

Amendment to the Regulations

Part 141, Customs Regulations (19 CFR part 141) is amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for part 141 and the specific authority citation for subpart G continue to read, and a new specific authority for § 141.102(f) is added in appropriate numerical order to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

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Subpart G also issued under 19 U.S.C. 1505;

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Section 141.102(f) also issued under Presidential Proclamation 7529;

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2. Section 141.102 is amended by adding a new paragraph (f) to read as follows:

§ 141.102 When deposit of estimated duties, estimated taxes, or both not required.

* * * * *

(f) *Steel products described in Presidential Proclamation 7529 of March 5, 2002, To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products.* An importer of the steel products described in Presidential Proclamation 7529 of March 5, 2002, To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products published in the **Federal Register** (67 FR 10553) on March 7, 2002, must defer until April 19, 2002, the deposit of the estimated Customs duties described in the Proclamation on those products entered, or withdrawn from warehouse for consumption in the Customs territory of the United States on or after 12:01 a.m., EST, March 20, 2002, and up to April 4, 2002.

Robert C. Bonner,
Commissioner of Customs.

Approved: March 18, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 02-6807 Filed 3-18-02; 11:05 am]

BILLING CODE 4820-02-P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 710**

[FHWA Docket No. FHWA-2001-8624]

RIN 2125-AE82

Right-of-Way and Real Estate; Program Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the right-of-way regulations for federally assisted transportation projects to clarify that financial assistance provided by the FHWA may participate in relocation assistance benefits, provided by State and local agencies pursuant to State law, that are in addition to the relocation benefits prescribed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended.

DATES: This final rule is effective April 19, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Ware, Office of Real Estate Services, HEPR, (202) 366-2019, or Mr. Reid Alsop, Office of Chief Counsel, HCC-30, (202) 366-1371, FHWA 400 Seventh Street, SW., 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**

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the **Federal Register's** home page at <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The FHWA provides funds to the States and other organizations to reimburse them for the costs they have incurred in constructing highways and other transportation related projects pursuant to title 23, United States Code. These projects frequently involve the

acquisition of real property or the displacement of persons, businesses and farms. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended (42 U.S.C. 4601 *et seq.*) ensures the fair and equitable treatment of persons whose real property is acquired or who are displaced as a result of a Federal or federally-assisted project. The FHWA regulations dealing with reimbursement, and the acquisition and management of real property, are contained in 23 CFR part 710.

On May 9, 2001, we published a notice of proposed rulemaking (NPRM) at 66 FR 23636, to propose amending our right-of-way regulations for federally assisted transportation projects to provide clarification. The NPRM described the development of the current regulation, which revised FHWA's policy on participation in costs incurred by States in the acquisition of real property. Basically, the FHWA now participates in any acquisition costs that are required by State law. In the NPRM, we proposed to revise the regulations to clarify that Federal financial assistance, provided by the FHWA pursuant to title 23, U.S.C., may be applied to relocation assistance benefits provided by State and local agencies, pursuant to State law, that are in addition to the relocation benefits prescribed by the Uniform Act.

The FHWA believes that its participation in such relocation payments is permissible based on the FHWA's general authority to participate in the costs of "construction," which is defined in 23 U.S.C. 101(a)(3) to include both costs of right-of-way acquisition and relocation assistance. We believe that the broad language in 23 CFR 710.203(b)(1) allows for this type of assistance; however, we received several inquiries regarding the FHWA's participation in relocation payments made by some States, pursuant to State law, that are in addition to those required by the Uniform Act. Therefore, in the NPRM we proposed amending section 710.203(b)(2) to clarify this matter.

Discussion of Comments

We received two written comments and one oral comment to the docket. The three commenters were from the Oregon, Washington, and Wisconsin State departments of transportation. The Washington DOT supported the proposed revision noting that the current Uniform Act benefits are inadequate for businesses. The Wisconsin DOT provided several technical comments. It noted that the

change would allow Federal participation in some increased payments provided by State law, but was also concerned that more local governments might avail themselves of Federal funds thereby increasing its oversight responsibilities.

The Oregon DOT provided a verbal comment that questioned whether the proposed clarification would allow the FHWA to participate in relocation payments to aliens not lawfully present in the United States (illegal aliens). While the intent of this clarification is to emphasize that States have the flexibility in using the FHWA funds to participate in relocation payments required by State law, in addition to those payments mandated by the Uniform Act, we do not believe that the FHWA should permit the participation of Federal funds in such relocation payments to persons who Congress has specifically excluded from Uniform Act coverage. The Congress stated specifically in section 4605(a) of the Uniform Act that, with limited exceptions, a person not lawfully present in the United States is not eligible to receive relocation assistance under the Uniform Act (42 U.S.C. 4605(a)).

The Congress clearly stated that displaced persons shall not be eligible to receive relocation payments or any other assistance under the Uniform Act if they are not lawfully present in the United States. Consistent with that prohibition we have provided in this final rule that the FHWA will not participate in relocation assistance and payments provided by States to aliens not lawfully present in the United States.

We have adopted the change proposed with a slight modification, as discussed above, to deny Federal participation in relocation assistance and payments provided to illegal aliens. The primary reason for this change remains the same as stated in the NPRM, to make it clear that FHWA participation policies concerning both State acquisition costs and State relocation costs are the same. That is, the FHWA will participate in those acquisition and relocation costs that are required by State law (except for relocation costs to illegal aliens).

This basic participation policy promotes program streamlining. It gives States flexibility in the use of Federal aid funds available to the States. Further, it eliminates administrative burdens that would result if it were necessary to analyze all acquisition and relocation costs and categorize them as either participating or nonparticipating for purposes of Federal assistance.

Finally, if the NRPM were not adopted uncertainty would remain as to whether acquisition costs required by State law and relocation costs required by State law should be treated differently for purposes of Federal participation.

While we are aware of the Wisconsin DOT's concern regarding possible increased oversight, we note that one of the primary purposes of this change is to increase the ability of States to effectively manage their acquisition and relocation programs. In the absence of any further comments, we believe that the promulgation of this final rule is necessary to advance the important program streamlining objectives noted above.

Rulemaking Analyses and Notice

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, nor is it a significant regulatory policy and procedure. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The FHWA does not consider this action to be a significant regulatory action because this rule clarifies existing requirements relating to FHWA reimbursement for certain expenditures that are required by State law. Neither the individual or cumulative impact of this action is significant because this action would not alter the funding levels available to the states for Federal or federally assisted programs covered by title 23, U.S. Code.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the agency has evaluated the effects of this rule on small entities and hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action would merely clarify existing procedures.

Environmental Impact

The FHWA has also analyzed this action for the purpose of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the human environment.

Executive Order 13132 (Federalism)

The FHWA has analyzed this action in accordance with the principles and criteria contained in Executive Order 13132, and determined that this action

does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This rule clarifies that greater flexibility is placed at the State or local level in the use of Federal funds in recognition of State laws. Nothing in this document directly preempts any State law or regulation.

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.

Unfunded Mandates Reform Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48), the FHWA must prepare a budgetary impact statement on any proposal or final rule that includes a Federal mandate that may result in estimated annual costs to State, local or tribal government of \$100 million or more. The FHWA has determined that this rule will not result in estimated costs of \$100 million or more to State, local, or tribal governments. This action simply clarifies existing requirements. Accordingly no additional costs to State, local or tribal governments are anticipated as a result of this action.

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. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not affect a taking of private or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Paperwork Reduction Act

This proposal contains no new collection of information requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

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 710

Grant programs-transportation, Highways and roads, Real property acquisition, Rights-of-way.

Issued on: March 13, 2002.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, Chapter 1, by revising Part 710 as set forth below:

PART 710—[AMENDED]

1. The authority citation for part 710 continues to read as follows:

Authority: 23 U.S.C. 101(a), 107, 108, 111, 114, 133, 142(f), 145, 156, 204, 210, 308, 315, 317, and 323; 42 U.S.C. 2000d *et seq.*, 4633, 4651–4655; 49 CFR 1.48(b) and (cc), 18.31, and parts 21 and 24; 23 CFR 1.32.

2. Revise § 710.203(b)(2) to read as follows:

§ 710.203 Funding and reimbursement.

* * * * *

(b) * * *

(2) *Relocation assistance and payments.* Usual costs and disbursements associated with the following:

(i) Relocation assistance and payments required under 49 CFR part 24, and

(ii) Relocation assistance and payments provided under the laws of the State that may exceed the requirements of 49 CFR part 24, except for relocation assistance and payments provided to aliens not lawfully present in the United States.

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§ 710.409 [Amended]

3. Amend § 710.409(a) by revising the reference “§ 710.403(c)” to read “§ 710.403(d)”.

[FR Doc. 02–6760 Filed 3–19–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Parts 1 and 602**

[TD 8985]

RIN 1545–AY02

Hedging Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the character of gain or loss from hedging transactions. The regulations reflect changes to the law made by the Ticket to Work and Work Incentives Improvement Act of 1999. The regulations affect businesses entering into hedging transactions.

DATES: *Effective Date:* These regulations are effective March 20, 2002.

Applicability Dates: For dates of applicability of these regulations, see the discussion in the Dates of Applicability paragraph in the Supplementary Information portion of the preamble.

FOR FURTHER INFORMATION CONTACT: Elizabeth Handler, (202) 622–3930 or Viva Hammer at (202) 622–0869 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1480. Some responses to these collections of information are mandatory, and others are required to obtain the benefit of the separate-entity election.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent or recordkeeper varies from .1 to 40 hours, depending on individual circumstances, with an estimated average of 5.9 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the

Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to 26 CFR Part 1 under section 1221 of the Internal Revenue Code (Code). Prior to amendment in 1999, section 1221 generally defined a capital asset as property held by the taxpayer other than: (1) Stock in trade or other types of assets includible in inventory; (2) property used in a trade or business that is real property or property subject to depreciation; (3) certain copyrights (or similar property); (4) accounts or notes receivable acquired in the ordinary course of a trade or business; and (5) U.S. government publications.

In 1994, the IRS published in the **Federal Register** (59 FR 36360) final Treasury regulations under section 1221 providing for ordinary character treatment for certain business hedges. The regulations generally apply to transactions that reduce risk with respect to ordinary property, ordinary obligations, and borrowings of the taxpayer and that meet certain identification requirements. (§ 1.1221–2). In 1996, the IRS published in the **Federal Register** (61 FR 517) final regulations on the character and timing of gain or loss from hedging transactions entered into by members of a consolidated group. In this preamble, the final regulations published in 1994 and 1996 are referred to collectively as the Treasury regulations.

On December 17, 1999, section 1221 was amended by section 532 of the Ticket to Work and Work Incentives Improvement Act of 1999 (113 Stat 1860) to provide ordinary gain or loss treatment for hedging transactions and consumable supplies. Section 1221(a)(7) provides ordinary treatment for hedging transactions that are clearly identified as such before the close of the day on which they were acquired, originated, or entered into.

The statute defines a hedging transaction as a transaction entered into by the taxpayer in the normal course of business primarily to manage risk of interest rate, price changes, or currency fluctuations with respect to ordinary property, ordinary obligations, or borrowings of the taxpayer. Sections 1221(b)(2)(A)(i) and (ii). The statutory