61771, October 2, 2002), and by adding a new airworthiness directive (AD), to read as follows:

Arrow Falcon Exporters, Inc. (previously Utah State University); California Department of Forestry; Firefly Aviation Helicopter Services (previously Erickson Air-Crane Co.); Garlick Helicopters, Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC (previously Western International Aviation, Inc.); International Helicopters, Inc.; Precision Helicopters, LLC; Robinson Air Crane, Inc.; San Joaquin Helicopters (previously Hawkins and Powers Aviation, Inc.); S.M.&T. Aircraft (previously US Helicopters, Inc., UNC Helicopter, Inc., Southern Aero Corporation, and Wilco Aviation); Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation International, Inc. (previously Jamie R. Hill and Southwest Florida Aviation); Tamarack Helicopters, Inc. (previously Ranger Helicopter Services, Inc.); US Helicopter, Inc. (previously UNC Helicopter, Inc.); West Coast Fabrication; and Williams Helicopter Corporation (previously Scott Paper Co.) Model AH–1G, AH–1S, HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters; and Southwest Florida Aviation Model UH–1B (SW204 and SW204HP) and UH–1H (SW205) Helicopters: Docket No. FAA–2010–0427; Directorate Identifier 2008–SW–72–AD. Supersedes AD 2002–20–01, Amendment 39–12895, Docket No. 2001–SW–41–AD.

Applicability: Model AH–1G, AH–1S, HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters, with Bell Helicopter Textron, Inc. (BHTI) main rotor tension-torsion (TT) strap, part number (P/N) 204–011–113–1, 204–012–112–1. 204–012–112–5, 204–012–112–7, 204–012–122–1, 204–012–122–5, 204–310–101–101, or Bendix Energy Controls Co. (Bendix) P/N 2601139, 2601399, 2601400, or 2606650, installed, certificated in any category.

Compliance: Within 25 hours time-in-service (TIS), or one month, whichever occurs first, unless accomplished previously.

To prevent failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove any TT strap, P/N 204–012–112–5 or 2601399, with a serial number (S/N) of 41623 through 54362, or P/N 204–012–112–7 or 2601400, with a S/N of 11415 or higher, and replace it with an airworthy TT strap. Any TT strap required to be removed in accordance with this paragraph is unairworthy and is not eligible for reinstallation on any helicopter.

(b) Remove any TT strap P/N that has been in service for the length of time or longer than the retirement life listed in Table 1 of this AD and replace it with an airworthy TT strap.

TABLE 1

P/N	Retirement life
204–011–113–1	200 hours TIS.
204–012–112–1	1,000 hours TIS.
204–012–112–5 or 2601399, S/N 1 through 41622	1,200 hours TIS or 24 months since the initial installation on any helicopter, whichever occurs first.
204–012–112–5 or 2601399, S/N 54363 and higher	
204–012–112–7 or 2601400, S/N 1 through 11414	
204–012–122–1	
204–012–122–5	
204–310–101–101	
2601139	
2606650	

(c) Revise the Airworthiness Limitations section of the maintenance manual or the Instructions for Continued Airworthiness (ICAs) by establishing or maintaining the current retirement life for each TT strap listed in Table 1 of this AD by marking pen and ink changes or inserting a copy of this AD into the maintenance manual or ICAs.

(d) Record the life limit for each TT strap listed in Table 1 of this AD on the component history cards or equivalent record.

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Directorate, Rotorcraft Certification Office, FAA, ATTN: Michael Kohner, Aviation Safety Engineer, 2601 Meacham Blvd., Fort Worth, Texas 76193, telephone (817) 222–5170, fax (817) 222–5783, for information about previously approved alternative methods of compliance.

(f) Special flight permits will not be issued.

Issued in Fort Worth, Texas, on April 14, 2010.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–9293 Filed 4–21–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA–2009–0139]

RIN 2125–AF34

National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Maintaining Minimum Retroreflectivity of Longitudinal Pavement Markings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments (NPA).

SUMMARY: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all streets, highways, bikeways, and private roads open to public travel. The FHWA proposes to amend the MUTCD to include standards, guidance, options, and supporting information relating to maintaining minimum levels of retroreflectivity for pavement markings. The proposed revisions would establish a uniform minimum level of nighttime pavement marking performance based on the visibility needs of nighttime drivers. The proposed revisions will promote safety, enhance traffic operations, and facilitate comfort and convenience for all drivers, including older drivers. The proposed revisions described herein would be designated as Revision 1 to the 2009 Edition of the MUTCD.

DATES: Comments must be received on or before August 20, 2010.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit electronically at *http://www.regulations.gov* 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 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 may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments 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 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Satterfield, Office of Safety, (708) 283–3552; or Raymond Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 1200 New Jersey Ave., SE., 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 access all comments received by the DOT online through *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. 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 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

On December 21, 2007, at 72 FR 72574, the FHWA published in the **Federal Register** a final rule amending the MUTCD to include standards, guidance, options, and supporting information relating to maintaining minimum levels of retroreflectivity for traffic signs. The final rule was issued in response to section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Pub. L. 102–388; October 6, 1992). Section 406 of this Act directed the Secretary of Transportation to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained for traffic signs and pavement markings, which apply to roads open to public travel.

The FHWA is now proposing the establishment of minimum pavement marking retroreflectivity levels in the MUTCD. The FHWA has analyzed and considered technical research results as well as input from participants of FHWA-sponsored workshops (as discussed later in this document) and developed proposed minimum maintained pavement marking retroreflectivity levels for the MUTCD.

The FHWA sponsored research to establish recommended minimum pavement marking retroreflectivity levels.[1] This research included a literature review as well as the use of the latest visibility modeling techniques and tools. The findings of the literature review were used to establish criteria for key factors related to the visibility of pavement markings. Some of the major factors included in the study are shown below.

- Pavement marking configuration (3 levels: white dashed line left of the vehicle, yellow dashed line left of the vehicle, and yellow dashed line left of the vehicle with a solid white line right of the vehicle),[2]
- Vehicle type (2 levels: passenger car, commercial truck),
- Vehicle speed (3 levels: 40, 55, and 70 mph),
- Pavement surface (2 levels: concrete, asphalt),
- Driver age (1 level: 62 years, which was the average age of the study participants used to establish the minimum sign retroreflectivity levels),
- Preview time (1 level: 2.2 seconds determined to be an absolute minimum for safe vehicle operations), and
- Pavement marking width (1 level: set at the nominal dimension of 4 inches for longitudinal pavement markings).

The visibility modeling outputs were used to generate research recommendations for minimum retroreflectivity levels for pavement markings. The recommendations were based on maintaining a minimum preview time of 2.2 seconds for nighttime drivers with visual capabilities of a typical 62-year-old driver.

The findings were then vetted through FHWA-sponsored workshops in the summer of 2007.[3] The workshops included participants from State and local agencies from around the country. The goal of the workshops was to obtain input from public agencies regarding efforts to establish a minimum retroreflectivity requirement for pavement markings.

In 2008, the FHWA developed a synthesis of the benefits of pavement markings, including safety studies, vehicle operations studies, and visibility-related studies.[4] While early landmark studies are referenced in the synthesis, the emphasis was directed to more recent studies offering new insights into the benefits of pavement markings that were previously undetectable (more data are now available for advanced analysis techniques). Regarding minimum pavement marking retroreflectivity, the synthesis shows that drivers judge pavement markings as being marginally adequate when retroreflectivity levels range from 80 to 130 mcd/m^2/lux. The safety benefits of adding edgelines was demonstrated for nighttime conditions, low-visibility conditions, and highways with narrow pavement widths and low traffic volumes.

The synthesis also included a critical review of the results of a National Cooperative Highway Research Program (NCHRP) study which included the following language in the findings: "* * * the difference in safety between new markings and old markings during non-daylight conditions on non-intersection locations is approximately zero."[5] The synthesis includes key concerns of the NCHRP study approach regarding inadequate samples of pavement markings with retroreflectivity levels at or near the proposed minimum retroreflectivity levels. It was concluded that the NCHRP study provides little if any information regarding the link between minimum pavement marking retroreflectivity and safety.

Finally, in anticipation of this NPA, the American Association of State Highway and Transportation Officials (AASHTO) developed a task force on minimum retroreflectivity for pavement

[1] The report titled, "Updates to Research on Recommended Minimum Levels for Pavement Marking Retroreflectivity to Meet Driver Night Visibility Needs" can be viewed at the following Internet Web site: *http://www.tfhrc.gov/safety/pubs/07059/.*

[2] Additional configurations and pavement marking types (such as transverse markings, arrows, or intersection markings) were not studied because they were not incorporated in the visibility modeling software used for the referenced research.

[3] A summary of the 2007 workshops can be viewed at the following Internet Web site: *http://safety.fhwa.dot.gov/roadway_dept/night_visib/pavement_visib/fhwasa08003/fhwasa08003.pdf.*

[4] Carlson, Park, Andersen. Benefits of Pavement Markings: Renewed Perspective Based on Recent and Ongoing Research, Paper No. 09–0488, Transportation Research Board Annual Meeting, Washington, DC, January 2009. This document can be viewed at the following Internet Web site: *http://safety.fhwa.dot.gov/roadway%5Fdept/night_visib/pavement_visib/no090488/.*

[5] Pavement Marking Materials and Markers: Real-World Relationship Between Retroreflectivity and Safety Over Time, NCHRP Web Only Report 92, can be viewed at the following Internet Web site: *http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_webdoc_92.pdf.*

markings. This task force prepared AASHTO Policy Resolution HW–07–18, dated January 24, 2008, and titled, "Minimum Levels of Retroreflectivity for Pavement Markings" that outlines their opinions.[6] The National Committee on Uniform Traffic Control Devices (NCUTCD) also developed MUTCD language for unspecified minimum levels of retroreflectivity for pavement markings and submitted that recommendation to FHWA. The NCUTCD recommendation did not include a table of values for minimum pavement marking retroreflectivity.[7]

Proposed Amendment

The goal of this NPA is to amend the MUTCD to include methods to maintain minimum pavement marking retroreflectivity and associated minimum maintained values for longitudinal pavement marking retroreflectivity. The FHWA seeks comment on the proposed changes to the Introduction, Section 1A.11 Relation to Other Publications, and new Section 3A.03 Maintaining Minimum Retroreflectivity of Longitudinal Pavement Markings.

Discussion of Proposed Amendments to the Introduction

1. In the Introduction, the FHWA proposes to add the STANDARD statement compliance dates for new Section 3A.03 Maintaining Minimum Retroreflectivity of Longitudinal Pavement Markings. The FHWA proposes a phase-in compliance period of 4 years from the date of Final Rule for implementation and continued use of a maintenance method that is designed to maintain pavement marking retroreflectivity at or above the established minimum levels and 6 years from date of the Final Rule for replacement of pavement markings that are identified using the maintenance method as failing to meet the established minimum levels. Considering the comments regarding budget cycles, particularly those of local agencies, that were received during the sign retroreflectivity rulemaking process, the FHWA believes that a 4-year compliance period for establishing and implementing a maintenance method that is designed to maintain pavement marking retroreflectivity at or above the established levels is appropriate. This compliance period will allow transportation agencies to make allowances for budgets (including working with the States or regional organizations to access funds and/or develop partnerships) to achieve the minimum levels of pavement marking retroreflectivity. The 6-year compliance period applies to the replacement of pavement markings that have been identified using a maintenance method as failing to meet the minimum retroreflectivity levels. The FHWA believes 6 years is appropriate because this allows time for agencies to prioritize how to spend limited resources on those pavement markings that should be replaced. Longer compliance replacement periods were provided for signs because retroreflective sign materials have longer service lives than pavement markings.

Discussion of Proposed Amendments to Part 1—General

2. In Section 1A.11 Relation to Other Publications, the FHWA proposes to add the publication "Summary of the MUTCD Pavement Marking Retroreflectivity Standard" to the list of other publications that are useful sources. A draft version of this document is available on the docket. This draft publication is a supplemental document for informational purposes and the final version of this document will reflect any necessary changes made to this proposed rule and will be published and distributed by FHWA.

Discussion of Proposed Amendments to Part 3—Pavement Markings

3. The FHWA proposes a new section titled, Section 3A.03 Maintaining Minimum Retroreflectivity of Longitudinal Pavement Markings. The FHWA proposes to include STANDARD, SUPPORT, GUIDANCE, and OPTION statements in this section that refer to maintaining minimum pavement marking retroreflectivity.

4. In the STANDARD statement, FHWA proposes to require that public agencies or officials having jurisdiction shall use a method designed to maintain retroreflectivity of white and yellow longitudinal pavement markings that are required or recommended in Sections 3B.01, 3B.04 or 3B.07 of the MUTCD at or above the minimum levels in proposed Table 3A–1. This proposed statement is very similar to the STANDARD statement adopted in the sign retroreflectivity final rule requiring the use of a maintenance method.[8]

The FHWA received numerous comments during the sign retroreflectivity rulemaking process regarding the placement of retroreflectivity requirements in a STANDARD statement. The FHWA proposes to include the reference to minimum levels for pavement marking retroreflectivity in a STANDARD statement because the statute requires the Secretary to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained for pavement markings. Under the MUTCD's current organization, the best way to do this is by including it in a STANDARD statement, because Standards represent requirements.[9]

The intent of the proposed STANDARD statement is to establish minimum levels of nighttime pavement marking performance based on the visibility needs of nighttime drivers. Pavement markings excluded from the proposed STANDARD are not to be excluded from any other MUTCD standards. For instance, Section 3A.02 of the MUTCD already requires that pavement markings that must be visible at night shall be retroreflective unless ambient illumination assures that the markings are adequately visible.

5. As part of the STANDARD, the FHWA proposes a new table numbered and titled, "Table 3A–1 Minimum Maintained Retroreflectivity Levels for Longitudinal Pavement Markings." The information in the table is based upon research conducted on pavement marking retroreflectivity in the report titled, "Updates to Research on Recommended Minimum Levels for Pavement Marking Retroreflectivity to Meet Driver Night Visibility Needs."[10] The proposed table applies only to white and yellow longitudinal pavement markings on roads where they are required or recommended in Sections 3B.01, 3B.04 or 3B.07 of the MUTCD. In the MUTCD, standard statements are used to denote those

[6] Additional information about AASHTO can be found at the following Internet Web site: *http://transportation.org.*

[7] NCUTCD's recommended language can be viewed at the following Internet Web site: *https://ceprofs.civil.tamu.edu/ghawkins/MTC-Files/2009-01_Meeting/Min%20Mkg%20Retro%20Ballot.approved%20by%20Council.pdf.*

[8] Sign retroreflectivity final rule was published in the **Federal Register** at 72 FR 72574 on December 21, 2007, and can be viewed at the following Internet Web site: *http://www.regulations.gov.*

[9] In the context of this NPA, the definitions of STANDARD and GUIDANCE are identical to the definitions provided in the Introduction of the MUTCD (*http://mutcd.fhwa.dot.gov*). Specifically, a STANDARD is a statement of required, mandatory or specifically prohibitive practice regarding a traffic control device, while a GUIDANCE is a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate.

[10] The report titled, "Updates to Research on Recommended Minimum Levels for Pavement Marking Retroreflectivity to Meet Driver Night Visibility Needs" can be viewed at the following Internet Web site: *http://www.tfhrc.gov/safety/pubs/07059/.*

items that are required, while guidance statements are used to denote items that are recommended. The MUTCD does not require or recommend pavement markings on all types of roads. Therefore, this proposed rulemaking applies to white and yellow longitudinal pavement markings, including temporary longitudinal pavement markings, on certain types of roads and on roads exceeding certain minimum volumes and/or widths that are described in standard and guidance statements in Sections 3B.01, 3B.04, or 3B.07 of the MUTCD. This includes center lines, lane lines, and edge lines, as described below.

Center line markings typically separate opposing traffic flows, such as the solid and/or broken yellow lines used to designate:

- Passing and no passing zones
- Two-way left turn lanes
- Reversible lanes
- Flush medians formed by yellow markings.

Center line markings are required or recommended by Section 3B.01 on:

(1) All paved urban arterials and collectors that have a traveled way of 20 feet or more in width and average daily traffic (ADT) of 4,000 vehicles per day or greater.

(2) All rural arterials and collectors that have a traveled way of 18 ft or more in width and an ADT of 3,000 vehicles per day or greater.

(3) All paved two-way streets or highways that have three or more lanes for moving motor vehicle traffic. This includes the one- or two-direction no-passing zone markings that separate two lanes in one direction from one lane in the other direction.

(4) Other traveled ways where an engineering study indicates such a need.

Lane line markings separate traffic flows in the same direction, such as the solid, broken, or dotted white lines used to separate more than one lane in a given direction, including turn lanes, through lanes, and preferential lanes.

Lane line markings are required or recommended by Section 3B.04 on:

(1) Freeways and Interstate highways.

(2) All roadways that are intended to operate with two or more adjacent traffic lanes that have the same direction of travel, except as otherwise required for reversible lanes.

(3) Congested locations where the roadway will accommodate more traffic lanes with lane line markings than without the markings.

Edge line markings are solid lines that delineate the right or left edge of a roadway, such as:

- Yellow left edge lines
- White right edge lines
- White channelizing lines that function in place of edge lines in delineating a gore, divergence, or obstruction that can be passed on either side by traffic in one direction.

Edge lines are required or recommended by Section 3B.07 on:

(1) Freeways

(2) Expressways

(3) Rural arterials and collectors with a traveled way of 20 ft or more in width and an ADT of 3,000 vehicles per day or greater.

(4) Paved streets and highways where an engineering study indicates a need for edge line markings.

The proposed retroreflectivity levels are measured at the standard 30-meter geometry and shown in units of millicandelas per square meter per lux ($mcd/m^2/lx$). The proposed table addresses two types of pavement marking configurations: (1) Two-lane roads with centerline markings only, and (2) all other roads. Studies have shown that nighttime drivers report significantly shorter pavement marking visibility distances on roadways marked with only centerline markings versus roadways with both centerline and edge line markings.[11] Therefore, the proposed retroreflectivity levels are higher for two-lane roads with centerline markings only. In addition, visibility and safety studies indicate that visibility distance is increased and run-off-the-road crashes are decreased with the presence of edge line markings.

For each roadway type, the FHWA proposes minimum retroreflectivity values for two posted speed categories: (1) 35 to 50 mph, and (2) 55 mph and higher. Research shows that roadways with higher speed limits should have pavement markings with higher retroreflectivity levels in order to maintain adequate visibility in terms of preview time.[12] After considering workshop comments suggesting simplicity in the table, the FHWA believes that more than two speed categories may not be reasonable. The FHWA proposes the posted speed category of 55 mph and higher as the break point for higher speed roadways and thus higher minimum retroreflectivity levels because 55 mph represents a natural break point that will include nearly 70 percent of rural two-lane roadways in the United States. The FHWA proposes that minimum retroreflectivity values not apply on roads with posted speed limits 30 mph or less because low-beam headlight illumination provides sufficient visibility at these low speeds.

For both the two-lane roads with only centerline markings and all other roads, the FHWA proposes exceptions to the minimum retroreflectivity levels for pavement markings. When retroreflective raised pavement markers (RRPMs) supplement or substitute for a longitudinal pavement marking, the FHWA proposes that the minimum pavement marking retroreflectivity levels would not be applicable to that line as long as the RRPMs are maintained so that at least three are visible from any position along that line during nighttime conditions. The FHWA proposes this exception because when RRPMs are maintained they provide more roadway preview time than pavement markings alone.[13] The FHWA proposes that three RRPMs must be visible along a line, because research has shown that a minimum of three point sources of delineation is needed for drivers to estimate roadway alignment, particularly roadway curvature, as well as provide the necessary preview time based on roadway speed and typical application practices.[14] Sections 3B.13 and 3B.14 of the MUTCD include information regarding RRPMs supplementing or substituting for longitudinal pavement markings. The FHWA also proposes to exempt pavement markings from meeting minimum maintained retroreflectivity levels on roadways where continuous roadway lighting assures that the markings are visible, because Section 3A.02 of the MUTCD provides a similar exemption, which is appropriate and is not proposed to be changed.[15]

---

[11] TRR1605—Visibility of New Centerline and Edge Line Pavement Markings, Zwahlen & Schnell, can be viewed at the following Internet Web site: *http://trb.metapress.com/content/u4v7227l667x5610/fulltext.pdf.*

[12] Carlson, Park, Andersen. Benefits of Pavement Markings: Renewed Perspective Based on Recent and Ongoing Research, Paper No. 09–0488, Transportation Research Board Annual Meeting, Washington, DC, January 2009. This document can be viewed at the following Internet Web site: *http://safety.fhwa.dot.gov/roadway_dept/night_visib/pavement_visib/no090488/.*

[13] Carlson, P., J. Miles, A. Pike, and E. Park. "Evaluation of Wet Weather Pavement Markings: First Year Report," Report 0–5008–1. Texas Transportation Institute, College Station, 2005. This document can be viewed at the following Internet Web site: *http://tti.tamu.edu/documents/0–5008–1.pdf.*

[14] The report titled, "Review and Development of Recommended Minimum Pavement Marking Retroreflectivity Levels" by Chris Debaillon, Paul J. Carlson, H. Gene Hawkins, Jr., Yefei He, Tom Schnell, and Fuat Aktan, In Transportation Research Record 2055, TRB, National Research Council,Washington, DC 2008 can be viewed at the following Internet Web site: *http://trb.metapress.com/content/nv26lj157627g372/.*

[15] Paragraph 3 in Section 3A.02 states, "Markings that must be visible at night shall be retroreflective unless ambient illumination assures that the markings are adequately visible."

The FHWA understands, based on input from stakeholder workshops as well as some comments received during the sign retroreflectivity rulemaking process, that there may be some agencies that are not comfortable with including Table 3A–1 Minimum Maintained Retroreflectivity Levels for Longitudinal Pavement Markings in the MUTCD. The FHWA believes that including minimum retroreflectivity values in the MUTCD is necessary to satisfy the statutory requirement that the MUTCD be amended to include a standard on minimum maintained retroreflectivity levels. The FHWA also believes inclusion of the table will provide clarity and convenience to the users of the MUTCD. An additional advantage of placing the table in the MUTCD is that updates or changes to the minimum retroreflectivity levels would be subject to public notice and comment during the rulemaking process to revise the MUTCD.

6. Following Table 3A–1, the FHWA proposes a SUPPORT statement that describes compliance with the STANDARD. The FHWA proposes to include an explanation that compliance with the STANDARD is achieved by having a method in place and using the method to maintain the minimum levels established in Table 3A–1. Provided that a method is being used, an agency or official having jurisdiction would be in compliance with the Standard, even if there are pavement markings that do not meet the minimum retroreflectivity levels at a particular location or at a particular point in time. This proposed SUPPORT statement is very similar to the one adopted in the sign retroreflectivity final rule. The FHWA proposes to include this statement based on comments from organizations and agencies during the sign retroreflectivity rulemaking process.

During the pavement marking workshop series, the FHWA received input from several agencies who stated that winter conditions are especially problematic for maintaining pavement marking retroreflectivity. In many areas of the country, snow and/or ice can cover pavement markings for long periods of time and low temperatures or precipitation can make it impractical to replace markings. In addition, snow removal and roadway preparation operations, such as sanding and salting, can damage pavement markings. In addition, the FHWA understands that many factors, including environmental conditions and pavement resurfacing, must be considered before a responsible agency can be expected to restore their markings in accordance with Table 3A–1. For example, agencies involved with resurfacing a specific roadway should not have to restore their markings along that roadway immediately before resurfacing. The FHWA recognizes that it is not a practical use of resources to restore markings immediately before a resurfacing project because new markings will be applied immediately after resurfacing is completed. The proposed maintenance methods allow agencies the flexibility to choose a maintenance method, and FHWA believes a responsible agency will determine a reasonable time period for restoring markings in accordance with Table 3A–1.

The FHWA recognizes that there is liability concern on the part of some jurisdictions with the establishment of pavement retroreflectivity levels and methods in the MUTCD. However, the FHWA believes that the selection of a reasonable method for maintaining pavement marking retroreflectivity and strict adherence to the same might serve to defend highway agencies in tort liability claims and litigation. Public agencies and officials that implement and follow a reasonable method in conformance with the national MUTCD would appear to be in a better position to successfully defend tort litigation involving claims of improper pavement marking retroreflectivity than jurisdictions that lack any method. Including the table in the MUTCD does not imply that an agency needs to measure the retroreflectivity of every pavement marking in its jurisdiction. Instead, agencies must implement methods designed to provide options on how to maintain the minimum retroreflectivity levels using the criteria in Table 3A–1.

7. The FHWA proposes to include a GUIDANCE statement that recommends that one or more of the maintenance methods listed should be used to maintain pavement marking retroreflectivity at or above the levels identified in Table 3A–1. The methods listed are: (1) Calibrated visual nighttime inspection, (2) consistent parameters visual nighttime inspection, (3) measured retroreflectivity, (4) service life based on monitored pavement markings, (5) blanket replacement, and (6) other methods. The GUIDANCE statement includes a brief description of each method and references "Summary of the MUTCD Pavement Marking Retroreflectivity Standard," which provides more information about these methods and their association to minimum maintained retroreflectivity levels for pavement markings. As part of the descriptions of the various methods in the GUIDANCE, the FHWA proposes to include a statement indicating that pavement markings identified as below the proposed minimum levels are to be replaced. The FHWA proposes to allow agencies to establish other methods than those specifically described; however, such methods must be designed to maintain pavement marking retroreflectivity at or above the proposed minimum levels listed in Table 3A–1, and must be based on an engineering study.

The FHWA believes there is sufficient flexibility in the proposed maintenance methods that allow agencies to choose the most appropriate method or combination of methods. The proposed minimum retroreflectivity levels listed in Table 3A–1 do not infer a requirement to measure every pavement marking. Current retroreflectivity measurement practices include mobile measurement at highway speeds and handheld stationary measurement. However, mobile and handheld pavement marking retroreflectometers produce inconsistent results when measuring certain types of pavement markings such as profiled or textured pavement markings, rumble stripes, and RRPMs. In those cases, an agency may select a method other than actual measurements.

In the OPTION statement, the FHWA proposes to list several pavement marking types that agencies may exclude from the proposed maintenance methods and minimum maintained pavement marking retroreflectivity levels. The FHWA proposes to exclude these markings because additional research is needed to support establishment of minimum retroreflectivity levels for these markings. The pavement marking types that the FHWA proposes to exclude are: (1) Words, symbols, and arrows, (2) crosswalks and other transverse markings, (3) black markings used to enhance the contrast of pavement markings on a light colored pavement, (4) diagonal or chevron markings within a neutral area of a flush median, shoulder, gore, divergence, or approach to an obstruction, (5) dotted extension lines that extend a longitudinal line through an intersection or interchange area, (6) curb markings, (7) parking space markings, and (8) shared use path markings. This list will not exclude those markings from existing MUTCD retroreflectivity requirements and guidance.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number

appearing at the top of this document in the docket room at the above address. The FHWA will file comments received after the comment closing date and will consider late comments to the extent practicable. In addition, the FHWA will also continue to file in the docket relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after the close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA has determined that this action is a nonsignificant regulatory action within the meaning of Executive Order 12866 and under the regulatory policies and procedures of the U.S. Department of Transportation. It is anticipated that the economic impact of this rulemaking would cause minimal additional expense to public agencies. In 2008, the FHWA published its preliminary analyses of the cost impacts to State and local agencies to reflect material costs and overall mileage of State and local roads. The findings of the revised analysis, accounting for the current language and minimum retroreflectivity levels (published concurrently with this NPA), show that the costs of the proposed action to States and local agencies would be less than $100 million per year. The proposed 6-year regulation implementation period would allow replacement of non-compliant pavement markings under currently planned maintenance cycles and provides for the most recently placed markings to reach the end of their useful service life.

The FHWA has considered the costs and benefits associated with this rulemaking and believes that the benefits outweigh the costs. The MUTCD already requires that pavement markings that must be visible at night shall be retroreflective unless ambient illumination assures that the markings are adequately visible. The changes proposed in this notice provide additional guidance, clarification, and flexibility in maintaining longitudinal pavement markings. The pavement markings excluded from the proposed rulemaking are not to be excluded from any other MUTCD standards. The FHWA expects the proposed maintenance methods will help to promote safety and mobility on the Nation's roads and will result in minimum expense to public agencies or the motoring public.

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, including small governments. The FHWA certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

This proposed action would apply to State departments of transportation in the execution of their highway programs, specifically with respect to the retroreflectivity of pavement markings. Additionally, pavement marking improvement is eligible for up to 100 percent Federal-aid funding. This also applies to local jurisdictions and tribal governments, pursuant to 23 U.S.C. 120(c). The implementation of this proposed action would not affect the economic viability or sustenance of small entities, as States are not included in the definition of a small entity that is set forth in 5 U.S.C. 601.

Executive Order 13132 (Federalism)

The FHWA analyzed this proposed amendment in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this proposed action would not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policymaking discretion of the States and local governments. Nothing in the MUTCD directly preempts any State law or regulation.

The MUTCD is incorporated by reference in 23 CFR part 655, subpart F. These proposed amendments are in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the highway.

Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, March 22, 1995). The impacts analysis shows that State and local agencies would be likely to incur impacts of roughly $64 million per year after the 6-year implementation period for maintaining the proposed minimum levels of pavement marking retroreflectivity. The estimates are based upon the assumption that the distribution of marking materials on a national basis is 75 percent paint, 20 percent thermoplastic, and 5 percent epoxy. The labor, equipment, and mileage costs for pavement marking replacement were excluded under the assumption that the proposed implementation period of 6 years is long enough to allow replacement of non-compliant pavement markings under currently planned maintenance cycles. Therefore, this proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $141.3 million or more in any 1 year. In addition, pavement marking replacement is eligible for up to 100 percent Federal-aid funding. This applies to local jurisdictions and tribal governments, pursuant to 23 U.S.C. 120(c). Further, 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 13175 (Tribal Consultation)

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

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, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for the 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, to eliminate ambiguity, and to 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. This is not an economically significant action and does not concern an environmental risk to health or safety that might disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action would not 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 *et seq.*) and has determined that it will 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, Pavement Markings, Traffic regulations.

Issued on: April 15, 2010.

Victor M. Mendez,

Administrator.

In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 655 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).

Subpart F—[Amended]

2. Revise § 655.601(a), to read as follows:

§ 655.601 Purpose.

* * * * *

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), [date to be inserted], including Revision No. 1, FHWA, dated [date to be inserted]. This publication is incorporated by reference in accordance with 5 U.S.C. 522(a) and 1 CFR part 51 and is on file at the National Archives and Record Administration (NARA). For information on the availability of this material at NARA call (202) 741–6030, or go to *http://www.archives.gov/Federal_register/code_of_Federal_regulations/ibr_locations.html.* It is available for inspection and copying at the Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, as provided in 49 CFR Part 7. The text is also available from the FHWA Office of Transportation Operation's Web site at: *http://mutcd.fhwa.dot.gov.*

* * * * *

[FR Doc. 2010–9294 Filed 4–21–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134235–08]

RIN 1545–BI28

Furnishing Identifying Number of Tax Return Preparer; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on a notice of proposed rulemaking providing guidance to tax return preparers on furnishing an identifying number on tax returns and claims for refund of tax that they prepare.

DATES: The public hearing is being held on Thursday, May 6, 2010, at 1:30 p.m. The IRS must receive outlines of the topics to be discussed at the hearing by Thursday, April 29, 2010.

ADDRESSES: The public hearing is being held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC:PA:LPD:PR (REG–134235–08), room 5203, Internal Revenue Service, P.O. 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–134235–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic outlines of oral comments via the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Stuart Murray at (202) 622–4940 (not a toll-free number); concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard A. Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–134235–08) that was published in the **Federal Register** on Friday, March 26, 2010 (75 FR 14539).

Persons, who wish to present oral comments at the hearing that submitted written comments, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by Thursday, April 29, 2010.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW. entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to