

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 655****[FHWA Docket No. 96-20]****RIN 2125-AD63****National Standards for Traffic Control Devices; Metric Conversion****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The FHWA is adopting, as its policy for the design of traffic control devices for use on all roads open to public travel, two American Association of State Highway and Transportation Officials' (AASHTO) publications: "Guide to Metric Conversion," June 1993, and "Traffic Engineering Metric Conversion Factors; Addendum to the Guide to Metric Conversion, 1993," October 1993.

**DATES:** This regulation is effective June 11, 1996. Comments must be received on or before August 11, 1996. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of June 6, 1996.

**ADDRESSES:** Submit written, signed comments to FHWA Docket No. 96-20, Federal Highway Administration, Room 4232, HCC-10, Office of the Chief Counsel, 400 Seventh Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope. The current design standards are on file at the Office of the Federal Register in Washington, DC, and are available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of the current AASHTO publications are also available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest Huckaby, Office of Highway Safety (HHS-10), (202) 366-9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15

p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** The traffic control device design and applications standards have been adopted by the FHWA for use on all streets and highways open to public travel and are incorporated by reference in 23 CFR Part 655, subpart F.

The American Association of State Highway and Transportation Officials (AASHTO) is an organization which represents the 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 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex officio member, and DOT officials participate in various AASHTO activities as non-voting representatives. Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States for highway projects. Many of the standards adopted by the FHWA and incorporated into 23 CFR Part 655 were developed and issued by the AASHTO or by organizations of which it is a major voting member. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA before they are applied to street and highway projects.

The FHWA initiated a phased five-year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451) (Metric Act). Section 3 of the Metric Act set a deadline date of September 30, 1992, for each Federal Government agency to begin using the International System of Units (SI) in procurements, grants, and other business-related activities, except to the extent that such use would be impractical or would likely cause significant inefficiencies or loss of markets to United States firms.

In order to comply with the Metric Act, the FHWA developed a list of required deadlines for converting to the metric system which was published as a notice in the Federal Register on June 11, 1992, at 57 FR 24843. This notice established that all newly authorized Federal-aid contracts were to use only metric units by September 30, 1996. The National Highway System Designation Act of 1995 (Pub. L. 104-59, 109 Stat. 568), however, made metric conversion

optional until September 30, 2000. Although the FHWA will not require the expenditure of Federal or State funds to convert sign messages to metric units at this time, it will proceed with changing sign sizes and other dimensions to metric units. Many States have progressed in their conversion activities to a point that it is impractical not to continue the transition into full metric use.

Most States have indicated that they will continue with their conversion activities as planned. Many States are designing projects in metric and several projects are already being constructed in metric. It is the intent of this rulemaking to assure the States and other FHWA partners that the metric conversions used to formulate their plans are consistent nationwide. Accordingly, the AASHTO developed and published "Traffic Engineering Metric Conversion Factors; Addendum to the Guide to Metric Conversion, 1993," listing the conversion values for nationwide uniformity. Through this document, the FHWA is adopting the metric conversion traffic engineering values established by the AASHTO in the publications entitled "Guide to Metric Conversion," June 1993, and "Traffic Engineering Metric Conversion Factors; Addendum to the Guide to Metric Conversion, 1993," October 1993. Included in the "Guide to Metric Conversion," June 1993, are metric values for determining the metric sizes for signs and pavement markings.

It should be noted that the Manual on Uniform Traffic Control Devices, FHWA, 1988 (MUTCD) which has been incorporated by reference in 23 CFR Part 655, subpart F, includes, by reference, the "Standard Alphabets for Highway Signs and Pavement Markings," FHWA, 1977 Edition, and "Standard Highway Signs," FHWA, 1979 Edition. Both of these documents are metric editions.

**Rreview Procedure**

Based on an analysis of public comments received, the FHWA will reexamine its determination that the AASHTO publications adopted by this rule are acceptable as the basis for the design of signs and pavement markings for streets and highways open to public travel.

**Rulemaking Analysis and Notices**

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, allows agencies engaged in rulemaking to dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable,

unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(3)(B). For the reasons set forth below, the FHWA has determined that prior notice and opportunity for comment on this action are unnecessary and contrary to the public interest.

The FHWA has determined that prior notice and opportunity for comment are unnecessary because the AASHTO interim metric values documents being adopted in this rulemaking are functionally equivalent to and mirror, to the extent possible, the English measurements already adopted by the FHWA pursuant to notice and comment rulemaking and contained in the MUTCD, including Revision No. 1 dated January 17, 1990, Revision No. 2 dated March 17, 1992, Revision No. 3 dated September 3, 1993, Revision No. 4 dated January 4, 1995, and Errata No. 1 to the 1988 MUTCD, Revision 3, dated November, 1994. If the exact equivalents of the design standards had been used, the metric measurements would have had to be carried out to as many as six decimal places. Otherwise, the design standards themselves would have had to be significantly raised or lowered in order to accommodate "round" metric measurements. Instead, in drafting its metric document, the AASHTO "rounded off" the English measurements in order to allow easier conversions to metric measurements, and to assure that traffic control devices that meet current design standards will also meet the proposed metric unit standards.

We expect these particular metric values to be used on an interim basis only until the MUTCD, with design values converted to the metric system, is adopted and published. This future MUTCD, expected to be published in 1998, will constitute the FHWA's policy on the design for traffic control signs and pavement markings for use on all streets and highways open to public travel.

The FHWA has also determined that publication of a notice of proposed rulemaking would be contrary to the public interest. The FHWA's Metric Conversion Policy, published in the Federal Register on June 11, 1992 (57 FR 24843), provides that newly authorized Federal Lands Highway and Federal-aid construction contracts must be in metric units by September 30, 1996. The National Highway System Designation Act of 1995 made metric conversion activities optional until September 30, 2000. Planning for metric projects is underway, and metric projects are already being constructed. To this end, the States and other FHWA partners need to know now that the

metric conversions used to formulate their plans will match the FHWA's conversions.

Moreover, prior notice and opportunity for comment are not required under the Department of Transportation's Regulatory Policies and Procedures because it is not anticipated that such action will result in the receipt of useful information. The FHWA has determined that the AASHTO interim metric values come as close as possible to retaining the English measurements already adopted by the FHWA pursuant to notice and comment rulemaking, and express adoption of these metric values now provides necessary certainty and continuity for States and other FHWA partners, including highway construction contractors.

The APA also allows agencies, upon a finding of good cause, to make a rule effective immediately and avoid the 30-day delayed effective date requirement. 5 U.S.C. 553(d)(3). The FHWA has determined that good cause exists to make this rule effective upon publication because the rule provides information to States for their use in contracting with private contractors for the construction of highways. Most of the States have indicated they will be using metric by September 30, 1996. Making this rule effective upon publication will enable States to begin incorporating metric units now. No good purpose would be served by delaying the effective date of this rule. Nevertheless, public comment is solicited on this action. Comments received will be carefully considered in evaluating whether any change to this action is needed.

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. As stated previously, the FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking. It is anticipated that the economic impact of the rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the

FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the FHWA made this determination based on the fact that the interim metric values selected are functionally equivalent to the English system values they replace.

#### Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a separate federalism assessment. This rule does not impose additional costs or burdens on the States, including the likely source of funding for the States, nor does it affect the ability of the States to discharge traditional State government functions. This document assists the States in their continuing efforts to come into compliance with the requirements of the Metric Act within the established deadline.

#### 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

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

#### 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 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

#### Regulation Identification Number

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

used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design Standards, Grant Programs—transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, the FHWA amends Chapter I of Title 23, Code of Federal Regulations, Part 655 as set forth below.

Issued on: May 28, 1996.

Rodney E. Slater,  
*Federal Highway Administrator.*

The FHWA hereby amends 23 CFR Part 655 as follows:

**PART 655—TRAFFIC OPERATIONS**

1. The authority citation for Part 655 is revised to read as follows:

Authority: 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

**Subpart F—[Amended]**

2. Section 655.601 is amended by revising paragraphs (c) and (d) revised to read as follows:

**§ 655.601 Purpose.**

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(c) Guide to Metric Conversion, AASHTO, 1993. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This document is available for inspection as provided in 49 CFR part 7, appendix D. It may be purchased from the American Association of State Highway and

Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

(d) Traffic Engineering Metric Conversion Factors; Addendum to the Guide to Metric Conversion, AASHTO, October 1993. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This document is available for inspection as provided in 49 CFR part 7, appendix D. It may be purchased from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

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