became effective upon publication in the **Federal Register**.

Accordingly, the publication on March 24, 1997, of the final regulations to consolidate, eliminate, and clarify various regulations, which were the subject of Federal Register Document 95–7036, is corrected as follows:

PART 1300—[CORRECTED]

§ 1300.02 [Amended]

1. On page 13945, in the first column, in § 1300.02 remove paragraphs (b)(28)(i)(D)(*1*) through (D) (*2*)(*ii*) and add the following text:

* * * * *

(b) * * *

(28) * * *

(i) * * *

(D) * * *

(*1*)(*i*) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers; or

(*ii*) The Administrator has determined pursuant to the criteria in 1310.10 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(*2*) The quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical.

* * * * *

2. On page 13945, in the second column, in § 1300.02(b)(29), remove the introductory text and add the following text:

* * * * *

(b) * * *

(29) The term *retail distributor* means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to drug products containing pseudoephedrine, phenylpropanolamine, or ephedrine are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. For the purposes of this paragraph, sale for personal use means the distribution of below-threshold quantities in a single transaction to an individual for legitimate medical use. Also for the purposes of this paragraph, a grocery store is an entity within Standard Industrial Classification (SIC) code 5411, a general merchandise store is an entity within SIC codes 5300 through 5399 and 5499, and a drug store is an entity within SIC code 5912.

* * * * *

PART 1309—[CORRECTED]

1. On page 13968, in the second column, in amendment number 4, remove ''(a) Section 1309.02(g)'' and redesignate (b) through (d) as (a) through (c).

PART 1310—[CORRECTED]

1. On page 13968, in the third column, amendment number 5 should be removed and amendment 6 redesignated as amendment 5.

Dated: March 27, 1997.

James Milford,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 97–8334 Filed 3–31–97; 8:45 am]

BILLING CODE 4410–09–P–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 95–12]

RIN 2125–AD38

Design Standards for Highways; Geometric Design of Highways and Streets

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The National Highway System (NHS) was established by the National Highway System Designation Act of 1995 (NHS Act), Pub. L. 104–59, 109 Stat. 568. In order to reflect the establishment of the NHS, the FHWA is revising several areas of the text in its regulation at 23 CFR part 625 governing design standards for highways; updating the listing of standards; relocating the guides and references; and adopting as its policy for the design standards which apply to highway construction and reconstruction projects on the NHS, a 1994 revision of the American Association of State Highway and Transportation Officials' (AASHTO) publication, ''A Policy on Geometric Design of Highways and Streets'' (AASHTO 1994 Policy). The primary reason for development of the new AASHTO 1994 Policy was to convert the numerical values in AASHTO's 1990 Policy to the metric system (SI). With the recent enactment of the NHS Act, the Secretary of the Department of Transportation (Secretary) cannot require that any State use, or plan to use, the metric system for Federal-aid projects before September 30, 2000. However, almost all of the States continued their conversion to metric to meet the previously established deadline of September 30, 1996, and are either awarding contracts in metric or plan to do so in the near future.

DATES: This final rule is effective May 1, 1997. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of May 1, 1997.

ADDRESSES: The current design standards are on file at the Office of the Federal Register in Washington, DC, and are available for inspection and copying from the FHWA Washington, D.C., Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, appendix D. Copies of the current AASHTO publications are also available for purchase from the American Association of State Highway and Transportation Officials, Suite 249, 444 North Capitol Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-Aid and Design Division, Office of Engineering (202) 366–0312, or Mr. Wilbert Baccus, Office of Chief Counsel (202) 366–0780, Federal Highway Administration, 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: This final rule is based on the FHWA's Interim Final Rule (IFR), FHWA Docket No. 95–12, Design Standards for Highways; Geometric Design of Highways and Streets, at 61 FR 17566 (April 22, 1996). All comments received in response to the IFR have been considered in adopting this final rule. For discussion of comments, see the section entitled ''Discussion of Comments'' later in this final rule.

Revisions to the text in 23 CFR part 625 reflect the establishment of the NHS by the NHS Act as the basic highway network in the United States. References to ''Federal-aid highway projects'' have accordingly been changed to ''NHS projects.'' The standards, policies, and standard specifications that have been approved by the FHWA for application on all projects on the NHS are incorporated by reference in 23 CFR part 625.

Section 625.3(d) of the rule provides that these Federal design standards apply to all projects on the NHS, regardless of funding source. Under prior law, Federal standards applied to most projects solely as a condition of receipt of Federal grant funds. The change, applying Federal standards even to NHS projects wholly funded by

a State based on provisions in both the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, and the NHS Act, is consistent with the purpose for which the NHS was established. In 23 U.S.C. 109(c), as amended by section 304 of the NHS Act, the Secretary is required, in cooperation with the State highway departments, to approve design and construction standards on the NHS. These provisions mirror the language and assignment of responsibility appearing in 23 U.S.C. 109(b), which has long been interpreted to require the Secretary to establish design standards for the Interstate System without regard for funding source. In expanding the Secretary's authority to all roads on the NHS, Congress sought to accommodate interstate commerce by ensuring a uniform, safe, interconnected system of principal arterial routes.

Federal-aid projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards. This change implements section 1016(d) of the ISTEA, which added a new subsection (p) to section 109, title 23, U.S.C., requiring non-NHS projects to be designed, constructed, operated, and maintained in accordance with State laws and standards.

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 is an ex officio member, and DOT officials participate in various AASHTO activities as nonvoting 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 in 23 CFR part 625 were developed and issued by the AASHTO. Revisions to such documents of the AASHTO are independently reviewed and adopted by the FHWA before they are applied to the NHS projects.

Recently, in 1994, the AASHTO revised the publication, ''A Policy on Geometric Design of Highways and Streets.'' The primary reason for development of the new document was to convert the numerical values in the AASHTO 1990 Policy to the metric system (SI). The FHWA's Metric Conversion Policy, published in the **Federal Register** on June 11, 1992 (57 FR 24843), provided that newly authorized Federal-aid construction contracts must be only in metric units by September 30, 1996. Although this date will have to be changed to comply with the NHS Act of 1995, almost all of the States either are awarding contracts in metric or plan to do so in the near future. A more detailed discussion of the changes in the revised Policy is included later in this preamble.

The new AASHTO 1994 Policy has replaced the previous version of this Policy, which was published by the AASHTO in 1990 and adopted by the FHWA in a final rule published in the **Federal Register** on April 29, 1993 (58 FR 25939). The 1994 Policy also takes the place of the publication, ''Interim Selected Metric Values for Geometric Design,'' AASHTO 1993, which was adopted by FHWA in a final rule published in the **Federal Register** on December 10, 1993 (58 FR 64895). Through this rulemaking, the FHWA is adopting the metric values established by the AASHTO in this new 1994 Policy for geometric design of projects on the NHS.

Although the standards contained in the AASHTO 1994 Policy apply to the Interstate System, specific guidance applicable to highways on the Interstate System is included in another AASHTO publication, ''A Policy on Design Standards-Interstate System,'' AASHTO 1991. The current edition of that publication will be converted to the metric system in the near future.

Generally, the criteria in the functional chapters on local roads and streets and on collectors (Chapters V and VI of the Policy) are not applicable to projects on the NHS. However, if highway segments functionally classified as less than principal arterials are incorporated in the NHS by virtue of being Strategic Highway Network (STRAHNET) Connectors or Intermodal Connectors, the standards used may be those appropriate for the functional classification of the segment taking into account the type of traffic using the segment.

Summary of Changes

The reference to FHWA Order M1100.1 in the Interim Final Rule was incorrect. It should have been FHWA Order M1100.1A and this has been corrected. For the convenience of the reader, 23 CFR part 625 is published in its entirety. All other changes discussed in this section refer to changes from the existing 23 CFR part 625.

The following revisions have been made to the list of standards, policies, and standard specifications in 23 CFR part 625, section 625.4:

1. ''A Policy on Geometric Design of Highways and Streets,'' AASHTO 1990, has been updated to indicate the 1994 edition.

2. ''Interim Selected Metric Values for Geometric Design,'' AASHTO 1993, has been deleted because metric values are now included in the publication, ''A Policy on Geometric Design of Highways and Streets,'' AASHTO 1994.

3. ''A Policy on U-Turn Median Openings on Freeways,'' AASHTO 1960, has been deleted. This document is no longer applicable and not available from the AASHTO.

4. ''A Policy on Access Between Adjacent Railroads and Interstate Highways,'' AASHTO 1960, has been deleted. This document is no longer applicable and not available from the AASHTO.

5. ''Water Supply and Sewage Treatment at Safety Rest Areas,'' FHWA, 23 CFR part 650, subpart E, has been deleted. The safe drinking water requirements of this regulation have been superseded by the national primary drinking water regulations promulgated by the U.S. Environmental Protection Agency (40 CFR part 141) to comply with safe drinking water legislation.

6. ''Standard Specifications for Highway Bridges,'' Thirteenth Edition, AASHTO 1983, has been updated to indicate the fifteenth edition published in 1992 and the publication, ''Interim Specifications—Bridges,'' AASHTO 1984 through 1988, has been updated to indicate the 1993 through 1995 editions.

7. ''AASHTO LRFD Bridge Design Specifications,'' AASHTO 1994, has been added. These improved load and resistance factor design specifications are an alternative to the long-standing ''Standard Specifications for Highway Bridges,'' AASHTO 1992.

8. ''Bridge Welding Code, ANSI/AASHTO/AWS D1.5–88,'' AASHTO has been updated to indicate the 1995 edition.

9. ''Reinforcing Steel Welding Code'' has been updated to indicate the new name and current edition, ''Structural Welding Code—Reinforcing Steel,'' 1992.

10. ''Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals,'' AASHTO 1985, has been updated to indicate the 1994 edition.

The following changes have been made to 23 CFR part 625, section 625.5, entitled ''Guides and References,'' which contain a listing of citations to publications that provide general information or guidance. This section is

being removed from 23 CFR part 625 and will appear instead in the ''Federal-Aid Policy Guide'' (FAPG). The FAPG is an organized, looseleaf, single source documentation of the FHWA's current policies, regulations, and nonregulatory procedural guidance information related to the Federal-aid highway program. It is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

The remaining discussion describes the changes in the AASHTO 1994 Policy. There were a number of changes that were made throughout the AASHTO 1990 Policy. These include the following:

1. All dimensions were converted to the metric system.
2. Slope is expressed in nondimensional ratios. The vertical component is shown first and then the horizontal.
3. Superelevation is expressed in percent.
4. The more descriptive terms ''traveled way,'' ''roadway,'' ''lane,'' and ''highway'' have been substituted for the term ''pavement'' where appropriate; however, where the term ''pavement'' refers to a type of surface it is retained.

The following paragraphs provide a brief synopsis of the information that is included in each of the 10 chapters of the AASHTO 1994 Policy and, as appropriate, any significant additions, revisions or deletions beyond those listed above made to the currently approved AASHTO 1990 Policy in the 1994 Policy.

Chapter I—Highway Functions

In this chapter the concept of functional classification is presented and the various components considered in detail. This serves as an introduction to functional classification and provides an explanation of how the concept is employed in the publication. There are no significant changes made in this chapter other than identification of the NHS as a new administrative system.

Chapter II—Design Controls and Criteria

Those characteristics of vehicles, pedestrians, and traffic that act as criteria for the design of various highway and street functional classes are covered in this chapter. The coverage of capacity is revised to agree with the Transportation Research Board's revised chapters of the ''Highway Capacity Manual.'' (At the time this part of the new Policy was undergoing revision, in mid-1993, a number, but not all, of the chapters in the manual had been revised.)

More emphasis is placed on accommodating elderly persons based on information that has been published and studies that have been conducted since the old Policy was published. More information on bicycle transportation and characteristics has been included. The concept of ''access management,'' which refers to setting access standards for various types of highways and incorporating access standards into legislation, has been added to the section on ''Access Control.'' The terminology used in the Americans with Disabilities Act of 1990 (ADA), Pub. L. 101–336, 104 Stat. 327, and its implementing regulations has been incorporated in the discussion on designing highways and facilities to meet the needs of persons with disabilities.

Chapter III—Elements of Design

The basic elements of design, such as sight distance, horizontal alinement, superelevation, widths of turning roadways, vertical alinement, maximum grades and climbing lanes are covered in this chapter. Significant revisions to the chapter include the following:

1. In order to eliminate confusion as to which values are used to calculate lengths of vertical and horizontal curves, only the calculated values of stopping and passing sight distance are shown. These unrounded values are used in calculating lengths of vertical curves and, then, the lengths of vertical curves are rounded, as was done in the AASHTO 1990 Policy.
2. Degree of curve is eliminated; curve criteria is based only on radius.
3. The term ''crown'' has been replaced by more appropriate terminology, such as ''cross slope'' in most places.
4. The information on distribution of superelevation and superelevation runoff for curves with radii greater than the minimum for low-speed urban streets has been eliminated. A recommendation that as much superelevation and as long runoff lengths as possible be provided, even on curves greater than minimum, is included.
5. The values for the minimum middle ordinate on the inside of horizontal curves needed to provide horizontal stopping sight distance are based on computed values rather than rounded values.
6. The information on design and capacity of climbing lanes for two-lane and multilane highways has been revised based on the new, revised chapters of the ''Highway Capacity Manual.''
7. The information on truck escape ramps has been updated based on the latest published information.
8. The AASHTO 1994 Policy notes that personal computers can be used to assist designers in developing vertical and horizontal alinements.
9. The section on ''Maintenance of Traffic Through Construction Areas'' has been revised to be consistent with the ''Manual on Uniform Traffic Control Devices.''
10. The references on highway drainage have been revised to refer to the latest publications.

Chapter IV—Cross Section Elements

The elements of a highway, such as pavement cross slope, traffic lanes, shoulders, medians, frontage roads, and roadsides are discussed in this chapter. Significant revisions to the chapter include the following:

1. More information on design to accommodate bicyclists has been added.
2. The information on design of, and use of, curbs has been revised.
3. The section on design of pedestrian facilities has been modified somewhat to conform to the ADA implementing regulations.

Chapter V—Local Roads and Streets

The design guidance applicable to those roads functionally classified as local rural roads and local urban streets is covered in this chapter. Significant revisions include the following:

1. Traffic volume criteria in the tables for design speed, traveled way, shoulder width, and width and design loading for bridges is presented on the common basis of average daily traffic (ADT). This is based on recent research which concluded the existing practice of mixing ADT and design hour volume (DHV) is confusing.
2. The values for minimum widths of traveled way and shoulder for local roads having various ranges of ADT have been modified based on National Cooperative Highway Research Program (NCHRP) Report 362, ''Roadway Width for Low Traffic Volume Roads.'' In particular, a 5.4-m traveled way is now permitted for highways with ADT's of under 400. For rural local roads with ADT's of 400 to 1500 the lane and shoulder widths may be adjusted to a minimum roadway width of 9.0 m.

Chapter VI—Collector Roads and Streets

The design guidance applicable to those roads functionally classified as rural collector roads and urban collector streets is covered in this chapter. Significant revisions to the chapter include the following:

1. Traffic volume criteria in the tables for design speed, traveled way, shoulder width, and width and design loading for bridges is presented on the common

basis of ADT. This is based on recent research which concluded the existing practice of mixing ADT and DHV is confusing.

2. The values for minimum widths of traveled way and shoulder for rural collector roads having various ranges of ADT have been modified based on NCHRP Report 362, ''Roadway Width for Low Traffic Volume Roads.'' In particular, 2.7-m lane widths are now permitted for highways with ADT's of 250 or less and design speeds of 60 km/h or less.

3. Traveled ways of a minimum width of 6.6 m are permitted to remain on reconstructed highways with any ADT provided the alinement is adequate and the safety records are satisfactory.

4. More information on design to accommodate bicycles is included.

Chapter VII—Rural and Urban Arterials

The basis for design of the principal and minor arterial road systems in rural and urban areas is presented in this chapter.

The only significant change between the old and new Policy was to modify the table providing minimum widths of traveled way and shoulder based on information in NCHRP Report 362. Traffic volume criteria in the table is only in terms of ADT (either current or projected). The width of traveled way for ADT's of 400 to 2000 and design speeds of under 100 km/h have been reduced slightly.

Chapter VIII—Freeways

The various types of freeways, their design elements, controls, criteria and cross-sectional elements are covered in this chapter. The only significant change to this chapter was to eliminate specific right-of-way widths for the freeway cross sections. It is not considered necessary to specify a total right-of-way width since this is the sum of the individual cross-sectional elements.

Chapter IX—At-Grade Intersections

The basic types of intersections and the elements involved in their designs, primarily those concerning the accommodation of turning movements, are described in this chapter. The following are the major changes in the chapter:

1. Information on design to accommodate bicycles has been added.

2. A discussion concerning the provision of free-flow right turns, where speed change lanes are not provided and where pedestrians and bicyclists are a consideration, has been added.

3. Another case dealing with stopped vehicles turning left from a major highway has been added to the discussion on intersection control.

4. The section on sight distance at ramp terminals was eliminated because sight distance at these locations is calculated in the same manner as at any other intersection.

5. The section on railroad grade crossings was revised to add information on highway intersections adjacent to railroad grade crossings.

Chapter X—Grade Separations and Interchanges

The basic types of interchanges and grade separations, along with the design of their features, are discussed in this chapter. The following are the significant changes in this chapter:

1. Information on single point diamond interchanges was added.

2. Information on the accommodation of pedestrians at interchanges was added.

3. A discussion on ramp metering was added.

4. Most of the information on models was eliminated because models and model types are illustrative only and not directly related to design criteria.

Discussion of Comments

Interested persons were invited to participate in the development of this final rule by submitting written comments on the IFR to FHWA Docket No. 95–12 on, or before, June 21, 1996. There were 8 commenters to this docket; 7 were State transportation agencies and 1 was a safety interest group. The major comments relative to the subject of the final rule are discussed below.

One commenter noted that a previous rulemaking, the IFR for the publication, ''Interim Selected Metric Values for Geometric Design'' (Interim Metric Values), published in the **Federal Register** on December 10, 1993, at 58 FR 64895 (FHWA Docket No. 93–14), was not finalized. Also, the commenter objected to the metric values used in both the above document and in the AASHTO 1994 Policy. The Interim Metric Values, as explained earlier, was developed so that States would have immediate guidance for developing metric values. This was not finalized because development of the 1994 version of the AASHTO Policy was underway and would supersede the Interim Metric Values. Comments received on the Interim Metric Values, however, were considered during development of the AASHTO 1994 Policy and the IFR for 23 CFR part 625.

The metric values for geometric design were developed by AASHTO between 1992 and 1994. Exact conversion from English values in the AASHTO 1990 Policy would have resulted in awkward, hard-to-use metric values. The decision was made and voted on by AASHTO members to slightly alter the metric values for usability. In some cases (for example, lane width and shoulder width), this resulted in slightly lesser values. On the other hand, other cases (for example, vertical clearance and some curve radii), resulted in slightly greater values when compared to the previous English values. The new metric values represent the collective judgement of highway design professionals. The FHWA has determined that the metric values come as close as possible to retaining the English values already adopted pursuant to notice and comment. That rulemaking appeared in the **Federal Register** on April 29, 1993, at 58 FR 25939, wherein FHWA adopted AASHTO's 1990 Policy containing English values.

One commenter suggested that it was not appropriate to move former section 625.5, of 23 CFR part 625, entitled ''Guides and References,'' into the Federal-aid Policy Guide (FAPG). The FHWA is subject to a continuing mandate to remove all non-regulatory material from the Code of Federal Regulations and this section has been identified as guidelines rather than regulations. The FAPG is available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

One commenter recommended that the resurfacing, restoration, and rehabilitation (RRR) standards be applied on freeway facilities. Current legislation does not permit use of the RRR standards on the Interstate system nor does Congress intend for them to be used on non-Interstate freeways. Highways classified as freeways generally carry the highest speed traffic with a safety record which is usually better than any other type facility. Application of other than new or reconstruction standards on these facilities might compromise their safety and is not considered appropriate. There is some recognition of the issues related to the RRR as stated in ''A Policy on Design Standards—Interstate System.'' The standards used for horizontal alignment, vertical alignment, and widths of median, traveled way, and shoulder for Interstate resurfacing, restoration and rehabilitation projects may be the AASHTO Interstate standards that were in effect at the time of original construction or inclusion into the Interstate system.

One commenter was confused about approval authority for the RRR standards. The approval authority is

delegated by the Secretary to the FHWA and remains unchanged.

One commenter was concerned about incorporation of the NHS Act into the regulation at 23 CFR part 625. Certain language from the NHS Act was included in the IFR to ensure that factors such as the ''constructed'' and ''natural'' environment, the environmental, scenic, aesthetic, historic, community, and preservation impacts, and access to other modes of transportation were considered as soon as possible. The effort to develop additional guidance for consideration of these community and environmental factors is a separate endeavor which is underway. The FHWA sponsored a consultant contract for development of guidance factors. The results of that contract, which was recently completed, will be distributed to the highway community as well as to a broad spectrum of environmental, scenic, historic, and community interest groups. The AASHTO has established a joint task force to consider the results of the contract for official adoption and to promote incorporation of sensitive community and environmental issues into design of transportation facilities. The FHWA and the AASHTO, along with other partners, will begin the development of a training course to further emphasize this subject.

Rulemaking Analysis and Notices

Section 553(b)(3)(B), title 5, U.S.C., of the Administrative Procedure Act provides that agencies may dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest. The FHWA determined previously that publication of a proposed rulemaking would be contrary to the public interest, and that prior notice and opportunity for comment is unnecessary under 553(b)(3)(B).

One commenter opposed the FHWA's adoption of the new geometric design values without prior notice and opportunity for comment. According to the commenter, the AASHTO 1994 Policy metric values decrease lane and shoulder widths to levels far below the prevailing English unit values of the AASHTO 1990 Policy. Because the decrease in lane and shoulder widths result in both capacity and safety hazards, the commenter strongly disagrees with the new metric values that the FHWA adopts here as new cross section design standards. Prior notice and opportunity for comment, the commenter argues, will allow the FHWA to demonstrate the extent of the effects of narrower lanes and shoulders on both safety and capacity.

Going straight to a final rule is in the public interest because the amendments to 23 CFR part 625 made by this document will allow the FHWA to emulate its Metric Conversion Policy to authorize new Federal-aid construction contracts solely in metric units by September 30, 1996. Although this date will need to be changed to comply with the recently enacted NHS Act, almost all of the States continued their conversion to metric to meet the previously established deadline and are either awarding contracts in metric or plan to do so in the near future. The Metric Conversion Policy was developed as required by section 3 of the Metric Conversion Act of 1975, Pub. L. 94–168, 89 Stat. 1007 (Metric Act), as amended, which mandates that all Federal Government agencies begin using the International System of Units in procurements, grants, and other business-related activities. As we stated in the IFR, planning for Federal-aid construction projects is already well underway, and States and other FHWA partners need to know now (not four years from now), that the metric conversions used to formulate their plans will match the FHWA's conversions. Thus, the FHWA believes that implementation of the AASHTO's new 1994 policy, which uses only metric values, should be accomplished as soon as possible. The FHWA's adoption of the metric values in the new 1994 Policy provides necessary certainty and continuity for States and other FHWA partners, including highway construction contractors and consultants.

As stated previously in the IFR, the FHWA determined that prior notice and opportunity for comment are unnecessary. This is because the text changes in 23 CFR part 625 reflect only the establishment of the NHS. Any significant revisions are incorporated due to the FHWA's adoption of the AASHTO 1994 Policy and the metric values contained therein. The new 1994 Policy has replaced the previous version, which was published by the AASHTO in 1990 and adopted by the FHWA pursuant to notice and comment. [58 FR 25939 (April 29, 1993)]. The 1994 Policy also takes the place of the publication, ''Interim Selected Metric Values for Geometric Design,'' AASHTO 1993, which was adopted by the FHWA in a rule published in the **Federal Register** on December 10, 1993 (58 FR 64895). All other changes to the AASHTO 1990 Policy that have been incorporated into the 1994 Policy, for the most part, merely clarify the meaning of certain terminology, incorporate the latest geometric design information, or correct some minor errors in the 1990 Policy.

Contrary to the commenters assertion, the FHWA has determined that the AASHTO 1994 Policy metric values are essentially the same as the English measurements already adopted by the FHWA pursuant to the notice and comment rulemaking published in the **Federal Register** on April 29, 1993, wherein the FHWA adopted the AASHTO 1990 Policy.

The new AASHTO 1994 Policy cross-section values do not drastically reduce the prevailing values contained in the AASHTO 1990 Policy. As mentioned in the section ''Discussion of Comments,'' exact conversion from English values in the 1990 Policy would have resulted in awkward, hard-to-use metric values. Therefore, the decision was made, and voted on by AASHTO members, to slightly alter the metric values for usability. The commenter also contends that a reduction of cross-section values may result in both capacity and safety hazards. As cited previously in the section ''Summary of Changes,'' the minor modifications for minimum widths of traveled way and shoulder were all based on recent research studies. The research included extensive data collection and analyses to assess safety, operational, and economic impacts.

The FHWA solicited public comment on this action and eight comments were received in response to the IFR. All of the comments received have been considered in evaluating whether any change to this action is needed. The FHWA determines that no significant change is required.

Because this final rule allows the FHWA to use the metric system of measurements in its procurements, grants, and other business-related activities consistent with the requirements of the Metric Conversion Act, the FHWA believes that good cause exists to publish this rule.

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 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. The metric values selected in the new AASHTO 1994 Policy are functionally equivalent to the English system measurements contained in the old AASHTO 1990 Policy previously adopted by notice and comment

rulemaking. Although the new AASHTO 1994 Policy contains new material, the basic criteria remain essentially the same. In all practicality, the new AASHTO 1994 Policy reflects the criteria, for the most part, which have been in use in designing Federal-aid highways. It is anticipated that the economic impact of the rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, Pub. L. 96–345, 5 U.S.C. 601–612, the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the FHWA made this determination based on the fact that metric values in the new AASHTO 1994 Policy are functionally equivalent to the English system values they replace. Moreover, the new material contained in the new AASHTO 1994 Policy reflects criteria which, for the most part, is presently in use.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

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.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

National Environmental Policy Act

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

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, Reporting and recordkeeping requirements.

Issued: March 25, 1997.

Jane Garvey,

Acting Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA is amending Chapter I of title 23, Code of Federal Regulations, by revising part 625 as set forth below:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Sec.
625.1 Purpose.
625.2 Policy.
625.3 Application.
625.4 Standards, policies, and standard specifications.

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).

§ 625.1 Purpose.

To designate those standards, policies, and standard specifications that are acceptable to the Federal Highway Administration (FHWA) for application in the geometric and structural design of highways.

§ 625.2 Policy.

(a) Plans and specifications for proposed National Highway System (NHS) projects shall provide for a facility that will—

(1) Adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) Be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (a)(1) of this section and to conform to the particular needs of each locality.

(b) Resurfacing, restoration, and rehabilitation (RRR) projects, other than those on the Interstate system and other freeways, shall be constructed in accordance with standards which preserve and extend the service life of highways and enhance highway safety. Resurfacing, restoration, and rehabilitation work includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders, bridges, the roadside, and appurtenances to a condition of structural or functional adequacy.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways.

§ 625.3 Application.

(a) *Applicable Standards.* (1) Design and construction standards for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the NHS (other than a highway also on the Interstate System or other freeway) shall be those approved by the Secretary in cooperation with the State highway departments. These standards may take into account, in addition to the criteria described in § 625.2(a), the following:

(i) The constructed and natural environment of the area;

(ii) The environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

(iii) Access for other modes of transportation.

(2) Federal-aid projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(b) The standards, policies, and standard specifications cited in § 625.4 of this part contain specific criteria and controls for the design of NHS projects. Deviations from specific minimum values therein are to be handled in accordance with procedures in paragraph (f) of this section. If there is a conflict between criteria in the documents enumerated in § 625.4 of this part, the latest listed standard, policy, or standard specification will govern.

(c) Application of FHWA regulations, although cited in § 625.4 of this part as standards, policies, and standard specifications, shall be as set forth therein.

(d) This regulation establishes Federal standards for work on the NHS regardless of funding source.

(e) The Division Administrator shall determine the applicability of the roadway geometric design standards to traffic engineering, safety, and

preventive maintenance projects which include very minor or no roadway work. Formal findings of applicability are expected only as needed to resolve controversies.

(f) *Exceptions.* (1) Approval within the delegated authority provided by FHWA Order M1100.1A may be given on a project basis to designs which do not conform to the minimum criteria as set forth in the standards, policies, and standard specifications for:

(i) Experimental features on projects; and

(ii) Projects where conditions warrant that exceptions be made.

(2) The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with adjacent sections of roadway and the probable time before reconstruction of the section due to increased traffic demands or changed conditions.

§ 625.4 Standards, policies, and standard specifications.

The documents listed in this section are incorporated by reference with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and are on file at the Office of the Federal Register in Washington, DC. They are available as noted in paragraph (d) of this section. The other CFR references listed in this section are included for cross-reference purposes only.

(a) *Roadway and appurtenances.* (1) A Policy on Geometric Design of Highways and Streets, AASHTO 1994. [See § 625.4(d)(1)]

(2) A Policy on Design Standards—Interstate System, AASHTO 1991. [See § 625.4(d)(1)]

(3) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on NHS highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on NHS highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects.

(4) Erosion and Sediment Control on Highway Construction Projects, refer to 23 CFR part 650, subpart B.

(5) Location and Hydraulic Design of Encroachments on Flood Plains, refer to 23 CFR part 650, subpart A.

(6) Procedures for Abatement of Highway Traffic Noise and Construction Noise, refer to 23 CFR part 772.

(7) Accommodation of Utilities, refer to 23 CFR part 645, subpart B.

(8) Pavement Design, refer to 23 CFR part 626.

(b) *Bridges and structures.* (1) Standard Specifications for Highway Bridges, Fifteenth Edition, AASHTO 1992. [See § 625.4(d)(1)]

(2) Interim Specifications—Bridges, AASHTO 1993. [See § 625.4(d)(1)]

(3) Interim Specifications—Bridges, AASHTO 1994. [See § 625.4(d)(1)]

(4) Interim Specifications—Bridges, AASHTO 1995. [See § 625.4(d)(1)]

(5) AASHTO LRFD Bridge Design Specifications, First Edition, AASHTO 1994 (U.S. Units). [See § 625.4(d)(1)]

(6) AASHTO LRFD Bridge Design Specifications, First Edition, AASHTO 1994 (SI Units). [See § 625.4(d)(1)]

(7) Standard Specifications for Movable Highway Bridges, AASHTO 1988. [See § 625.4(d)(1)]

(8) Bridge Welding Code, ANSI/AASHTO/AWS D1.5–95, AASHTO. [See § 625.4(d) (1) and (2)]

(9) Structural Welding Code—Reinforcing Steel, ANSI/AWS D1.4–92, 1992. [See § 625.4(d)(2)]

(10) Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, AASHTO 1994. [See § 625.4(d)(1)]

(11) Navigational Clearances for Bridges, refer to 23 CFR part 650, subpart H.

(c) *Materials.* (1) General Materials Requirements, refer to 23 CFR part 635, subpart D.

(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, parts I and II, AASHTO 1995. [See § 625.4(d)(1)]

(3) Sampling and Testing of Materials and Construction, refer to 23 CFR part 637, subpart B.

(d) Availability of documents incorporated by reference. The documents listed in § 625.4 are incorporated by reference and are on file and available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These documents may also be reviewed at the Department of Transportation Library, 400 Seventh Street, SW., Washington, DC, in Room 2200. These documents are also available for inspection and copying as provided in 49 CFR part 7, appendix D. Copies of these documents may be obtained from the following organizations:

(1) American Association of State Highway and Transportation Officials (AASHTO), Suite 249, 444 North Capitol Street, NW., Washington, DC 20001.

(2) American Welding Society (AWS), 2501 Northwest Seventh Street, Miami, FL 33125.

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Coast Guard

33 CFR Part 165

[CGD08–97–008]

RIN 2115–AE84

Amendment to Regulated Navigation Area Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: On March 18, 1997, the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 347 at Vicksburg, MS to mile 88 above Head of Passes. This amendment extends the southern limit of the regulated navigation area to the boundary of the territorial sea at the approaches to South West Pass and includes regulations affecting the operation of self-propelled vessels of 1600 gross tons or greater. The regulated navigation area is needed to protect vessels, bridges, shore-side facilities and the public from a safety hazard created by high water and resulting flooding along the Lower Mississippi River. Downbound barge traffic and the transitting of self-propelled vessels of 1600 or more gross tons are prohibited unless they are in compliance with this regulation.

DATES: This amended regulation is effective from 10:00 a.m. on March 21, 1997 and terminates at 12 p.m. on April 5, 1997.

FOR FURTHER INFORMATION CONTACT: CDR Harvey R. Dexter, Marine Safety Division, USCG Eighth District at New Orleans, LA (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The velocity of river currents on the Lower Mississippi River are approaching an all time high. Several recent vessel allisions with bridges and barge breakaways have been caused by strong currents and eddies resulting from flood conditions on the Lower Mississippi River. Consequently, the