



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

23 CFR Part 625

[Docket No. FHWA-2017-0001]

[RIN 2125-AF72]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

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

SUMMARY: The FHWA requests comments on a proposed revision to design standards and standard specifications that applies to new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, and rehabilitation projects on the National Highway System (NHS). The proposed rule would incorporate by reference the latest versions of design standards and standard specifications previously adopted and incorporated by reference, and would remove the corresponding outdated or superseded versions of these standards and specifications. Use of the updated standards will be required for all NHS projects authorized to proceed with design activities on or after the effective date of the final rule.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late comments will be considered to the extent practicable.

ADDRESSES: You may submit comments by any of the following methods:

- Fax: 1-202-493-2251;
- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590;
- Hand Delivery: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- Electronically through the Federal eRulemaking Portal:
<http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name, and docket number (FHWA-2017-001) or Regulatory Identification Number (RIN) for this rulemaking (2125-AF72). Note that all comments received will be posted without change to: <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Hilton, Office of Program Administration (HIPA-20), (512) 536-5970, or via e-mail at Elizabeth.Hilton@dot.gov, or Ms. Hannah Needleman, Office of the Chief Counsel (HCC-30), (202) 366-1345, or via e-mail at Hannah.Needleman@dot.gov. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document may be viewed online under the docket number noted above through the Federal eRulemaking portal at: <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 this year. Please follow the online instructions.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's Web site at: <http://www.archives.gov/federal-register> and the Government Publishing Office's Web site at: <http://www.gpo.gov/fdsys>. In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. The DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be viewed at: www.dot.gov/privacy.

Physical access to the Docket is available at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20950, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Background

The FHWA proposes to modify its regulations governing new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, and rehabilitation projects on the NHS (including the Interstate System), by incorporating by reference the current versions of design standards and standard specifications previously adopted and incorporated by reference under 23 CFR 625.4, and removing the outdated

or superseded versions of these standards and specifications. Several of these design standards and standard specifications were established by the American Association of State Highway and Transportation Officials (AASHTO) and the American Welding Society (AWS) and were previously adopted by FHWA through rulemaking. The new standards or specifications replace previous versions of these documents and represent the most recent refinements that professional organizations have formally accepted. After review of the various standards and specifications, FHWA proposes to adopt them for NHS projects.

The proposed revisions include referencing the 2016 edition of the AASHTO *A Policy on Design Standards—Interstate System*; the 2017 edition of the AASHTO *Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards*; the 2017 edition of the AASHTO *Load and Resistance Factor Design (LRFD) Bridge Construction Specifications*; the 2016 edition of the AASHTO/AWS *D1.5M/D1.5: 2015 Bridge Welding Code*; and the 2017 edition of the AASHTO *LRFD Bridge Design Specifications*. The proposed revisions also include referencing the recent interim revisions of AASHTO's *Standard Specifications for Structural Supports of Highway Signs, Luminaires, and Traffic Signals*.

The AASHTO is an organization that represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex-officio member, and DOT staff participates in various AASHTO activities as nonvoting representatives. Among other functions,

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 that were approved by FHWA and incorporated into 23 CFR part 625 were developed and issued by AASHTO.

While these adopted standards and specifications apply to all projects on the NHS (including the Interstate System), FHWA encourages the use of flexibility and a context-sensitive approach to consider a full range of project and user needs and the impacts to the community and natural and human environment. The FHWA also encourages State departments of transportation (State DOT) and local agencies to consider using design exceptions to achieve a design that balances project and user needs, performance, cost, environmental implications, and community values. These adopted design standards provide a range of acceptable values for highway features, and this flexibility should allow for a design that best suits the desires of the community while satisfying the purpose for the project and needs of its users.

At a minimum, State DOTs and local agencies should select design values based on an evaluation of the context of the facility, needs of all the various project users, safety, mobility (i.e., traffic performance), human and natural environmental impacts, and project costs. For most situations, there is sufficient flexibility within the range of acceptable values to achieve a balanced design. However, when this is not possible, a design exception may be appropriate. State and local agencies may consider designs that deviate from the design standards when warranted based on the conditions, context, and consequences of the proposed projects. Additional information on FHWA's adopted

design standards and design exceptions is available at:

<http://www.fhwa.dot.gov/design/standards> and in FHWA's publication titled *Mitigation Strategies for Design Exceptions*, available at:

http://safety.fhwa.dot.gov/geometric/pubs/mitigationstrategies/fhwa_sa_07011.pdf.

Discussion under 1 CFR part 51

The documents that FHWA proposes to incorporate by reference are reasonably available to interested parties, primarily State DOTs and local agencies carrying out Federal-aid highway projects. These documents represent the most recent refinements that professional organizations have formally accepted and are currently in use by the transportation industry. The documents are also available for review at DOT's National Transportation Library or may be obtained from AASHTO or AWS. The specific standards are discussed in greater detail elsewhere in this preamble.

Section-by-Section Discussion of the Proposed Changes to 23 CFR 625

The FHWA propose to remove the introductory text of § 625.4. It is duplicative of information contained in paragraph (d) and does not meet Office of the Federal Register formatting requirements for incorporation by reference.

The FHWA proposes to revise § 625.4(a)(2) to replace the reference to the January 2005 edition of *A Policy on Design Standards—Interstate System* with the May 2016 edition. This Policy is a comprehensive manual to assist State DOTs and local agencies in administrative, planning, and educational efforts pertaining to design formulation for projects on the Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate). The AASHTO May 2016 edition incorporates the latest

research and current industry practices, and is applicable to new construction and reconstruction projects on the Interstate except in Alaska and Puerto Rico (23 U.S.C. 103(c)(1)(B)(ii)). Resurfacing, restoration, and rehabilitation projects must meet the Interstate standards that were in place at the time of original construction or inclusion into the Interstate System. The updated guide clarifies ambiguities in the prior edition and provides additional flexibility regarding the design traffic volumes to be accommodated. It increases the median width in rural areas to reduce cross-median crashes and adds recommendations about extended access control and multimodal considerations at interchanges. Basic criteria for other geometric design standards remain essentially the same. The Agency considers the changes made in the 2016 version minor in nature.

With respect to the design standards and standards specifications for bridges and structures under § 625.4(b), FHWA generally proposes to adopt the current versions of the standards and specifications it has previously adopted from AASHTO and AWS. The updated documents contain changes that represent discoveries or improvements in the state-of-the-knowledge and practices of State DOTs and local agencies that have occurred since the previous standards and specifications were incorporated by reference into 23 CFR part 625.

The FHWA proposes to revise § 625.4(b)(2) to incorporate by reference the current version of the revised AASHTO bridge construction specifications entitled *LRFD Bridge Construction Specifications*, 4th Edition. These specifications, which are intended for use in the construction of bridges, employ the LRFD methodology and are designed

to be used in conjunction with the below referenced *AASHTO LRFD Bridge Design Specifications*. Changes in the 4th Edition reflect the latest research and developments, and specifications promulgated by AASHTO.

The FHWA proposes to revise § 625.4(b)(3) to incorporate by reference the current version of the revised AASHTO bridge design specifications entitled *AASHTO LRFD Bridge Design Specifications*, 8th Edition. The *AASHTO LRFD Bridge Design Specifications* are intended for use in the design, evaluation, and rehabilitation of bridges, and are mandated by the FHWA for use on all bridges using Federal funding. These Specifications employ the LRFD methodology using factors developing from current statistical knowledge of loads and structural performance. Changes in the 8th Edition reflect the latest research, developments, and specifications promulgated by AASHTO.

The FHWA proposes to make a minor editorial correction to the reference to the *LRFD Movable Highway Bridge Design Specifications* referenced in paragraph § 625.4(b)(4) to change “including” to “with” when citing the Interim Revisions.

The FHWA proposes to revise § 625.4(b)(5) to incorporate by reference the current version of the revised AASHTO bridge welding code entitled *AASHTO/AWS D1.5M/D1.5: 2015 Bridge Welding Code*, 7th Edition; AASHTO, 2016. This document covers AASHTO welding requirements for welded highway bridges made from carbon and low-alloy construction steels. Chapters cover design of welded connections, workmanship, technique, procedure and performance qualification, inspection, and stud welding. Changes in the 7th Edition reflect the latest research, developments, and specifications promulgated by AASHTO and AWS.

The FHWA proposes to revise § 625.4(b)(7) to incorporate by reference the current version of the revised AASHTO structural support specification entitled *Standard Specifications for Structural Supports for Highway Sign, Luminaires, and Traffic Signals*, 6th Edition, AASHTO, 2013, with 2015 Interim Revisions. These Standards are applicable to the structural design of supports for highway signs, luminaires, and traffic signals. The Standards are intended to serve as a standard and guide for the design, fabrication, and erection of these types of supports. Changes in the 2015 Interim Revisions reflect the latest research, developments, and specifications promulgated by AASHTO.

The FHWA proposes to revise § 625.4(c)(2) to incorporate by reference the current version of the revised AASHTO sampling and testing specification entitled *Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards*, AASHTO, 2017. These Standards contain specifications, test methods, and provisional standards commonly used in the construction of highway facilities. This edition of the standard specifications will replace those adopted by AASHTO in 1995. Changes in the 2016 standard specifications reflect current materials and testing technologies and practices.

The FHWA proposes to revise § 625.4(c)(3) to update the title and cross-reference of the referenced regulation to “Quality Assurance Procedures for Construction.”

Use of the updated standards will be required for all NHS projects authorized to proceed with design activities on or after the effective date of the final rule, subject to the exceptions in 23 CFR 625.3(f).

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 in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after DOT has had the opportunity to review the comments submitted.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), and USDOT Regulatory Policies and Procedures

The FHWA has determined that this action does not constitute a significant regulatory action within the meaning of Executive Order (EO) 12866 or within the meaning of DOT regulatory policies and procedures. The proposed amendments would update several industry design standards and standard specifications adopted and incorporated by reference under 23 CFR part 625 and would remove the corresponding

outdated or superseded versions of these standards and specifications. In addition, this action complies with the principles of EO 13563. After evaluating the costs and benefits of these proposed amendments, FHWA anticipates that the economic impact of this rulemaking would be minimal. These incremental changes are not anticipated to adversely affect, in any material way, any sector of the economy. In addition, these changes will 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. These updated standards and specifications represent the most recent refinements that professional organizations have formally accepted. The FHWA anticipates that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not necessary. Finally, this proposed rule is not an EO 13771 regulatory action because it is not significant under EO 12866.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Public Law 96-354; 5 U.S.C. 601-612), FHWA has evaluated the effects of this proposed rule on small entities, such as local governments and businesses. Based on the evaluation, FHWA anticipates that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments would update several industry design standards and standard specifications adopted and incorporated by reference under 23 CFR part 625. The FHWA believes the projected impact upon small entities that utilize Federal-aid highway program funding for the development of highway improvement projects on the NHS would be negligible. Therefore, I certify that the

proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has determined that this NPRM would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104-4, March 22, 1995, 109 Stat. 48). The actions proposed in this NPRM would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$155 million or more in any 1 year (when adjusted for inflation) in 2014 dollars for either State, local, and Tribal governments in the aggregate, or by the private sector. The FHWA will publish a final analysis, including its response to public comments, when it publishes a final rule. In addition, the definition of “Federal Mandate” in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

The regulations implementing EO 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. This EO applies because State and local governments would be directly affected by the proposed regulation, which is a condition on Federal highway funding. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

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 the proposed rule does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this proposed rule for the purposes of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*) and has determined that this action would not have any effect on the quality of the human and natural environment because it only would make technical changes and incorporate by reference the latest versions of design standards and standard specifications previously adopted and incorporated by reference under 23 CFR part 625 and would remove the corresponding outdated or superseded versions of these standards and specifications. The proposed rule qualifies as a categorical exclusion to NEPA under 23 CFR 771.117(c)(20).

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed rule under EO13175, 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. This proposed rule would not impose any direct compliance requirements on Indian Tribal governments nor would it have any economic or other impacts on the viability of Indian Tribes. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

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

Executive Order 12630 (Taking of Private Property)

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

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of EO 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 EO 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12898 (Environmental Justice)

The EO 12898 requires that each Federal Agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

Regulation Identifier Number

A Regulation Identifier 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 number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR part 625: Design standards, Grant programs-transportation, Highways and roads, Incorporation by reference.

Issued on: April 30, 2018.

Brandye L. Hendrickson
Acting Administrator
Federal Highway Administration

In consideration of the foregoing, FHWA proposes to amend 23 CFR part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

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

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

2. Amend § 625.4 by;

a. Removing the introductory text;

b. Revising paragraphs (a)(2), (b)(2) through (5), (7) , (c)(2) and (3), (d)(1)(ii), (iv) through (viii);

c. Adding paragraph (d)(1)(ix), and

d. Revising the introductory text of (d)(2).

The revision and additions read as follows:

§ 625.4 Standards, policies, and standard specifications.

(a) * * *

(2) A Policy on Design Standards—Interstate System, AASHTO, May 2016 (incorporated by reference; see §625.4(d)).

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(b) * * *

(2) AASHTO LRFD Bridge Construction Specifications, 4th Edition, AASHTO, 2017 (incorporated by reference; see §625.4(d)).

(3) AASHTO LRFD Bridge Design Specifications, 8th Edition, AASHTO, 2017 (incorporated by reference; see §625.4(d)).

(4) AASHTO LRFD Movable Highway Bridge Design Specifications, 2nd Edition, AASHTO, 2007, with 2008, 2010, 2011, 2012, 2014, and 2015 Interim Revisions, (incorporated by reference; see §625.4(d)).

(5) AASHTO/AWS D1.5M/D1.5:2015 Bridge Welding Code, 7th Edition, AASHTO, 2016 (incorporated by reference; see §625.4(d)).

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(7) Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, 6th Edition, AASHTO, 2013, with 2015 Interim Revisions (incorporated by reference; see §625.4(d)).

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(c) *Materials.*

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(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards, AASHTO, 2017. (incorporated by reference, see § 625.4(d)(1)).

(3) Quality Assurance Procedures for Construction, refer to 23 CFR part 637, subpart B.

(d) * * *

(1) * * *

(ii) A Policy on Design Standards—Interstate System, May 2016.

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(iv) AASHTO LRFD Bridge Construction Specifications, 4th Edition, 2017.

(v) AASHTO LRFD Bridge Design Specifications, 8th Edition, 2017.

(vi) AASHTO LRFD Movable Highway Bridge Design Specifications, 2nd Edition, 2007; with 2008, 2010, 2011, 2012, 2014, and 2015 Interim Revisions.

(vii) AASHTO/AWS D1.5M/D1.5: 2015 Bridge Welding Code, 7th Edition, 2016.

(viii) Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, 6th Edition, 2013; with 2015 Interim Revisions.

(ix) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards, AASHTO, 2017.

(2) American Welding Society (AWS), 8669 NW 36 Street, # 130 Miami, FL 33166-6672; www.aws.org; or (800) 443-9353 or (305) 443-9353.

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[FR Doc. 2018-09609 Filed: 5/10/2018 8:45 am; Publication Date: 5/11/2018]