(Lat. 68°01′53″ N., long. 162°54′11″ W.)
Noatak NDB/DME, AK
(Lat. 67°34′19″ N., long. 162°58′26″ W.)
Selawik VOR/DME, AK
(Lat. 66°36′00″ N., long. 159°59′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Red Dog Airport, AK; and that airspace extending upward from 1,200 ft. above the surface within a 14-mile radius of the Red Dog Airport, AK, and within 5 miles either side of a line from the Selawik VOR/DME, AK, to lat. 67°38′06″ N., long. 162°21′42″ W., to lat. 67°54′30″ N., long. 163°00′00″ W., and within 5 miles either side of a line from the Noatak NDB/DME, AK, to lat. 67°50′20″ N., long. 163°19′16″ W., and within 8 miles either side of the 219° bearing of the Red Dog NDB, AK, extending from the 14-mile radius from the Red Dog NDB, AK, to 30 miles southwest of the Red Dog Airport, AK.

* * * * *

Issued in Anchorage, AK, on March 30, 2007.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E7–6539 Filed 4–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 637

[FHWA Docket No. FHWA–2006–26501]

RIN 2125-AF21

Crash Test Laboratory Requirements for FHWA Roadside Safety Hardware Acceptance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA proposes to revise its regulation that establishes the general requirements for quality assurance procedures for construction on all Federal-aid highway projects on the National Highway System (NHS).[1] Specifically, the FHWA proposes to require accreditation of laboratories that conduct crash tests on roadside hardware by an accrediting body that is recognized by the National Cooperation for Laboratory Accreditation (NCLA) or is a signatory to an International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), an Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA, or another comparable accreditation body approved by FHWA. The objective of this proposed rule is to improve the agency's ability to determine that crash test laboratories are qualified to conduct and evaluate tests intended to determine the crashworthiness of roadside safety features. Laboratory accreditation is widely recognized as a reliable indicator of technical competence.

DATES: Comments must be received on or before June 8, 2007.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at *http://dmses.dot.gov/submit* or fax comments to (202) 493–2251. Alternatively, comments may be submitted via the Federal eRulemaking Portal at *http://www.regulations.gov*. All comments must 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 you 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://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Matt Lupes, Office of Safety Design, HSSD, 202–366–6994, Nicholas Artimovich, Office of Safety Design, HSSD, 202–366–1331, or Raymond Cuprill, Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dms.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 be downloaded from the **Federal Register's** home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments and we will consider all late comments to the extent practicable. Accordingly, we recommend that you periodically check the Docket for new material.

Background

Section 109(c) of title 23, United States Code, as amended by section 304 of the National Highway System Designation Act of 1995 (Pub. L. 104–59; 109 Stat. 188; Nov. 28, 1995), requires the Secretary, in cooperation with the State transportation departments, to approve design and construction standards on the NHS, regardless of funding source. These design standards include not only elements pertaining to the roadway itself, but also to any appurtenances installed along the roadway, such as traffic barriers (roadside and median barriers, and bridge railings), sign and luminaire supports and crash cushions.

Statement of the Problem. The roadside safety hardware sector has evolved since the 1960's and now includes additional crash test laboratories that are not sponsored by an academic institution. During the same period, the FHWA funding of roadside safety hardware testing at crash test laboratories and direct observation of crash test laboratories have decreased. There are about 10 laboratories within the United States that conduct, or have conducted, the types of vehicle/hardware tests needed to establish crashworthiness. Additionally, there are more manufacturers and increasing types of roadside safety hardware devices available. The FHWA recognized that most State DOT personnel were not experienced in assessing test laboratory reports to determine if the hardware was subjected to all required tests and if all tests met the appropriate evaluation criteria. Therefore, as a service to the State transportation departments, and to the highway safety industry in general, the FHWA began reviewing test reports, upon request, and providing written acknowledgements that specific

[1] The National Highway System (NHS) includes the Interstate Highway System as well as other roads important to the nation's economy, defense, and mobility. See 23 U.S.C. 103(b). The NHS was developed by the Department of Transportation (DOT) in cooperation with the States, local officials, and metropolitan planning organizations (MPOs).

appurtenances were crashworthy and thus eligible for use on the NHS. These ''FHWA Acceptance Letters'' quickly became essential to the manufacturers and widely recognized by the States.

The FHWA Office of Safety Design reviews such requests for acceptance and currently maintains listings of crashworthy barriers, bridge railings, transitions to bridge railings, barrier terminals, crash cushions, truck mounted attenuators, breakaway luminaire support hardware, breakaway sign supports, work zone devices, and other hardware. Hardware approved through acceptance letters are posted on the FHWA Safety Web site at *http://safety.fhwa.dot.gov/report350hardware*.

Similar to the individual State DOTs, the FHWA does not have adequate personnel or resources to continuously verify, on-site, the capabilities of the established test laboratories to conduct required tests, to calibrate recording devices used to collect and analyze data, and to determine compliance with evaluation criteria. Should new laboratories be established in the future, the FHWA would be similarly limited in its ability to assess their competence to set up, run, and evaluate full-scale vehicular tests. The objective of this rule would be to provide increased confidence in roadside hardware safety by ensuring that all crash test laboratories are capable of conducting crash tests and analyzing and reporting test results. The FHWA believes that appropriate stewardship requires that we establish minimum accreditation requirements for these laboratories.

General Discussion of the Proposal

The FHWA is proposing to amend 23 CFR 637.209 by adding 637.209(a)(5) that would require all laboratories that perform crash testing for acceptance of roadside safety hardware to be accredited by an accreditation body that is recognized by NACLA or is a signatory to the APLAC MRA, ILAC MRA, or another comparable accreditation body approved by FHWA. To FHWA's knowledge, NACLA and laboratory accreditation bodies that are members of ILAC and APLAC are the only laboratory accreditation bodies that exist. Information on accrediting bodies that are signatories to APLAC's MRA and ILAC's MRA, including estimated costs and application procedures for laboratory accreditation, can be found at their respective Web sites *http:llwww.aplac.org* and *http://www.ilac.org*; similar information on NACLA's accrediting bodies can be found at *http://nacla.net*. Formal accreditation assesses factors such as the technical competency of laboratory personnel, the validity of test methods, the calibration and maintenance of test equipment, and the quality assurance of calibration and test data.

Laboratory accreditation will be assessed according to the current International Standard ISO/IEC 17025:2005, General Requirements for the Competence of Testing and Calibration of Laboratories. The ISO/IEC 17025:2005 standard is divided into management and technical requirements that ensure the competence of the laboratory to produce valid data and results. Many other countries require organizations and testing laboratories to be accredited to the ISO/IEC 17025 standard for any test results used for establishing compliance. The FHWA acknowledges the ISO/IEC 17025: 2005 standard as the benchmark for assessing the competence of the testing and calibration laboratories

This rulemaking proposes to provide a 2-year phase-in period from the date of final rule to allow adequate time to prepare documentation and budgeting for formal accreditation. Based on the experience of the two accredited labs operating in the U.S., we estimate that adequate preparation for accreditation could vary depending on the size of the lab and could take 2 to 6 months. We welcome your comments on what burdens this proposed accreditation would impose on a laboratory and if the proposed 2-year phase-in period is sufficient.

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 to late comments, 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 DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action would not be a significant regulatory action within the meaning of Executive Order 12866 or would not be significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. Currently, two of the test laboratories in the U.S. are already accredited and this proposed regulation would have no effect on those entities. The two currently accredited laboratories, E-Tech Testing Services Incorporated in Rocklin, California and Safe Technologies Incorporated in Rio Vista, California provided an estimate of direct time and costs incurred to receive initial accreditation as 480 to 960 person-work hours to prepare documentation and $9,000 in direct costs. The initial fee of $9,000 included a one-time registration fee of $5,000, a 3-day on-site assessment visit costing $3,000, and materials and equipment costs of $1,000. It is expected that the amount of person work hours and costs associated with document preparation will vary depending on the size of the laboratory and the extent to which its operating procedures are already formalized. We believe the time and cost to gain accreditation is not a burden. Laboratory accreditation renewal is required bi-annually and includes an annual review. The two laboratories mentioned above cite recurring annual costs of maintaining formal accreditation to be 160 person work hours and only $3,000 annually.

This rulemaking proposes to provide a 2-year phase-in period from the date of final rule to allow adequate time to prepare documentation and budgeting for formal accreditation. We believe 2 years is more than adequate time for laboratories to obtain the necessary accreditation. These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would 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 proposed action on small entities, including small governments. The FHWA certifies that this proposed action would not have a significant economic impact on a substantial number of small entities. As noted above, there are about ten (10) agencies that test roadside hardware for crashworthiness and two of these have already been certified as proposed herein. Estimated time and cost for an

initial certification is 3 days on-site and $ 9,000. Re-certification is required bi-annually at an estimated annual cost of $3,000.

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 policy making discretion of the States and local governments.

Unfunded Mandates Reform Act

This proposed rule would 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 proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year (2 U.S.C. 1532).

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 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 proposed action and does not concern an environmental risk to health or safety that may 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.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this is not a significant energy action under this order because 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 under Executive Order 13211 is not required.

Executive Order 13175 (Tribal Consultation)

Since none of the existing test laboratories are owned, operated, or in any way controlled by Indian tribes, the FHWA believes that it will not have any 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.

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 would not have any effect on the quality of the environment.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule uses voluntary consensus standards.

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 637

Construction inspection and approval; Highways and roads.

Issued on: March 30, 2007.

J. Richard Capka,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend, title 23, Code of Federal Regulations, part 637, as set forth below:

PART 637—QUALITY ASSURANCE PROCEDURES FOR CONSTRUCTION

1. The authority citation for part 637 continues to read as follows:

Authority: Sec. 1307, Pub. L. 105–178, 112 Stat. 107; 23 U.S.C. 109, 114, and 315; 49 CFR 1.48(b).

2. In § 637.209, add paragraph (a)(5) to read as follows:

§ 637.209 Laboratory and sampling and testing personnel qualifications

(a) * * *

(5) After [insert date two years after the date of publication of the final rule in the **Federal Register**], laboratories that perform crash testing for acceptance of roadside hardware by the FHWA shall be accredited by a laboratory accreditation body that is recognized by the National Laboratory Accreditation Cooperation (NACLA), is a signatory to the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement (MRA), is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or another accreditation body acceptable to FHWA.

* * * * *

[FR Doc. E7–6533 Filed 4–6–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–123–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.