

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 625

[FHWA Docket No. FHWA–2005–22476]

RIN 2125–AF06

#### Design Standards for Highways; Interstate System

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** The FHWA is requesting comments on a proposed amendment to the design standards that apply to highway construction and reconstruction projects on the Interstate System. A 2005 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Design Standards Interstate System*, January 2005, has replaced the previous version of this policy published in 1991. If adopted by the FHWA, the new AASHTO publication would constitute the FHWA's policy on geometric design standards for all construction and reconstruction projects on the Interstate System.

**DATES:** Comments must be received on or before January 30, 2006.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. Alternatively, comments may be submitted via the eRulemaking Portal at: <http://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 you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form on all documents 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 (65 FR 19477), or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. Jon Obenberger, Office of Program Administration (HIPA–20), (202) 366–2221. For legal information: Mr. Robert Black, Office of the Chief Counsel (HCC–32), (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. 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 and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

##### Background

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625 (Design Standards for Highways). For the Interstate System, the current document specified in § 625.4(a)(2) is the 1991 edition of *A Policy on Design Standards—Interstate*

*System*<sup>1</sup> (Interstate Standards). The AASHTO recently revised the Interstate Standards and issued the January 2005 edition.<sup>2</sup> The primary reason for revising the Interstate Standards was to reflect the latest design criteria and perform minor editorial changes to the previous Interstate Standards. The FHWA proposes to adopt this latest edition of the Interstate Standards as its geometric design standards for all construction and reconstruction projects on the Interstate System. See "Summary of Changes" below for a description of the changes made in the January 2005 edition.

The Interstate Standards, being only 6 pages, are not intended to be a "stand alone" document for all of the geometric design standards that are used in the development of projects on the Interstate System. The Interstate Standards contain criteria that were developed specifically in keeping with the importance of the Interstate System as the backbone of the Nation's highway system. Specific examples include: Design traffic, right-of-way, geometric design controls and criteria, cross section elements, interchanges, and bridges and other structures. Other publications, such as *A Policy on Geometric Design of Highways and Streets and the Standard Specifications for Highway Bridges*<sup>3</sup> are referenced in the Interstate Standards and used for all geometric design issues not specifically addressed in the Interstate Standards.

The policies, standards, and standard specifications FHWA has adopted for all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625. The NHS was established by the National Highway System Designation Act of 1995, Pub. L. 104–59, Nov. 28, 1995, 109 Stat. 568. The NHS includes the Interstate System and other principal arterials serving major travel destinations and transportation needs, connectors to major transportation terminals, the Strategic Highway

<sup>1</sup> *A Policy on Design Standards—Interstate System*, 1991, is available by ordering from AASHTO at their Web site at <http://www.aashto.org>.

<sup>2</sup> *A Policy on Design Standards Interstate System*, January 2005, is available by ordering from AASHTO at their Web site at <http://www.aashto.org>.

<sup>3</sup> *A Policy on Geometric Design of Highways and Streets and Standard Specifications for Highway Bridges* are available by ordering from AASHTO at their Web site at <http://www.aashto.org>.

Network and major connectors, and high priority corridors identified by law.

The AASHTO is an organization which represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex officio member, and U.S. DOT officials participate in various AASHTO activities as non-voting representatives. Among other functions, the AASHTO develops and issues standards, specifications, policies, guides and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications approved by the FHWA and incorporated into 23 CFR part 625 were originally developed and issued by the AASHTO. Revisions to AASHTO policies, standards, and standard specifications are independently reviewed, considered, and where appropriate adopted by the FHWA for their application to projects on the NHS.

#### Summary of Changes

The changes in the Interstate Standards were developed as the result of information contributed by AASHTO and FHWA staff experts. The changes made to the Interstate Standards (January 2005 edition) consist of the following:

1. Metric values have been added for all dimensions. The previous edition contained only U.S. Customary values.

2. In "Design Speed," the sentence specifying a separate design speed for rolling terrain has been deleted. The impacts of construction in level and rolling terrain are considered sufficiently close that individual criteria are no longer considered necessary.

3. In "Gradients," the table for maximum grade has been expanded to include higher design speeds and intermediate design speeds. All of the values in the previous edition have been incorporated in the new table without any changes. The wording of the table footnote has been revised.

4. In "Shoulders," the discussion of shoulder width in mountainous terrain has been revised to clarify the values that may be used.

5. In "Horizontal Clearance to Obstructions," the discussion of horizontal clearance to obstructions has been revised and updated.

6. In "Curbs," the discussion of curbs has been revised and expanded to clarify the use of curbs in conjunction with guardrail.

7. In "Existing Bridges to Remain in Place," the wording has been revised to

include bridges on future additions to the Interstate System.

8. In "Tunnels," the discussion of the minimum width of a tunnel has been revised and a discussion of a safety shape barrier at the tunnel wall in lieu of a safety walk has been added.

#### Conclusion

The FHWA proposes to amend the design standards that apply to highway construction and reconstruction projects on the Interstate System by adopting the 2005 edition of AASHTO's A Policy on Design Standards Interstate System.

#### Rulemaking Analyses and Notices

All comments received on or 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. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

#### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866 or would not be significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal because the basic design standard criteria remain essentially the same. The proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, the 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.

#### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a

substantial number of small entities. As stated above the basic design standard criteria remain essentially the same. Additionally, the proposed changes address design standards for States to follow in constructing or reconstructing the Interstate System. States are not included in the definition of small entity set forth in 5 U.S.C. 601. For these reasons, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532).

Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages to assess the effects on States, local, and tribal governments and the private sector. Additionally, the definition of "Federal Mandate" in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid Highway Program permits this type of flexibility.

#### *Executive Order 13132 (Federalism Assessment)*

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

#### *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. Accordingly, the FHWA solicits comments on this issue.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

#### *National Environmental Policy Act*

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and has determined that this proposed action would not have any effect on the quality of the environment.

#### *Executive Order 12630 (Taking of Private Property)*

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### *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)*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that might disproportionately affect children.

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

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed

rulemaking addresses obligation of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

#### *Executive Order 13211 (Energy Effects)*

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use dated May 18, 2001. We have determined that it is not a significant energy action under that order since it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

#### *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 625**

Design standards, Grant programs—transportation, highways and roads, Incorporation by reference.

Issued on: November 21, 2005.

**J. Richard Capka,**

*Acting Federal Highway Administrator.*

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 625, as set forth below:

#### **PART 625—DESIGN STANDARDS FOR HIGHWAYS**

1. The authority citation for part 625 continues to read as follows:

**Authority:** 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48(b) and (n).

2. In § 625.4, revise paragraph (a)(2) to read as follows:

#### **§ 625.4 Standards, policies, and standard specifications.**

\* \* \* \* \*

(a) \* \* \*

(2) A Policy on Design Standards Interstate System, AASHTO, January 2005. [See § 625.4(d)(1)]

\* \* \* \* \*

[FR Doc. 05–23476 Filed 11–29–05; 8:45 am]

**BILLING CODE 4910–22–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 52 and 81**

[R09–OAR–2005–CA–0010; FRL–8002–5]

#### **Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; California; Carbon Monoxide Maintenance Plan Update for Ten Planning Areas; Motor Vehicle Emissions Budgets; Technical Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan revision, submitted by the California Air Resources Board on November 8, 2004, that includes the *2004 Revision to the California State Implementation Plan for Carbon Monoxide, Updated Maintenance Plan for Ten Federal Planning Areas*. This revision will provide a ten-year update to the carbon monoxide maintenance plan, as well as replace existing and establish new carbon monoxide motor vehicle emissions budgets for the purposes of determining transportation conformity, for the following ten areas: Bakersfield Metropolitan Area, Chico Urbanized Area, Fresno Urbanized Area, Lake Tahoe North Shore Area, Lake Tahoe South Shore Area, Modesto Urbanized Area, Sacramento Urbanized Area, San Diego Area, San Francisco-Oakland-San Jose Area, and Stockton Urbanized Area. In connection with the motor vehicle emissions budgets, we are proposing to deny a request by the California Air Resources Board for EPA to limit the duration of our approval of the budgets. Lastly, EPA is proposing to correct certain errors made in our 1998 final rule approving California's redesignation request for these ten planning areas.

**DATES:** Comments on this proposal must be received by December 30, 2005.

**ADDRESSES:** Submit comments, identified by docket number R09–OAR–2005–CA–0010, by one of the following methods:

1. *Agency Web site:*  
<http://docket.epa.gov/rmepub/>. EPA