

Monday and two hours earlier Tuesday–Friday. Saturday would no longer be designated as an active day unless done so by NOTAM 24 hours in advance. In addition, the FAA proposes to activate R–4501E on the same schedule as R–4501C and D. The FAA is proposing this action at the request of the USA to meet the increasing training efforts of the USA at Fort Leonard Wood, MO, and to better depict more realistic operational times of use of the restricted areas.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

2. § 73.45 is amended as follows:

* * * * *

R–4501A Fort Leonard Wood West, MO [Amended]

By removing the words “Time of Designation. 0700–1800 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.” and inserting the words “Time of Designation. 0630–2100 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.”

R–4501B Fort Leonard Wood East, MO [Amended]

By removing the words “Time of Designation. 0700–1800 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.” and inserting the words “Time of Designation. 0630–2200 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.”

R–4501C Fort Leonard Wood, MO [Amended]

By removing the words “Time of Designation. 0700–1800 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.” and inserting the words “Time of Designation. 0900–2100 Monday; 0900–1600 Tuesday–Friday; other times by NOTAM issued at least 24 hours in advance.”

R–4501D Fort Leonard Wood, MO [Amended]

By removing the words “Time of Designation. 0700–1800 Monday–Saturday; other times by NOTAM issued at least 24 hours in advance.” and inserting the words “Time of Designation. 0900–2100 Monday; 0900–1600 Tuesday–Friday; other times by NOTAM issued at least 24 hours in advance.”

R–4501E Fort Leonard Wood, MO [Amended]

By removing the words “Time of Designation. As specified by NOTAM at least 24 hours in advance.” and inserting the words “Time of Designation. 0900–2100 Monday; 0900–1600 Tuesday–Friday; other times by NOTAM issued at least 24 hours in advance.”

* * * * *

Issued in Washington, DC, on August 24, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–22358 Filed 8–30–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. FHWA–2000–7426]

RIN 2125–AE77

Federal-Aid Project Agreement

AGENCY: Federal Highway Administration (FHWA), DOT.

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

SUMMARY: The FHWA proposes to combine its regulation on Federal-aid project authorization and its regulation on project agreements. Section 1305 of the Transportation Equity Act for the 21st Century (TEA–21) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. Changes to the agreement provisions are being proposed to reflect these adjustments. Additionally, section 1304 of the TEA–21 amended 23 U.S.C. 102(b) to include a provision to allow the granting of time extensions for engineering cost reimbursement. Changes to the procedures would be added to agency regulations to provide this new flexibility.

DATES: Comments must be received on or before October 2, 2000. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. All comments should include the docket number that appears in the heading of this document. All comments received will

be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Wasley, Office of Program Administration (HIPA), (202) 366–4658, or Mr. Harold Aikens, Office of the Chief Counsel (HCC–30), (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office’s Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register’s home page at: <http://www.nara.gov/fedreg> and the Government Printing Office’s web page at: <http://www.access.gpo.gov/nara>.

Background

Under the provisions of 23 U.S.C. 106, a formal agreement between the State transportation department (STD) and the FHWA is required for Federal-aid highway projects. This agreement, referred to as the “project agreement,” is in essence a written contract between the State and the Federal Government defining the extent of the work to be undertaken, the State and the Federal shares of a project’s cost, and commitments concerning maintenance of the project.

The present regulation at 23 CFR 630, subpart C, provides requirements concerning the project agreement. It

includes detailed instructions on preparation of the project agreement, and an assemblage of agreement provisions that are part of the project agreement.

The present regulation at 23 CFR 630, subpart A, provides requirements concerning the project authorization. The FHWA authorization commits the Federal Government to participate in the funding of a project, except in those instances where the State requests FHWA authorization without the commitment of Federal funds. In addition, FHWA authorization also establishes a point in time after which costs incurred on a project are eligible for Federal participation.

It is the FHWA's desire to update and modify the existing regulation to incorporate needed changes to reflect adjustments made by sections 1304 and 1305 of the TEA-21, Public Law 105-178, 112 Stat.107, to combine the project agreement and provisions into the authorization of work, and to retain existing versatility in its use. The proposed changes are discussed in the following section-by-section analysis.

Section-by-Section Analysis

Section 630.102 Purpose

Section 630.102 would be combined with § 630.301 to create a new § 630.102, with minor changes for clarity.

Section 630.104 Applicability

Section 630.104(a) would be retained without modification. Section 630.104(b) would be combined with § 630.104(c) to create a new § 630.104(b), to eliminate the need to cross reference projects financed with FHWA funds covered under separate regulations.

Section 630.106 Authorization To Proceed

Section 630.106 would be revised to reflect that a project agreement is needed before authorization can be given to proceed with a project. At times, certain special projects may have unique authorization requirements in advance of the commitment of Federal funds. A project agreement, therefore, would be used to authorize special projects to proceed and not be construed as creating in any manner any obligation of the part of the Federal government to provide Federal funds for that portion of the undertaking not fully funded in the agreement. This section would retain many of the basic principles set forth in existing § 630.106. The following discussion covers proposed § 630.106 by individual paragraph.

Section 630.106(a) would retain the requirement that the FHWA's authorization to proceed with a Federal-aid project will only be given in response to a request from the STD in a project agreement, and then only if the applicable requirements in law have been satisfied for the project.

Section 630.106(b) would retain the longstanding requirement that Federal-aid funds will only participate in costs incurred after the date the FHWA has authorized the State to proceed with the project. However, exceptions to this requirement have been allowed under a process set forth in 23 CFR 1.9(b). For informational purposes, wording has been included in paragraph (b) to identify and cross reference the exception process.

Section 630.106 (c), (d), and (e) would retain the requirement that at the time a project agreement is executed for a Federal-aid project, the appropriate Federal funds for this project must be available. Four general categories for exceptions to this rule are presented in § 630.106(c)(1)-(4), these being the same four categories that are in the existing regulation. Section 630.106(d) would be shortened to make it comparable with the clarification provided for other project agreement conditions and requirements.

Section 630.106(f) is revised for purposes of clarification. The FHWA project agreement represents a contractual action by the FHWA and the Federal share of eligible costs must be agreed upon when the project agreement is executed. The Federal share may be in the form of a specified percentage of eligible costs or a lump sum amount. Use of the lump sum share is to accommodate those instances where there is a desire to commit a fixed amount of Federal funds to a project. The lump sum amount may not exceed the legal pro rata share for the Federal funds involved. This may require downward adjustment of the lump sum amount when costs of eligible work on a project are less than the initial estimates at the time the project agreement is executed.

The Federal share agreed to would continue through the life of the project. Manipulation of funding levels of individual projects to accommodate program funding changes or needs would not be allowed. However, adjustments to the Federal share would be permitted for projects in situations where bid prices are significantly different from the estimates at the time of FHWA authorization.

Section 630.106(g) would retain cost sharing principles of title 23, U.S.C. This would continue the practice of

allowing the State to contribute more than the normal State match on a Federal-aid project. A State may overmatch without being tied to a mandatory Federal share. However, token financing, such as when the Federal share represents only a minor percentage of eligible work or when large contributions are applied to the project to reduce the total cost, is not to be permitted. It is expected that the amount of Federal funds requested will represent at least 50 percent of eligible project costs. Exception to the 50 percent level should be based on sound project development or management reasons.

Section 630.106(h)(1) is new and would permit cash contributions from private sources for a specific Federal-aid project to be used to reduce the required State match of eligible costs. The FHWA participates in costs incurred on Federal-aid projects. Private cash contributions can be applied to either eligible or ineligible items of work. However, when a private cash contribution is applied to costs ineligible for Federal participation, the private cash contribution is not considered to have reduced the cost of the Federal-aid project and thus cannot reduce the State match.

Private cash contributions made to a State or local government with no designation to a specific project, are considered to be State or local government funds and may be used in any way State or local funds are authorized to be used, including providing State match on Federal-aid projects.

Contributions of funds from other Federal agencies to a specific project generally may not be used to provide the required State match on a Federal-aid project but, instead, are viewed as having reduced the cost incurred by the State on the project. The only exception is in those cases where specific legislative authority allows Federal funds to match other Federal funds.

The fair market value of any donated materials, services, or real property that are accepted and incorporated into the Federal-aid project by the STD may be credited against the State share in certain cases.

Section 630.106(h)(2) is new and would require that all contributions to a project be accounted for and properly credited to the project. The sum of cash contributions from all sources plus the Federal funds may not exceed the total cost of the project. This item is intended to prevent the State from making a profit on a Federal-aid project.

Section 630.108 Preparation of Agreement

This proposed new section would be a revision of existing § 630.303. A State is required to prepare a project agreement for each Federal-aid highway project. A State would continue to have the flexibility to develop its own format for the project agreement, provided it contains information identified as necessary by the regulation. The optional use of electronic forms and signatures as developed and implemented by the FHWA would also continue.

The following discussion covers proposed § 630.108 by individual paragraph:

Section 630.303(a) and (b) would be relocated to § 630.108(a) and (b), respectively, with the term "State highway agency" replaced with the new term "State transportation department" along with minor changes for clarity and consistency.

Sections 630.303(b)(1), (b)(2), (b)(3), and (b)(4), would be relocated to 23 CFR 630.108(b)(1), (b)(2), (b)(3), and (b)(4), respectively, without modification.

Section 630.108(b)(5) would be a new requirement for the project agreement. The Federal-aid share of eligible costs expressed as either a pro rata percentage or a lump sum is presently required to be established at the time of project authorization. The project agreement being combined with the project authorization requirements must contain this information.

Section 630.303(b)(5), (b)(6), and (b)(7), would be redesignated as § 630.108(b)(6), (b)(7), and (b)(8), and revised to reflect the new agreement provisions section.

Section 630.108(c) would be a new section containing the requirement that the project agreement must document instances when the State uses credit from special accounts and/or when other arrangements affecting Federal funding are used. The Federal share of eligible costs incurred by the State cannot exceed the maximum share permitted by legislation. The only exception is when using amounts of credits from special accounts (such as the 23 U.S.C. 120(j) toll credits, 23 U.S.C. 144(n) off-system bridge credits and 23 U.S.C. 323 land value credits) to cover all, or a portion, of the normal percent of non-Federal share of eligible project costs. The result is that the State may apply these credits to adjust the Federal participation in actual project costs up to 100 percent. The non-Federal participation of eligible costs must come from State funds. Local government funds are considered to be

State funds. Thus, local government funds can be combined with STD funds to cover the required State match of eligible costs. The State has the flexibility of using amounts of credit from special accounts permitted by enabling legislation to cover all or a portion of the normal percent non-Federal share of the project.

Section 630.303(d) would be redesignated as § 630.108(d), without modification.

Section 630.110 Modification of Original Agreement

This proposed new section would be comprised of existing § 630.305 with minor revisions. References to the obsolete "SHA" nomenclature would be replaced with the current "STD" nomenclature and a clarifying statement added that would include our longstanding requirement that agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute.

Section 630.112 Agreement Provisions

This proposed new section would be a revision of existing § 630.307. The provisions contained in this section continue to be a required part of each project agreement. Only the provisions that are necessary are included in this section of the regulation. The project agreement, by reference to this section, incorporates the provisions into each agreement. The following discussion covers each of the existing provisions and describes the revisions that are being proposed.

Section 630.307(a), would be redesignated as § 630.312(a), replacing only the references to the obsolete "SHA" nomenclature with the current "STD" nomenclature. This general provision is so broad in scope that there is little or no need for other provisions. Under this general provision, the State agrees to comply with title 23, United States Code, the regulations implementing title 23, and the policies and procedures established by the FHWA. The States generally agree, in the project agreement process, to comply with all other applicable Federal laws and regulations.

Section 630.307(b), would be redesignated as § 630.312(a), with minor changes for clarity.

Section 630.307(c), would be redesignated as § 630.312(c), without modification, except for the use of "STD" nomenclature.

Section 630.307(c)(1), would be redesignated as § 630.312(c)(1), with minor changes for clarity. This provision requires repayment of

Federal-aid highway funds authorized if road construction on this right-of-way had not begun within 20 years. It is proposed that information be added concerning the FHWA's process to approve a period longer than twenty years for the repayment of Federal funds that is allowed under 23 U.S.C. 108(a)(2).

Section 630.307(c)(2), would be redesignated as § 630.312(c)(2), with changes to allow the granting of time extensions for engineering cost reimbursement. This provision requires repayment of Federal-aid highway funds authorized if right-of way acquisition or actual construction had not begun within 10 years after authorization of the preliminary engineering. It is proposed that information be added indicating that the FHWA may approve a period longer than 10 years for the repayment of Federal funds if considered reasonable. This provision is now found in the statute; section 1304 of the TEA-21 incorporated this provision into 23 U.S.C. 102(c).

Sections 630.307(c)(3), (4), and (5) would be redesignated as § 630.312(c)(3), (4) and (5) without modification, except for the replacement of "SHA" nomenclature with "STD" nomenclature. These provisions require that certifications be given to the FHWA, for drug-free workplace certification required by 49 CFR 29.630, for suspension/debarment certification required by 49 CFR 29.510, and for lobbying certification required by 49 CFR 20.110. States must provide these certifications for each project. Placing language in the project agreement as part of the general provisions is considered the same as providing a separate certification action for every project placed under agreement.

Section 630.301 Purpose

This section would be removed because § 630.301 would be combined with § 630.102 to create a new § 630.102.

Section 630.303 Preparation of Agreement

This section would be removed because it would be relocated and revised as proposed new § 630.108.

Section 630.305 Modification of Original Agreement

This section would be removed because it would be relocated as proposed new § 630.110 with minor revisions.

Section 630.307 Agreement Provisions

This section would be removed because it would be relocated and revised as proposed new § 630.112.

The following derivation table is provided to assist the user in understanding the reorganization of sections contained in proposed subpart A of part 630. Note that many of the proposed new sections would contain revised language that originated from current subpart C, according to the description in the section-by-section analysis above:

New section	Old section
630.102	630.102 and 630.301
630.104(a)	630.104(a)
630.104(b)	630.104(b) and (c)
630.106(a)	630.106(a)
630.106(b)	630.106(b)
630.106(c)	630.106(c)
630.106(d)	630.106(d)
630.106(e)	630.106(e)
630.106(f)	630.106(f)
630.106(g)	630.106(g)
630.106(h)	Added
630.108(a)	630.303(a)
630.108(b)(1) through (b)(4).	630.303(b)(1) through (b)(4)
630.108(b)(5)	Added
630.108(b)(6), (b)(7), and (b)(8).	630.303(b)(5), (b)(6), and (b)(7)
630.108(c)	Added
630.108(d)	630.303(d)
630.110	630.305
630.112	630.307

Rulemaking Analyses and Notices

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

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The proposed amendments would merely update the Federal-aid

project agreement regulation to conform to recent laws, regulations, or guidance and clarify existing policies. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities, such as local governments and businesses. Based on the evaluation, the FHWA hereby certifies that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments would merely clarify or simplify procedures used by State highway agencies in accordance with existing laws, regulations, or guidance. We specifically invite comments on this issue.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has

been preliminarily determined that it does not have a substantial direct affect or significant federalism implications on States or local governments that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal contains collection of information requirements for the purposes of the PRA. The requirements to collect information relating to the current provisions for the project agreement form are covered by a currently-approved information collection entitled "Preparation and Execution of the Project Agreement and Modifications." This collection is covered under OMB Approval No. 2125–0529 with an expiration date of May 31, 2001.

This proposal would update and modify existing requirements to reflect statutory changes to the project agreement process enacted by Section 1305 of the Transportation Equity Act for the 21st Century (TEA–21, Pub. L. 105–178) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. There are no changes to the current information collection burden estimates as a result of this proposal. The FHWA has estimated that the average number of project agreements executed annually by each of the respondents is 215 and that each agreement takes approximately one hour to complete. The 56 respondents include STDs in the 50 States, the District of Columbia, Puerto Rico, the Commonwealth of the Northern Mariana Islands and the Territories of Guam, the Virgin Islands, and American Samoa.

The FHWA seeks public comments regarding these information collection requirements. Interested parties are

invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the FHWA's performance, including whether the information has practical utility; (2) the accuracy of the estimated burdens; (3) ways to enhance the quality, utility, and clarity of the collection information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

National Environmental Policy Act

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

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 630

Government contracts, Grant programs—Transportation, Highways and roads, Project agreement procedures.

Issued on: August 24, 2000.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, by revising subpart A and removing and reserving subpart C of part 630 as set forth below:

PART 630—PRECONSTRUCTION PROCEDURES

1. Revise the authority citation for part 630 to read as follows:

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

2. Revise subpart A of part 630 to read as follows:

Subpart A—Project Authorization and Agreements

Sec.	
630.102	Purpose.
630.104	Applicability.
630.106	Authorization to proceed.
630.108	Preparation of agreement.
630.110	Modification of original agreement.
630.112	Agreement provisions.

§ 630.102 Purpose.

The purpose of this subpart is to prescribe policies for authorizing Federal-aid projects through execution of the project agreement required by 23 U.S.C. 106(a)(2).

§ 630.104 Applicability.

(a) This regulation is applicable to all Federal-aid projects unless specifically exempted.

(b) Other projects which involve special procedures are to be approved, or authorized as set out in the implementing instructions or regulations for those projects.

§ 630.106 Authorization to proceed.

(a)(1) The State transportation department (STD) must obtain an authorization to proceed from the FHWA before beginning work on any Federal-aid project. The STD may request an authorization to proceed in writing or by electronic mail for a project or a group of projects.

(2) The FHWA will issue the authorization to proceed either through or after the execution of a formal project agreement with the State. The agreement can be executed only after applicable prerequisite requirements of Federal laws and implementing regulations and directives are satisfied. Except as provided in subsections (c)(1)–(4) of the section, the FHWA will obligate Federal funds in the projects or group of projects upon execution of the project agreement.

(b) Federal funds shall not participate in costs incurred prior to the date of a project agreement except as provided by 23 CFR 1.9(b).

(c) The execution of the project agreement 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 agreed Federal share, either pro rata or lump sum, of the cost of eligible work to be incurred by the State except as follows:

(1) Advance construction projects authorized under 23 U.S.C. 115.

(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 acquisition 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

accord 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) For projects authorized to proceed under paragraphs (c)(1) through (c)(4) of this section, the executed project agreement shall contain the following statement: "Authorization to proceed is not a commitment or obligation to provide Federal funds for that portion of the undertaking not fully funded herein."

(e) For projects authorized under paragraphs (c)(2) and (c)(3) of this section, 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 the project agreement is executed in one of the following manners:

(i) Pro rata, with the agreement stating the Federal share as a specified percentage; or

(ii) Lump sum, with the agreement 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 STD'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 actually 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.

(h)(1) Donations of cash, land, material or services may be credited to the State's non-Federal share of the participating project work in accordance with title 23, United States Code, and implementing regulations.

(2) Contributions may not exceed the total costs incurred by the State on the project. Cash contributions from all sources plus the Federal funds may not exceed the total cost of the project.

§ 630.108 Preparation of agreement.

(a) The STD shall prepare a project agreement for each Federal-aid project.

(b) The STD may develop the project agreement in a format acceptable to both the STD and the FHWA provided the following are included:

- (1) A description of the project location including State and project termini;
- (2) The Federal-aid project number;
- (3) The work covered by the agreement;
- (4) The total project cost and amount of Federal funds under agreement;
- (5) The Federal-aid share of eligible project costs expressed as either a pro rata percentage or a lump sum as set forth in § 630.106(f)(1);
- (6) A statement that the State accepts and will comply with the agreement provisions set forth in § 630.112;
- (7) A statement that the State stipulates that its signature on the project agreement constitutes the making of the certifications set for in § 630.112; and
- (8) Signatures of officials from both the State and the FHWA, and the date executed.

(c) The project agreement should also document, by comment, instances where:

(1) The State is applying amounts of credits from special accounts (such as the 23 U.S.C. 120(j) toll credits, 23 U.S.C. 144(n) off-system bridge credits and 23 U.S.C. 323 land value credits) to cover all or a portion of the normal percent non-Federal share of the project; and

(2) The project involves other arrangements affecting Federal funding or non-Federal matching provisions, including tapered match, donations, or use of other Federal agency funds, if known at the time the project agreement is executed.

(3) The State is claiming finance related costs for bond and other debt instrument financing (such as payments to States under 23 U.S.C. 122).

(d) The STD may use an electronic version of the agreement as provided by the FHWA.

(Approved by the Office of Management and Budget under control number 2125-0529)

§ 630.110 Modification of original agreement.

(a) When changes are needed to the original project agreement, a modification of agreement shall be prepared. Agreements should not be modified to replace one Federal fund category with another unless specifically authorized by statute.

(b) The STD may develop the modification of project agreement in a

format acceptable to both the STD 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 STD may use an electronic version of the modification of project agreement as provided by the FHWA.

§ 630.112 Agreement provisions.

(a) The State, through its transportation department, accepts and agrees to comply with the applicable terms and conditions set forth in title 23, United States Code, the regulations issued pursuant thereto, the policies and procedures promulgated by the FHWA relative to the designated project covered by the agreement, 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 execution of a formal project agreement with the FHWA.

(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 STD will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension beyond the 20-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.

(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 STD will repay to the FHWA the sum or sums of Federal funds paid to the transportation department under the terms of the agreement. The State may request a time extension for any preliminary engineering project beyond the 10-year limit with no repayment of Federal funds, and the FHWA may approve this request if it is considered reasonable.

(3) *Drug-free workplace certification.* By signing the project agreement, the STD 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 49 CFR part 29, unless the State provides an annual certification.

(4) *Suspension and debarment certification.* By signing the project agreement, the STD agrees to fulfill the responsibility imposed by 49 CFR 29.510 regarding debarment, suspension, and other responsibility matters. In signing the project agreement, the State is providing the certification for its principals required in appendix A to 49 CFR part 29.

(5) *Lobbying certification.* By signing the project agreement, the STD agrees to abide by the lobbying restrictions set forth in 49 CFR part 20. In signing the project agreement, the State is providing the certification required in the appendix to 49 CFR part 20.

Subpart C—[Removed and Reserved]

3. In part 630, remove and reserve subpart C.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[IL203-1; FRL-6862-2]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Oxides of Nitrogen Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Illinois submitted a proposed rule to control emissions of oxides of nitrogen (NO_x). The proposed rule is to provide NO_x emission reductions to support attainment of the 1-hour ozone standard in the Metro-East/St. Louis ozone nonattainment area and will