

Other:

- Appraisals .............................................................. 720, Subpart B
- Consultants ............................................................. 172
- Contractor licensing and qualification ................... 635, Subpart A

Insurance:
- Public liability ................................................ 646, Subpart A
- Railway and highway ....................................... 646, Subpart A
- Railroad agreements ........................................... 646, Subpart B
- Small business participation ................................. 635, Subpart A
- Time extensions ..................................................... 635, Subpart A
- Utilities ................................................................. 645, Subpart B

Controlled substances—motor carriers. See 49 CFR Chap. III.

Dams, Federal .......................................................... 630, Subpart H


Defense access roads:
- Federal-aid Highway Systems ........................................ 470, Subpart A
- Federal land transfers and direct Federal acquisition ...... 712, Subpart E
Index to Chapters I and II

Defense access roads—Continued

National defense highways ........................................... 660, Subpart E
Defense Highways, National System of Interstate ............. 470, Subpart A
Definitions ................................................................ 1.2
Design:
Bikeways and walkways ............................................ 652
Bridge construction .................................................. 650, Subpart H
Defense access roads ............................................... 660, Subpart E; 652
Hydraulic design of highway encroachment on flood plains ...................................................... 650.107
Pavement .................................................................. 500
Railroad-highway projects ............................................ 646.214
Standards for NHS ................................................... 625
Direct Federal:
Administering forest highways .................................... 660, Subpart A
Construction contracts ................................................. 633, Subpart C
Forest highway .......................................................... 660, Subpart A
Highways for National Defense .................................. 660, Subpart E
Land acquisition ......................................................... 710
Directives, issuance of ................................................ 1.32
Disadvantaged business enterprises:
Contract procedures .................................................. 635, Subpart A
Procurement of engineering and design related services .... 172
Supportive services .................................................... 230, Subpart A
Disaster assistance ..................................................... 668
Discrimination. See Civil rights; Equal employment opportunity.
Displaced persons— relocation assistance (See 49 CFR 24) 1208
Distilled spirits (Drinking age) ....................................... 1208
Diversion of highway revenue ...................................... 1.28
Drainage Guidelines .................................................... 650, Subpart B
Drinking age, minimum .............................................. 1208
Driver License:
Motor carrier, commercial driver (See 49 CFR Chap. III) 192
Suspension for drug offense .......................................... 192
Dromedary box, truck ................................................. 658
Drug-free workplace requirements (Grants). See 49 CFR 29 . 420.119
Drug offense, driver license suspension ......................... 192
Drug prohibition— motor carriers. See 49 CFR Chap. III.
Drug testing in workplace. See 49 CFR 40.

E

Earthquakes, emergency relief ........................................ 668
Easements, right-of-way ............................................... 710
Education and training programs ................................... 260
Highway safety .......................................................... 260, Subpart A
Highway technology ................................................... 260, Subpart A
State programs .......................................................... 260, Subpart D
Elderly and handicapped. See Handicapped persons facilities.
Emergency relief program:
Federal-aid highways ................................................ 668, Subpart A
Federal roads ............................................................. 668, Subpart B
Energy conservation ................................................... 656
Engineering and traffic operations .................................. 420 to 669
### 23 CFR (4–1–01 Edition)

<table>
<thead>
<tr>
<th>Topic</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment and R-O-W</td>
<td>710 to 777</td>
</tr>
<tr>
<td>Environmental impact &amp; related procedures</td>
<td>771</td>
</tr>
<tr>
<td>Categorical exclusions (CE)</td>
<td>771.117</td>
</tr>
<tr>
<td>Constructive use of certain protected resources</td>
<td>771</td>
</tr>
<tr>
<td>Environmental assessment (EA)</td>
<td>771.119</td>
</tr>
<tr>
<td>Environmental Impact Statement (EIS)</td>
<td>771</td>
</tr>
<tr>
<td>Finding of No Significant Impact (FONSI)</td>
<td>771.121</td>
</tr>
<tr>
<td>International actions</td>
<td>771.137</td>
</tr>
<tr>
<td>Noise impacts and abatement</td>
<td>772</td>
</tr>
<tr>
<td>R-O-W environmental analysis</td>
<td>710, Subpart C</td>
</tr>
<tr>
<td>Section 4(f)—protection of parks, historic sites, etc</td>
<td>771.135</td>
</tr>
<tr>
<td>Wetlands</td>
<td>777</td>
</tr>
<tr>
<td>Equal Employment Opportunity:</td>
<td></td>
</tr>
<tr>
<td>Hometown or imposed plan</td>
<td>633, Subpart C</td>
</tr>
<tr>
<td>Title VI compliance program</td>
<td>200</td>
</tr>
<tr>
<td>SHA Internal program for compliance</td>
<td>230, Subpart C</td>
</tr>
<tr>
<td>Equipment:</td>
<td></td>
</tr>
<tr>
<td>Acquire, use, &amp; disposal (RD&amp;T)</td>
<td>420</td>
</tr>
<tr>
<td>Publicly-owned, use of</td>
<td>635, Subpart A</td>
</tr>
<tr>
<td>Erosion control</td>
<td>650, subpart B</td>
</tr>
<tr>
<td><strong>F</strong></td>
<td></td>
</tr>
<tr>
<td>Federal-aid:</td>
<td></td>
</tr>
<tr>
<td>Construction contracts (other than Appalachian)</td>
<td>633, Subpart A</td>
</tr>
<tr>
<td>Contracts (Appalachian)</td>
<td>633, Subpart B</td>
</tr>
<tr>
<td>Emergency relief</td>
<td>668, Subpart A</td>
</tr>
<tr>
<td>Highway systems</td>
<td>470, Subpart A</td>
</tr>
<tr>
<td>Program approval and authorization</td>
<td>630, Subpart A</td>
</tr>
<tr>
<td>Projects—State legal expenses in contract claims</td>
<td>140, Subpart E</td>
</tr>
<tr>
<td>Federal land transfers and direct Federal acquisition</td>
<td>710, Subpart F</td>
</tr>
<tr>
<td>Federal-State cooperation, authority of State highway department</td>
<td>1.3</td>
</tr>
<tr>
<td>Federal-State relationship, certification acceptance</td>
<td>640</td>
</tr>
<tr>
<td>Federal Transit Administration (FTA):</td>
<td></td>
</tr>
<tr>
<td>Planning assistance and standards</td>
<td>450</td>
</tr>
<tr>
<td>Special use highway projects</td>
<td>810</td>
</tr>
<tr>
<td>Fellowship and scholarship grants</td>
<td>260, Subpart A</td>
</tr>
<tr>
<td>Fiber optic cables</td>
<td>645, Subpart B</td>
</tr>
<tr>
<td>Financial assistance, surface transportation projects</td>
<td>190</td>
</tr>
<tr>
<td>Flood(s):</td>
<td></td>
</tr>
<tr>
<td>Emergency funds</td>
<td>668</td>
</tr>
<tr>
<td>Highway encroachment on flood plains</td>
<td>650, Subpart A</td>
</tr>
<tr>
<td>Hazard evaluation guidelines</td>
<td>650.103</td>
</tr>
<tr>
<td>Force account construction</td>
<td>635, Subpart B</td>
</tr>
<tr>
<td>Forest roads:</td>
<td></td>
</tr>
<tr>
<td>Emergency funds</td>
<td>668</td>
</tr>
<tr>
<td>Highway administration</td>
<td>660, Subpart A</td>
</tr>
<tr>
<td>Forms:</td>
<td></td>
</tr>
<tr>
<td>EEO-4 (State highway agency EEO programs)</td>
<td>230, Subpart C</td>
</tr>
<tr>
<td>FHWA 47 (Statement of materials and labor)</td>
<td>635, Subpart A</td>
</tr>
<tr>
<td>FHWA 1175 (Schedule of projects supplementing advertising control bonus project)</td>
<td>190</td>
</tr>
</tbody>
</table>

494
Index to Chapters I and II

Forms—Continued

FHWA 1273 (Required contract provisions, Federal-aid construction contracts) ........................................... 633, Subpart A; 230, Subpart B

FHWA 1405 (FHWA contracts and subcontracts awarded to minorities) .......................................................... 230.209

FHWA 1422 (Request for use of Federal-aid highway funds for education or training) ......................................... 260 App.

FHWA 1424 (Outdoor advertising report) ...................................................... 750.308

PR-2 (Federal-aid project agreement) .......................................................... 140, Subpart F

PR-20 (Voucher for work performed under provision of the Federal-aid and Federal Highway Acts, as amended) ...... 140.610; 190

PR-1316 (Required contract provisions, Appalachian development highway system) ........................................... 633, Subpart B, App. B

PR-1317 (Additional required contract provisions, Appalachian development highway system and local access road contracts other than construction contracts) .......... 633, Subpart B, App. C

PR-1391 (Federal-aid highway construction contractors annual EEO report) ............................................. 230, Subpart A, App. C

PR-1392 (Federal-aid highway construction summary of employment data) .......................................................... 230, Subpart A, App. D

Fraud. See 49 CFR 29.

G

Gasoline taxes, diversion of funds (23 U.S.C. 126) ..................... 1.28

Geodetic markers ................................................................................. 630, Subpart D

Geometric standards ........................................................................... 476.2; 625; 630, Subpart J; 650, Subpart D

Grade crossing improvements ............................................................... 646, Subpart B; 924

Grants and cooperative agreements to State and local governments. .............................................................. See 49 CFR 18.

H

Handicapped persons facilities:

Carpool/vanpool ................................................................. 656

Curb-cut ramps on bikeways and walkways .................... 652

Environmental considerations ......................................................... 771

Fellowship and scholarship grants ............................................. 260, Subpart A

Mass transportation. See 49 CFR 27.

Mass transportation planning. See 49 CFR 27.

Mass transportation planning. See 49 CFR 27.

PARKING ................................................................. 1235

Hardship acquisition ........................................................................... 710

Hayden-Cartwright amendment (23 U.S.C. 126). See Diversion of highway revenue .................. 1.28

Hazzards:

Flood ................................................................. 650, Subpart A

Reduction program ........................................................................... 924

Hearings, public:

Environmental impact ................................................................. 771

Flood plain ........................................................................... 771

Location and design of highways .............................................. 771
Hearings, public—Continued
Safety sanctions .......................................................... 1206.10
Highway occupancy vehicle (HOV) lanes ....................... 810
Highway beautification:
Bonus program ........................................................... 190; 750, Subpart A; 1.35
Junkyard control and acquisition .................................... 751
Landscaping and roadside development .......................... 752
National standards for directional official signs ................ 750, Subpart B
Outdoor advertising (acq. rights of sign and sign site owners) .......................................................... 750, Subpart D
Outdoor advertising control .......................................... 750, Subpart G
Relinquishment ............................................................. 620.203
Signs exempt from removal ........................................... 750, Subpart E
Specific information signs (see MUTCD) ........................ 655, Subpart F
Highway Safety Act ......................................................... 924; Chapter II
Highway safety plan ....................................................... 1200
Highway systems. See Systems ....................................... 470, Subpart A
Highway technology (educ. and training) ........................ 260, Subpart A
Historic preservation .................................................... 771
Hometown plan ......................................................... 230.103; 230.115; 633, Subpart C
Hurricane, emergency relief ........................................... 668
Hydraulic design of highway encroachment ..................... 650, Subpart A

I

Imposed plan .............................................................. 230.103; 230.115; 633, Subpart C
Incentive/disincentive contract provisions ........................ 635, Subpart A
Incentive payments for controlling outdoor advertising on
Interstate System .......................................................... 190
Indian reservation public road mileage ........................... 460.3
Indian Reservation Road, bridges .................................. 661
Information:
Centers ......................................................................... 752
Furnished by State highway departments ......................... 1.5
Freedom of Information Act. See 49 CFR 7. ....................... 750; 655, Subpart F
Signs .............................................................................. 750, Subpart A; 1.23(b); 1.35
Informational site(s) ....................................................... 750, Subpart A; 655, Subpart F
Insurance:
Intermodal facilities ...................................................... 500
Railroad worker compensation, public liability and property damage .................................................. 140, Subpart I
Railroad-highway protective liability ............................... 646, Subpart A
Intelligent Transportation System (ITS) ......................... 940
International symbol of handicapped access ..................... 1235
Interstate Highway System ............................................ 476
Acquisition of lands ....................................................... 710
Adjacent areas ........................................................... 750; 752
Agreements related to ................................................... 1.23; 752
General .......................................................... 476, Subpart A
International boundaries ................................................. 470, Subpart A
Withdrawal of interstate segments and substitution of public mass transit projects ............................. 476, Subpart D
Intoxication:
Minors (motor vehicle operation) .................................. 1210
## Index to Chapters I and II

### Intoxication—Continued
- Motor vehicle operation ........................................ 1225, 1275
- Inventions .................................................................. 420
- Investments, surface transportation projects ............ 180

### J
- Junkyard control and acquisition .......................... 751

### K
- None.

### L
- Labor provisions, Direct Federal contract .............. 633, Subpart C, App. A
- Labor and employment ........................................ 635, Subpart A
- Land acquisition .................................................. 710
- Land transfers:
  - Federal and direct Federal acquisition .............. 710
  - Relinquishment on R-O-W .................................. 620, Subpart B
- Landscape and roadside development .................. 752
- Landslides, emergency relief ............................... 668
- Length of trucks (National Network) ................. 658
- License plates, handicapped .................................. 1235
- Licensing and qualification of contractors .......... 635, Subpart A
- Limitation on Federal participation ..................... 1.9
- Liquidated damages rates .................................. 635, Subpart A

### M
- Maintenance: See also Construction and maintenance.
  - Defense roads .................................................. 660, Subpart E
  - Forest highways ............................................... 660.115
  - Interstate guidelines ......................................... 635, Subpart E
  - Signs .................................................................. 750.707
  - State responsibility ........................................... 1.27; 633.208
- Management:
  - Administration ................................................ 1
  - Monitoring systems:
    - Bridge ......................................................... 500, Subpart C
    - Highway Safety ............................................ 500, Subpart D
    - Intermodal facilities and systems mgmt .......... 500, Subpart G
    - Pavement ..................................................... 500, Subpart B
    - Public transp. facilities & equipment ........... 500, Subpart F
    - Traffic congestion ........................................ 500, Subpart E
    - Traffic monitoring system for highways ........ 500, Subpart H
- Mass transit and special use hwy projects ............ 810
- Mass transit projects, Interstate withdrawal for ........ 476, Subpart D
- Material(s):
  - Produced by convict labor .................................. 635.417
  - Selection ......................................................... 635.410; 635.411
  - Requirements on Federal-aid highway projects .... 635, Subpart D
  - Sampling and testing ....................................... 637, Subpart B
  - Metric conversion guide .................................. 655, Subpart F
  - Metric, Truck size and weight ......................... 658.15
Metropolitan planning organization (MPO) ........................................ 450
Military Traffic Management Command ................................. 660, Subpart E
Minority business enterprises. See also 49 CFR 23 ................... 230, Subpart B; 420, Subpart A; 635, Subpart A
Missile route ............................................................................ 660, Subpart E
Motor carrier. See 49 CFR Chap. III.
Motor carrier route designations (STAA 1982) ......................... 658
Motorcycle ............................................................................... 810
MUTCD .......................................................... 655, Subpart F

N
National bridge inspection standards ........................................ 650, Subpart C
National cooperative highway research program (NCHRP) RD&T studies ......................................................... 420, Subpart B
National defense highways ...................................................... 660, Subpart E
National Environmental Policy Act (NEPA) .......................... 771
National Highway Institute:
  Fellowship and scholarship grants ................................ 260, Subpart A
  State and local education and training ............................ 260, Subpart D
National Highway System ....................................................... 470, Subpart A
National ITS Architecture ....................................................... 940
National Minimum Drinking Age ............................................. 1208
National Network (commercial vehicles) ............................... 638
National Standards:
  Bridge inspection ............................................................... 650, Subpart C
  Directional and official signs ............................................. 750, Subpart B
  Outdoor advertising adjacent to Interstate System under 1958 bonus program ........................................ 750, Subpart A
National System of Interstate and Defense Highways ............. 470, Subpart A
Navigational clearances for bridges ........................................ 650, Subpart H
Noise standards and procedures .............................................. 772
Nonhighway public mass transit project ................................. 476.2

O
Off-system roads ................................................................. 924
OMB Circular A-87 ............................................................ 420, Subpart A; 710.203
OMB Circular A-102, Attachment N ..................................... 810
OMB Circular A-110 ......................................................... 420
Open alcohol beverage containers ......................................... 1270
Outdoor advertising:
  Acquisition of rights of sign and sign site owners ............. 750, Subpart D
  Bonus program ............................................................... 1.35; 190; 750.707
  Control ............................................................................ 750, Subpart G
  Directional and official signs ............................................. 750, Subpart B
  Interstate System, incentive payments for controlling .... 190
  Signs exempt from removal .............................................. 750, Subpart E
  Specific information signs (see MUTCD) ......................... 655, Subpart F

P
Parking facility .................................................................... 450; 476; 656; 810
# Index to Chapters I and II

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking, handicapped</td>
<td>1235</td>
</tr>
<tr>
<td>Parks, protection of</td>
<td>771</td>
</tr>
<tr>
<td>Constructive use</td>
<td>771</td>
</tr>
<tr>
<td>Section 4(f)</td>
<td>771.135</td>
</tr>
<tr>
<td>Patented or proprietary items in material selection</td>
<td>635.11</td>
</tr>
<tr>
<td>Patents and inventions</td>
<td>420; 635.411</td>
</tr>
<tr>
<td>Pavement</td>
<td>626</td>
</tr>
<tr>
<td>New or reconstructed highways</td>
<td>655, Subpart F</td>
</tr>
<tr>
<td>Pavement Management System (PMS)</td>
<td>500</td>
</tr>
<tr>
<td>Payment procedures, See Parts 140 through 190.</td>
<td></td>
</tr>
<tr>
<td>Payments, State request for</td>
<td>1.31</td>
</tr>
<tr>
<td>Permits:</td>
<td></td>
</tr>
<tr>
<td>Bridge construction</td>
<td>650, Subpart H</td>
</tr>
<tr>
<td>Overweight loads</td>
<td>657</td>
</tr>
<tr>
<td>Planning:</td>
<td></td>
</tr>
<tr>
<td>Assistance standards</td>
<td>450</td>
</tr>
<tr>
<td>Bicycle transportation</td>
<td>652</td>
</tr>
<tr>
<td>Carpool/vanpool</td>
<td>656</td>
</tr>
<tr>
<td>Federal-aid systems</td>
<td>470, Subpart A</td>
</tr>
<tr>
<td>Highway systems</td>
<td>470</td>
</tr>
<tr>
<td>Interstate highway system</td>
<td>476</td>
</tr>
<tr>
<td>Metropolitan planning org</td>
<td>450</td>
</tr>
<tr>
<td>Pedestrian safety</td>
<td>652</td>
</tr>
<tr>
<td>Program administration</td>
<td>420, Subpart A</td>
</tr>
<tr>
<td>Research, development &amp; technology (RD&amp;T)</td>
<td>420, Subpart B</td>
</tr>
<tr>
<td>Safety improvement program</td>
<td>924.9</td>
</tr>
<tr>
<td>Safety in work zones</td>
<td>630, Subpart J</td>
</tr>
<tr>
<td>SP&amp;R program approval &amp; authorization</td>
<td>420, Subpart A</td>
</tr>
<tr>
<td>Transportation improvement program (TIP)</td>
<td>450</td>
</tr>
<tr>
<td>Urban transportation</td>
<td>450</td>
</tr>
<tr>
<td>Plans:</td>
<td></td>
</tr>
<tr>
<td>Highway safety plan (FHWA/NHTSA)</td>
<td>1251</td>
</tr>
<tr>
<td>Nominal value plan</td>
<td>750.305</td>
</tr>
<tr>
<td>Specifications and estimates (PS&amp;E)</td>
<td>630, Subpart B</td>
</tr>
<tr>
<td>Plants for landscaping</td>
<td>752</td>
</tr>
<tr>
<td>Preconstruction procedures:</td>
<td></td>
</tr>
<tr>
<td>Advance construction of Federal-aid projects</td>
<td>630, Subpart G</td>
</tr>
<tr>
<td>Bridges on Federal dams</td>
<td>630, Subpart H</td>
</tr>
<tr>
<td>Certification acceptance</td>
<td>640</td>
</tr>
<tr>
<td>Geodetic markers</td>
<td>630, Subpart D</td>
</tr>
<tr>
<td>Plans, specifications and estimates (PS&amp;E)</td>
<td>630, Subpart B</td>
</tr>
<tr>
<td>Program and project procedures</td>
<td>630, Subpart A</td>
</tr>
<tr>
<td>Project agreements</td>
<td>630, Subpart C</td>
</tr>
<tr>
<td>Traffic safety in work zones</td>
<td>630, Subpart J</td>
</tr>
<tr>
<td>Prison-made goods</td>
<td>635.417</td>
</tr>
<tr>
<td>Private sector engg &amp; design firms</td>
<td>172</td>
</tr>
<tr>
<td>Procurement of services, supplies, and equipment</td>
<td>172</td>
</tr>
<tr>
<td>Program(s):</td>
<td></td>
</tr>
<tr>
<td>Airports, civil and military</td>
<td>620, Subpart A</td>
</tr>
<tr>
<td>Appalachian highway</td>
<td>633, Subpart B</td>
</tr>
<tr>
<td>Apprentice and trainee</td>
<td>230, Subpart A; 260, Subparts A and D; 633, Subpart A</td>
</tr>
</tbody>
</table>
Program(s)—Continued

<table>
<thead>
<tr>
<th>Program(s)</th>
<th>Subpart(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval and authorization</td>
<td>420, Subpart A; 630, Subpart A</td>
</tr>
<tr>
<td>Beautification</td>
<td>750</td>
</tr>
<tr>
<td>Bikeway</td>
<td>650, Subpart D</td>
</tr>
<tr>
<td>Bridge replacement and rehabilitation</td>
<td>650, Subpart D</td>
</tr>
<tr>
<td>Carpool/vanpool</td>
<td>656</td>
</tr>
<tr>
<td>Certification acceptance</td>
<td>640</td>
</tr>
<tr>
<td>Control of outdoor advertising</td>
<td>750</td>
</tr>
<tr>
<td>Discretionary bridge</td>
<td>650, Subpart G</td>
</tr>
<tr>
<td>Emergency relief</td>
<td>668, Subparts A and B</td>
</tr>
<tr>
<td>Equal employment opportunity</td>
<td>230</td>
</tr>
<tr>
<td>Forest highways</td>
<td>660, Subpart A</td>
</tr>
<tr>
<td>Hazard elimination</td>
<td>924</td>
</tr>
<tr>
<td>Indian Reservation Road, bridges</td>
<td>661</td>
</tr>
<tr>
<td>Innovative grants (NHTSA)</td>
<td>1317</td>
</tr>
<tr>
<td>Minority business</td>
<td>230, Subpart B</td>
</tr>
<tr>
<td>National defense</td>
<td>660, Subpart E</td>
</tr>
<tr>
<td>National ITS Architecture</td>
<td>940</td>
</tr>
<tr>
<td>Planning &amp; research administration</td>
<td>420</td>
</tr>
<tr>
<td>Project quality—value engineering</td>
<td>627</td>
</tr>
<tr>
<td>Rail-highway crossings</td>
<td>924; 646, Subpart B</td>
</tr>
<tr>
<td>Regional ITS Architecture</td>
<td>940</td>
</tr>
<tr>
<td>Research, Development &amp; Technology (RD&amp;T)</td>
<td>420, Subpart B</td>
</tr>
<tr>
<td>Safety improvement, highway</td>
<td>924</td>
</tr>
<tr>
<td>State and community safety grant (FHWA/NHTSA)</td>
<td>1205</td>
</tr>
<tr>
<td>Surface transportation research strategic planning</td>
<td>940</td>
</tr>
<tr>
<td>Transportation Improvement Program (TIP)</td>
<td>450</td>
</tr>
<tr>
<td>Project approval:</td>
<td></td>
</tr>
<tr>
<td>Certification acceptance</td>
<td>640</td>
</tr>
<tr>
<td>Project agreements</td>
<td>630, Subpart C</td>
</tr>
<tr>
<td>Property (real) management</td>
<td>710</td>
</tr>
<tr>
<td>Proprietary products</td>
<td>635, Subpart D</td>
</tr>
<tr>
<td>Public hearings. See Hearings.</td>
<td></td>
</tr>
<tr>
<td>Quality assurance procedures for construction</td>
<td>637, Subpart B</td>
</tr>
<tr>
<td>Rail-highway crossings</td>
<td>1.11</td>
</tr>
<tr>
<td>Preconstruction procedures agreement</td>
<td>630, Subpart C</td>
</tr>
<tr>
<td>Right-of-way</td>
<td>710</td>
</tr>
<tr>
<td>Public road mileage for apportionment of safety funds</td>
<td>460</td>
</tr>
<tr>
<td>Public transportation:</td>
<td></td>
</tr>
<tr>
<td>Facilities and equipment mgmt system</td>
<td>500</td>
</tr>
<tr>
<td>Mass Transit</td>
<td>810</td>
</tr>
</tbody>
</table>

Q

Quality assurance procedures for construction                             637, Subpart B

R

R-R-R work (non-Interstate)                                               625

Railroad(s): 
Consultant services for RR/ highway crossing projects                     1.11
Railroad-highway insurance protection                                      646, Subpart A
Railroad-highway projects                                                  646, Subpart B
# Index to Chapters I and II

**Railroad(s)—Continued**
- Reimbursement for railroad-highway projects ........................................ 140, Subpart I
- Safety at grade crossings ........................................................................... 924

**Ramps:**
- Costs of curb-cut ramps on bikeways and walkways .................................. 652
- Design for highway encroachments on flood plains .............................. 650, Subpart A
- Environmental categorical exclusion, metering control device .............. 771.117
- Handicapped ................................................................................................. 1235
- Ineligible under bridge program ................................................................. 650, Subpart D
- Relinquish access control ........................................................................... 620, Subpart B
- Scales, size & weight ................................................................................... 657.9
- Utility installation ......................................................................................... 645, Subpart B

**Randolph-Sheppard Act (vending machines)** ........................................... 752

**Recordkeeping and reporting requirements**
- Applicability (see 49 CFR Part 18)
- Credit assistance, surface transportation projects ...................................... 180
- Emergency relief, OMB 2125-0525 .............................................................. 668
- Highway Safety Improvement Program, OMB 04-R-2450 ...................... 924.15
- Management and monitoring systems, OMB 2125-0555 ....................... 500
- Minority, disadvantaged and women businesses ......................................... 230, Subpart B
- Planning program, OMB 2125-0028, 2125-0032, 2132-0529 ..................... 420
- Project agreement, OMB 2125-0529 ............................................................. 630
- Truck size and weight, OMB 2125-0034 .................................................... 657
- Relocation assistance and real property acquisition. See 49 CFR 24.

**Utilities:**
- Accommodation policies, OMB 2125-0514 .............................................. 645.211
- Agreements (permits), OMB 2125-0522 .................................................... 645.213
- Develop and record costs, OMB 2125-0519 ............................................. 645.117
- Eligibility statement, OMB 2125-0515 ...................................................... 645.107
- Processing procedures, OMB 2125-0519 .................................................. 645.119

## Record retention:
- Access requirements (see 49 CFR Part 18)
- Bridge structure data .................................................................................. 650.311
- Certification of size and weight enforcement ............................................ 657
- Consultants for engineering services ......................................................... 172
- Contractors and subcontractors with direct Federal-aid highway construction contracts ................................................................. 633, Subpart C, App. A
- Contractors and subcontractors holding State highway contracts other than competitively bid ................................................................. 172
- Contractors with Federal-aid highway construction contracts; EEO compliance ........................................................................ 230, Subpart A, App. A
- EEO construction contract compliance ...................................................... 230.413
- Forest highway projects ............................................................................ 660.117
- Railroad work reimbursement ................................................................... 140.922
- Sign ownership and compensable interest ............................................... 750.306
- State agencies administering relocation assistance programs. See 49 CFR 24.
- Vehicle (heavy) use tax .............................................................................. 669

501
Regulations, Compliance with Federal laws .................................................. 1.36
Reimbursement:
  Administrative settlement costs—contract claims .......................... 140, Subpart E
  Bond issue project .............................................................................. 140, Subpart F
  Construction engineering costs .......................................................... 140, Subpart B
  Railroad work and railroad-highway projects .................................. 140, Subpart I
Right-of-way ................................................................. 710
  State highway agency audit expense—third party contract costs ......... 140, Subpart H
Relinquishment of highway facilities .................................................. 620, Subpart B
Relocation assistance:
  Uniform relocation assistance and real property acquisition, See 49 CFR 24.
  Construction authorization, condition for ........................................... 635, Subpart C
Reporting requirements. See Recordkeeping.
Research, Development & Technology .................................................... 420, Subpart B
Rest area:
  Directional & official signs .............................................................. 750, Subpart B
  Environmental categorical exclusion .................................................. 771.117
Interstate System maintenance ............................................................. 635.505
  Roadside facility .............................................................................. 752
Scenic area R-O-W ........................................................................... 645.209
  Utility service .................................................................................. 635.205
Utility service ...................................................................................... 635.205
Resurfacing, restoration, and rehabilitation (non-Interstate) ................. 625
Revenue, diversion of ........................................................................... 1.28
Ridesharing ......................................................................................... 656
Right-of-way:
  Federal assistance program:
    Direct Federal acquisitions ............................................................... 710.603
    Land transfers ................................................................................. 710.601
  General purpose and applicability ...................................................... 710, Subpart A
  Program administration:
    Funding and reimbursement ............................................................ 710.203
    State operations manuals .................................................................. 710.201
    State responsibilities ......................................................................... 710.201
  Project development:
    Acquisition ..................................................................................... 710.309
    Construction advertising .................................................................. 710.311
    Environmental analysis ..................................................................... 710.305
    Planning .......................................................................................... 710.303
    Project agreement .............................................................................. 710.307
Property acquisition alternatives:
  Environmental mitigation ..................................................................... 710.513
  Functional replacement ........................................................................ 710.509
  Hardship acquisition ............................................................................ 710.503
  Protective buying ................................................................................ 710.503
  Real property donations ....................................................................... 710.505
  State and local contributions ............................................................... 710.507
  Transportation enhancements ............................................................... 710.511
Real property management:
  Air rights .......................................................................................... 1.23; 710
  Disposals ............................................................................................ 710.409
  Leasing ............................................................................................... 710.407
Encroachments ....................................................................................... 1.23(b)
Flood plain ............................................................................................ 650, Subpart A
Interest to be acquired ............................................................................ 1.23(a)
Mass transit ............................................................................................ 810
Private lines (utility):
  Longitudinal R-O-W use ....................................................................... 1.23(c)
Index to Chapters I and II

Right-of-way—Continued
Private lines (utility)—Continued

R-O-W crossing ............................................................. 645, Subpart B
Rail transit facilities ......................................................... 810, Subpart C
Relinquishment of highway facilities ................................. 620, Subpart B
Use for highway purposes ................................................. 123(b)
Use for nonhighway purposes ........................................... 123(c); 810
Utility use & occupancy .................................................. 645, Subpart B

Route designations (commercial vehicles) ......................... 658

Rules of procedure for invoking sanctions under the Highway
Safety Act of 1966 ......................................................... 1206

S

Saddlemount combination (trucks) ........................................ 658

Safety:
Applicability to federally administered areas ..................... Chapter II

Construction and operational improvements (FHWA/ NHTSA) ........................................... 1205
Highway safety improvement program ......................... 1205
Innovative project grants (NHTSA) ................................ 1206
National minimum drinking age ...................................... 1206

Political subdivision participation ...................................... 1205
Public road mileage for apportionment of safety funds ...... 460
Special bridge replacement and rehabilitation ........................ 650, Subpart D
State Highway Safety Agency (FHWA/NHTSA) .............. 1251
State highway safety programs ......................................... 1200
State matching of planning and administration costs
(FHWA/NHTSA) .............................................................. 1252

Traffic control devices ................................................... 655, Subpart F
Traffic control plan in work zones ................................... 650, Subpart J
Use of safety belts and motorcycle helmets ....................... 1215

Sampling and testing of materials and construction ............... 637, Subpart B

Sanctions:
Highway safety program ................................................ 1206

Vehicle size and weight ................................................. 657

Scenic enhancement ....................................................... 752

Scholarship grants (NHI) ................................................. 260, Subpart A

Seat belt use laws .......................................................... Chapter II

Sediment control ............................................................. 650, Subpart B

Sign(s):
Bonus program ............................................................. 190; 750, Subpart A
Construction funding source signs ................................... 635, Subpart J
Directional sign on R-O-W ................................................ 655, Subpart F
Highway beautification ...................................................... 750
National standards for specific information ...................... 655, Subpart F
Outdoor advertising .......................................................... 750
Railroad grade crossing .................................................. 924; 655 F
Traffic control devices ...................................................... 655, Subpart F

Size and weight .............................................................. 657; 658

Small business participation ............................................. 635, Subpart A

Special bridge replacement and rehabilitation ................... 650, Subpart D

Spirits (minimum drinking age) .......................................... 1208

Standards:
Design ............................................................................. 625

Flood plain location and hydraulic design ......................... 650, Subpart A
Standards—Continued

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>National bridge inspection</td>
<td>650, Subpart C</td>
</tr>
<tr>
<td>National ITS Architecture</td>
<td>940</td>
</tr>
<tr>
<td>National standard for directional and official signs</td>
<td>750, Subpart B</td>
</tr>
<tr>
<td>National standard for regulation by States of outdoor advertising adjacent to interstate</td>
<td>750, Subpart A</td>
</tr>
<tr>
<td>National standard for signs giving specific information in interest of traveling public (see MUTCD)</td>
<td>655, Subpart F</td>
</tr>
<tr>
<td>Noise standards and procedures</td>
<td>772</td>
</tr>
<tr>
<td>Planning assistance and standards:</td>
<td></td>
</tr>
<tr>
<td>Transportation improvement program</td>
<td>450</td>
</tr>
<tr>
<td>Urban transportation planning</td>
<td>450</td>
</tr>
<tr>
<td>Procurement of services, supplies, or equipment</td>
<td>172</td>
</tr>
<tr>
<td>State audit expense—contract costs</td>
<td>140, Subpart H</td>
</tr>
<tr>
<td>State Highway Agency EEO programs</td>
<td>230, Subpart C</td>
</tr>
<tr>
<td>State improvement plan (SIP)</td>
<td>450</td>
</tr>
<tr>
<td>State internal audit responsibility (see 49 CFR Part 90)</td>
<td></td>
</tr>
<tr>
<td>Statewide transportation improvement program (STIP)</td>
<td>450</td>
</tr>
<tr>
<td>Storms, emergency relief</td>
<td>668</td>
</tr>
<tr>
<td>Subcontracting:</td>
<td></td>
</tr>
<tr>
<td>Federal-aid contracts</td>
<td>635, Subpart A</td>
</tr>
<tr>
<td>Negotiated contracts</td>
<td>172</td>
</tr>
<tr>
<td>Substitution of public mass transit projects</td>
<td>476, Subpart D</td>
</tr>
<tr>
<td>Supportive services</td>
<td>230, Subparts A and B</td>
</tr>
<tr>
<td>Survey</td>
<td></td>
</tr>
<tr>
<td>Civil Rights Act applicability</td>
<td>633, Subpart B, App. B</td>
</tr>
<tr>
<td>Contracts for</td>
<td>172; 635.105</td>
</tr>
<tr>
<td>Emergency relief damage</td>
<td>668</td>
</tr>
<tr>
<td>Engineering services</td>
<td>1.11(b)</td>
</tr>
<tr>
<td>Geodetic control</td>
<td>630.401</td>
</tr>
<tr>
<td>Outdoor advertising signs &amp; junkyard</td>
<td>750.303</td>
</tr>
<tr>
<td>Systems</td>
<td></td>
</tr>
<tr>
<td>Appalachian</td>
<td>633, Subpart B</td>
</tr>
<tr>
<td>Defense highways</td>
<td>470, Subpart A; 660, Subpart E</td>
</tr>
<tr>
<td>Interstate system</td>
<td>476</td>
</tr>
<tr>
<td>National Highway System</td>
<td>470, Subpart A</td>
</tr>
<tr>
<td>Urban area boundaries</td>
<td>1.7</td>
</tr>
</tbody>
</table>

Tax:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gasoline (23 U.S.C. 126)</td>
<td>1.28</td>
</tr>
<tr>
<td>Heavy vehicle use</td>
<td>669</td>
</tr>
<tr>
<td>License</td>
<td>1.28</td>
</tr>
<tr>
<td>Vehicle registration fee</td>
<td>1.28</td>
</tr>
<tr>
<td>Terminal, truck (National Network)</td>
<td>638</td>
</tr>
<tr>
<td>Tidal waves, emergency relief</td>
<td>668</td>
</tr>
<tr>
<td>Title VI program and related statutes—implementation and review procedures</td>
<td>200</td>
</tr>
</tbody>
</table>

Toll:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Junkyard control</td>
<td>751.3</td>
</tr>
<tr>
<td>National Network, truck size &amp; weight</td>
<td>638.5</td>
</tr>
<tr>
<td>Outdoor advertising control</td>
<td>750.702</td>
</tr>
<tr>
<td>Outdoor advertising sign removal</td>
<td>750.301</td>
</tr>
<tr>
<td>Plazas</td>
<td>460</td>
</tr>
</tbody>
</table>
Index to Chapters I and II

Toll—Continued
  Public road mileage apportionment .................................. 460
  Withdrawal of I.S.& substitution not applicable to toll bridge, tunnel or approach .............................................. 476, Subpart D

Traffic:
  Congestion mgmt system ................................................... 500
  Control devices:
    Federal-aid and other streets ....................................... 655, Subpart F
    Manual ......................................................................... 655, Subpart F
    Railroad-highway gradecrossing .................................. 646, Subpart B
    Utility adjustments ..................................................... 645, Subpart B
    Control plan in work zone ............................................. 630, Subpart J
    Highway safety improvement program .............................. 924
    Monitoring systems for highways ................................... 500
    National standards for specific information signs ............. 655, Subpart F
    Noise, abatement of ..................................................... 772
  Trail markers on Federal-aid highways ................................ 655, 667
  Training ........................................................................... 260
    Apprentices and trainees .............................................. 633, Subpart A
    Contract (minority, disadvantaged and women busi-
    nesses) ............................................................................. 230, Subpart B
    Highway safety ............................................................. 260, Subpart A
    Highway technology ...................................................... 260, Subpart A
    Highway transportation research and education .............. 260, Subpart A
    Special provision ......................................................... 230, Subpart A,
                                                           App. B
    State education and training program ............................ 260, Subpart D
    Transfer of R-O-W ........................................................ 620, Subpart B
  Transportation:
    Improvement program .................................................... 450
    Management area (TMA) .................................................. 450, 500
    Urban planning ............................................................. 450
    Transporter-erector route ............................................... 660, Subpart E
    Truck lanes ..................................................................... 657, 658
    Truck size and weight .................................................... 660, Subpart E

U

Uneconomic remnant ........................................................... 710
Uniform procedures for State highway safety programs .......... 1200
Uniform Relocation Assistance and Real Property Acquisi-
Uniform traffic control devices, ........................................... 655, Subpart F
United States Coast Guard bridge permit ............................ 650, Subpart H
Urban area boundaries ..................................................... 1.7; 470

Urban Mass Transportation:
  Mass transit and special use highway projects ................. 810
  Nonhighway interstate substitution projects ..................... 476, Subpart D
  Nonhighway public mass transit projects ......................... 810, Subpart D
  Transportation improvement program (TIP) ....................... 450

Utilities:
  Accommodations of utilities ......................................... 645, Subpart B
  Consultant services ....................................................... 1.11
  Real property reimbursement ........................................ 710
  Relocation and adjustments .......................................... 645, Subpart A
  Wetland drainage ......................................................... 645, Subpart B

V

Value engineering on NHS projects ...................................... 627
Vanpools ................................................................. 656
Vehicle(s):
  Abandoned ......................................................... 752
  Heavy vehicle use tax ............................................ 669
  Length limitations .................................................. 658
  Motor carrier. See 49 CFR Chap. III.
  Route designations (commercial) ............................. 658
  Size and weight certification ................................. 657
  Weight limitations .................................................. 658
  Width limitations .................................................... 658
Vending machines .................................................. 752
Volcanoes, emergency relief ....................................... 668
Voucher(s):
  Bonus project ......................................................... 190
  Progress and final .................................................. 140, Subpart F;
  ................................................................. 190; 630, Subpart G;
W
  Wages ................................................................. 633, Subparts A
  and B, App. B
  Walkways and bikeways in conjunction with Federal and
  Federal-aid highways ............................................... 652
  Warranty clauses .................................................... 635.413
  Water Pollution Control Act:
    See Federal-aid construction contracts (other than Appa-
    lachian) ................................................................. 633, Subpart A
  Weight and size ..................................................... 657; 658
  Welding code (bridge) .............................................. 625
  Wetland drainage (utility placement) .......................... 645, Subpart B
  Wetlands and coastal zones impacts ........................... 771, 777
  Windshield placard, handicapped ............................... 1235
  Withdrawal of interstate segments ............................ 476, Subpart D
  Women business enterprises ...................................... 230, Subpart B
  Work zone, safety in traffic ....................................... 630, Subpart J
X
  None.
Y
  None.
Z
  Zone, construction signs ........................................ 655, Subpart F
  Zone, work ......................................................... 630, Subpart J
Material Approved for Incorporation by Reference
(Revised as of April 1, 2001)

The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR Part 51 the incorporation by reference of the following publications. This list contains only those incorporations by reference effective as of the revision date of this volume. Incorporations by reference found within a regulation are effective upon the effective date of that regulation. For more information on incorporation by reference, see the preliminary pages of this volume.

23 CFR
FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

American Association of State Highway and Transportation Officials
444 N. Capitol St., NW, Suite 249, Washington, DC 20001
Guide to Metric Conversion, AASHTO, 1993 655.601
Interim Selected Metric Values for Geometric Design, 1993 625.4(a)
Policy on Access Between Adjacent Railroads and Interstate Highways, 1960. 625.4(a)
Policy on Design Standards—Interstate Systems, 1991 625.4(a)
Policy on Geometric Design of Highways and Streets, 1994 625.4(a)
Policy on U-Turn Median Openings on Freeways, 1960 625.4(a)
AASHTO LRFD Bridge Design Specifications, First Edition, 1994 625.4(b)
(U.S. Units).
AASHTO LRFD Bridge Design Specifications, First Edition, 1994 625.4(b)
(SI Units).
Standard Specifications for Movable Highway Bridges, 1988 625.4(b)

American Welding Society
2501 NW 7th St., Miami, FL 33125
AWS D 12.1–75 Reinforcing Steel Welding Code 625.3(b)
AWS D 1.4–79 Reinforcing Steel Welding Code 625.4(b)(4)
ANSI/AASHTO/AWS D1.5–95 Bridge Welding Code, 1995 625.4(b)
ANSI/AWS D1.4-92 Structural Welding Code—Reinforcing Steel 625.4(b)

Federal Highway Administration
400 Seventh Street SW, Room 3408, Washington, DC 20590, http:/mutcd.fhwa.dot.gov
655.601(a)


625.3(c)

23 CFR (PARTS 1200 TO 1299)

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

400 Seventh St., SW, Washington, DC 20590

Standard Alphabets, 1966 ...................................................... 1204.4

General Services Administration

18th and F Streets, NW, Washington DC 20405

Federal Standard No. 595a, Color 13432 .................................... 1204.4

Federal Standard No. 595a, Color 37038 ................................. 1204.4
# Table of CFR Titles and Chapters
(Revised as of April 1, 2001)

## Title 1—General Provisions

I Administrative Committee of the Federal Register (Parts 1—49)
II Office of the Federal Register (Parts 50—299)
IV Miscellaneous Agencies (Parts 400—500)

## Title 2—[Reserved]

## Title 3—The President

I Executive Office of the President (Parts 100—199)

## Title 4—Accounts

I General Accounting Office (Parts 1—99)

## Title 5—Administrative Personnel

I Office of Personnel Management (Parts 1—1199)
II Merit Systems Protection Board (Parts 1200—1299)
III Office of Management and Budget (Parts 1300—1399)
V The International Organizations Employees Loyalty Board (Parts 1500—1599)
VI Federal Retirement Thrift Investment Board (Parts 1600—1699)
VII Advisory Commission on Intergovernmental Relations (Parts 1700—1799)
VIII Office of Special Counsel (Parts 1800—1899)
IX Appalachian Regional Commission (Parts 1900—1999)
XI Armed Forces Retirement Home (Part 2100)
XIV Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)
XV Office of Administration, Executive Office of the President (Parts 2500—2599)
XVI Office of Government Ethics (Parts 2600—2699)
XXI Department of the Treasury (Parts 3100—3199)
XXII Federal Deposit Insurance Corporation (Part 3201)
XXIII Department of Energy (Part 3301)
XXIV Federal Energy Regulatory Commission (Part 3401)
<table>
<thead>
<tr>
<th>Title 5—Administrative Personnel—Continued</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXV Department of the Interior (Part 3501)</td>
</tr>
<tr>
<td>XXVI Department of Defense (Part 3601)</td>
</tr>
<tr>
<td>XXVIII Department of Justice (Part 3801)</td>
</tr>
<tr>
<td>XXIX Federal Communications Commission (Parts 3900—3999)</td>
</tr>
<tr>
<td>XXX Farm Credit System Insurance Corporation (Parts 4000—4099)</td>
</tr>
<tr>
<td>XXXI Farm Credit Administration (Parts 4100—4199)</td>
</tr>
<tr>
<td>XXXIII Overseas Private Investment Corporation (Part 4301)</td>
</tr>
<tr>
<td>XXXV Office of Personnel Management (Part 4501)</td>
</tr>
<tr>
<td>XL Interstate Commerce Commission (Part 5001)</td>
</tr>
<tr>
<td>XLI Commodity Futures Trading Commission (Part 5101)</td>
</tr>
<tr>
<td>XLII Department of Labor (Part 5201)</td>
</tr>
<tr>
<td>XLIII National Science Foundation (Part 5301)</td>
</tr>
<tr>
<td>XLV Department of Health and Human Services (Part 5501)</td>
</tr>
<tr>
<td>XLVI Postal Rate Commission (Part 5601)</td>
</tr>
<tr>
<td>XLVII Federal Trade Commission (Part 5701)</td>
</tr>
<tr>
<td>XLVIII Nuclear Regulatory Commission (Part 5801)</td>
</tr>
<tr>
<td>L Department of Transportation (Part 6001)</td>
</tr>
<tr>
<td>LI Export-Import Bank of the United States (Part 6201)</td>
</tr>
<tr>
<td>LII Department of Education (Parts 6300—6399)</td>
</tr>
<tr>
<td>LIV Environmental Protection Agency (Part 6401)</td>
</tr>
<tr>
<td>LVII General Services Administration (Part 6701)</td>
</tr>
<tr>
<td>LVIII Board of Governors of the Federal Reserve System (Part 6801)</td>
</tr>
<tr>
<td>LIX National Aeronautics and Space Administration (Part 6901)</td>
</tr>
<tr>
<td>LX United States Postal Service (Part 7001)</td>
</tr>
<tr>
<td>LXI National Labor Relations Board (Part 7101)</td>
</tr>
<tr>
<td>LXII Equal Employment Opportunity Commission (Part 7201)</td>
</tr>
<tr>
<td>LXIII Inter-American Foundation (Part 7301)</td>
</tr>
<tr>
<td>LXV Department of Housing and Urban Development (Part 7501)</td>
</tr>
<tr>
<td>LXVI National Archives and Records Administration (Part 7601)</td>
</tr>
<tr>
<td>LXXI Tennessee Valley Authority (Part 7901)</td>
</tr>
<tr>
<td>LXXI Consumer Product Safety Commission (Part 8101)</td>
</tr>
<tr>
<td>LXXIII Department of Agriculture (Part 8301)</td>
</tr>
<tr>
<td>LXXIV Federal Mine Safety and Health Review Commission (Part 8401)</td>
</tr>
<tr>
<td>LXXVI Federal Retirement Thrift Investment Board (Part 8601)</td>
</tr>
<tr>
<td>LXXVII Office of Management and Budget (Part 8701)</td>
</tr>
</tbody>
</table>

**Title 6—[Reserved]**

**Title 7—Agriculture**

*Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)*

*Subtitle B—Regulations of the Department of Agriculture*
Title 7—Agriculture—Continued

I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

II Food and Nutrition Service, Department of Agriculture (Parts 210—299)

III Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

IV Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

V Agricultural Research Service, Department of Agriculture (Parts 500—599)

VI Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)

VII Farm Service Agency, Department of Agriculture (Parts 700—799)

VIII Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

IX Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

X Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

XI Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

XIII Northeast Dairy Compact Commission (Parts 1300—1399)

XIV Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

XV Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

XVI Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)

XVII Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

XVIII Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

XXVI Office of Inspector General, Department of Agriculture (Parts 2600—2699)

XXVII Office of Information Resources Management, Department of Agriculture (Parts 2700—2799)

XXVIII Office of Operations, Department of Agriculture (Parts 2800—2899)

XXIX Office of Energy, Department of Agriculture (Parts 2900—2999)

XXX Office of the Chief Financial Officer, Department of Agriculture (Parts 3000—3099)

XXXI Office of Environmental Quality, Department of Agriculture (Parts 3100—3199)

XXXII Office of Procurement and Property Management, Department of Agriculture (Parts 3200—3299)
### Title 7—Agriculture—Continued

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXXIII</td>
<td>Office of Transportation, Department of Agriculture (Parts 3300—3399)</td>
</tr>
<tr>
<td>XXXIV</td>
<td>Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)</td>
</tr>
<tr>
<td>XXXV</td>
<td>Rural Housing Service, Department of Agriculture (Parts 3500—3599)</td>
</tr>
<tr>
<td>XXXVI</td>
<td>National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699)</td>
</tr>
<tr>
<td>XXXVII</td>
<td>Economic Research Service, Department of Agriculture (Parts 3700—3799)</td>
</tr>
<tr>
<td>XXXVIII</td>
<td>World Agricultural Outlook Board, Department of Agriculture (Parts 3800—3899)</td>
</tr>
<tr>
<td>XLI</td>
<td>[Reserved]</td>
</tr>
<tr>
<td>XLII</td>
<td>Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Parts 4200—4299)</td>
</tr>
</tbody>
</table>

### Title 8—Aliens and Nationality

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Immigration and Naturalization Service, Department of Justice (Parts 1—599)</td>
</tr>
</tbody>
</table>

### Title 9—Animals and Animal Products

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)</td>
</tr>
<tr>
<td>II</td>
<td>Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299)</td>
</tr>
<tr>
<td>III</td>
<td>Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)</td>
</tr>
</tbody>
</table>

### Title 10—Energy

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Nuclear Regulatory Commission (Parts 0—199)</td>
</tr>
<tr>
<td>II</td>
<td>Department of Energy (Parts 200—699)</td>
</tr>
<tr>
<td>III</td>
<td>Department of Energy (Parts 700—999)</td>
</tr>
<tr>
<td>X</td>
<td>Department of Energy (General Provisions) (Parts 1000—1099)</td>
</tr>
<tr>
<td>XVII</td>
<td>Defense Nuclear Facilities Safety Board (Parts 1700—1799)</td>
</tr>
<tr>
<td>XVIII</td>
<td>Northeast Interstate Low-Level Radioactive Waste Commission (Part 1800)</td>
</tr>
</tbody>
</table>

### Title 11—Federal Elections

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Federal Election Commission (Parts 1—9099)</td>
</tr>
</tbody>
</table>

### Title 12—Banks and Banking

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Comptroller of the Currency, Department of the Treasury (Parts 1—199)</td>
</tr>
</tbody>
</table>
Title 12—Banks and Banking—Continued

II Federal Reserve System (Parts 200—299)
III Federal Deposit Insurance Corporation (Parts 300—399)
IV Export-Import Bank of the United States (Parts 400—499)
V Office of Thrift Supervision, Department of the Treasury (Parts 500—599)
VI Farm Credit Administration (Parts 600—699)
VII National Credit Union Administration (Parts 700—799)
VIII Federal Financing Bank (Parts 800—899)
IX Federal Housing Finance Board (Parts 900—999)
XI Federal Financial Institutions Examination Council (Parts 1100—1199)
XIV Farm Credit System Insurance Corporation (Parts 1400—1499)
XV Department of the Treasury (Parts 1500—1599)
XVII Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)
XVIII Community Development Financial Institutions Fund, Department of the Treasury (Parts 1800—1899)

Title 13—Business Credit and Assistance

I Small Business Administration (Parts 1—199)
III Economic Development Administration, Department of Commerce (Parts 300—399)
IV Emergency Steel Guarantee Loan Board (Parts 400—499)
V Emergency Oil and Gas Guaranteed Loan Board (Parts 500—599)

Title 14—Aeronautics and Space

I Federal Aviation Administration, Department of Transportation (Parts 1—199)
II Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)
III Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)
V National Aeronautics and Space Administration (Parts 1200—1299)

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE (PARTS 0—29)
SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE
I Bureau of the Census, Department of Commerce (Parts 30—199)
II National Institute of Standards and Technology, Department of Commerce (Parts 200—299)
III International Trade Administration, Department of Commerce (Parts 300—399)
Title 15—Commerce and Foreign Trade—Continued

IV Foreign-Trade Zones Board, Department of Commerce (Parts 400—499)
VII Bureau of Export Administration, Department of Commerce (Parts 700—799)
VIII Bureau of Economic Analysis, Department of Commerce (Parts 800—899)
IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)
XI Technology Administration, Department of Commerce (Parts 1100—1199)
XIII East-West Foreign Trade Board (Parts 1300—1399)
XIV Minority Business Development Agency (Parts 1400—1499)

SUBTITLE C—REGULATIONS RELATING TO FOREIGN TRADE AGREEMENTS

XX Office of the United States Trade Representative (Parts 2000—2099)

SUBTITLE D—REGULATIONS RELATING TO TELECOMMUNICATIONS AND INFORMATION

XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)

Title 16—Commercial Practices

I Federal Trade Commission (Parts 0—999)
II Consumer Product Safety Commission (Parts 1000—1799)

Title 17—Commodity and Securities Exchanges

I Commodity Futures Trading Commission (Parts 1—199)
II Securities and Exchange Commission (Parts 200—399)
IV Department of the Treasury (Parts 400—499)

Title 18—Conservation of Power and Water Resources

I Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)
III Delaware River Basin Commission (Parts 400—499)
VI Water Resources Council (Parts 700—799)
VIII Susquehanna River Basin Commission (Parts 800—899)
XIII Tennessee Valley Authority (Parts 1300—1399)

Title 19—Customs Duties

I United States Customs Service, Department of the Treasury (Parts 1—199)
II United States International Trade Commission (Parts 200—299)
III International Trade Administration, Department of Commerce (Parts 300—399)
### Title 20—Employees’ Benefits

1. Office of Workers’ Compensation Programs, Department of Labor (Parts 1—199)
2. Railroad Retirement Board (Parts 200—399)
3. Social Security Administration (Parts 400—499)
4. Employees’ Compensation Appeals Board, Department of Labor (Parts 500—599)
5. Employment and Training Administration, Department of Labor (Parts 600—699)
6. Employment Standards Administration, Department of Labor (Parts 700—799)
7. Benefits Review Board, Department of Labor (Parts 800—899)
8. Joint Board for the Enrollment of Actuaries (Parts 900—999)
9. Office of the Assistant Secretary for Veterans’ Employment and Training, Department of Labor (Parts 1000—1099)

### Title 21—Food and Drugs

1. Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)
2. Drug Enforcement Administration, Department of Justice (Parts 1300—1399)
3. Office of National Drug Control Policy (Parts 1400—1499)

### Title 22—Foreign Relations

1. Department of State (Parts 1—199)
2. Agency for International Development (Parts 200—299)
3. Peace Corps (Parts 300—399)
4. International Joint Commission, United States and Canada (Parts 400—499)
5. Broadcasting Board of Governors (Parts 500—599)
6. Overseas Private Investment Corporation (Parts 700—799)
7. Foreign Service Grievance Board Regulations (Parts 900—999)
8. Inter-American Foundation (Parts 1000—1099)
9. International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100—1199)
10. United States International Development Cooperation Agency (Parts 1200—1299)
11. Board for International Broadcasting (Parts 1300—1399)
12. Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400—1499)
13. African Development Foundation (Parts 1500—1599)
14. Japan-United States Friendship Commission (Parts 1600—1699)
15. United States Institute of Peace (Parts 1700—1799)
Title 23—Highways

I Federal Highway Administration, Department of Transportation (Parts 1—999)

II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

III National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT

I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

II Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

IV Office of Housing and Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699) [Reserved]

VII Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

VIII Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs, Section 202 Direct Loan Program, Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons with Disabilities Program) (Parts 800—899)

IX Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

X Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

XI Office of Inspector General, Department of Housing and Urban Development (Parts 2000—2099)

XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

XXV Neighborhood Reinvestment Corporation (Parts 4100—4199)
Title 25—Indians

I Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

II Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)

III National Indian Gaming Commission, Department of the Interior (Parts 500—599)

IV Office of Navajo and Hopi Indian Relocation (Parts 700—799)

V Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Part 900)

VI Office of the Assistant Secretary-Indian Affairs, Department of the Interior (Parts 1000—1199)

VII Office of the Special Trustee for American Indians, Department of the Interior (Part 1200)

Title 26—Internal Revenue

I Internal Revenue Service, Department of the Treasury (Parts 1—799)

Title 27—Alcohol, Tobacco Products and Firearms

I Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

Title 28—Judicial Administration

I Department of Justice (Parts 0—199)

III Federal Prison Industries, Inc., Department of Justice (Parts 300—399)

V Bureau of Prisons, Department of Justice (Parts 500—599)

VI Offices of Independent Counsel, Department of Justice (Parts 600—699)

VII Office of Independent Counsel (Parts 700—799)

VIII Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO LABOR

I National Labor Relations Board (Parts 100—199)

II Office of Labor-Management Standards, Department of Labor (Parts 200—299)

III National Railroad Adjustment Board (Parts 300—399)

IV Office of Labor-Management Standards, Department of Labor (Parts 400—499)

V Wage and Hour Division, Department of Labor (Parts 500—899)
Title 29—Labor—Continued

IX Construction Industry Collective Bargaining Commission (Parts 900—999)
X National Mediation Board (Parts 1200—1299)
XII Federal Mediation and Conciliation Service (Parts 1400—1499)
XIV Equal Employment Opportunity Commission (Parts 1600—1699)
XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)
XX Occupational Safety and Health Review Commission (Parts 2200—2499)
XXV Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)
XXVII Federal Mine Safety and Health Review Commission (Parts 2700—2799)
XL Pension Benefit Guaranty Corporation (Parts 4000—4999)

Title 30—Mineral Resources

I Mine Safety and Health Administration, Department of Labor (Parts 1—199)
II Minerals Management Service, Department of the Interior (Parts 200—299)
III Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300—399)
IV Geological Survey, Department of the Interior (Parts 400—499)
VI Bureau of Mines, Department of the Interior (Parts 600—699)
VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—799)

Title 31—Money and Finance: Treasury

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)
Subtitle B—Regulations Relating to Money and Finance
I Monetary Offices, Department of the Treasury (Parts 51—199)
II Fiscal Service, Department of the Treasury (Parts 200—399)
IV Secret Service, Department of the Treasury (Parts 400—499)
V Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)
VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)
VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700—799)
VIII Office of International Investment, Department of the Treasury (Parts 800—899)
IX Federal Claims Collection Standards (Department of the Treasury—Department of Justice) (Parts 900—999)
Title 32—National Defense

Subtitle A—Department of Defense
I Office of the Secretary of Defense (Parts 1—399)
V Department of the Army (Parts 400—699)
VI Department of the Navy (Parts 700—799)
VII Department of the Air Force (Parts 800—1099)

Subtitle B—Other Regulations Relating to National Defense
XII Defense Logistics Agency (Parts 1200—1299)
XVI Selective Service System (Parts 1600—1699)
XVIII National Counterintelligence Center (Parts 1800—1899)
XX Central Intelligence Agency (Parts 1900—1999)
XX Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)
XXI National Security Council (Parts 2100—2199)
XXIV Office of Science and Technology Policy (Parts 2400—2499)
XXVII Office for Micronesian Status Negotiations (Parts 2700—2799)
XXVIII Office of the Vice President of the United States (Parts 2800—2899)

Title 33—Navigation and Navigable Waters

I Coast Guard, Department of Transportation (Parts 1—199)
II Corps of Engineers, Department of the Army (Parts 200—399)
IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

Title 34—Education

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)
Subtitle B—Regulations of the Offices of the Department of Education
I Office for Civil Rights, Department of Education (Parts 100—199)
II Office of Elementary and Secondary Education, Department of Education (Parts 200—299)
III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)
IV Office of Vocational and Adult Education, Department of Education (Parts 400—499)
V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)
VI Office of Postsecondary Education, Department of Education (Parts 600—699)
VII Office of Educational Research and Improvement, Department of Education (Parts 700—799)
XI National Institute for Literacy (Parts 1100—1199)
Subtitle C—Regulations Relating to Education
XII National Council on Disability (Parts 1200—1299)
Title 35—Panama Canal

I Panama Canal Regulations (Parts 1—299)

Title 36—Parks, Forests, and Public Property

I National Park Service, Department of the Interior (Parts 1—199)
II Forest Service, Department of Agriculture (Parts 200—299)
III Corps of Engineers, Department of the Army (Parts 300—399)
IV American Battle Monuments Commission (Parts 400—499)
V Smithsonian Institution (Parts 500—599)
VII Library of Congress (Parts 700—799)
VIII Advisory Council on Historic Preservation (Parts 800—899)
IX Pennsylvania Avenue Development Corporation (Parts 900—999)
X Presidio Trust (Parts 1000—1099)
XI Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)
XII National Archives and Records Administration (Parts 1200—1299)
XV Oklahoma City National Memorial Trust (Part 1501)
XVI Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Parts 1600—1699)

Title 37—Patents, Trademarks, and Copyrights

I United States Patent and Trademark Office, Department of Commerce (Parts 1—199)
II Copyright Office, Library of Congress (Parts 200—299)
IV Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)
V Under Secretary for Technology, Department of Commerce (Parts 500—599)

Title 38—Pensions, Bonuses, and Veterans' Relief

I Department of Veterans Affairs (Parts 0—99)

Title 39—Postal Service

I United States Postal Service (Parts 1—999)
III Postal Rate Commission (Parts 3000—3099)

Title 40—Protection of Environment

I Environmental Protection Agency (Parts 1—799)
IV Environmental Protection Agency and Department of Justice (Parts 1400—1499)
V Council on Environmental Quality (Parts 1500—1599)
VI Chemical Safety and Hazard Investigation Board (Parts 1600—1699)
Title 40—Protection of Environment—Continued

Chap. VII Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces (Parts 1700—1799)

Title 41—Public Contracts and Property Management

Subtitle B—Other Provisions Relating to Public Contracts

50 Public Contracts, Department of Labor (Parts 50-1—50-999)
51 Committee for Purchase From People Who Are Blind or Severely Disabled (Parts 51-1—51-99)
60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-999)
61 Office of the Assistant Secretary for Veterans Employment and Training, Department of Labor (Parts 61-1—61-999)

Subtitle C—Federal Property Management Regulations System

101 Federal Property Management Regulations (Parts 101-1—101-99)
102 Federal Management Regulation (Parts 102-1—102-99)
105 General Services Administration (Parts 105-1—105-999)
109 Department of Energy Property Management Regulations (Parts 109-1—109-99)
114 Department of the Interior (Parts 114-1—114-99)
115 Environmental Protection Agency (Parts 115-1—115-99)
128 Department of Justice (Parts 128-1—128-99)

Subtitle D—Other Provisions Relating to Property Management [Reserved]

Subtitle E—Federal Information Resources Management Regulations System

201 Federal Information Resources Management Regulation (Parts 201-1—201-99) [Reserved]

Subtitle F—Federal Travel Regulation System

300 General (Parts 300-1—300-99)
301 Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)
302 Relocation Allowances (Parts 302-1—302-99)
303 Payment of Expenses Connected with the Death of Certain Employees (Part 303-70)
304 Payment from a Non-Federal Source for Travel Expenses (Parts 304-1—304-99)

Title 42—Public Health

I Public Health Service, Department of Health and Human Services (Parts 1—199)
IV Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)
V Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)
Title 43—Public Lands: Interior

SUBTITLE A—Office of the Secretary of the Interior (Parts 1—199)

SUBTITLE B—Regulations Relating to Public Lands
I Bureau of Reclamation, Department of the Interior (Parts 200—499)
II Bureau of Land Management, Department of the Interior (Parts 1000—9999)
III Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10005)

Title 44—Emergency Management and Assistance
I Federal Emergency Management Agency (Parts 0—399)
IV Department of Commerce and Department of Transportation (Parts 400—499)

Title 45—Public Welfare

SUBTITLE A—Department of Health and Human Services (Parts 1—199)

SUBTITLE B—Regulations Relating to Public Welfare
II Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)
III Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)
IV Office of Refugee Resettlement, Administration for Children and Families Department of Health and Human Services (Parts 400—499)
V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)
VI National Science Foundation (Parts 600—699)
VII Commission on Civil Rights (Parts 700—799)
VIII Office of Personnel Management (Parts 800—899)
X Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)
XI National Foundation on the Arts and the Humanities (Parts 1100—1199)
XII Corporation for National and Community Service (Parts 1200—1299)
XIII Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)
XVI Legal Services Corporation (Parts 1600—1699)
XVII National Commission on Libraries and Information Science (Parts 1700—1799)
XVIII Harry S. Truman Scholarship Foundation (Parts 1800—1899)
XXI Commission on Fine Arts (Parts 2100—2199)
Title 45—Public Welfare—Continued

XXIII Arctic Research Commission (Part 2301)
XXIV James Madison Memorial Fellowship Foundation (Parts 2400—
           2499)
XXV Corporation for National and Community Service (Parts 2500—
           2599)

Title 46—Shipping

I Coast Guard, Department of Transportation (Parts 1—199)
II Maritime Administration, Department of Transportation (Parts
           200—399)
III Coast Guard (Great Lakes Pilotage), Department of Transpor-
           tation (Parts 400—499)
IV Federal Maritime Commission (Parts 500—599)

Title 47—Telecommunication

I Federal Communications Commission (Parts 0—199)
II Office of Science and Technology Policy and National Security
       Council (Parts 200—299)
III National Telecommunications and Information Administration,
       Department of Commerce (Parts 300—399)

Title 48—Federal Acquisition Regulations System

1 Federal Acquisition Regulation (Parts 1—99)
2 Department of Defense (Parts 200—299)
3 Department of Health and Human Services (Parts 300—399)
4 Department of Agriculture (Parts 400—499)
5 General Services Administration (Parts 500—599)
6 Department of State (Parts 600—699)
7 United States Agency for International Development (Parts
       700—799)
8 Department of Veterans Affairs (Parts 800—899)
9 Department of Energy (Parts 900—999)
10 Department of the Treasury (Parts 1000—1099)
12 Department of Transportation (Parts 1200—1299)
13 Department of Commerce (Parts 1300—1399)
14 Department of the Interior (Parts 1400—1499)
15 Environmental Protection Agency (Parts 1500—1599)
16 Office of Personnel Management Federal Employees Health
       Benefits Acquisition Regulation (Parts 1600—1699)
17 Office of Personnel Management (Parts 1700—1799)
18 National Aeronautics and Space Administration (Parts 1800—
       1899)
19 Broadcasting Board of Governors (Parts 1900—1999)
20 Nuclear Regulatory Commission (Parts 2000—2099)
Title 48—Federal Acquisition Regulations System—Continued

21  Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)

23  Social Security Administration (Parts 2300—2399)

24  Department of Housing and Urban Development (Parts 2400—2499)

25  National Science Foundation (Parts 2500—2599)

28  Department of Justice (Parts 2800—2899)

29  Department of Labor (Parts 2900—2999)

34  Department of Education Acquisition Regulation (Parts 3400—3499)

35  Panama Canal Commission (Parts 3500—3599)

44  Federal Emergency Management Agency (Parts 4400—4499)

51  Department of the Army Acquisition Regulations (Parts 5100—5199)

52  Department of the Navy Acquisition Regulations (Parts 5200—5299)

53  Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)

54  Defense Logistics Agency, Department of Defense (Part 5452)

57  African Development Foundation (Parts 5700—5799)

61  General Services Administration Board of Contract Appeals (Parts 6100—6199)

63  Department of Transportation Board of Contract Appeals (Parts 6300—6399)

99  Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION (PARTS 1—99)

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

I  Research and Special Programs Administration, Department of Transportation (Parts 100—199)

II  Federal Railroad Administration, Department of Transportation (Parts 200—299)

III  Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

IV  Coast Guard, Department of Transportation (Parts 400—499)

V  National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

VI  Federal Transit Administration, Department of Transportation (Parts 600—699)

VII  National Railroad Passenger Corporation (AMTRAK) (Parts 700—799)

VIII  National Transportation Safety Board (Parts 800—999)

X  Surface Transportation Board, Department of Transportation (Parts 1000—1399)

524
Title 49—Transportation—Continued

XI Bureau of Transportation Statistics, Department of Transportation (Parts 1400—1499)

Title 50—Wildlife and Fisheries

I United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

III International Fishing and Related Activities (Parts 300—399)

IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400—499)

V Marine Mammal Commission (Parts 500—599)

VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

CFR Index and Finding Aids

Subject/Agency Index
List of Agency Prepared Indexes
Parallel Tables of Statutory Authorities and Rules
List of CFR Titles, Chapters, Subchapters, and Parts
Alphabetical List of Agencies Appearing in the CFR
### Alphabetical List of Agencies Appearing in the CFR
(Revised as of April 1, 2001)

<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Committee of the Federal Register</td>
<td>1, I</td>
</tr>
<tr>
<td>Advanced Research Projects Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Advisory Commission on Intergovernmental Relations</td>
<td>5, VII</td>
</tr>
<tr>
<td>Advisory Council on Historic Preservation</td>
<td>36, VIII</td>
</tr>
<tr>
<td>African Development Foundation</td>
<td>22, XV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 57</td>
</tr>
<tr>
<td>Agency for International Development, United States</td>
<td>22, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 7</td>
</tr>
<tr>
<td>Agricultural Marketing Service</td>
<td>7, 1, IX, X, XI</td>
</tr>
<tr>
<td>Agricultural Research Service</td>
<td>7, V</td>
</tr>
<tr>
<td>Agriculture Department</td>
<td>5, LXXIII</td>
</tr>
<tr>
<td>Agricultural Marketing Service</td>
<td>7, I, IX, X, XI</td>
</tr>
<tr>
<td>Agricultural Research Service</td>
<td>7, V</td>
</tr>
<tr>
<td>Animal and Plant Health Inspection Service</td>
<td>7, III: 9, I</td>
</tr>
<tr>
<td>Chief Financial Officer, Office of</td>
<td>7, XXX</td>
</tr>
<tr>
<td>Commodity Credit Corporation</td>
<td>7, XIV</td>
</tr>
<tr>
<td>Cooperative State Research, Education, and Extension</td>
<td>7, XXXIV</td>
</tr>
<tr>
<td>Economic Research Service</td>
<td>7, XXXVII</td>
</tr>
<tr>
<td>Energy, Office of</td>
<td>7, XXIX</td>
</tr>
<tr>
<td>Environmental Quality, Office of</td>
<td>7, XXXI</td>
</tr>
<tr>
<td>Farm Service Agency</td>
<td>7, VII, XVIII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 4</td>
</tr>
<tr>
<td>Federal Crop Insurance Corporation</td>
<td>7, IV</td>
</tr>
<tr>
<td>Food and Nutrition Service</td>
<td>7, II</td>
</tr>
<tr>
<td>Food Safety and Inspection Service</td>
<td>9, III</td>
</tr>
<tr>
<td>Foreign Agricultural Service</td>
<td>7, XV</td>
</tr>
<tr>
<td>Forest Service</td>
<td>36, II</td>
</tr>
<tr>
<td>Grain Inspection, Packers and Stockyards Administration</td>
<td>7, VIII: 9, II</td>
</tr>
<tr>
<td>Information Resources Management, Office of</td>
<td>7, XXVII</td>
</tr>
<tr>
<td>Inspector General, Office of</td>
<td>7, XXVI</td>
</tr>
<tr>
<td>National Agricultural Library</td>
<td>7, XLI</td>
</tr>
<tr>
<td>National Agricultural Statistics Service</td>
<td>7, XXXVI</td>
</tr>
<tr>
<td>Natural Resources Conservation Service</td>
<td>7, VI</td>
</tr>
<tr>
<td>Operations, Office of</td>
<td>7, XXXVII</td>
</tr>
<tr>
<td>Procurement and Property Management, Office of</td>
<td>7, XXXIII</td>
</tr>
<tr>
<td>Rural Business-Cooperative Service</td>
<td>7, XVIII, XLII</td>
</tr>
<tr>
<td>Rural Development Administration</td>
<td>7, XLII</td>
</tr>
<tr>
<td>Rural Housing Service</td>
<td>7, XVIII, XXXV</td>
</tr>
<tr>
<td>Rural Telephone Bank</td>
<td>7, XVI</td>
</tr>
<tr>
<td>Rural Utilities Service</td>
<td>7, XVI, XVIII, XLII</td>
</tr>
<tr>
<td>Secretary of Agriculture, Office of</td>
<td>7, Subtitle A</td>
</tr>
<tr>
<td>Transportation, Office of</td>
<td>7, XXXIII</td>
</tr>
<tr>
<td>World Agricultural Outlook Board</td>
<td>7, XXXVIII</td>
</tr>
<tr>
<td>Air Force Department</td>
<td>32, VII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation Supplement</td>
<td>48, 53</td>
</tr>
<tr>
<td>Alcohol, Tobacco and Firearms, Bureau of</td>
<td>27, I</td>
</tr>
<tr>
<td>AMTRAK</td>
<td>49, VII</td>
</tr>
<tr>
<td>American Battle Monuments Commission</td>
<td>36, IV</td>
</tr>
<tr>
<td>American Indians, Office of the Special Trustee</td>
<td>25, VII</td>
</tr>
<tr>
<td>Animal and Plant Health Inspection Service</td>
<td>7, III: 9, I</td>
</tr>
<tr>
<td>Appalachian Regional Commission</td>
<td>5, IX</td>
</tr>
<tr>
<td>Architectural and Transportation Barriers Compliance Board</td>
<td>36, XI</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Arctic Research Commission</td>
<td>45, XXIII</td>
</tr>
<tr>
<td>Armed Forces Retirement Home</td>
<td>5, XI</td>
</tr>
<tr>
<td>Army Department</td>
<td>32, V</td>
</tr>
<tr>
<td>Engineers, Corps of</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 51</td>
</tr>
<tr>
<td>Benefits Review Board</td>
<td>20, VII</td>
</tr>
<tr>
<td>Bilingual Education and Minority Languages Affairs, Office of</td>
<td>34, V</td>
</tr>
<tr>
<td>Blind or Severely Disabled, Committee for Purchase From</td>
<td>41, 51</td>
</tr>
<tr>
<td>People Who Are</td>
<td></td>
</tr>
<tr>
<td>Board for International Broadcasting</td>
<td>22, XIII</td>
</tr>
<tr>
<td>Broadcasting Board of Governors</td>
<td>22, V</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 19</td>
</tr>
<tr>
<td>Census Bureau</td>
<td>15, I</td>
</tr>
<tr>
<td>Central Intelligence Agency</td>
<td>32, XIX</td>
</tr>
<tr>
<td>Chief Financial Officer, Office of</td>
<td>7, XXX</td>
</tr>
<tr>
<td>Child Support Enforcement, Office of</td>
<td>45, III</td>
</tr>
<tr>
<td>Children and Families, Administration for</td>
<td>45, II, III, IV, X</td>
</tr>
<tr>
<td>Civil Rights, Commission on</td>
<td>45, VII</td>
</tr>
<tr>
<td>Civil Rights, Office for</td>
<td>34, 46; 46, 49, 49, IV</td>
</tr>
<tr>
<td>Coast Guard</td>
<td>33, I; 46, I; 49, IV</td>
</tr>
<tr>
<td>Coast Guard (Great Lakes Pilotage)</td>
<td>46, III</td>
</tr>
<tr>
<td>Commerce Department</td>
<td>44, IV</td>
</tr>
<tr>
<td>Census Bureau</td>
<td>15, I</td>
</tr>
<tr>
<td>Economic Affairs, Under Secretary</td>
<td>37, V</td>
</tr>
<tr>
<td>Economic Analysis, Bureau of</td>
<td>15, VIII</td>
</tr>
<tr>
<td>Economic Development Administration</td>
<td>13, III</td>
</tr>
<tr>
<td>Emergency Management and Assistance</td>
<td>44, IV</td>
</tr>
<tr>
<td>Export Administration, Bureau of</td>
<td>15, VII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 13</td>
</tr>
<tr>
<td>Fishery Conservation and Management</td>
<td>50, VI</td>
</tr>
<tr>
<td>Foreign-Trade Zones Board</td>
<td>15, IV</td>
</tr>
<tr>
<td>International Trade Administration</td>
<td>15, I; 19, III</td>
</tr>
<tr>
<td>National Institute of Standards and Technology</td>
<td>15, II</td>
</tr>
<tr>
<td>National Marine Fisheries Service</td>
<td>50, II; 50, VI</td>
</tr>
<tr>
<td>National Oceanic and Atmospheric Administration</td>
<td>15, IX; 50, II, III, IV, VI</td>
</tr>
<tr>
<td>National Telecommunications and Information Administration</td>
<td>15, XXIII; 47, III</td>
</tr>
<tr>
<td>National Weather Service</td>
<td>15, IX</td>
</tr>
<tr>
<td>Patent and Trademark Office, United States</td>
<td>37, I</td>
</tr>
<tr>
<td>Productivity, Technology and Innovation, Assistant Secretary for</td>
<td>37, IV</td>
</tr>
<tr>
<td>Secretary for</td>
<td></td>
</tr>
<tr>
<td>Secretary of Commerce, Office of</td>
<td>15, Subtitle A</td>
</tr>
<tr>
<td>Technology, Under Secretary for</td>
<td>37, V</td>
</tr>
<tr>
<td>Technology Administration</td>
<td>15, XI</td>
</tr>
<tr>
<td>Technology Policy, Assistant Secretary for</td>
<td>37, IV</td>
</tr>
<tr>
<td>Commercial Space Transportation</td>
<td>14, III</td>
</tr>
<tr>
<td>Commodity Credit Corporation</td>
<td>7, XIV</td>
</tr>
<tr>
<td>Commodity Futures Trading Commission</td>
<td>5, XLII; 17, I</td>
</tr>
<tr>
<td>Community Planning and Development, Office of Assistant Secretary for</td>
<td>24, V, VI</td>
</tr>
<tr>
<td>Community Services, Office of</td>
<td>45, X</td>
</tr>
<tr>
<td>Comptroller of the Currency</td>
<td>12, I</td>
</tr>
<tr>
<td>Construction Industry Collective Bargaining Commission</td>
<td>29, IX</td>
</tr>
<tr>
<td>Consumer Product Safety Commission</td>
<td>5, LXXI; 16, II</td>
</tr>
<tr>
<td>Cooperative State Research, Education, and Extension Service</td>
<td>7, XXXIV</td>
</tr>
<tr>
<td>Copyright Office</td>
<td>37, II</td>
</tr>
<tr>
<td>Corporation for National and Community Service</td>
<td>45, XII, XXV</td>
</tr>
<tr>
<td>Cost Accounting Standards Board</td>
<td>48, 99</td>
</tr>
<tr>
<td>Council on Environmental Quality</td>
<td>40, V</td>
</tr>
<tr>
<td>Customs Service, United States</td>
<td>19, I</td>
</tr>
<tr>
<td>Defense Contract Audit Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Department</td>
<td>5, XXVI; 32, Subtitle A;</td>
</tr>
<tr>
<td>Advanced Research Projects Agency</td>
<td>40, VII</td>
</tr>
<tr>
<td>Air Force Department</td>
<td>32, I</td>
</tr>
<tr>
<td>Army Department</td>
<td>32, VII</td>
</tr>
<tr>
<td></td>
<td>32, V; 33, II; 36, III, 48, 51</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Defense Intelligence Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Logistics Agency</td>
<td>32, I, XII; 48, 54</td>
</tr>
<tr>
<td>Engineers, Corps of</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 2</td>
</tr>
<tr>
<td>National Imagery and Mapping Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Navy Department</td>
<td>32, VI; 48, 52</td>
</tr>
<tr>
<td>Secretary of Defense, Office of</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Contract Audit Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Intelligence Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Logistics Agency</td>
<td>32, XII; 48, 54</td>
</tr>
<tr>
<td>Defense Nuclear Facilities Safety Board</td>
<td>10, XVII</td>
</tr>
<tr>
<td>Delaware River Basin Commission</td>
<td>18, III</td>
</tr>
<tr>
<td>Drug Enforcement Administration</td>
<td>21, II</td>
</tr>
<tr>
<td>East-West Foreign Trade Board</td>
<td>15, XIII</td>
</tr>
<tr>
<td>Economic Affairs, Under Secretary</td>
<td>37, V</td>
</tr>
<tr>
<td>Economic Analysis, Bureau of</td>
<td>15, VIII</td>
</tr>
<tr>
<td>Economic Development Administration</td>
<td>13, III</td>
</tr>
<tr>
<td>Economic Research Service</td>
<td>7, XXXVII</td>
</tr>
<tr>
<td>Education, Department of</td>
<td>5, LIII</td>
</tr>
<tr>
<td>Bilingual Education and Minority Languages Affairs, Office of</td>
<td>34, V</td>
</tr>
<tr>
<td>Civil Rights, Office for</td>
<td>34, I</td>
</tr>
<tr>
<td>Educational Research and Improvement, Office of</td>
<td>34, VII</td>
</tr>
<tr>
<td>Elementary and Secondary Education, Office of</td>
<td>34, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 34</td>
</tr>
<tr>
<td>Postsecondary Education, Office of</td>
<td>34, VI</td>
</tr>
<tr>
<td>Secretary of Education, Office of</td>
<td>34, Subtitle A</td>
</tr>
<tr>
<td>Special Education and Rehabilitative Services, Office of</td>
<td>34, III</td>
</tr>
<tr>
<td>Vocational and Adult Education, Office of</td>
<td>34, IV</td>
</tr>
<tr>
<td>Educational Research and Improvement, Office of</td>
<td>34, VII</td>
</tr>
<tr>
<td>Elementary and Secondary Education, Office of</td>
<td>34, II</td>
</tr>
<tr>
<td>Emergency Oil and Gas Guaranteed Loan Board</td>
<td>13, V</td>
</tr>
<tr>
<td>Emergency Steel Guarantee Loan Board</td>
<td>13, IV</td>
</tr>
<tr>
<td>Employees’ Compensation Appeals Board</td>
<td>20, IV</td>
</tr>
<tr>
<td>Employees Loyalty Board</td>
<td>5, V</td>
</tr>
<tr>
<td>Employment and Training Administration</td>
<td>20, V</td>
</tr>
<tr>
<td>Employment Standards Administration</td>
<td>20, VI</td>
</tr>
<tr>
<td>Endangered Species Committee</td>
<td>50, IV</td>
</tr>
<tr>
<td>Energy, Department of</td>
<td>5, XXXIII; 10, II, III, X</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 9</td>
</tr>
<tr>
<td>Federal Energy Regulatory Commission</td>
<td>5, XXIV; 18, I</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>41, 109</td>
</tr>
<tr>
<td>Energy, Office of</td>
<td>7, XXXIX</td>
</tr>
<tr>
<td>Engineers, Corps of</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>Engraving and Printing, Bureau of</td>
<td>31, VI</td>
</tr>
<tr>
<td>Environmental Protection Agency</td>
<td>5, LIV; 40, I, IV, VII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 15</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>41, 115</td>
</tr>
<tr>
<td>Environmental Quality, Office of</td>
<td>7, XXXI</td>
</tr>
<tr>
<td>Equal Employment Opportunity Commission</td>
<td>5, LXXII; 29, XIV</td>
</tr>
<tr>
<td>Equal Opportunity, Office of Assistant Secretary for</td>
<td>24, I</td>
</tr>
<tr>
<td>Executive Office of the President</td>
<td>3, 1</td>
</tr>
<tr>
<td>Administration, Office of</td>
<td>5, XV</td>
</tr>
<tr>
<td>Environmental Quality, Council on</td>
<td>40, V</td>
</tr>
<tr>
<td>Management and Budget, Office of</td>
<td>25, III, LXXVII; 48, 99</td>
</tr>
<tr>
<td>National Drug Control Policy, Office of</td>
<td>21, III</td>
</tr>
<tr>
<td>National Security Council</td>
<td>32, XXI; 47, 2</td>
</tr>
<tr>
<td>Presidential Documents</td>
<td>3</td>
</tr>
<tr>
<td>Science and Technology Policy, Office of</td>
<td>32, XXIV; 47, II</td>
</tr>
<tr>
<td>Trade Representative, Office of the United States</td>
<td>15, XX</td>
</tr>
<tr>
<td>Export Administration, Bureau of</td>
<td>15, VII</td>
</tr>
<tr>
<td>Export-Import Bank of the United States</td>
<td>5, LIII; 12, IV</td>
</tr>
<tr>
<td>Family Assistance, Office of</td>
<td>45, II</td>
</tr>
<tr>
<td>Farm Credit Administration</td>
<td>5, XXXI; 12, VI</td>
</tr>
<tr>
<td>Farm Credit System Insurance Corporation</td>
<td>5, XXX; 12, XIV</td>
</tr>
<tr>
<td>Farm Service Agency</td>
<td>7, VII, XVIII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 1</td>
</tr>
</tbody>
</table>

529
Federal Aviation Administration 14, I
Commercial Space Transportation 14, III
Federal Claims Collection Standards 31, IX
Federal Communications Commission 5, XXIX; 47, I
Federal Contract Compliance Programs, Office of 41, 60
Federal Crop Insurance Corporation 7, IV
Federal Deposit Insurance Corporation 5, XXII; 12, III
Federal Election Commission 11, I
Federal Emergency Management Agency 44, I
Federal Acquisition Regulation 48, 44
Federal Employees Group Life Insurance Federal Acquisition Regulation 48, 21
Federal Employees Health Benefits Acquisition Regulation 48, 16
Federal Energy Regulatory Commission 5, XXIV; 18, I
Federal Financings Examination Council 12, XI
Federal Financial Institutions Examination Council 12, VIII
Federal Highway Administration 23, I, II
Federal Home Loan Mortgage Corporation 1, IV
Federal Housing Enterprise Oversight Office 12, XVII
Federal Housing Finance Board 12, IX
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority 5, XIV; 22, XIV
Federal Law Enforcement Training Center 31, VII
Federal Management Regulation 41, 102
Federal Maritime Commission 46, IV
Federal Mediation and Conciliation Service 29, XII
Federal Mine Safety and Health Review Commission 5, LXXIV; 29, XXVII
Federal Motor Carrier Safety Administration 49, III
Federal Prison Industries, Inc. 28, III
Federal Procurement Policy Office 48, 99
Federal Property Management Regulations 41, 103
Federal Railroad Administration 49, II
Federal Register, Administrative Committee of 1, I
Federal Register, Office of 1, II
Federal Reserve System 12, II
Board of Governors 5, LVIII
Federal Retirement Thrift Investment Board 5, VI, LXXVI
Federal Service Impasses Panel 5, XIV
Federal Trade Commission 5, XLVII; 16, I
Federal Transit Administration 49, VI
Federal Travel Regulation System 41, Subtitle F
Fiscal Service 31, II
Fish and Wildlife Service, United States 50, I, IV
Fishery Conservation and Management 50, VI
Food and Drug Administration 21, I
Food and Nutrition Service 21, II
Food Safety and Inspection Service 9, III
Foreign Agricultural Service 7, XV
Foreign Assets Control, Office of 31, V
Foreign Claims Settlement Commission of the United States 45, V
Foreign Service Grievance Board 22, IX
Foreign Service Impasse Disputes Panel 22, XIV
Foreign Service Labor Relations Board 22, XIV
Foreign-Trade Zones Board 15, IV
Forest Service 36, II
General Accounting Office 4, I
General Services Administration 5, LVIII; 41, 105
Contract Appeals, Board of 48, 61
Federal Acquisition Regulation 48, 5
Federal Management Regulation 41, 102
Federal Property Management Regulations 41, 103
Federal Travel Regulation System 41, Subtitle F
General 41, 300
Payment From a Non-Federal Source for Travel Expenses 41, 304
Payment of Expenses Connected With the Death of Certain Employees 41, 303
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relocation Allowances</td>
<td>41, 302</td>
</tr>
<tr>
<td>Temporary Duty (TDY) Travel Allowances</td>
<td>41, 301</td>
</tr>
<tr>
<td>Geological Survey</td>
<td>30, IV</td>
</tr>
<tr>
<td>Government Ethics, Office of</td>
<td>5, XVI</td>
</tr>
<tr>
<td>Government National Mortgage Association</td>
<td>24, III</td>
</tr>
<tr>
<td>Grain Inspection, Packers and Stockyards Administration</td>
<td>7, VIII: 9, II</td>
</tr>
<tr>
<td>Harry S. Truman Scholarship Foundation</td>
<td>45, XVIII</td>
</tr>
<tr>
<td>Health and Human Services, Department of</td>
<td>5, XLV; 45, Subtitle A</td>
</tr>
<tr>
<td>Child Support Enforcement, Office of</td>
<td>45, III</td>
</tr>
<tr>
<td>Children and Families, Administration for</td>
<td>45, II, III, IV, X</td>
</tr>
<tr>
<td>Community Services, Office of</td>
<td>45, X</td>
</tr>
<tr>
<td>Family Assistance, Office of</td>
<td>45, H</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 3</td>
</tr>
<tr>
<td>Food and Drug Administration</td>
<td>21, I</td>
</tr>
<tr>
<td>Health Care Financing Administration</td>
<td>42, IV</td>
</tr>
<tr>
<td>Human Development Services, Office of</td>
<td>45, XIII</td>
</tr>
<tr>
<td>Indian Health Service</td>
<td>25, V</td>
</tr>
<tr>
<td>Inspector General (Health Care), Office of</td>
<td>42, V</td>
</tr>
<tr>
<td>Public Health Service</td>
<td>42, I</td>
</tr>
<tr>
<td>Refugee Resettlement, Office of</td>
<td>45, IV</td>
</tr>
<tr>
<td>Health Care Financing Administration</td>
<td>42, IV</td>
</tr>
<tr>
<td>Housing and Urban Development, Department of</td>
<td>5, LXV; 24, Subtitle B</td>
</tr>
<tr>
<td>Community Planning and Development, Office of Assistant Secretary for</td>
<td>24, V, VI</td>
</tr>
<tr>
<td>Equal Opportunity, Office of Assistant Secretary for</td>
<td>24, I</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 24</td>
</tr>
<tr>
<td>Federal Housing Enterprise Oversight, Office of</td>
<td>12, XVII</td>
</tr>
<tr>
<td>Government National Mortgage Association</td>
<td>24, III</td>
</tr>
<tr>
<td>Housing—Federal Housing Commissioner, Office of Assistant Secretary for</td>
<td>24, II, VIII, X, XX</td>
</tr>
<tr>
<td>Housing, Office of, and Multifamily Housing Assistance</td>
<td>24, IV</td>
</tr>
<tr>
<td>Restructuring, Office of</td>
<td>24, XII</td>
</tr>
<tr>
<td>Inspector General, Office of</td>
<td>24, IX</td>
</tr>
<tr>
<td>Public and Indian Housing, Office of Assistant Secretary for</td>
<td>24, Subtitle A, VII</td>
</tr>
<tr>
<td>Secretary, Office of</td>
<td>24, II, VIII, X, XX</td>
</tr>
<tr>
<td>Housing—Federal Housing Commissioner, Office of Assistant Secretary for</td>
<td>24, IV, VI, X, XX</td>
</tr>
<tr>
<td>Housing, Office of, and Multifamily Housing Assistance</td>
<td>24, IV</td>
</tr>
<tr>
<td>Restructuring, Office of</td>
<td>24, XIII</td>
</tr>
<tr>
<td>Immigration and Naturalization Service</td>
<td>8, I</td>
</tr>
<tr>
<td>Independent Counsel, Office of</td>
<td>28, VII</td>
</tr>
<tr>
<td>Indian Affairs, Bureau of</td>
<td>25, I, V</td>
</tr>
<tr>
<td>Indian Affairs, Office of the Assistant Secretary</td>
<td>25, VI</td>
</tr>
<tr>
<td>Indian Arts and Crafts Board</td>
<td>25, II</td>
</tr>
<tr>
<td>Indian Health Service</td>
<td>25, V</td>
</tr>
<tr>
<td>Information Resources Management, Office of</td>
<td>7, XXVII</td>
</tr>
<tr>
<td>Information Security Oversight Office, National Archives and Records Administration</td>
<td>32, XX</td>
</tr>
<tr>
<td>Inspector General</td>
<td>7, XXVI</td>
</tr>
<tr>
<td>Agriculture Department</td>
<td>42, V</td>
</tr>
<tr>
<td>Health and Human Services Department</td>
<td>24, XII</td>
</tr>
<tr>
<td>Institute of Peace, United States</td>
<td>22, XVII</td>
</tr>
<tr>
<td>Inter-American Foundation</td>
<td>5, LXIII; 22, X</td>
</tr>
<tr>
<td>Intergovernmental Relations, Advisory Commission on</td>
<td>5, VII</td>
</tr>
<tr>
<td>Interior Department</td>
<td>25, VII</td>
</tr>
<tr>
<td>American Indians, Office of the Special Trustee</td>
<td>25, VII</td>
</tr>
<tr>
<td>Endangered Species Committee</td>
<td>50, IV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 14</td>
</tr>
<tr>
<td>Federal Property Management Regulations System</td>
<td>41, 114</td>
</tr>
<tr>
<td>Fish and Wildlife Service, United States</td>
<td>50, I, IV</td>
</tr>
<tr>
<td>Geological Survey</td>
<td>30, IV</td>
</tr>
<tr>
<td>Indian Affairs, Bureau of</td>
<td>25, I, V</td>
</tr>
<tr>
<td>Indian Affairs, Office of the Assistant Secretary</td>
<td>25, VI</td>
</tr>
<tr>
<td>Indian Arts and Crafts Board</td>
<td>25, II</td>
</tr>
<tr>
<td>Land Management, Bureau of</td>
<td>43, II</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Minerals Management Service</td>
<td>30, II</td>
</tr>
<tr>
<td>Mines, Bureau of</td>
<td>30, VI</td>
</tr>
<tr>
<td>National Indian Gaming Commission</td>
<td>25, III</td>
</tr>
<tr>
<td>National Park Service</td>
<td>36, I</td>
</tr>
<tr>
<td>Reclamation, Bureau of</td>
<td>43, I</td>
</tr>
<tr>
<td>Secretary of the Interior, Office of</td>
<td>43, Subtitle A</td>
</tr>
<tr>
<td>Surface Mining and Reclamation Appeals, Board of</td>
<td>30, III</td>
</tr>
<tr>
<td>Surface Mining Reclamation and Enforcement, Office of</td>
<td>30, VII</td>
</tr>
<tr>
<td>Internal Revenue Service</td>
<td>26, I</td>
</tr>
<tr>
<td>International Boundary and Water Commission, United States</td>
<td>22, XI</td>
</tr>
<tr>
<td>and Mexico, United States Section</td>
<td></td>
</tr>
<tr>
<td>International Development, United States Agency for</td>
<td>22, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 7</td>
</tr>
<tr>
<td>International Development Cooperation Agency, United States</td>
<td>22, XII</td>
</tr>
<tr>
<td>States</td>
<td></td>
</tr>
<tr>
<td>International Fishing and Related Activities</td>
<td>50, III</td>
</tr>
<tr>
<td>International Investment, Office of</td>
<td>31, VIII</td>
</tr>
<tr>
<td>International Joint Commission, United States and Canada</td>
<td>22, IV</td>
</tr>
<tr>
<td>International Organizations Employees Loyalty Board</td>
<td>5, V</td>
</tr>
<tr>
<td>International Trade Administration</td>
<td>15, III; 19, III</td>
</tr>
<tr>
<td>International Trade Commission, United States</td>
<td>19, II</td>
</tr>
<tr>
<td>Interstate Commerce Commission</td>
<td>5, XL</td>
</tr>
<tr>
<td>James Madison Memorial Fellowship Foundation</td>
<td>45, XXIV</td>
</tr>
<tr>
<td>Japan–United States Friendship Commission</td>
<td>22, XVI</td>
</tr>
<tr>
<td>Joint Board for the Enrollment of Actuaries</td>
<td>20, VIII</td>
</tr>
<tr>
<td>Justice Department</td>
<td>5, XXVIII; 28, I; 40, IV</td>
</tr>
<tr>
<td>Drug Enforcement Administration</td>
<td>21, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 28</td>
</tr>
<tr>
<td>Federal Claims Collection Standards</td>
<td>31, IX</td>
</tr>
<tr>
<td>Federal Prison Industries, Inc.</td>
<td>28, III</td>
</tr>
<tr>
<td>Foreign Claims Settlement Commission of the United States</td>
<td>45, V</td>
</tr>
<tr>
<td>Immigration and Naturalization Service</td>
<td>8, I</td>
</tr>
<tr>
<td>Offices of Independent Counsel</td>
<td>28, VI</td>
</tr>
<tr>
<td>Prisons, Bureau of</td>
<td>29, V</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>41, 128</td>
</tr>
<tr>
<td>Labor Department</td>
<td>5, XLII</td>
</tr>
<tr>
<td>Benefits Review Board</td>
<td>20, VII</td>
</tr>
<tr>
<td>Employees’ Compensation Appeals Board</td>
<td>20, IV</td>
</tr>
<tr>
<td>Employment and Training Administration</td>
<td>20, V</td>
</tr>
<tr>
<td>Employment Standards Administration</td>
<td>20, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 29</td>
</tr>
<tr>
<td>Federal Contract Compliance Programs, Office of</td>
<td>41, 60</td>
</tr>
<tr>
<td>Federal Procurement Regulations System</td>
<td>41, 50</td>
</tr>
<tr>
<td>Labor-Management Standards, Office of</td>
<td>29, II, IV</td>
</tr>
<tr>
<td>Mine Safety and Health Administration</td>
<td>29, IV</td>
</tr>
<tr>
<td>Occupational Safety and Health Administration</td>
<td>29, XVII</td>
</tr>
<tr>
<td>Pension and Welfare Benefits Administration</td>
<td>29, XXV</td>
</tr>
<tr>
<td>Public Contracts</td>
<td>41, 50</td>
</tr>
<tr>
<td>Secretary of Labor, Office of</td>
<td>29, Subtitle A</td>
</tr>
<tr>
<td>Veterans’ Employment and Training, Office of the Assistant Secretary for</td>
<td>41, 61; 20, IX</td>
</tr>
<tr>
<td>Wage and Hour Division</td>
<td>29, V</td>
</tr>
<tr>
<td>Workers’ Compensation Programs, Office of</td>
<td>20, I</td>
</tr>
<tr>
<td>Labor-Management Standards, Office of</td>
<td>29, II, IV</td>
</tr>
<tr>
<td>Land Management, Bureau of</td>
<td>43, II</td>
</tr>
<tr>
<td>Legal Services Corporation</td>
<td>45, XVI</td>
</tr>
<tr>
<td>Library of Congress</td>
<td>36, VII</td>
</tr>
<tr>
<td>Copyright Office</td>
<td>37, II</td>
</tr>
<tr>
<td>Management and Budget, Office of</td>
<td>5, III; LXXVII; 48, 99</td>
</tr>
<tr>
<td>Marine Mammal Commission</td>
<td>50, V</td>
</tr>
<tr>
<td>Maritime Administration</td>
<td>46, II</td>
</tr>
<tr>
<td>Merit Systems Protection Board</td>
<td>5, II</td>
</tr>
<tr>
<td>Micronesian Status Negotiations, Office for</td>
<td>32, XXVII</td>
</tr>
<tr>
<td>Mine Safety and Health Administration</td>
<td>30, I</td>
</tr>
<tr>
<td>Minerals Management Service</td>
<td>30, II</td>
</tr>
<tr>
<td>Mines, Bureau of</td>
<td>30, VI</td>
</tr>
</tbody>
</table>

532
Agency | CFR Title, Subtitle or Chapter
--- | ---
Minority Business Development Agency | 15, XIV
Miscellaneous Agencies | 1, IV
Monetary Offices | 31, 1
National Aeronautics and Space Administration | 5, LIX; 14, V
Federal Acquisition Regulation | 48, 18
National Agricultural Library | 7, XLI
National Agricultural Statistics Service | 7, XXXVI
National and Community Service, Corporation for | 45, XII, XXV
National Archives and Records Administration | 5, LXVI; 36, XII
Information Security Oversight Office | 32, XX
National Bureau of Standards | 15, II
National Capital Planning Commission | 1, IV
National Commission for Employment Policy | 1, IV
National Commission on Libraries and Information Science | 45, XVII
National Council on Disability | 34, XII
National Counterintelligence Center | 32, XVIII
National Credit Union Administration | 12, VII
National Drug Control Policy, Office of | 21, III
National Foundation on the Arts and the Humanities | 45, XI
National Highway Traffic Safety Administration | 23, II, III; 49, V
National Imagery and Mapping Agency | 32, I
National Indian Gaming Commission | 25, III
National Institute for Literacy | 34, XI
National Institute of Standards and Technology | 15, II
National Labor Relations Board | 5, LXI; 29, I
National Marine Fisheries Service | 50, II, IV, VI
National Mediation Board | 29, X
National Oceanic and Atmospheric Administration | 15, IX; 50, II, III, IV, VI
National Park Service | 36, I
National Railroad Adjustment Board | 29, III
National Railroad Passenger Corporation (AMTRAK) | 49, VII
National Science Foundation | 5, XLIII; 45, VI
Federal Acquisition Regulation | 48, 25
National Security Council | 32, XXI
National Security Council and Office of Science and Technology Policy | 47, II
National Telecommunications and Information Administration | 15, XXIII; 47, III
National Transportation Safety Board | 49, VIII
National Weather Service | 15, IX
Natural Resources Conservation Service | 7, VI
Navajo and Hopi Indian Relocation, Office of | 25, IV
Navy Department | 32, VI
Federal Acquisition Regulation | 48, 52
Neighborhood Reinvestment Corporation | 24, XXV
Northeast Dairy Compact Commission | 7, XIII
Northeast Interstate Low-Level Radioactive Waste Commission | 10, XVIII
Nuclear Regulatory Commission | 5, XLVIII; 10, I
Federal Acquisition Regulation | 48, 20
Occupational Safety and Health Administration | 29, XVII
Occupational Safety and Health Review Commission | 29, XX
Offices of Independent Counsel | 28, VI
Oklahoma City National Memorial Trust | 36, XV
Operations Office | 7, XXVIII
Overseas Private Investment Corporation | 5, XXXIII; 22, VII
Panama Canal Commission | 48, 35
Panama Canal Regulations | 35, I
Patent and Trademark Office, United States | 37, I
Payment From a Non-Federal Source for Travel Expenses | 41, 304
Payment of Expenses Connected With the Death of Certain Employees | 41, 303
Peace Corps | 22, III
Pennsylvania Avenue Development Corporation | 36, IX
Pension and Welfare Benefits Administration | 29, XXV
Pension Benefit Guaranty Corporation | 29, XL
Personnel Management, Office of | 5, I, XXXV; 45, VIII
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 17</td>
</tr>
<tr>
<td>Federal Employees Group Life Insurance Federal Acquisition Regulation</td>
<td>48, 21</td>
</tr>
<tr>
<td>Federal Employees Health Benefits Acquisition Regulation</td>
<td>48, 16</td>
</tr>
<tr>
<td>Postal Rate Commission</td>
<td>5, XLVI; 39, III</td>
</tr>
<tr>
<td>Postal Service, United States</td>
<td>5, LX; 39, I</td>
</tr>
<tr>
<td>Postsecondary Education, Office of</td>
<td>34, VI</td>
</tr>
<tr>
<td>President’s Commission on White House Fellowships</td>
<td>1, IV</td>
</tr>
<tr>
<td>Presidential Documents</td>
<td>3</td>
</tr>
<tr>
<td>Presidio Trust</td>
<td>36, X</td>
</tr>
<tr>
<td>Prisons, Bureau of</td>
<td>28, V</td>
</tr>
<tr>
<td>Procurement and Property Management, Office of</td>
<td>7, XXXII</td>
</tr>
<tr>
<td>Productivity, Technology and Innovation, Assistant Secretary</td>
<td>37, IV</td>
</tr>
<tr>
<td>Secretary</td>
<td></td>
</tr>
<tr>
<td>Public Contracts, Department of Labor</td>
<td>41, 50</td>
</tr>
<tr>
<td>Public and Indian Housing, Office of Assistant Secretary for</td>
<td>24, IX</td>
</tr>
<tr>
<td>Public Health Service</td>
<td>42, I</td>
</tr>
<tr>
<td>Railroad Retirement Board</td>
<td>20, II</td>
</tr>
<tr>
<td>Reclamation, Bureau of</td>
<td>43, I</td>
</tr>
<tr>
<td>Refugee Resettlement, Office of</td>
<td>45, IV</td>
</tr>
<tr>
<td>Regional Action Planning Commissions</td>
<td>13, V</td>
</tr>
<tr>
<td>Relocation Allowances</td>
<td>41, 302</td>
</tr>
<tr>
<td>Research and Special Programs Administration</td>
<td>49, I</td>
</tr>
<tr>
<td>Rural Business-Cooperative Service</td>
<td>7, XVIII, XLII</td>
</tr>
<tr>
<td>Rural Development Administration</td>
<td>7, XLII</td>
</tr>
<tr>
<td>Rural Housing Service</td>
<td>7, XVIII, XXXV</td>
</tr>
<tr>
<td>Rural Telephone Bank</td>
<td>7, XVII</td>
</tr>
<tr>
<td>Rural Utilities Service</td>
<td>7, XVII, XVIII, XLII</td>
</tr>
<tr>
<td>Saint Lawrence Seaway Development Corporation</td>
<td>33, IV</td>
</tr>
<tr>
<td>Science and Technology Policy, Office of</td>
<td>32, XXIV</td>
</tr>
<tr>
<td>Science and Technology Policy, Office of, and National Security Council</td>
<td></td>
</tr>
<tr>
<td>Special Counsel, Office of</td>
<td>31, IV</td>
</tr>
<tr>
<td>Social Security Administration</td>
<td>17, II</td>
</tr>
<tr>
<td>Selective Service System</td>
<td>32, XVI</td>
</tr>
<tr>
<td>Small Business Administration</td>
<td>13, I</td>
</tr>
<tr>
<td>Smithsonian Institution</td>
<td>36, V</td>
</tr>
<tr>
<td>Soldiers’ and Airmen’s Home, United States</td>
<td>5, XI</td>
</tr>
<tr>
<td>Special Counsel, Office of</td>
<td>5, VIII</td>
</tr>
<tr>
<td>Special Education and Rehabilitative Services, Office of</td>
<td>34, III</td>
</tr>
<tr>
<td>State Department</td>
<td>22, I</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 6</td>
</tr>
<tr>
<td>Surface Mining and Reclamation Appeals, Board of</td>
<td>30, III</td>
</tr>
<tr>
<td>Surface Mining Reclamation and Enforcement, Office of</td>
<td>30, VII</td>
</tr>
<tr>
<td>Surface Transportation Board</td>
<td>49, X</td>
</tr>
<tr>
<td>Susquehanna River Basin Commission</td>
<td>18, VIII</td>
</tr>
<tr>
<td>Technology Administration</td>
<td>15, XI</td>
</tr>
<tr>
<td>Technology Policy, Assistant Secretary for</td>
<td>37, IV</td>
</tr>
<tr>
<td>Technology, Under Secretary for</td>
<td>37, V</td>
</tr>
<tr>
<td>Tennessee Valley Authority</td>
<td>5, L, XIX; 18, XIII</td>
</tr>
<tr>
<td>Thrift Supervision Office, Department of the Treasury</td>
<td>12, V</td>
</tr>
<tr>
<td>Trade Representative, United States, Office of</td>
<td>15, XX</td>
</tr>
<tr>
<td>Transportation, Department of</td>
<td>5, L</td>
</tr>
<tr>
<td>Coast Guard</td>
<td>33, I; 46, I; 49, IV</td>
</tr>
<tr>
<td>Coast Guard (Great Lakes Pilotage)</td>
<td>46, III</td>
</tr>
<tr>
<td>Commercial Space Transportation</td>
<td>14, III</td>
</tr>
<tr>
<td>Contract Appeals, Board of</td>
<td>48, 63</td>
</tr>
<tr>
<td>Emergency Management and Assistance</td>
<td>44, IV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 12</td>
</tr>
<tr>
<td>Federal Aviation Administration</td>
<td>14, I</td>
</tr>
<tr>
<td>Federal Highway Administration</td>
<td>23, 1, I</td>
</tr>
<tr>
<td>Federal Motor Carrier Safety Administration</td>
<td>49, III</td>
</tr>
<tr>
<td>Federal Railroad Administration</td>
<td>49, II</td>
</tr>
<tr>
<td>Federal Transit Administration</td>
<td>49, VI</td>
</tr>
<tr>
<td>Maritime Administration</td>
<td>46, II</td>
</tr>
<tr>
<td>National Highway Traffic Safety Administration</td>
<td>23, II, III; 49, V</td>
</tr>
</tbody>
</table>

534
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and Special Programs Administration</td>
<td>49, I</td>
</tr>
<tr>
<td>Saint Lawrence Seaway Development Corporation</td>
<td>33, IV</td>
</tr>
<tr>
<td>Secretary of Transportation, Office of</td>
<td>14, II; 49, Subtitle A</td>
</tr>
<tr>
<td>Surface Transportation Board</td>
<td>49, X</td>
</tr>
<tr>
<td>Transportation Statistics Bureau</td>
<td>49, XI</td>
</tr>
<tr>
<td>Transportation, Office of</td>
<td>7, XXXIII</td>
</tr>
<tr>
<td>Transportation Statistics Bureau</td>
<td>49, XI</td>
</tr>
<tr>
<td>Travel Allowances, Temporary Duty (TDY)</td>
<td>41, 301</td>
</tr>
<tr>
<td>Treasury Department</td>
<td>5, XXI; 12, XV; 17, IV;</td>
</tr>
<tr>
<td></td>
<td>31, IX</td>
</tr>
<tr>
<td>Alcohol, Tobacco and Firearms, Bureau of</td>
<td>27, I</td>
</tr>
<tr>
<td>Community Development Financial Institutions Fund</td>
<td>12, XVIII</td>
</tr>
<tr>
<td>Comptroller of the Currency</td>
<td>12, I</td>
</tr>
<tr>
<td>Customs Service, United States</td>
<td>19, I</td>
</tr>
<tr>
<td>Engraving and Printing, Bureau of</td>
<td>31, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 10</td>
</tr>
<tr>
<td>Federal Law Enforcement Training Center</td>
<td>31, VII</td>
</tr>
<tr>
<td>Fiscal Service</td>
<td>31, II</td>
</tr>
<tr>
<td>Foreign Assets Control, Office of</td>
<td>31, V</td>
</tr>
<tr>
<td>Internal Revenue Service</td>
<td>26, I</td>
</tr>
<tr>
<td>International Investment, Office of</td>
<td>31, VIII</td>
</tr>
<tr>
<td>Monetary Offices</td>
<td>31, I</td>
</tr>
<tr>
<td>Secret Service</td>
<td>31, IV</td>
</tr>
<tr>
<td>Secretary of the Treasury, Office of</td>
<td>31, Subtitle A</td>
</tr>
<tr>
<td>Thrift Supervision, Office of</td>
<td>12, V</td>
</tr>
<tr>
<td>Truman, Harry S. Scholarship Foundation</td>
<td>45, XVIII</td>
</tr>
<tr>
<td>United States and Canada, International Joint Commission</td>
<td>22, IV</td>
</tr>
<tr>
<td>United States and Mexico, International Boundary and Water</td>
<td>22, XI</td>
</tr>
<tr>
<td>Commission, United States Section</td>
<td></td>
</tr>
<tr>
<td>Utah Reclamation Mitigation and Conservation Commission</td>
<td>43, III</td>
</tr>
<tr>
<td>Veterans Affairs Department</td>
<td>38, I</td>
</tr>
<tr>
<td>Veterans’ Employment and Training, Office of the Assistant</td>
<td>41, 61; 20, IX</td>
</tr>
<tr>
<td>Secretary for</td>
<td></td>
</tr>
<tr>
<td>Vice President of the United States, Office of</td>
<td>32, XXVIII</td>
</tr>
<tr>
<td>Vocational and Adult Education, Office of</td>
<td>34, IV</td>
</tr>
<tr>
<td>Wage and Hour Division</td>
<td>29, V</td>
</tr>
<tr>
<td>Water Resources Council</td>
<td>18, VI</td>
</tr>
<tr>
<td>Workers’ Compensation Programs, Office of</td>
<td>20, I</td>
</tr>
<tr>
<td>World Agricultural Outlook Board</td>
<td>7, XXXVIII</td>
</tr>
</tbody>
</table>
List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1986, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters and parts as well as section for revisions.


---

23 CFR

1986

Chapter I
11 Removed .......................... 32453
12 Revised ............................ 22932
140.301—140.313 (Subpart C) Removed .......................... 11577
172 Authority citation revised .......................... 22800
172.5 Amended .......................... 22800
172.7 (d) and (f)(2) revised ......................... 22800
172.9 (a) amended; (c) revised ......................... 22800
230.109 (b) amended .......................... 22800
420.101—420.117 (Subpart A) Revised ......................... 26382
450.300—450.306 (Subpart C) Removed .......................... 26382
476.2 (b)(9) amended ......................... 39748
476.310 (b) amended ......................... 39748
480 Revised ............................ 19618
511.4 (d) amended .......................... 22800
511.7 (d) amended .......................... 22801
625 Revised ............................ 16832
626.5 (a) amended; footnote 1 removed .......................... 16834
630.110 (g) revised .......................... 39748
630.112 (d) removed; (f) amended .......................... 39748
630.1004 Footnote amended .......................... 16834
635 Authority citation revised .......................... 27534
635.107 (i) revised .......................... 27534
637.201—637.209 (Subpart B) Revised ......................... 40417
645.207 (b) amended .......................... 16834
650.301 Amended .......................... 16834
650.605 (a) amended .......................... 16834
655.107 (a) amended .......................... 39748
655.301—655.310 (Subpart C) Removed .......................... 32908

---

23 CFR—Continued

1987

Chapter I—Continued
655.601 Revised .......................... 16834
655.603 (e) revised .......................... 16834
658.5 (e) interpretation .......................... 1368
658 Appendix A amended .......................... 20818
666.9 Amended; footnote 3 amended .......................... 16834
669 Added .......................... 25364
771 Authority citation revised .......................... 39748
771.111 (b) amended .......................... 39748
771.115 (b)(4) amended .......................... 39748
810.4 (b)(4) footnote 1 amended .......................... 16834
820 Removed .......................... 22801
922.13 (c) footnote 1 amended .......................... 16834

Chapter II
1208 Added .......................... 10380
Chapter III
1309 Revised .......................... 22279
1325 Response to requests for reconsideration .......................... 11445

Chapter I
230.204 Footnote 1 revised .......................... 36922
625.4 (b)(5) revised .......................... 36247
630.302 (h) through (j) redesignated as (i) through (k); new (h) added .......................... 31390
630.305 Revised .......................... 31390
633.101—633.104 (Subpart A) Revised .......................... 36920
635 Authority citation revised .......................... 36921
635.103 Revised .......................... 45172
635.104 (a) and (b) amended .......................... 45172

---

Chapter II
1208 Added .......................... 10380
Chapter III
1309 Revised .......................... 22279
1325 Response to requests for reconsideration .......................... 11445

---

Chapter I
230.204 Footnote 1 revised .......................... 36922
625.4 (b)(5) revised .......................... 36247
630.302 (h) through (j) redesignated as (i) through (k); new (h) added .......................... 31390
630.305 Revised .......................... 31390
633.101—633.104 (Subpart A) Revised .......................... 36920
635 Authority citation revised .......................... 36921
635.103 Revised .......................... 45172
635.104 (a) and (b) amended .......................... 45172

---

Chapter II
1208 Added .......................... 10380
Chapter III
1309 Revised .......................... 22279
1325 Response to requests for reconsideration .......................... 11445

---

Chapter I
230.204 Footnote 1 revised .......................... 36922
625.4 (b)(5) revised .......................... 36247
630.302 (h) through (j) redesignated as (i) through (k); new (h) added .......................... 31390
630.305 Revised .......................... 31390
633.101—633.104 (Subpart A) Revised .......................... 36920
635 Authority citation revised .......................... 36921
635.103 Revised .......................... 45172
635.104 (a) and (b) amended .......................... 45172
### Chapter I—Continued

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>635.113</td>
<td>Revised</td>
<td>36921</td>
</tr>
<tr>
<td>635.126</td>
<td>Revised</td>
<td>36921</td>
</tr>
<tr>
<td>635.129</td>
<td>Added</td>
<td>36921</td>
</tr>
<tr>
<td>635.130</td>
<td>Added</td>
<td>36922</td>
</tr>
<tr>
<td>635.203</td>
<td>(b) amended; (f) added</td>
<td>45172</td>
</tr>
<tr>
<td>635.204</td>
<td>Revised</td>
<td>45172</td>
</tr>
<tr>
<td>635.205</td>
<td>Revised</td>
<td>45173</td>
</tr>
<tr>
<td>635.309</td>
<td>(d) amended; eff. 8-29-88</td>
<td>45177</td>
</tr>
</tbody>
</table>

**Introductory text and (e) revised**

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>640.107</td>
<td>(d) amended</td>
<td>32669</td>
</tr>
<tr>
<td>650.109</td>
<td>Removed; eff. 8-29-88</td>
<td>32669</td>
</tr>
<tr>
<td>650.801</td>
<td>—650.809 (Subpart H) Added</td>
<td>32699</td>
</tr>
<tr>
<td>655.601</td>
<td>(a) amended</td>
<td>32534</td>
</tr>
<tr>
<td>655.607</td>
<td>(Subpart F) MUTCD availability; incorporation by reference</td>
<td>236</td>
</tr>
<tr>
<td>655.601</td>
<td>(a) amended</td>
<td>32616</td>
</tr>
<tr>
<td>656.212</td>
<td>(a)(3) revised</td>
<td>32618</td>
</tr>
<tr>
<td>656.300—646.220 (Subpart B) Appendix added</td>
<td>32618</td>
<td></td>
</tr>
<tr>
<td>657.17</td>
<td>(b) revised</td>
<td>32669</td>
</tr>
<tr>
<td>668.5</td>
<td>(m) and (n) added</td>
<td>32616</td>
</tr>
</tbody>
</table>

**Chapter III—Continued**

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1309.4</td>
<td>(a)(2) revised; (a)(3), (b) introductory text and (6) amended</td>
<td>27615</td>
</tr>
</tbody>
</table>

**1988**

### Chapter I

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Authority citation revised</td>
<td>18276</td>
</tr>
<tr>
<td>1.11</td>
<td>(a) amended</td>
<td>18276</td>
</tr>
<tr>
<td>140.904</td>
<td>(a) revised</td>
<td>18276</td>
</tr>
<tr>
<td>140.907</td>
<td>Added</td>
<td>18276</td>
</tr>
<tr>
<td>160</td>
<td>Removed</td>
<td>25484</td>
</tr>
<tr>
<td>260.407</td>
<td>(a) revised; (c) added</td>
<td>3745</td>
</tr>
<tr>
<td>625.5</td>
<td>(a)(11) added</td>
<td>15671</td>
</tr>
<tr>
<td>635</td>
<td>Authority citation revised</td>
<td>1922</td>
</tr>
<tr>
<td>635.124</td>
<td>(a) revised</td>
<td>1922</td>
</tr>
<tr>
<td>635.309</td>
<td>(k) corrected; (n) revised; (o) added</td>
<td>1921</td>
</tr>
</tbody>
</table>

---

23 CFR (4–1–01 Edition)
### List of CFR Sections Affected

#### 23 CFR—Continued

<table>
<thead>
<tr>
<th>Chapter I—Continued</th>
<th>53 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>658 Appendix B added</td>
<td>2599</td>
</tr>
<tr>
<td>771.105 (e) corrected; eff. 4–5–88</td>
<td>11065</td>
</tr>
<tr>
<td>771.113 (b) corrected; eff. 4–5–88</td>
<td>11066</td>
</tr>
<tr>
<td>771.117 (d) introductory text and (12) footnote 3 and (e) corrected; eff. 4–5–88</td>
<td>11066</td>
</tr>
<tr>
<td>771.129 (a) corrected; eff. 4–5–88</td>
<td>11066</td>
</tr>
<tr>
<td>771.135 (f)(2) and (m)(1) corrected; (g)(1) and (m)(1) correctly designated; eff. 4–5–88</td>
<td>11066</td>
</tr>
<tr>
<td>625.2 (a)(2) amended</td>
<td>281</td>
</tr>
<tr>
<td>625.4 Introductory text and new (b)(6) added; (a) footnotes 1 and 2 removed; (b)(1), (2), (3) and (5) and (c)(2) revised</td>
<td>281</td>
</tr>
<tr>
<td>625.5 (a)(7) and (9), and (b)(2), (3), (4), (5) and (6) revised; (a)(12), (b)(7) and (c)(5) added; (c) removed; (d) redesignated as (b)(6) corrected</td>
<td>1844</td>
</tr>
</tbody>
</table>

#### 1989

<table>
<thead>
<tr>
<th>23 CFR</th>
<th>54 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I</td>
<td>140 Authority citation revised; sectional authority citations removed</td>
</tr>
<tr>
<td>140 Authority citation revised</td>
<td>35804</td>
</tr>
<tr>
<td>140.201—140.205 (Subpart B) Revised</td>
<td>35804</td>
</tr>
<tr>
<td>420 Authority citation revised</td>
<td>35402</td>
</tr>
</tbody>
</table>

#### 1990

<table>
<thead>
<tr>
<th>23 CFR</th>
<th>55 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I</td>
<td>140 Authority citation revised; sectional authority citations removed</td>
</tr>
<tr>
<td>140.201—140.205 (Subpart B) Revised</td>
<td>35804</td>
</tr>
<tr>
<td>420 Authority citation revised</td>
<td>35402</td>
</tr>
</tbody>
</table>
## List of CFR Sections Affected

<table>
<thead>
<tr>
<th>CFR Section</th>
<th>1993 Page</th>
<th>1994 Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I</td>
<td>140</td>
<td>172</td>
</tr>
<tr>
<td>23 CFR</td>
<td>6714</td>
<td>64948</td>
</tr>
<tr>
<td>140.201—140.207 (Subpart B) Revised</td>
<td>39143</td>
<td>14748</td>
</tr>
<tr>
<td>140.301</td>
<td>6714</td>
<td>650</td>
</tr>
<tr>
<td>140.311</td>
<td>6714</td>
<td>690</td>
</tr>
<tr>
<td>140.301</td>
<td>6714</td>
<td>650</td>
</tr>
<tr>
<td>140.311</td>
<td>6714</td>
<td>690</td>
</tr>
<tr>
<td>1994</td>
<td>6714</td>
<td>64948</td>
</tr>
<tr>
<td>23 CFR</td>
<td>6714</td>
<td>64948</td>
</tr>
<tr>
<td>23 CFR—Continued</td>
<td>58 FR 15143</td>
<td>59 FR 58938</td>
</tr>
</tbody>
</table>

### 23 CFR—Continued

**Chapter III—Continued**

<table>
<thead>
<tr>
<th>Section</th>
<th>1994 Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1313.4</td>
<td>21655</td>
</tr>
<tr>
<td>(a)2(b) removed; (a)3 redesignated as (a)2 and (c) redesignated as (b); (a) introductory text, (a)1 and new (b) revised</td>
<td>21655</td>
</tr>
<tr>
<td>1313.5</td>
<td>21655</td>
</tr>
<tr>
<td>(d)2 and (4) removed; (a)3(II) redesignated as (a)3(IV), (c)2(II) through (IV) redesignated as (c)2(II)(A) through (D), (c)2 introductory text redesignated as (c)2 introductory text, new (c)2(D) redesignated in part as (c)2(II), and (d)3 and (5) redesignated as (d)2 and (3); introductory text, (a)1(vi), (3)(I) and new (d)2 revised; (a) heading, (I) introductory text, (2)(I), (II), (III), new (3)(IV), (b)1 and (c)3 amended; new (a)3(II), (III) and (f) added</td>
<td>21656</td>
</tr>
<tr>
<td>1313.6</td>
<td>21656</td>
</tr>
<tr>
<td>(b)(2) redesignated as (b)(2)(I); (a)(1), (b)(1), new (b)(2)(I), (c)(I), (2)(II), (d)(I), (2)(II), (III), (3)(I), (II), (e)(I), (f)(I), and (g)(1) amended; (b)(2)(II) and (c)(2)(III) added; (e)(3) redesignated from 1313.3(I)</td>
<td>21657</td>
</tr>
<tr>
<td>1313.7</td>
<td>21657</td>
</tr>
<tr>
<td>Revised</td>
<td>21657</td>
</tr>
<tr>
<td>1313.8</td>
<td>21657</td>
</tr>
<tr>
<td>Revised</td>
<td>21657</td>
</tr>
</tbody>
</table>

**Chapter I**

<table>
<thead>
<tr>
<th>Section</th>
<th>1993 Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>172</td>
<td>64948</td>
</tr>
<tr>
<td>Authority citation revised</td>
<td>64948</td>
</tr>
<tr>
<td>172.1—172.15 (Subpart A) Heading added</td>
<td>64948</td>
</tr>
<tr>
<td>172.3</td>
<td>64948</td>
</tr>
<tr>
<td>Introductory text added; amended</td>
<td>64948</td>
</tr>
<tr>
<td>172.21—172.25 (Subpart B) Added</td>
<td>64948</td>
</tr>
<tr>
<td>420</td>
<td>37557</td>
</tr>
<tr>
<td>(Subchapter E) Heading revised</td>
<td>37557</td>
</tr>
<tr>
<td>420</td>
<td>37557</td>
</tr>
<tr>
<td>Revised</td>
<td>37557</td>
</tr>
<tr>
<td>511</td>
<td>37563</td>
</tr>
<tr>
<td>Removed</td>
<td>37563</td>
</tr>
<tr>
<td>625</td>
<td>14748</td>
</tr>
<tr>
<td>Authority citation corrected</td>
<td>14748</td>
</tr>
<tr>
<td>650</td>
<td>37938</td>
</tr>
<tr>
<td>Authority citation revised</td>
<td>37938</td>
</tr>
<tr>
<td>650.201</td>
<td>37939</td>
</tr>
<tr>
<td>Revised</td>
<td>37939</td>
</tr>
<tr>
<td>650.203</td>
<td>37939</td>
</tr>
<tr>
<td>Revised</td>
<td>37939</td>
</tr>
<tr>
<td>650.205</td>
<td>37939</td>
</tr>
<tr>
<td>Revised</td>
<td>37939</td>
</tr>
<tr>
<td>650.209</td>
<td>37939</td>
</tr>
<tr>
<td>Revised</td>
<td>37939</td>
</tr>
<tr>
<td>650.211</td>
<td>37939</td>
</tr>
<tr>
<td>Added</td>
<td>37939</td>
</tr>
<tr>
<td>655.409</td>
<td>33910</td>
</tr>
<tr>
<td>(f) amended</td>
<td>33910</td>
</tr>
</tbody>
</table>
## List of CFR Sections Affected

### 23 CFR

#### 1996

<table>
<thead>
<tr>
<th>Chapter I</th>
<th>61 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>230 Authority citation added</td>
<td>14616</td>
</tr>
<tr>
<td>230.101—230.121 (Subpart A) Authority citation removed</td>
<td>14616</td>
</tr>
<tr>
<td>230.121 (d) removed</td>
<td>14616</td>
</tr>
<tr>
<td>230.101—230.121 (Subpart A) Appendices E and F removed</td>
<td>14616</td>
</tr>
<tr>
<td>230.201—230.207 (Subpart B) Authority citation removed</td>
<td>14616</td>
</tr>
<tr>
<td>230.301—230.313 (Subpart C) Authority citation removed</td>
<td>14616</td>
</tr>
<tr>
<td>230.401—230.415 (Subpart D) Authority citation removed</td>
<td>14616</td>
</tr>
<tr>
<td>450 Authority citation revised</td>
<td>67215</td>
</tr>
<tr>
<td>450.316 (a)(14) and (15) amended: (a)(16) added</td>
<td>67215</td>
</tr>
<tr>
<td>450.318 (e) amended</td>
<td>67215</td>
</tr>
<tr>
<td>450.320 (a) revised; (b) and (c) amended</td>
<td>67215</td>
</tr>
<tr>
<td>450.322 (b)(4) amended</td>
<td>67215</td>
</tr>
<tr>
<td>450.336 (b)(6) removed</td>
<td>67215</td>
</tr>
<tr>
<td>500 Revised</td>
<td>67210</td>
</tr>
<tr>
<td>625 Revised; interim</td>
<td>17566</td>
</tr>
<tr>
<td>626 Added</td>
<td>67174</td>
</tr>
<tr>
<td>630.102—630.106 (Subpart A) Revised</td>
<td>35632</td>
</tr>
<tr>
<td>635.413 Regulation at 60 FR 44274 confirmed</td>
<td>17245</td>
</tr>
<tr>
<td>640 Regulation at 60 FR 47483 confirmed</td>
<td>57331</td>
</tr>
<tr>
<td>640.113 (d) revised; (e) removed; (f) redesignated as (e)</td>
<td>57331</td>
</tr>
<tr>
<td>645.207 Amended</td>
<td>12022</td>
</tr>
<tr>
<td>655 Authority citation revised</td>
<td>29626</td>
</tr>
<tr>
<td>655.601 (c) and (d) revised; interim</td>
<td>29626</td>
</tr>
<tr>
<td>667 Removed</td>
<td>42966</td>
</tr>
<tr>
<td>668 Authority citation added</td>
<td>67211</td>
</tr>
<tr>
<td>668.101 Amended</td>
<td>67212</td>
</tr>
<tr>
<td>668.101—668.113 (Subpart A) Authority citation removed</td>
<td>67211</td>
</tr>
<tr>
<td>668.103 Amended</td>
<td>67212</td>
</tr>
<tr>
<td>668.105 (e) amended</td>
<td>67212</td>
</tr>
<tr>
<td>668.107 (a) and (b) amended</td>
<td>67212</td>
</tr>
<tr>
<td>668.109 (b)(3), (5) and (6) amended: (b)(7), (8), (9) and (c)(9) added; (c)(1), (2), (4), (6) and (7) revised</td>
<td>67212</td>
</tr>
<tr>
<td>668.11 (b)(2) amended; (c)(1) revised</td>
<td>67212</td>
</tr>
<tr>
<td>668.113 (a) amended; (b)(1) revised; (b)(3) added</td>
<td>67212</td>
</tr>
<tr>
<td>668.201—668.215 (Subpart B) Authority citation removed</td>
<td>67211</td>
</tr>
<tr>
<td>710.401—710.405 (Subpart D) Removed; interim</td>
<td>18247</td>
</tr>
</tbody>
</table>

#### 1997

<table>
<thead>
<tr>
<th>Chapter I</th>
<th>61 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>140.904 (b)(1) revised; interim</td>
<td>45328</td>
</tr>
<tr>
<td>140.922 (b) revised; interim</td>
<td>45328</td>
</tr>
<tr>
<td>470 Authority citation revised</td>
<td>33355</td>
</tr>
</tbody>
</table>

---

[^1]: [23 CFR—Continued](#)
23 CFR—Continued

Chapter I—Continued
470.101—470.115 (Subpart A) Revised; interim .................. 33355
625 Revised; eff. 5–1–97 .................................. 15397
627 Added ............................................. 8868
630.102—630.106 (Subpart A) Authority citation revised ........ 6872
630.301—630.307 (Subpart C) Revised ................. 6872
630.305 Redesignated as 635.127 ...................... 6872
635 Authority citation revised .......... 6872
635.102 Revised ........................................ 6873
635.103 Amended ..................................... 6873
635.124 (b) amended ............................ 6873
635.126 (b) introductory text revised ......... 6873
635.127 Redesignated from 630.305 ............... 6872
645 Authority citation revised ...... 45328
646.200—646.220 (Subpart B) Appendix amended; interim ...... 45328
655.601 (a) revised .......... 8351, 33549
658 Authority citation revised .......... 70652, 71747
658.13 (b)(3) revised ....................... 70653
658.17 (l) and (m) added ......................... 70653
658 Appendixes A and C amended .......... 70653
Appendix A amended ................... 71748
671 Authority citation revised ...... 6873
711.109 (d) added .............................. 6873
712.13 Regulation at 61 FR 45321 confirmed .................. 42904
Chapter II
1200 Revised; interim .................. 34402
1205.4 Revised; interim .................. 34405
1205.5 Removed; interim ................. 34405
Chapter III
1327 Authority citation revised .................. 63657

23 CFR—Continued

Chapter III—Continued
1327.3 (a) through (w) redesignated as (b) through (x); new (a) added ............................................. 63657
1327.5 (c)(2) introductory text amended .................. 63657
1327.6 (f) and (g) redesignated as (g) and (h); new (f) added; interim .................. 27195
(e)(1) introductory text revised .............. 63657

23 CFR

1998

Chapter I
655.601 (a) revised .......... 8351, 33549
658 Authority citation revised .......... 70652, 71747
658.13 (b)(3) revised ....................... 70653
658 Appendixes A and C amended .......... 70653
Appendix A amended ................... 71748
671 Authority citation revised ...... 6873
711.109 (d) added .............................. 6873
712.13 Regulation at 61 FR 45321 confirmed .................. 42904
Chapter II
1225 Added; interim ................. 46886
1240 Added; interim .................. 57909
1260 Removed ...................... 3012
1270 (Subchapter D) Added; interim ............. 53585
1275 Added; interim .................. 55802
Chapter III
1313 Revised; interim .................. 71700
1327.6 Regulation at 61 FR 27195 confirmed; (f)(2) amended .................. 153
1335 Added; interim .................. 54048
1340 Added .................. 46392
1345 Added; interim .................. 52597

1999

Chapter I
130 Removed .................. 71289
180 Added .................. 29750
480 Removed .................. 71289
620.202 Revised .................. 71289
620.203 (j) revised .................. 71289
630 Authority citation revised .......... 71289
630.106 (c)(3) amended .................. 71289
635 Authority citation revised .......... 71289
635.307 (b)(3) amended .................. 71289
645.103 (c) amended .................. 71289
645.111 (c) and (d) amended ........ 71289
### List of CFR Sections Affected

#### 23 CFR—Continued

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 CFR—Continued</td>
<td>65 FR</td>
</tr>
<tr>
<td>Chapter I—Continued</td>
<td>645.105</td>
</tr>
<tr>
<td>645.109</td>
<td>70311</td>
</tr>
<tr>
<td>645.113</td>
<td>(f) revised</td>
</tr>
<tr>
<td>645.117</td>
<td>(a)(3) added; (i)(2) revised</td>
</tr>
<tr>
<td>645.119</td>
<td>(c) introductory text revised</td>
</tr>
<tr>
<td>645.207</td>
<td>Amended</td>
</tr>
<tr>
<td>645.209</td>
<td>(j) revised; (m) added</td>
</tr>
<tr>
<td>645.211</td>
<td>Introductory text revised</td>
</tr>
<tr>
<td>645.215</td>
<td>(d) revised</td>
</tr>
<tr>
<td>655</td>
<td>Authority citation revised</td>
</tr>
<tr>
<td>655.601</td>
<td>(a) revised</td>
</tr>
<tr>
<td>668.103</td>
<td>Amended</td>
</tr>
<tr>
<td>668.105</td>
<td>(j) amended</td>
</tr>
<tr>
<td>668.107</td>
<td>(b) amended</td>
</tr>
<tr>
<td>668.109</td>
<td>(a) introductory text, (b)(6), (8), (c)(2)(I), (II), (8) and (d) revised</td>
</tr>
<tr>
<td>668.111</td>
<td>Revised</td>
</tr>
<tr>
<td>711</td>
<td>Policy statement</td>
</tr>
<tr>
<td>777</td>
<td>Revised</td>
</tr>
</tbody>
</table>

#### 23 CFR—Continued

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II</td>
<td>645.105</td>
</tr>
<tr>
<td>645.109</td>
<td>70311</td>
</tr>
<tr>
<td>645.113</td>
<td>(f) revised</td>
</tr>
<tr>
<td>645.117</td>
<td>(a)(3) added; (i)(2) revised</td>
</tr>
<tr>
<td>645.119</td>
<td>(c) introductory text revised</td>
</tr>
<tr>
<td>645.207</td>
<td>Amended</td>
</tr>
<tr>
<td>645.209</td>
<td>(j) revised; (m) added</td>
</tr>
<tr>
<td>645.211</td>
<td>Introductory text revised</td>
</tr>
<tr>
<td>645.215</td>
<td>(d) revised</td>
</tr>
<tr>
<td>655</td>
<td>Authority citation revised</td>
</tr>
<tr>
<td>655.601</td>
<td>(a) revised</td>
</tr>
<tr>
<td>668.103</td>
<td>Amended</td>
</tr>
<tr>
<td>668.105</td>
<td>(j) amended</td>
</tr>
<tr>
<td>668.107</td>
<td>(b) amended</td>
</tr>
<tr>
<td>668.109</td>
<td>(a) introductory text, (b)(6), (8), (c)(2)(I), (II), (8) and (d) revised</td>
</tr>
<tr>
<td>668.111</td>
<td>Revised</td>
</tr>
<tr>
<td>771</td>
<td>Policy statement</td>
</tr>
<tr>
<td>777</td>
<td>Revised</td>
</tr>
</tbody>
</table>

#### 2000

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 CFR</td>
<td>45885</td>
</tr>
<tr>
<td>Chapter I</td>
<td>45885</td>
</tr>
<tr>
<td>140</td>
<td>Authority citation revised</td>
</tr>
<tr>
<td>140.301–140.311 (Subpart C)</td>
<td>45885</td>
</tr>
<tr>
<td>140.701–140.715 (Subpart G)</td>
<td>45885</td>
</tr>
<tr>
<td>458</td>
<td>Policy statement</td>
</tr>
<tr>
<td>645</td>
<td>Nomenclature change</td>
</tr>
</tbody>
</table>

---

**Note:** The table above includes a list of CFR sections affected by changes from 2000. The changes are indicated by the page numbers where the changes were made. The listing is organized by CFR chapter and section, with the sections affected by the changes listed in order. The page numbers refer to where the changes were published in the Federal Register. The table is a snapshot of the changes made in 2000, and it is not exhaustive of all changes made during the year. For a full list of changes, one would need to consult the Federal Register for the specific dates the changes were made. The table also includes some comments on the nature of the changes, such as when a section was amended, added, or removed.
### 23 CFR (4–1–01 Edition)

#### 2001

(Regulations published from January 1, 2001 through April 1, 2001)

#### 23 CFR

<table>
<thead>
<tr>
<th>Chapter I</th>
<th>655.401—655.411 (Subpart D) Removed</th>
<th>Regulation at 66 FR 1453 eff. date delayed to 4–8–01</th>
</tr>
</thead>
<tbody>
<tr>
<td>658.5</td>
<td>Corrected; CFR correction</td>
<td>13012</td>
</tr>
<tr>
<td>777</td>
<td>Regulation at 66 FR 82924 eff. date delayed to 3–30–01</td>
<td>8089</td>
</tr>
<tr>
<td>940</td>
<td>Subchapter K Added</td>
<td>1453</td>
</tr>
<tr>
<td>940</td>
<td>Regulation at 66 FR 1453 eff. date delayed to 4–8–01</td>
<td>9198</td>
</tr>
</tbody>
</table>