

requirement of Executive Order 12866, as amended by Executive Order 13258.

#### *Regulatory Flexibility Act*

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

This final rule imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

#### **List of Subjects in 20 CFR Part 404**

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: May 1, 2006.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

■ For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended as set forth below.

#### **PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )**

##### **Subpart P—[Amended]**

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

**Authority:** Secs. 202, 205(a), (b), and (d)—(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)—(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

■ 2. Appendix 1 to subpart P of part 404 is amended by revising item 6 of the introductory text before part A to read as follows:

##### **Appendix 1 to Subpart P of Part 404—Listing of Impairments**

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6. Digestive System (5.00 and 105.00): July 2, 2007.

\* \* \* \* \*

[FR Doc. 06–4242 Filed 5–4–06; 8:45 am]

**BILLING CODE 4919–02–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **23 CFR Part 625**

[FHWA Docket No. FHWA–2005–22476]

RIN 2125–AF06

#### **Design Standards for Highways; Interstate System**

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

**ACTION:** Final rule.

**SUMMARY:** Through this final rule the FHWA is adopting the revised design standards that apply to highway construction and reconstruction projects on the Interstate System. The FHWA is adopting as its design standards the current version of the American Association of State Highway and Transportation Officials' (AASHTO) publication entitled *A Policy on Design Standards Interstate System, January 2005*. This publication has replaced the previous version of this policy published in 1991.

**DATES:** This final rule is effective June 5, 2006. The incorporation by reference of the publication listed in this regulation is approved by the Director of the Office of the Federal Register as of June 5, 2006.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. Jon Obenberger, Office of Program Administration (HIPA–20), (202) 366–2221. For legal information: Mr. Robert Black, Office of the Chief Counsel (HCC–32), (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access and Filing**

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

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

The current design standards are on file at the Office of the Federal Register

in Washington, DC, and are available for inspection and copying at the FHWA Washington, DC, Headquarters and field offices as prescribed in 49 CFR part 7. Copies of the current AASHTO publications are also available for purchase by ordering from their Web site at <http://www.aashto.org>.

#### **Background**

The standards, policies, and standard specifications that have been approved by the FHWA for application on all construction and reconstruction projects on the National Highway System (NHS) are incorporated by reference in 23 CFR part 625 (Design Standards for Highways). For the Interstate System, the current document specified in § 625.4(a)(2) is the 1991 edition of *A Policy on Design Standards—Interstate System*<sup>1</sup> (Interstate Standards). The Interstate Standards were revised in January 2005<sup>2</sup> and the FHWA is adopting this latest edition as its geometric design standards for all construction and reconstruction projects on the Interstate System.

The Interstate Standards, being only 6 pages, are not intended to be a “stand alone” document for all of the geometric design standards that are used in the development of projects on the Interstate System. Other publications, such as *A Policy on Geometric Design of Highways and Streets and the Standard Specifications for Highway Bridges*<sup>3</sup> are referenced in the Interstate Standards and used for all geometric design issues not specifically addressed in the Interstate Standards.

#### **Notice of Proposed Rulemaking**

The FHWA published a notice of proposed rulemaking (NPRM) on November 30, 2005 (70 FR 71792). In the NPRM, the FHWA proposed to adopt AASHTO's publication entitled *A Policy on Design Standards Interstate System, January 2005*, as the FHWA's policy on geometric design standards for all construction and reconstruction projects on the Interstate System.

#### **Discussion of Comments**

The FHWA received one submittal with eight comments from a State Department of Transportation (DOT).

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

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

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

Four of the comments from the State DOT indicated it uses criteria that exceed the Interstate Standards for certain elements. The State DOT suggested that all States should use criteria similar to its criteria. The Interstate Standards were developed by the AASHTO Technical Committee on Geometric Design (Committee) which contains representatives from 18 State Departments of Transportation, FHWA, American Public Works Association, National Association of County Engineers, National League of Cities and the Port Authority of New York and New Jersey. After discussion and approval by the Committee, the Interstate Standards were approved by two rounds of balloting among all the States. Thus the standards represent the best collective judgment of the States, FHWA, and others based on research and experience as to the standards and criteria that are appropriate to apply on a nationwide basis. The State DOT can continue to use its criteria since they exceed the criteria in the Interstate Standards.

One comment from the State DOT suggested that a 6-foot right shoulder be allowed in mountainous terrain because of high cost. The Committee elected to change this value from 6 to 8 feet based on safety concerns. Use of a 6-foot shoulder is not recommended because this width gives the appearance of being wide enough for motorists to use for refuge, when in fact this narrower shoulder width would result in a portion of the vehicle encroaching into a high speed traffic lane. The FHWA does not agree with this comment and adopts this section without change.

Another comment from the State DOT suggested that the last sentence in the section on "Medians" should be discarded in favor of a sentence from the previous standard. The last sentence in the section on "Medians" from the 2005 Interstate Standards is: "Where continuous decking is not feasible, median barriers or guardrails should be installed to stop or redirect an errant vehicle safely." The original sentence from the 1991 Interstate Standards referred to by the submitter is: "Consideration should be given to decking median openings between parallel bridges when the opening is less than 30 feet wide." The information in these two sentences is not directly comparable and the information in the 1991 Interstate Standards did not include the advice about redirecting errant vehicles safely. The Committee revised the section on "Medians" to reference the AASHTO *Roadside Design Guide* directly and also include a positive statement about redirecting

errant vehicles. The information on when to consider decking over the opening between parallel structures appears elsewhere in the section. After consideration of both versions of this section the Committee approved the change in wording and this was approved by two rounds of balloting among all the States. Therefore, the FHWA adopts this section without change.

Another comment from the State DOT suggested that a reworded sentence in the section on "Control of Access" should be discarded in favor of the original sentence. The sentence from the 2005 Interstate Standards is: "However, in areas of high traffic volume, where exists the potential for development which would create operational or safety problems, longer lengths of access control should be provided." The original sentence from the 1991 Interstate Standards is: "However, in areas where the potential for development exists which would create traffic problems, it may be appropriate to consider longer lengths of access control." The Committee discussed both versions of the sentence and decided the wording change was preferred. The reworded sentence was approved by the Committee and two rounds of balloting among all States. Therefore, the FHWA adopts this section without change.

One comment from the State DOT suggested that a reworded sentence in the section on "Sight Distance" should be discarded in favor of the original sentence. The sentence from the 2005 Interstate Design Standards is: "The minimum stopping sight distance shall be the values established in the current edition of AASHTO's *A Policy on Geometric Design of Highways and Streets* for the appropriate design speed." The original sentence from the 1991 Interstate Design Standards is: "Stopping sight distance desirably should be in the upper range of values established in the current edition of AASHTO's *A Policy on Geometric Design of Highways and Streets* for the appropriate design speed." The Committee discussed both versions of the sentence and decided the wording change was preferred. The reworded sentence was approved by the Committee and two rounds of balloting among all States and the FHWA adopts this section without change.

#### Conclusion

The FHWA received one submittal from a State DOT with eight comments in response to the NPRM on this action. These comments have been considered in evaluating whether any change to this

action is needed. The FHWA has determined that no change is required.

#### Rulemaking Analyses and Notices

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

The FHWA has determined that this final rule is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal because the basic design standard criteria remain essentially the same. This action will not adversely affect, in a material way, any sector of the economy. In addition, this action will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

##### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. As stated above, the basic design standard criteria remain essentially the same. Additionally, these changes address design standards for States to follow in constructing or reconstructing the Interstate System. States are not included in the definition of small entity set forth in 5 U.S.C. 601. For these reasons, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

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

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This rule 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). The definition of "Federal Mandate" in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government.

The Federal-aid Highway Program permits this type of flexibility.

*Executive Order 13132 (Federalism Assessment)*

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

*Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

*Paperwork Reduction Act*

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

*National Environmental Policy Act*

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

*Executive Order 12630 (Taking of Private Property)*

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

*Executive Order 12988 (Civil Justice Reform)*

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden.

*Executive Order 13045 (Protection of Children)*

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

*Executive Order 13175 (Tribal Consultation)*

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that 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 laws. The rulemaking addresses the design standards that apply to highway construction and reconstruction projects on the Interstate System and will not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

*Executive Order 13211 (Energy Effects)*

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

*Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 625**

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

Issued on: April 28, 2006.

**Frederick G. Wright, Jr.,**  
*Executive Director, Federal Highway Administration.*

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

**PART 625—DESIGN STANDARDS FOR HIGHWAYS**

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

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

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

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

\* \* \* \* \*

(a) \* \* \*

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

\* \* \* \* \*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[CGD08-06-015]

RIN 1625-AA09

**Drawbridge Operation Regulation; Back Bay of Biloxi, Biloxi, MS**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is removing the existing drawbridge operation regulation for the draw of the U.S. 90 bascule bridge across the Back Bay of Biloxi, mile 0.4, between Biloxi and Ocean Springs, Mississippi. The bridge was destroyed by Hurricane Katrina and will be replaced with a fixed bridge. Since the movable span of the bridge has been removed, the regulation controlling the opening and closing of the bridge is no longer necessary.

**DATES:** This rule is effective May 5, 2006.

**ADDRESSES:** Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, 500 Poydras Street, New Orleans, Louisiana 70130-3310,