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## **Federal Highway Administration**

### **23 CFR Part 633**

**[Docket No. FHWA-2025-0013]**

**RIN 2125-AG11**

## **Rescinding Requirements Regarding Federal-aid Contracts for Appalachian Contracts**

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

**ACTION:** Final rule.

**SUMMARY:** FHWA rescinds the regulations related to Federal-Aid Contracts (Appalachian Contracts), issued on September 30, 1974 because they are unnecessary, outdated, and duplicative of other statutory and regulatory requirements.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Anthony DeSimone, Office of Infrastructure, (317) 226-5307, [anthony.desimone@dot.gov](mailto:anthony.desimone@dot.gov); or Mr. Michael Harkins, Office of Chief Counsel, (202) 366-1523, [Michael.harkins@dot.gov](mailto:Michael.harkins@dot.gov), Federal Highway Administration, 1200 New Jersey Avenue S.E., Washington, D.C. 20590. Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

### **SUPPLEMENTARY INFORMATION:**

#### **Electronic Access and Filing**

This document, as well as the notice of proposed rulemaking (NPRM), and all comments received, may be viewed online through the Federal eRulemaking portal at [www.regulations.gov](http://www.regulations.gov). The website 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](http://www.federalregister.gov) and the U.S. Government Publishing Office's website at [www.GovInfo.gov](http://www.GovInfo.gov).

## **Background**

FHWA is rescinding the rule issued on September 30, 1974, Federal-Aid Contracts (Appalachian Contracts), at 39 FR 35146, as amended on October 21, 1975, by 40 FR 49084 and on March 1, 1976, by 41 FR 8769, amending 23 CFR part 633, subpart B. The rule being rescinded provided policies and procedures for administering projects and funds for the Appalachian Development Highway System (ADHS) and Appalachian local access roads. 23 CFR 633.201. FHWA rescinds the entire subpart B of part 633.

This subpart concerns projects for the ADHS and Appalachian local access roads. Under section 14501 of title 40 of the United States Code (U.S.C.), the Secretary of Transportation may assist in the construction of the ADHS and local access roads serving the Appalachian region, and Congress has appropriated funds for this purpose. While such Appalachian projects have been, are being, and likely will continue to be constructed, FHWA does not find it necessary to maintain the current regulations to administer such construction. This subpart is being rescinded because it is substantially outdated and duplicative of other statutory and regulatory sections.

Further, the rescission of this rule does not affect the application of the use of special preference to materials and products indigenous to the region, or the use of coal derivatives as provided in 40 U.S.C. 14501(d), implementation of Executive Order (E.O.) 14261 (April 8, 2025), "Reinvigorating America's Beautiful Clean Coal Industry and Amending E.O. 14241," and applicable wage rates as required under 40 U.S.C. 14701.

On May 30, 2025, at 90 FR 22878, FHWA published an NPRM proposing to rescind 23 CFR part 633, subpart B, and sought comments on all aspects of that proposal. FHWA received one comment on its NPRM expressing general disagreement with

deregulation but no substantive comment on the proposal. As such, FHWA now adopts the proposal without change.

## **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 final rule does not meet the criteria of a “significant regulatory action” under E.O. 12866, as amended by E.O. 14215 and 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rulemaking under those orders.

This rescission removes regulations that FHWA believes are outdated, duplicative, and unnecessary. FHWA believes there may be some cost savings from this rescission, such as cost savings from not having to include unnecessary contract provisions. FHWA, however, does not have data on the extent of those savings. FHWA sought comments on any impacts that could result from removing the provisions identified in this final rule but did not receive any additional information.

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 Federal 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 final rule is an E.O. 14192 deregulatory action. Cost-savings are not quantified.

### **C. Regulatory Flexibility Act**

Under the Regulatory Flexibility Act (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.*),

Federal Agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rulemaking on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of a Federal Agency or an appropriate designee certifies that the rulemaking 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 rescission would only remove requirements that FHWA believes are outdated and unnecessary.

#### **D. Unfunded Mandates Reform Act**

This rulemaking 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. FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. 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), a Federal 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 OMB control number. This 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 National Environmental Policy Act (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 rule rescinds an outdated regulation and does not require any new Federal actions or procedures. FHWA does not anticipate any adverse environmental impacts from this rule, and no unusual circumstances are present under 23 CFR 771.117(b).

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

E.O. 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 rule on Indian Tribes and determined that this rule would not have Tribal implications that require consultation under E.O. 13175.

## **I. Regulation Identifier Number**

A Regulation Identifier 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 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 [www.regulations.gov](http://www.regulations.gov), under the docket number.

**List of Subjects in 23 CFR Part 633**

Appalachia contracts bidding and implementation, Construction labor and materials, Maintenance, Project agreements, Project funding allocation and obligation.

Issued in Washington, D.C., under authority delegated in 49 CFR 1.85.

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**Sean McMaster,**  
*Administrator,*  
*Federal Highway Administration.*

For the reasons stated in the preamble, under the authority of 23 U.S.C. 315, 49 CFR 1.81, and 1.85, FHWA amends 23 CFR part 633 as set forth below:

**PART 633 – REQUIRED CONTRACT PROVISIONS**

1. Add an authority citation for part 633 to read as follows:

**Authority:** 23 U.S.C. 114 and 315; 49 CFR 1.48.

**Subpart B – [Removed and Reserved]**

2. Remove and reserve subpart B, consisting of §§ 633.201 through 633.211 and appendices A through D.

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