

**List of Subjects in 7 CFR Part 993**

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

**PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA**

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

**§ 993.347 Assessment rate.**

On and after August 1, 2008, an assessment rate of \$0.30 per ton of salable dried prunes is established for California dried prunes.

Dated: August 20, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8–19695 Filed 8–25–08; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF STATE****22 CFR Part 40**

[Public Notice: 6328]

RIN 1400–AC04

**Aliens Inadmissible Under the Immigration and Nationality Act, as Amended: Unlawful Voters**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final the Department interim rule which amended the regulations concerning visa ineligibility for aliens who vote unlawfully. The amendment was necessary to comply with the provisions of the Child Citizenship Act of 2000.

**DATES:** This rule is effective August 26, 2008.

**FOR FURTHER INFORMATION CONTACT:** Penafrancia D. Salas, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–2878.

**SUPPLEMENTARY INFORMATION:****What is the Authority and Exception for this rule?**

On June 21, 2005, the Department published an interim rule [70 FR 35526] that implemented Section 201(b)(1) of Public Law 106–395, Child Citizenship Act of 2000 [February 27, 2001]. This

Act amended Section 212(a)(10) of the Immigration and Nationality Act (INA) by adding an exception to the ground of inadmissibility, INA 212(a)(10)(D), for aliens who voted in violation of the U.S. law. Under INA 212(a)(10)(D), in general, an alien will continue to be inadmissible, and therefore, ineligible for a visa, if the alien has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation. Nevertheless, pursuant to the new exception, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen.

**Were comments solicited in the Departments Interim rule?**

Yes, the Department solicited comments; however, no comments were received.

The final rule is unchanged from the interim rule which amended the Departments regulations at 22 CFR 40.104, published in the **Federal Register** on June 21, 2005 (70 FR 35526–35527). The interim rule is hereby adopted as final.

Dated: August 14, 2008.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. E8–19755 Filed 8–25–08; 8:45 am]

BILLING CODE 4710–06–P

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 630**

[FHWA Docket No. FHWA–2007–0020]

RIN 2125–AF23

**Advance Construction of Federal-Aid Projects**

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

**ACTION:** Final rule.

**SUMMARY:** The FHWA is revising its regulation for advance construction of Federal-aid projects by: (a) Removing the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for

Federal-aid highways and highway safety construction, prior to the approval of advance construction projects; and (b) clarifying that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds for which a project is eligible may be used when a project is converted to a Federal-aid project. These revisions make the regulation consistent with the advance construction statute, which was amended by a provision enacted in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

**DATES:** *Effective Date:* September 25, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dale Gray, Federal-aid Financial Management Division, (202) 366–0978, or Mr. Steven Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

An electronic copy of the NPRM, the comments received and a copy of this document may be viewed at [www.regulations.gov](http://www.regulations.gov). A copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: <http://www.archives.gov> or the Government Printing Office's Web page at <http://www.gpoaccess.gov/nara>.

**Background**

Section 115 of title 23, United States Code, permits the Secretary to authorize States to advance the construction of Federal-aid highway projects without requiring that Federal funds be obligated at the time the FHWA approves a project. The State may proceed with an advance construction project using State funds as no present or future Federal funds are actually committed to the project. At any time the State may request that the project be converted to a Federal-aid project provided that sufficient Federal-aid funds and obligation authority are available. A State also may request a partial conversion where only a portion of the Federal share of project costs is obligated and reimbursed; and the remainder may be converted at a later time provided that funds and associated obligation authority are available. Only the amount converted to a Federal-aid project becomes an obligation of the Federal Government.

Section 1501 of SAFETEA-LU (Pub. L. 109-59, 119 Stat. 1144) amended 23 U.S.C. 115 to remove a restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects. Section 1501 also amended the statute to clarify that advance construction procedures can be used for all categories of Federal-aid highway funds and that when a project is converted to a regular Federal-aid project, any available Federal-aid funds may be used to convert a project which is eligible for that funds class. The FHWA regulations concerning advance construction, which reflect the advance construction requirements prior to the enactment of SAFETEA-LU, are therefore no longer consistent with the statute.

The FHWA published a notice of proposed rulemaking (NPRM) on March 6, 2008, at 73 FR 12038. In the NPRM, the FHWA proposed to (a) remove the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects; and (b) provide clarification that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds for which a project is eligible may be used when a project is converted to a Federal-aid project.

#### Discussion of Comments

We received comments from the West Virginia Department of Transportation and Pennsylvania Department of Transportation (PennDOT) who supported the proposed revisions in the NPRM. Both respondents noted that the proposal would result in increased flexibility in the use of Federal-aid highway funds. Additionally, PennDOT mentioned increased cash flow possibilities, removal of the restrictions on the use of funds, clarification that advance construction may be used for all categories of Federal-aid highway funds, and the ability to convert projects using any available Federal-aid funds which a project may be eligible, as additional benefits resulting from the changes proposed in the NPRM.

The docket did not receive any comments opposing the language in the NPRM. The FHWA is adopting the revisions as proposed in the NPRM as final.

#### Rulemaking Analyses and Notices

##### *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 and would not be significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. This final rule will not adversely affect, in a material way, any sector of the economy. This action would revise the regulation for advance construction of Federal-aid projects by removing the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects. This action also clarifies that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds for which the project is eligible may be used when a project is converted to a Federal-aid project. There will not be any additional costs incurred by any affected group as a result of this final rule. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees or loan programs. Consequently, a regulatory evaluation is not required.

##### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), we have evaluated the effects of this final rule on small entities and have determined that the action would not have a significant economic impact on a substantial number of small entities. The FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

##### *Executive Order 13132 (Federalism)*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action would not warrant the preparation of a Federalism assessment. The FHWA has determined that this action would not affect the States' ability to discharge traditional State government functions.

##### *Executive Order 12372 (Intergovernmental Review)*

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

##### *Paperwork Reduction Act of 1995*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), 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 final rule does not contain collection of information requirements for the purposes of the PRA.

##### *Unfunded Mandates Reform Act of 1995*

This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48). This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$128.1 million or more in any one year. (2 U.S.C. 1532)

##### *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)*

The FHWA has analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not cause any environmental risk to health or safety that may disproportionately affect children.

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

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

### *National Environmental Policy Act*

The FHWA has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of the environment.

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

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the final rule would not have substantial direct effects on one or more Indian tribes; would not impose substantial compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

### *Executive Order 13211 (Energy Effects)*

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution or use of energy. Therefore, a Statement of Energy Effects is not required.

### *Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory section 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 section with the Unified Agenda.

### **List of Subjects in 23 CFR Part 630**

Reimbursement, Grants programs—transportation, Highways and roads.

Issued on: August 15, 2008.

**James D. Ray,**

*Acting Federal Highway Administrator.*

■ In consideration of the foregoing, the FHWA amends Chapter I of title 23, Code of Federal Regulations, by revising Part 630, as set forth below.

### **PART 630—PRECONSTRUCTION PROCEDURES**

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

**Authority:** 23 U.S.C. 106, 109, 112, 115, 315, 320, and 402(a); Sec. 1501 and 1503 of Public Law 109–59, 119 Stat. 1144; Public

Law 105–178, 112 Stat. 193; Public Law 104–59, 109 Stat. 582; Public Law 97–424, 96 Stat. 2106; Public Law 90–495, 82 Stat. 828; Public Law 85–767, 72 Stat. 896; Public Law 84–627, 70 Stat. 380; 23 CFR 1.32 and 49 CFR 1.48(b).

■ 2. Revise § 630.703 to read as follows:

#### **§ 630.703 Eligibility.**

(a) The State Department of Transportation (DOT) may proceed with a project authorized in accordance with title 23, United States Code:

(1) Without the use of Federal funds; and

(2) In accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

(i) With the aid of Federal funds previously apportioned or allocated to the State; or

(ii) With obligation authority previously allocated to the State.

(b) The FHWA, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible.

#### **§ 630.709 [Amended]**

■ 3. Amend § 630.709 by removing the term “SHA” in each place it appears, and add in its place the term “State Department of Transportation.”

[FR Doc. E8–19636 Filed 8–25–08; 8:45 am]

**BILLING CODE 4910–22–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG–2008–0823]

RIN 1625–AA87

#### **Security Zone: Rocket Launch, NASA Wallops Flight Facility (WFF), Wallops Island, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The U. S. Coast Guard is establishing a security zone extending 12 nautical miles offshore from the Mid-Atlantic Regional Spaceport (MARS) Pad 0B launch complex for the launch of a large suborbital test rocket by the National Aeronautics and Space Administration (NASA). The NASA rocket launch is scheduled to occur between 2 a.m. and 4 p.m. on August

21, 2008, on Wallops Island, VA. If the launch is postponed because of inclement weather or technical difficulties, it will be attempted between 2 a.m. and 4 p.m. on each subsequent day after August 21, 2008, until the launch takes place or until 4 p.m. August 30, 2008. After August 30, 2008, the rule will no longer be in effect. This action is necessary to ensure the safety of persons and property, and to prevent terrorist acts or incidents on U.S. navigable waters during the rocket launch. This rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone.

**DATES:** This rule is effective from 2 a.m. on August 21, 2008, through 4 p.m. on August 30, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0823 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying in two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; and the Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor, Norfolk, VA 23510 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call LT Tiffany Duffy, Chief Waterways Management Division, Sector Hampton Roads at (757) 668–5580. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any