

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 945**

[FHWA Docket No. FHWA-99-5844]

RIN 2125-AE63

**Dedicated Short Range Communications in Intelligent Transportation Systems (ITS) Commercial Vehicle Operations****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Withdrawal of proposed rulemaking and closing of public docket.

**SUMMARY:** This document withdraws a proposed rulemaking to amend FHWA regulations to require the use of the FHWA Specification for "Dedicated Short Range Communications (DSRC) for Commercial Vehicles." The FHWA undertook this rulemaking action to create a provisional standard for Intelligent Transportation Systems (ITS) commercial vehicle projects using Federal-aid highway funds. The final determination on this action was deferred until testing of the provisional standard was completed. This test program is still underway. However, the FHWA is withdrawing this NPRM action. Any further action to address national interoperability will be the subject of a separate rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. William S. Jones, ITS Joint Program Office (JPO), (202) 366-2128, e-mail address: [william.s.jones@fhwa.dot.gov](mailto:william.s.jones@fhwa.dot.gov); or Mr. Wilbert Baccus, Office of the Chief Counsel, (HCC-40), (202) 366-0780, e-mail address: [wilbert.baccus@fhwa.dot.gov](mailto:wilbert.baccus@fhwa.dot.gov), Federal Highway Administration, 400 Seventh Street, SW., 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**

Internet users may access all comments received by the U.S. DOT Docket Facility, Room PL-401, by using the URL: <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal

Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web site at: <http://www.access.gpo.gov>.

**Background**

A notice of proposed rulemaking (NPRM) published at 64 FR 73674 on December 30, 1999, with a supplemental notice of proposed rulemaking (SNPRM) published at 65 FR 77534 on December 12, 2000, proposed adding a new part to title 23, Code of Federal Regulations. In these actions, the FHWA proposed to require the use of FHWA Specification for DSRC for Commercial Vehicles as a provisional standard for ITS commercial vehicle projects using highway trust funds.

At the time there were several different technologies that were being proposed for use on commercial vehicles for interfacing with the Commercial Vehicle Information System Network (CVISN). However, CVISN is a national system for all commercial vehicles and it is necessary that there be technical uniformity in the devices on vehicles to enable a nationally interoperable system.

To ensure success of the program, the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, 1998) (TEA-21) required the Secretary of Transportation to issue provisional standards when national interoperability was required. This authority was delegated to the Federal Highway Administrator. Since the industry could not agree on a standard, the FHWA proposed a Provisional Standard for use on commercial vehicles.

**Comments Received in Response to the NPRM and SNPRM**

The FHWA received 24 comments in response to the NPRM and we summarized and discussed these comments in detail in the SNPRM. In response to the SNPRM, the FHWA received 4 comments in response to the SNPRM.

The major objections to the original NPRM were voiced by the industry that manufactures the DSRC devices, and the private companies that are the service providers for States in the implementation of the CVISN roadside network. The manufacturers had been unable to agree on a common standard and most of the commenters were not in favor of the Provisional Standard. The major issue raised by other commenters concerned the timing of the NPRM. At the time, no equipment had been designed, built, or tested using the Provisional Standard. Many felt it was

inappropriate to require the use of devices that had not been thoroughly tested and proven to work in the CVISN system.

In response to these concerns, the FHWA issued an SNPRM announcing that further consideration of this rulemaking would be postponed until the appropriate testing of equipment designed to the Provisional Standard could be completed.

In response to the SNPRM, the FHWA received four comments. Three of the comments were from the State of Oregon: The Oregon DOT, the Oregon Forest Products Association, and the Oregon Trucking Association. In addition, a comment was received from the Kentucky Transportation Center of the University of Kentucky.

The four commenters supported the need for national interoperability for CVISN and the FHWA efforts through rulemaking to achieve that goal. The commenters noted that since the initial FHWA NPRM, all deployments of CVISN systems had used a single technology, and this technology had become the de facto standard. In addition, these commenters urged the FHWA to act on the remaining barrier to national interoperability.

That barrier involves the policies of the companies that are the service providers to many of the States deploying CVISN systems.

The FHWA is currently in the process of testing devices manufactured to the Provisional Standard. When these tests are completed successfully, the FHWA will reevaluate the need for rulemaking.

**Determination**

The FHWA recognizes that a de facto standard has emerged within the States deploying CVISN. Further, it is recognized that national interoperability is no longer inhibited by the technology, but rather, the business practices within the service provider industry. Therefore, the FHWA will not pursue the existing rulemaking dealing with technical interoperability at this time. Any further action to address national interoperability for commercial vehicles would be the subject of a separate rulemaking if necessary.

**Conclusion**

For the reasons stated above, the FHWA is terminating this proposed rulemaking and closing the docket.

**Authority:** 23 U.S.C. 315 and 502 note; sec. 6053(b), Pub. L. 102-240, 105 Stat. 1914, at 2190; sec. 5206(e), Pub. L. 105-178, 112 Stat. 107, at 457; and 49 CFR 1.48.