

**Federal Highway Administration**

**23 CFR Part 655**

**FHWA Docket No. 92-11**

**RIN 2125-AC89**

**National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Revision of Stop and Yield Sign Standards at Highway-Rail Grade Crossings**

**AGENCY:** Federal Highway Administration (FHWA); Department of Transportation (DOT).

**ACTION:** Final amendment to the Manual on Uniform Traffic Control Devices (MUTCD) request for comments.

**SUMMARY:** This document contains notice of an amendment to the MUTCD. The MUTCD is incorporated by in 23 CFR Part 655, subpart F, and is recognized as the national standard for traffic control devices on all roads open to public travel. The current national standards for traffic control devices are contained in the 1988 edition of the MUTCD. The purpose of this amendment is to implement section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) which requires the Secretary of Transportation, within ninety days of the enactment of the ISTEA, to revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day.

**DATES:** The final rule is effective November 6, 1992. Comments on the final amendment must be received on or before January 5, 1993. Incorporation by reference of the publications listed in the

regulations is approved by the Director of the Federal Register as of November 6, 1999.

**Addresses:** Submit written, signed comments to FHWA Docket No. 92-11, Federal Highway Administration, Room 4232, HCC-10, 400 Seventh Street SW., Washington, DC 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 legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION**

**CONTACT:** Mr. Rudolph M. Umbs, Office of Highway Safety, (202) 366-0411, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366-0780, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

**Supplementary Information:** The MUTCD is approved by the FHWA as the National Standards for all streets and highways open to the public travel. The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for \$22.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 050-001-00308-2. Each amendment is assigned an identification number which indicates, by Roman numeral, the primary organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received (e.g. Request VIII-9).

On January 24, 1990, the FHWA issued a final rule (55FR 2373) amending the MUTCD to permit a highway agency to use short-tem pavement markings until

the earliest date when it is practical and possible to install pavement markings that meet full MUTCD standards. The document containing the text changes for that amendment to the MUTCD has been titled :1988 MUTCD Revision 1," dated January 17, 1990. It is available from the Federal Highway Administration, Office of Highway Safety, HHS-31, 400 Seventh Street SW., Washington, DC 20590. Everyone currently appearing on the FHWA **Federal Register** mailing list will automatically be sent a copy.

The amendment in this rulemaking, Request VIII-32(C) Stop or Yield Signs at Highway - Rail Grade Crossings, is necessary to implement the requirements of Section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), "Public L. 102-240, 105 Stat. 1914," which requires that the Secretary of Transportation, within ninety days of the enactment of the ISTEA, revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at nay highway-rail grade crossing that has tow or more trains per day and is without automatic traffic control, devices. Since this amendment is being adopted as a result of Congressional mandate, without having been presented to the public in a notice of proposed rulemaking or other forum, a sixty-day period is provided for public comment. Comments submitted will be considered for future amendments to the affected section of the MUTCD.

The document containing the text changes for this amendment to the MUTCD has been title :1998 MUTCD Revision 2, "dated March 17, 1992. It is available from the Federal Highway Administration, Office of Highway Safety, HHS-31, 400 Seventh Street

SW., Washington, DC 20590. Everyone currently appearing on the FHWA

Currently in the MUTCD, the use of STOP signs is limited to those highway-rail grade crossings selected after need is established by a detailed traffic engineering study, while YIELD signs are not accepted as an appropriate traffic control device at highway-rail grade crossings. The current MUTCD section 2B-4 defines STOP signs as "sign \* \* \* intended for use where traffic is required to stop," and section 2B-7 states that YIELD signs "assign [ ] right(s)-of-way to traffic on certain approaches to an intersection." An "intersection" is defined in section 1-133 of the Uniform Vehicle Code (Revised-1987), which has been incorporated into the MUTCD, as an "area within which vehicles traveling upon different highways which join one another ) may come in conflict." Thus, since highway-rail crossings are not considered intersections, and YIELD signs are not accepted for use where a highway crosses a railroad.

To implement Section 1077 of the ISTEA which requires the Secretary of Transportation to revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day, the MUTCD is revised as follows: Section 8B-9 STOP Signs at Grade Crossing (R1-1, W3-1) is retitled as STOP or YIELD Signs at Grade Crossings (R1-1, W3-1, R1-2, W3-2).

This amendment allows State or local jurisdictions to install STOP or YIELD sign at any highway-rail grade crossing without automatic traffic control devices that has two or more trains operating across it per day.

For uniformity, the placement of these

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signs at a crossing shall conform to current MUTCD requirements for location of STOP and YIELD signs. In addition, when STOP or YIELD signs are used at crossing, STOP AHEAD or YIELD AHEAD advance warning signs shall be installed.

#### Rulemaking Analyses and Notice

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures.

This provision is required to implement the requirements of section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this RULEMAKING will be minimal. Therefore, a full regulatory evaluation is not required.

The FHWA generally provides an opportunity for comment when promulgating a rule if the opportunity for comment is likely to result in useful information, if the rule is significant pursuant to Department of Transportation policy or likely to be controversial, or if otherwise in the public interest. In this case, the FHWA believes that circumstances warrant the issuance of this rule immediately without notice and an opportunity for prior public comment. This document merely implements the mandate of section 1077 of the ISTEA that directs the Secretary of Transportation to revise the MUTCD, without 90 days of enactment, to grant States and local governments the discretionary authority to install stop or

#### Discussion of Amendment

yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day. This change to the MUTCD imposes no additional burden upon the States. It simply grants them the discretionary authority, under certain circumstances, to install stop or yield signs at highway-rail grade crossings.

Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because such action would not alter the FHWA's obligation to carry out its statutory mandate under the ISTEA. Additionally, the FHWA finds that prior notice and opportunity for comment pursuant to the Administrative Procedure Act is unnecessary because the FHWA is merely implementing section 1077 without imposing additional requirements on any person. Therefore, the FHWA finds good cause under 5 U.S.C.553(b) to make this amendment effective without prior notice and opportunity for comment. Furthermore, for these same reasons and because this action merely grants flexibility to the States, the FHWA finds good cause under 5 U.S.C. 553(d) to make this amendment effective upon publication. The FHWA, however, is providing the opportunity to comment after the effective date, and will consider the comments submitted for future amendments to the affected section of the MUTCD.

The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

*Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act (Pub.L.96-354; 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism /assessment. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F which requires that changes to the National Standards issued by the FHWA shall be adopted by the States or other Federal agencies within 2 years of issuance. This amendment is in keeping with the Secretary of Transportation's authority under 23 U.S.C.109(d) and 315 to promulgate uniform guideline to promote the safe and efficient utilization of the highways.

*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 contains a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

National Environment Policy Act

The FHWA has analyzed this action

Based upon this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in 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.

*Regulatory Identification Number*

A regulatory 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 on 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 standard, Grant programs- transportation, Highways and roads, Incorporation by reference, Signs Traffic regulations.

The FHWA hereby amends chapter 1 of title 23, Code of Federal Regulations, part 655, subpart F as set forth below.

**PART 655-TRAFFIC OPERATIONS**

1. The authority citation for part 655 continues 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 1204.4 and 49 CFR 1.48(b).

**§ 655.601 (Amended)**

2. In §655.601, paragraph (a) is revised to

response to this rule.

*Executive Order 12812 (Federalism Assessment)*

read as follows:

**§ 655.601 Purpose**

(a) Manual on Uniform Traffic Control Devices for Street and Highways (MUTCD), FHWA, 1988, including Revision No. 1 dated January 17, 1990, and Revision No.2 dated March 17, 1992. 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 in Washington, DC. The 1988 MUTCD may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 and has Stock No.050-001-00308-2 . This amendments to the MUTCD, title "1988 MUTCD Revision 1," dated January 17, 1990, and "1998 MUTCD Revision 2"" dated March 17, 1992, are available from the Federal Highway Administration, Office of Highway Safety, HHS-31, 400 Seventh Street SW., Washington, DC 20590. These documents are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

**Issued on: October 29, 1992.**

**T.D. Larson**

*Administrator,*

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