

(c) A project agreement, or modification to a project agreement, will be executed as required by 23 CFR Part 630, subpart C, Project Agreements.

(d) The FHWA may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards. The State is to notify the FHWA when a project is complete and/or ready for such inspection and will certify that the plans, design, and construction for the project were in accord with the laws, regulations, directives, and standards contained in the State certification or such project exceptions as were approved by the State.

(e) Revisions or amendments to State certifications will be made when necessary and processed as provided in § 640.111(c). The existing State certification is to be reviewed periodically to determine its adequacy in light of this part, the statutes in effect at the time of the review, and the operational reviews made by FHWA.

[60 FR 47483, Sept. 13, 1995, as amended at 61 FR 57331, Nov. 6, 1996]

#### § 640.115 Evaluations.

(a) The FHWA may conduct periodic evaluations, as deemed appropriate, of the State's operations under CA. These evaluations may include coverage of any or all areas of the State's administration of CA projects.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, including recommendations, will be prepared by the FHWA as a basis for considering whether acceptance of the State certification should be rescinded under § 640.117.

#### § 640.117 Rescission of State certification.

The acceptance of a State certification may be rescinded at any time upon request of the State or if considered necessary by the FHWA to protect the Federal interest. The rescission may be applied to all or part of the programs or projects covered in the State certification.

## PART 645—UTILITIES

### Subpart A—Utility Relocations, Adjustments, and Reimbursement

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AUTHORITY: 23 U.S.C. 101, 109, 111, 116, 123, and 315; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); and E.O. 11990, 42 26961 (May 24, 1977).

EDITORIAL NOTE: Nomenclature changes to part 645 appear at 65 FR 70311, Nov. 22, 2000.

### Subpart A—Utility Relocations, Adjustments, and Reimbursement

SOURCE: 50 FR 20345, May 15, 1985, unless otherwise noted.

#### § 645.101 Purpose.

To prescribe the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid and direct Federal projects.

#### § 645.103 Applicability.

(a) The provisions of this regulation apply to reimbursement claimed by a State transportation department (STD) for costs incurred under an approved and properly executed transportation department (TD)/utility agreement and for payment of costs incurred under all Federal Highway Administration (FHWA)/utility agreements.

(b) Procedures on the accommodation of utilities are set forth in 23 CFR part

645, subpart B, Accommodation of Utilities.

(c) When the lines or facilities to be relocated or adjusted due to highway construction are privately owned, located on the owner's land, devoted exclusively to private use and not directly or indirectly serving the public, the provisions of the FHWA's right-of-way procedures in 23 CFR 710.203, apply. When applicable, under the foregoing conditions, the provisions of this regulation may be used as a guide to establish a cost-to-cure.

(d) The FHWA's reimbursement to the STD will be governed by State law (or State regulation) or the provisions of this regulation, whichever is more restrictive. When State law or regulation differs from this regulation, a determination shall be made by the STD subject to the concurrence of the FHWA as to which standards will govern, and the record documented accordingly, for each relocation encountered.

(e) For direct Federal projects, all references herein to the STD or TD are inapplicable, and it is intended that the FHWA be considered in the relative position of the STD or TD.

[50 FR 20345, May 15, 1985, as amended at 64 FR 71289, Dec. 21, 1999]

#### § 645.105 Definitions.

For the purposes of this regulation, the following definitions shall apply:

*Authorization*—for Federal-aid projects authorization to the STD by the FHWA, or for direct Federal projects authorization to the utility by the FHWA, to proceed with any phase of a project. The date of authorization establishes the date of eligibility for Federal funds to participate in the costs incurred on that phase of work.

*Betterment*—any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility.

*Cost of relocation*—the entire amount paid by or on behalf of the utility properly attributable to the relocation after deducting from that amount any increase in value of the new facility, and any salvage derived from the old facility.

*Cost of Removal*—the amount expended to remove utility property in-

cluding the cost of demolishing, dismantling, removing, transporting, or otherwise disposing of utility property and of cleaning up to leave the site in a neat and presentable condition.

*Cost of salvage*—the amount expended to restore salvaged utility property to usable condition after its removal.

*Direct Federal projects*—highway projects such as projects under the Federal Lands Highways Program which are under the direct administration of the FHWA.

*Indirect or overhead costs*—those costs which are not readily identifiable with one specific task, job, or work order. Such costs may include indirect labor, social security taxes, insurance, stores expense, and general office expenses. Costs of this nature generally are distributed or allocated to the applicable job or work orders, other accounts and other functions to which they relate. Distribution and allocation is made on a uniform basis which is reasonable, equitable, and in accordance with generally accepted cost accounting practices.

*Relocation*—the adjustment of utility facilities required by the highway project. It includes removing and re-installing the facility, including necessary temporary facilities, acquiring necessary right-of-way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

*Salvage value*—the amount received from the sale of utility property that has been removed or the amount at which the recovered material is charged to the utility's accounts, if retained for reuse.

*State transportation department*—the transportation department of one of the 50 States, the District of Columbia, or Puerto Rico.

*Transportation department(TD)*—that department, commission, board, or official of any State or political subdivision thereof, charged by its law