

for certain other new consumer products and commercial equipment.

In particular, section 136(c) of EPCACT 2005 amends section 342 of EPCA by adding new subsection 342(c)(4)(A), 42 U.S.C. 6313(c)(4)(A), which directs the Secretary to issue by rule, no later than January 1, 2009, energy conservation standards for the following equipment manufactured on or after January 1, 2012: ice-cream freezers; self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors; and remote-condensing commercial refrigerators, freezers, and refrigerator-freezers. These are the types of equipment covered under today's notice. In addition, section 136(f) of EPCACT 2005 directs the Secretary to issue test procedures and appropriate rating temperatures for the above commercial refrigeration equipment. (42 U.S.C. 6314(a)(6)(A)–(D)) The Department intends to propose such rating temperatures and test procedures under a separate rulemaking.

To begin this rulemaking, the Department prepared a Framework Document to explain the issues, analyses, and process it is considering for the development of energy conservation standards for the above commercial refrigeration equipment. The main focus of the public meeting will be to discuss the analyses and issues contained in various sections of the Framework Document. For each item listed, the Department will make a presentation with discussion to follow. In addition, the Department will also make a brief presentation on the rulemaking process for commercial refrigeration equipment. The Department encourages those who wish to participate in the public meeting to obtain the Framework Document and be prepared to discuss its contents. A copy of the draft Framework Document is available at [http://www.eere.energy.gov/buildings/appliance\\_standards](http://www.eere.energy.gov/buildings/appliance_standards). However, public meeting participants need not limit their discussion to the topics in the Framework Document. The Department is also interested in receiving comments concerning other relevant issues that participants believe would affect energy conservation standards for commercial refrigeration equipment. The Department also welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by Tuesday, May 30, 2006, comments and information on the matters addressed in the Framework Document and on other matters relevant to consideration of standards for commercial refrigeration equipment.

The public meeting will be conducted in an informal, conference style. During the public meeting, there shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by the U.S. antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, the Department will begin collecting data, conducting the analyses as discussed in the Framework Document and reviewing the comments received.

Anyone who would like to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information regarding commercial refrigeration equipment, should contact Ms. Brenda Edwards-Jones at (202) 586-2945.

Issued in Washington, DC, on April 19, 2006.

**Douglas L. Faulkner,**

*Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E6-6206 Filed 4-24-06; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 655

[FHWA Docket No. FHWA-2005-23182]

RIN 2125-AF16

#### Traffic Control Devices on Federal-Aid and Other Streets and Highways; Standards

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

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

**SUMMARY:** The FHWA proposes to revise its regulation that prescribes procedures for obtaining basic uniformity of traffic control devices on Federal-aid and other streets and highways. This notice of proposed rulemaking makes some nomenclature changes, provides clarification on the meaning of "substantial conformance" and "roads open to public travel," and removes certain outdated references.

**DATES:** Comments must be received on or before June 26, 2006. Late-filed comments will be considered to the extent practicable.

**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> or fax comments to (202) 493-2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination 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 print the acknowledgement page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Brown, Office of Transportation Operations, (202) 366-2192; or Mr. Raymond W. Cuprill, Office of the Chief Counsel, (202) 366-0791, U.S. Department of Transportation, 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:

##### Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. Alternatively, internet users may access all comments received by the DOT Docket Facility 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. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: <http://www.archives.gov> or the Government Printing Office's Web page at: <http://www.gpoaccess.gov/nara>.

##### Background

The Manual on Uniform Traffic Control Devices (MUTCD), also referred to as the Manual, is developed and approved by the Federal Highway Administration and recognized as the national standard for all traffic control

devices installed on any street, highway, or shared-use path open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). It is incorporated by reference into the Code of Federal Regulations at 23 CFR part 655. The FHWA is issuing this notice to provide an opportunity for public comment on the following proposed changes to 23 CFR part 655:

1. The Standard Alphabets for Highway Signs (SAHS), 1966 Edition, is incorporated by reference in 23 CFR 655.601(b). The SAHS no longer exists as a separate document, and the FHWA now publishes the Standard Highway Signs (SHS) book, which is referenced in the MUTCD. The FHWA therefore proposes to remove the reference to the SAHS.

2. In 23 CFR 655.603(a), the FHWA proposes to add language to clarify the meaning of the MUTCD as the national standard for all traffic control devices installed on facilities "open to public travel."

3. Section 23 CFR 655.603(b) provides that where State or other Federal agency MUTCDs or supplements are required, they shall be in "substantial conformance" with the National MUTCD. The FHWA proposes to clarify the term "substantial conformance."

4. Section 23 CFR 655.603(b) provides that States must adopt any changes to the National MUTCD within two years of issuance. The FHWA proposes to change the required adoption date to be two years from the effective date instead of two years from the issuance date. The FHWA recognizes that some State laws automatically adopt the new MUTCD editions and revisions immediately upon FHWA's final rule. The FHWA proposes to give consideration to those States that automatically adopt the new MUTCD but may have existing stock of devices that are no longer compliant with the new changes.

The FHWA also proposes to reorganize the discussion in section 655.603 regarding the effective date of the MUTCD and make it a separate paragraph (b)(3).

5. The FHWA proposes to relocate the information in 23 CFR 655.603(d)(4). Since it applies to target dates for achieving traffic control device compliance on existing highways, the FHWA proposes to make this discussion a part of 23 CFR 655.603(d)(1).

6. The FHWA proposes to delete 23 CFR 655.603(e). This section was originally included in title 23, CFR, when the Specific Service Signing Program was first adopted in accordance with provisions in the 34 FR 1016, January 23, 1969. Text was included in title 23, CFR, in order to inform readers where to find information about

Specific Information Signs since at that time the program was relatively new. Since the public is very familiar with this program, the FHWA believes that this information is no longer necessary or appropriate for inclusion in this title.

7. Due to the reorganization of the FHWA and the deletion of the National Highway Safety Program Standard Number 13 (23 CFR 1204.4) by the National Highway Traffic Safety Administration (NHTSA), the FHWA proposes to update 23 CFR 655.604 to remove the reference to this document.

Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice at any time after the close of the comment period.

## Discussion of Proposed Amendments

### Section 655.601 Purpose

This section discusses publications that are incorporated by reference and on file at the National Archives and Records Administration (NARA). The Standard Alphabets for Highway Signs (SAHS), 1966 Edition, is one of the publications incorporated by reference. The 1966 SAHS is outdated and no longer exists as a separate document. Unlike in the previous editions of the MUTCD, the FHWA decided with the 2003 Edition of the MUTCD to include illustrations of every approved sign and to provide detailed information in the Manual for the design of each sign. Sign size tables are now included so that readers can easily determine appropriate size signs based on the roadway classification. In addition, the FHWA now publishes the Standard Highway Signs (SHS) Book and it includes the updated standard alphabets for highway signs and for pavement markings. The SHS Book is posted on the MUTCD Web site at <http://mutcd.fhwa.dot.gov>. Every sign in the MUTCD goes through the rulemaking process before it can be adopted in the MUTCD. Subsequent to the effective date of this rulemaking and parallel with future MUTCD revisions, the SHS illustrations of sign design and manufacturing details for any proposed new signs will be posted on the MUTCD Web site for review. The FHWA believes that this new process is a more efficient method for our users. Therefore, the FHWA proposes to delete the reference in 23 CFR 655.601(b) to the obsolete 1966 Edition of the Standard Alphabets for Highway Signs. Instead, the SHS Book is referenced in the MUTCD Section 1A.11 along with other documents related to the Manual. Reference to the SHS Book is also

included throughout MUTCD Part 2A. Paragraph (b) would be removed.

### Section 655.603 Standards

Paragraph (a) states, in part, that "The MUTCD approved by the Federal Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a)." The FHWA has interpreted the phrase "open to public travel" to include toll roads and roads within shopping centers, airports, sports arenas, and other similar business and recreation facilities that are privately owned, but where the public is invited to travel without access restrictions. To clarify the application of the MUTCD to roads on private property, the FHWA proposes to revise paragraph (a) to include examples of what is meant by roads "open to public travel." The Uniform Vehicle Code (UVC) is a compendium of national, model legislation for the purpose of developing uniform traffic laws and regulations.<sup>1</sup> The current MUTCD encourages States to adopt a legislative code similar to section 15–116 of the UVC, which indicates that traffic control devices intended to regulate, warn, or guide traffic shall not be installed on private roads open to public travel unless the devices conform to the State Manual and the MUTCD. At present, there are only 17 States with such laws. The FHWA believes that the proposed rewording of this section will increase uniformity and achieve the goal of the UVC.

Paragraph (b)(1) provides that where State MUTCDs are required, they shall be in substantial conformance with the National MUTCD as approved by the FHWA Division Administrator. Currently, this regulation does not provide a definition for the term "substantial conformance" and the FHWA proposes to modify paragraph (b)(1) to clarify the meaning of this term.

The term "substantial conformance" does not mean that the State MUTCD or supplement must fully conform or be identical to every statement in the National MUTCD. It would be unreasonable to require all State Manuals or supplements to conform to every statement in the National MUTCD because the National MUTCD is composed not only of standard and

<sup>1</sup> The Uniform Vehicle Code is published by the National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)(a private, non-profit membership organization dedicated to providing uniformity of traffic laws and regulations), 107 S. West Street, No. 110, Alexandria, VA 22314, telephone 800-807-5290 or FAX 540-465-5383.

guidance statements, but also option and support statements. Substantial conformance in this context means that the State MUTCD or supplement shall conform as a minimum to the standard statements included in the National MUTCD.

Standard statements in the MUTCD describe required practices and are indicated by the term "shall." Guidance statements describe recommended practices and are indicated by the term "should." The guidance statements contained in the National MUTCD are also expected to be in the State Manual or supplement. If a guidance statement is not included, then the reason for not including it must be satisfactorily explained based on a documented engineering study or engineering judgment. The Division Administrator and the FHWA Associate Administrator of the Federal Lands Highway Program have the flexibility to determine on a case-by-case basis the degree of variation allowed.

The State Manuals or supplements cannot be less prescriptive than the National MUTCD but they can be more prescriptive. For example, a guidance or "should" statement in the National MUTCD cannot be an option or "may" statement in the State Manual; however, a guidance or "should" statement in the National MUTCD can be a standard or "shall" statement in the State Manual. The FHWA proposes to revise paragraph (b)(1) to include this clarification of the term "substantial conformance."

In current paragraph (b)(1), States or other Federal agencies shall adopt the National MUTCD within two years of issuance of any changes. The issuance date is the date that the Federal Highway Administrator signs any **Federal Register** notice. The FHWA proposes to move this discussion to new paragraph (b)(3) and change the reference to read as two years from the effective date. The effective date occurs 30 days after the final rule is published in the **Federal Register** in order to allow parties affected by the rule a reasonable time to prepare for the effective date of a rule, or to take any other action which the issuance of the rule may prompt. For this reason, we are proposing to change the nomenclature from "issuance date" to "effective date."

The FHWA also proposes to revise the second sentence in paragraph (b)(1) by expanding it to address States that automatically adopt the MUTCD immediately upon the effective date. This new discussion is proposed for inclusion in the new paragraph (b)(3). The FHWA recognizes that some State laws automatically adopt the latest edition of the MUTCD and revisions

immediately upon the effective date of a final rule. These States cannot plan in advance to restock their inventory of certain traffic control devices because they cannot be sure what will be in the final rule until it is actually published. Further, manufacturers are unlikely to start producing the new traffic control devices until the final rule is published. Consequently when the final rule is published, States typically have warehouses stocked with some traffic control devices that, although compliant with the previous edition of the MUTCD, are technically not compliant with the new edition of the MUTCD and, thus, cannot be used on existing highways because the new MUTCD is immediately effective. Similar situations occur when construction projects are nearing completion and are ready to open to traffic. When the new MUTCD is automatically adopted, the highway project may have noncompliant traffic control devices because the construction plans were done prior to the effective date of the new MUTCD.

In general, States have up to two years to adopt the provisions contained in new editions or revisions to the MUTCD. The FHWA believes that States that automatically adopt the MUTCD should be given the same amount of time to revise their traffic control plans and to re-stock their warehouse supplies in order to comply with the new provisions of a new MUTCD edition or revision. In an effort to give consideration to those States that automatically adopt the new MUTCD, the FHWA proposes to include language in the new paragraph (b)(3) that will provide the Division Administrators with flexibility to allow such States the same two-year period as the adoption period in which they may use their existing stocks of certain noncompliant traffic control devices and complete construction projects with previously approved plans that have certain noncompliant traffic control devices under the new MUTCD.

The FHWA proposes minor corrections to 23 CFR 655.603(b)(2). Paragraph (b)(1) includes a discussion that the FHWA Division Administrators shall approve the State MUTCDs and supplements. The first sentence in paragraph (b)(2) includes a similar discussion that gives the FHWA Associate Administrator of the Federal Lands Highway Program approval authority for Federal land management agencies' MUTCDs. Since these two discussions are related, the FHWA proposes to combine them together under paragraph (b)(1).

The second sentence in paragraph (b)(2) discusses a different subject

matter from the discussion about who has the authority to approve State MUTCDs or supplements. The second sentence encourages States and other Federal agencies to adopt the National MUTCD as their official Manual on Uniform Traffic Control Devices. The FHWA proposes to revise this sentence and designate it as a new paragraph (b)(2).

Paragraph (c) currently references the FHWA Color Tolerance Charts and directs the reader to footnote 2 for information on where these charts are available. In section 655.603 there is only one footnote. Therefore, the FHWA proposes to correct the footnote number in paragraph (c) to read as "1" and thereby correct the footnote itself.

Paragraph (d)(1) requires States and Federal agencies to upgrade substandard traffic control devices and install needed devices on existing highways to achieve compliance with the MUTCD. Paragraph (d)(4) discusses FHWA's option to establish target dates for achieving compliance with changes to specific devices in the MUTCD. The FHWA proposes to move this discussion to paragraph (d)(1) since it more appropriately belongs in the section that addresses existing highways. Therefore, paragraph (d)(4) will be removed.

The FHWA proposes to remove paragraph (e). This paragraph was originally included when the Specific Service Signing Program was first adopted on January 23, 1969. It was included to inform readers where to find information about the new program. Paragraph (e) directed interested persons to the information contained in the MUTCD. Since the public is now very familiar with this program, the FHWA believes that this information is no longer necessary or appropriate for inclusion in title 23, CFR.

#### *Section 655.604 Achieving Basic Uniformity*

Paragraphs (a) and (b) indicate that the systematic upgrading of existing traffic control devices and installation of devices should be based on inventories made in accordance with 23 CFR 1204.4. That section refers to a program required by the former Highway Safety Program Standard Number 13, Traffic Engineering Services (23 CFR 1204.4), a NHTSA regulation that no longer exists. Section 655.604 would be amended to remove the reference to 23 CFR 1204.4.

The Highway Safety Act of 1966 (Pub. L. 89-564, 80 Stat. 731), amended title 23, United States Code, to add Chapter 4, "Highway Safety." Section 402(a) of title 23, United States Code (the Highway Safety Program) required that

States have a highway safety program designed to reduce traffic accidents, deaths, injuries, and property damage. These programs were to be in accordance with uniform standards promulgated by the Secretary of Transportation. The NHTSA was the agency within the DOT responsible for promulgating these uniform standards. Originally promulgated in November 1966, these uniform standards were codified in 23 CFR 1204.4. There were 18 standards in all.

Standard number 13 of the uniform standards, "Traffic Control Devices" required, among other things, that each State's highway safety program have, at a minimum: A method to identify needs and deficiencies of traffic control devices; a method to upgrade all existing traffic control devices on all streets and highways to conform with standards issued by the Federal Highway Administrator; and a program for preventive maintenance, repair, and daytime and nighttime inspection of all traffic control devices.<sup>2</sup>

Until the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17, April 2, 1987), it was mandated that the States comply with these 18 standards as there were financial sanctions imposed for non-compliance. In 1987, the Congress revised 23 U.S.C. 402(a) to replace the word "standards" with the word "guidance." This change, combined with the changes made to the Highway Safety Program under the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240, December 18, 1991) led to the revision of the uniform standards by NHTSA. In 1995, NHTSA revised the standards to make them guidelines and removed them from the Code of Federal Regulations.<sup>3</sup> The guidelines, now 21 in all, are published in separate documents made available to the States (see [http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/gratMan/HTML/05h\\_ProgGuidelines.html](http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/gratMan/HTML/05h_ProgGuidelines.html)).

Guideline 21, entitled "Roadway Safety," captures the requirements regarding traffic control devices of former standard number 13 but characterizes them as guidelines. Guideline 21 was published as a notice in the **Federal Register** on July 18, 1995 (60 FR 36641, 36665).

Paragraphs (a) and (b) indicate that the systematic upgrading of existing traffic control devices and installation of

devices should be based on inventories made in accordance with 23 CFR 1204.4. Since 23 CFR 1204 has been removed from the Code of Federal Regulations, we propose to revise the reference to read as Highway Safety Program Guideline 21, "Roadway Safety."

#### Rulemaking Analysis 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, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

#### Executive Order 12866 (Regulatory Planning and Review) and U.S. 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 significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. These proposed changes are not anticipated to adversely affect, in any material way, any sector of the economy. The FHWA expects that these proposed changes will provide clarity at little or no additional expense to public agencies or the motoring public. In addition, these proposed changes would not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Therefore, 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 these proposed changes on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. This action proposes to update the authorities of the FHWA and referenced documents regarding MUTCD compliance on existing highways. Such updates will provide transportation entities with the appropriate points of

contact regarding the MUTCD. The FHWA hereby certifies that these proposed revisions would not have a significant economic impact on a substantial number of small entities.

#### Unfunded Mandates Reform Act of 1995

This notice of proposed rulemaking would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48, March 22, 1995). This proposed action will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$120.7 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 of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

#### Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and the FHWA has preliminarily determined that this proposed action would not warrant the preparation of a Federalism assessment. The FHWA has also determined that this proposed rulemaking will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

#### Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that it 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 law. Therefore, a tribal summary impact statement is not required.

#### Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

<sup>2</sup> See 33 FR 16560, 16564; November 14, 1966. Originally codified in 23 CFR 204, however, it was redesignated as 23 CFR 1204 in 1973 at 38 FR 10810; May 2, 1973.

<sup>3</sup> See 60 FR 36641, July 18, 1995.

### 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

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), 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 proposed action does not contain collection information requirements for purposes of the PRA.

### Executive Order 12988 (Civil Justice Reform)

This proposed 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 proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not concern an environmental risk to health or safety that may disproportionately affect children.

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

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, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 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. 4321–4347) and has determined that it 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 655

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

Issued on: April 19, 2006.

### Frederick G. Wright,

*Federal Highway Executive Director.*

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 655, subpart F as follows:

### PART 655—TRAFFIC OPERATIONS

1. The authority citation for part 655 continues to read as follows:

**Authority:** 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

#### § 655.601 [Amended]

2. Amend § 655.601 by removing paragraph (b) and by redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

3. Amend § 655.603 by revising paragraphs (a) and (b); paragraph (c), by removing footnote number and footnote reference “2” and adding in their place, footnote number and footnote reference “1”; by revising paragraph (d)(1); and by removing paragraphs (d)(4) and (e) to read as follows:

#### § 655.603 Standards.

(a) *National MUTCD.* The MUTCD approved by the Federal Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). Open to public travel includes private property where the public is invited to travel including toll facilities, shopping centers, airports, sports arenas, and other similar business and/or recreation facilities. Private highway-rail grade crossings are not included in this definition.

(b) *State or other Federal MUTCD.* (1) Where State or other Federal agency MUTCDs or supplements are required, they shall be in substantial conformance with the National MUTCD. Substantial conformance means that the State MUTCD or supplement shall conform as a minimum to the standard statements included in the National MUTCD. The guidance statements contained in the

National MUTCD shall also be in the State Manual or supplement unless documentation is provided to satisfactorily explain by engineering judgment or engineering study the reason a certain guidance statement is not included. A State Manual or supplement cannot be less prescriptive than the MUTCD but it can be more prescriptive. The FHWA Division Administrators shall approve the State MUTCDs and supplements that are in substantial conformance with the National MUTCD. The FHWA Associate Administrator of the Federal Lands Highway Program shall approve other Federal land management agencies MUTCDs that are in substantial conformance with the National MUTCD. The FHWA Division Administrators and the FHWA Associate Administrators for the Federal Lands Highway Program have the flexibility to determine on a case-by-case basis the degree of variation allowed.

(2) States and other Federal agencies are encouraged to adopt the National MUTCD in its entirety as their official Manual on Uniform Traffic Control Devices.

(3) States and other Federal agencies shall adopt changes issued by the FHWA to the National MUTCD within two years from the effective date of the final rule. For those States that automatically adopt the MUTCD immediately upon the effective date of the latest edition or revision of the MUTCD, the FHWA Division Administrators have the flexibility to allow these States to install certain devices from existing inventory or previously approved construction plans that comply with the previous MUTCD during the two-year adoption period.

(d) *Compliance—(1) Existing highways.* Each State, in cooperation with its political subdivisions, and Federal agency shall have a program as required by 23 U.S.C. 402(a), which shall include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD. The FHWA may establish target dates of achieving compliance with changes to specific devices in the MUTCD.

4. Revise the first sentence of paragraph (a) and the first sentence of paragraph (b) of § 655.604 to read as follows:

#### § 655.604 Achieving basic uniformity.

(a) *Programs.* Programs for the orderly and systematic upgrading of existing

traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with the Highway Safety Program Guideline 21, "Roadway Safety." \* \* \*

(b) *Inventory.* An inventory of all traffic control devices is recommended in the Highway Safety Program Guideline 21, "Roadway Safety." \* \* \*

[FR Doc. E6-6219 Filed 4-24-06; 8:45 am]

BILLING CODE 4910-22-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-133036-05]

RIN 1545-BE85

#### Guidance Under Section 1502; Amendment of Tacking Rule Requirements of Life-Nonlife Consolidated Regulations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rule making by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the requirements for including insurance companies in a life-nonlife consolidated return. The text of those regulations also serves as the text of these proposed regulations. These regulations affect corporations filing life-nonlife consolidated returns.

**DATES:** Written or electronic comments and requests for a public hearing must be received by July 24, 2006.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-133036-05), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-133036-05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at <http://www.irs.gov/reg> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS-REG-133036-05).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Drafting Attorney, Ross Poulsen, (202) 622-7770; concerning submission of

comments and/or requests for a public hearing, Richard Hurst, [Richard.A.Hurst@irscounsel.treas.gov](mailto:Richard.A.Hurst@irscounsel.treas.gov), (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) under section 1502 relating to the life-nonlife consolidated return regulations. The temporary regulations contain an exception (the tacking rule) to the five-year affiliation rules of sections 1503(c)(2) and 1504(c)(2). The temporary regulations replace the tacking rule of § 1.1502-47(d)(12)(v) with a rule that does not contain a condition relating to the separation of profitable activities from loss activities. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect affiliated groups of corporations with one or more life insurance company members, which tend to be larger businesses. Moreover, the number of taxpayers affected is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public

hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

#### Drafting Information

The principal author of these regulations is Ross Poulsen, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*.

**Par. 2.** Section 1.1502-47 is amended by:

1. Adding paragraphs (b)(2)(i) and (b)(2)(ii).
2. Removing paragraph (d)(12)(v)(C).
3. Redesignating paragraph (d)(12)(v)(D) and (d)(12)(v)(E) as (d)(12)(v)(C) and (d)(12)(v)(D).
4. Revising paragraph (d)(12)(v), and newly-designated paragraphs (d)(12)(v)(C) and (d)(12)(v)(D).

The revisions and additions read as follows:

#### § 1.1502-47 Consolidated returns by life-nonlife groups.

[The text of this proposed section is the same as the text of § 1.1502-47T published elsewhere in this issue of the **Federal Register**]

**Par. 3.** Section 1.1502-76 is amended by:

1. Removing paragraph (a)(2).
2. Redesignating paragraph (a)(1) as paragraph (a).
3. Revising the paragraph heading for newly-designated paragraph (a).

The revision reads as follows:

#### § 1.1502-76 Taxable year of members of group.

[The text of this proposed section is the same as the text of § 1.1502-76T published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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