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Federal Highway Administration

23 CFR Part 630

[Docket No. FHWA-2025-0020]

RIN 2125-AG28

Rescinding Requirements Regarding Geodetic Markers

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FHWA is proposing to rescind the rule and regulations issued on July 19, 1974, Geodetic Markers.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue SE., Washington, DC 20590, or submit electronically at www.regulations.gov. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on

April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit

www.regulations.gov.

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

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at www.regulations.gov. The Web site is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: www.federalregister.gov.

Background

FHWA is proposing to rescind the rule issued on July 19, 1974, Geodetic Markers, via 39 FR 26413, amending 23 CFR part 630 subpart D. The rule proposed for rescission "prescribes procedures for conducting geodetic control surveys when participation with Federal-aid highway funds in the cost thereof is proposed and to encourage inter-agency cooperation in setting station markers, surveying to measure their position, and preserving the control so established." 23 CFR 630.401. We propose to rescind 23 CFR part 630, Subpart D in its entirety and seek comment on all aspects of that proposal.

In general, 23 CFR part 630, Subpart D has three aspects. First, it states that geodetic surveys along Federal-aid highway routes may be programmed as standalone Federal-aid projects. 23 CFR 630.402(a). Next, it requires that geodetic survey work

performed as a Federal-aid highway project conform with National Oceanic and Atmospheric Administration (NOAA) specifications (23 CFR 630.402(b)) and be coordinated between FHWA, the State Department of Transportation (State DOT), and NOAA (23 CFR 630.403). Finally, § 630.404 sets general standards for geodetic control surveys. The Secretary of Transportation is pursuing a new policy to reduce regulatory burdens wherever possible. Under that policy, unless a regulatory standard is required by statute, the Secretary proposes eliminating that requirement. This subpart is being proposed for rescission because it is not required by statute.

First, FHWA does not believe it necessary to state in regulation that geodetic surveys may be programmed as standalone Federal-aid projects, given that the eligibility to conduct such surveys is provided in statute under the definition of construction 23 U.S.C. 101(a)(4); that definition states that the “construction” of projects can include projects that consist of “mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration)”. The FHWA does not believe it necessary to have a regulation that merely repeats statutory eligibility. To the extent that clarity is necessary, FHWA is not proposing to change the current policy that geodetic control surveys can be conducted without needing to be directly related to the construction of a specific highway project. Such projects would still be able to be funded under applicable Federal-aid funding programs.¹

Next, FHWA does not believe that it is necessary to state in § 630.402(b) that all geodetic survey work will conform to NOAA specifications and that NOAA will be responsible for the inspection and verification of the work to ascertain that the specifications for the work have been met. This is not a statutory requirement for

¹ For instance, geodetic control surveys may be funded using Surface Block Transportation Grant Program funds under 23 U.S.C. 133(b)(11).

FHWA, and FHWA does not believe it necessary to state the involvement of NOAA within FHWA's regulations. Similarly, FHWA does not believe that the coordination provisions in § 630.403 are necessary to include as regulations. Again, coordination between FHWA, the State DOT, and NOAA is not strictly required under FHWA's statutory authority. Further, FHWA would expect State DOTs to coordinate with FHWA and, as needed, NOAA.

Finally, § 630.404 provides general standards for geodetic survey projects that are not required to be provided under FHWA's statutory authority. The FHWA is accordingly proposing to remove these provisions. With their removal, § 630.401, which provides the purpose for the subpart, would be superfluous, and FHWA is similarly proposing to remove that section.

Rulemaking Analyses and Notices

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

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

This rule would remove requirements that are outside of FHWA's statutory authority and which reflect standards administered by NOAA. While FHWA believes there are deregulatory benefits to this rule, FHWA does not currently have data on any such monetary benefits or costs. The FHWA seeks comments on any impact that could result from removing the provisions identified in this NPRM.

These changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or

planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This proposed rule is not an E.O. 14192 regulatory action. This rule would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impacts of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996; 5 U.S.C. 601 et seq.), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. FHWA has concluded and hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included. This proposed rescission would only rescind regulations that apply to a small set of projects.

D. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 109 Stat. 48) for State, local and Tribal governments, or the private sector of \$100 million or more in any

one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132. The FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

F. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule is deregulatory and so would not impose any additional information collection requirements.

G. National Environmental Policy Act

FHWA has analyzed this rule pursuant to the NEPA and has determined that it is categorically excluded under 23 CFR 771.117(c)(2), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. This proposed rule would rescind a regulation providing procedure and technical standards for completing projects and does not require any new Federal actions or procedures. FHWA does not anticipate any adverse environmental impacts from this proposed rule, and no unusual circumstances are present under 23 CFR 771.117(b).

H. Executive Order 13175 (Tribal Consultation)

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. FHWA has assessed the impact of this proposed rule on Indian tribes and determined that this rule would not have tribal implications that require consultation under Executive Order 13175.

I. Regulation Identifier Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

J. Rulemaking Summary, 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at *regulations.gov*, under the docket number.

List of Subjects in 23 CFR part 630

Government contacts, Grant programs – transportation, Highway safety, Highways and roads, Reporting and recordkeeping requirements, Traffic regulations.

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

Gloria M. Shepherd

Executive Director
Federal Highway Administration

PART 630—[AMENDED]

For the reasons stated in the preamble and under the authority [23 U.S.C. 106](#), [109](#), [112](#), [115](#), [315](#), [320](#), and [402\(a\)](#); Sec. 1110, 1501, and 1503 of [Pub. L. 109-59](#), 119 Stat. 1144; [Pub. L. 105-178](#), 112 Stat. 193; [Pub. L. 104-59](#), 109 Stat. 582; Pub. L. 97-424, 96 Stat. 2106; Pub. L. 90-495, 82 Stat. 828; Pub. L. 85-767, 72 Stat. 896; Pub. L. 84-627, 70 Stat. 380; [23 CFR 1.32](#) and [49 CFR 1.81](#) and [1.85](#), and [Pub. L. 112-141](#), 126 Stat. 405, sections 1303 and 1405, FHWA proposes to remove and reserve 23 CFR part 630, subpart D.

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