

paragraph changes proposed by this rulemaking:

Old Section	New section
630.102 .....	630.102
630.104 .....	Removed
None .....	630.104
630.106 .....	Removed
630.108 .....	Removed
630.110 .....	Removed
630.112 .....	Removed
630.114(b) .....	630.106(a)
630.114(g) .....	630.106(b)
630.114(h) .....	630.106(c)
630.114(h)(3) ....	630.106(d)
630.114(h)(3) ....	630.106(e)
None .....	630.106(f) through (i)

**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. It is anticipated that the economic impact of this rulemaking would be minimal; therefore, a full regulatory evaluation is not required. The FHWA does not consider this action to be a significant regulatory action because the proposed amendments would update the Federal-aid project authorization regulation to conform to recent laws, regulations, and to clarify existing policies.

**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. Based on the evaluation, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments would only clarify or

simplify procedures used by SHA's in accordance with existing laws, regulations, or guidance.

**Executive Order 12612 (Federalism Assessment)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

**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**

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520.

**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 authorization.

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, by revising Part 630, subpart A to read as set forth below.

Issued on: February 10, 1995.

**Rodney E. Slater,**  
*Federal Highway Administrator.*

**PART 630—PRECONSTRUCTION PROCEDURES**

**Subpart A—Federal-Aid Project Authorization**

Sec.  
630.102 Purpose.  
630.104 Applicability.  
630.106 Authorization to proceed.

**Authority:** 23 U.S.C. 106, 118, 120, and 315; 49 CFR 1.48(b).

**§ 630.102 Purpose.**

The purpose of this subpart is to prescribe policies for authorizing Federal-aid projects.

**§ 630.104 Applicability.**

(a) This subpart 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.

**§ 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 to proceed 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) Bond issue projects authorized under 23 U.S.C. 122.

(3) Projects for preliminary studies for the portion of the preliminary engineering and right-of-way (ROW) phase(s) through the selection of a location.

(4) Projects for ROW acquisition in hardship and protective buying