

DEPARTMENT OF
TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

(FHWA Docket No. 89-1, Notice No. 7)

RIN 2125-AC83

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Work Zone Traffic Control Standards Revision

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

ACTION: Final amendment to the Manual on Uniform Traffic Control Devices (MUTCD); Work Zone Traffic Control.

SUMMARY: This document contains amendments which have been adopted by the FHWA for inclusion in the MUTCD.

The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control devices on all public roads open to public travel. The amendments affect part VI of the MUTCD in its entirety, and are intended to improve the safety of workers, pedestrians, and motorists in temporary traffic control zones. The amendments are also intended to expedite implementation of the Intermodal Surface Transportation Efficiency Act of 1991, and improve traffic operations by providing more uniform application of traffic control devices in temporary traffic control zones.

DATES: The final rule is effective January 10, 1994. Incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of January 10, 1994.

FOR FURTHER INFORMATION

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SUPPLEMENTARY INFORMATION:

The MUTCD is approved by the FHWA as the National Standard for all streets and highways open to public travel. The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for \$28.00 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 VI-72(C) Total Revision of Part VI, concerning part VI of the MUTCD "Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Emergency Operations" in its entirety. Part VI sets forth basic principles and prescribes standards for temporary traffic control zone operations on streets and highways in the United States. Also, part VI addresses the design, administration, and operation of street and highway temporary traffic control plans and projects. With the FHWA's current emphasis on rebuilding the Nation's highways and improving safety in work zone areas, an update of part VI will enable the MUTCD to better serve the highway community. Previous Federal Register actions regarding these amendments are contained in FHWA public docket 89-1, Notices 1 through 6.

The text changes resulting from these amendments to the MUTCD have been titled, "1988 MUTCD Revision 3, dated September 3, 1993. It will be available from the Government Printing Office (GPO), Superintendent of Documents, Washington, DC 20402, (202) 783-3238. Everyone currently

appearing on the FHWA Office of Highway Safety Federal Register mailing list will be sent a copy.

Discussion of Amendments

The FHWA received 251 comments in response to public docket 89-1, Notices 1 through 6. Of these, 157 were in response to Notices 1 through 5, and 94 were received in response to Notice No. 6. The majority of comments supported the following conclusions: (1) There is a need to retain most of the traffic control device design and application standards that are presently contained in the current MUTCD; (2) there is a need for a few new traffic control devices; and (3) there is a need to provide users with the new guidance information presented in the public information presented in the public information packages (Notices 1 through 4) and in the advance notice of proposed rulemaking (Notice 5). Most of the comments received to all the notices offered minor editorial corrections and text enhancements.

Most commenters to Notice No. 6 echoed the above conclusions, and encouraged the FHWA to amend the standards and to publish part VI: (1) As a stand alone document; (2) in the same format as the 1988 Edition of the MUTCD; and (3) as soon as possible. All comments regarding standards and/or guidance materials received in response to all six previous Notices were considered and have been accommodated to the extent practical. In response to these comments the FHWA has developed a final rule.

The following is a summary of the comments to Notice No. 6 of this docket concerning the part VI revisions.

Changed Standards

In section 6C-6, Transit

Considerations for Temporary Traffic Control Elements, a "Shall" condition was changed to a "Should" condition. The third sentence was changed to read as follows: "The TCP should provide for features such as temporary bus stops, pull-outs, and satisfactory waiting areas for transit patrons," This was changed

The Strategic Highway Research Program (SHRP) has developed two new traffic control devices (the Opposing Lane Divider and the Flashing Stop/Slow paddle) that will be added to section 6E-4 and 6F-8f of part VI.

Section 6F-5i, Other Channelizing Devices, was opposed by two commenters, the American Traffic Safety services Association and Advocates for Highway and Auto Safety. Their major concern was that allowing the use of other channelizing devices would trigger rapid efforts within the channelizing device industry to undercut competitors' markets by, for example, reducing the size of an otherwise standard device and, in the process, the amount of retroreflective sheeting and/or the target area visible to motorists.

The MUTCD allows the use of other channelizing devices for special applications. Highway agencies currently have contracting procedures in place that allow the use of other channelizing devices for specialized applications. These contracting procedures may be used even if the device is not recognized as a standard in accordance with part VI of the MUTCD. This final rule recognizes the existence of specialized applications to encourage the continued development of and experimentation with such devices.

New Word Message Signs

Part VI will include several new standard word message signs:

1. "Shoulder Drop Off (W8-9a)," which should be used when a shoulder drop-off exceeds 3 inches in height and is not protected by a portable barrier;

because there may be solutions that will not require the TCP to include these features.

In section 6F-8c, Temporary Traffic Signals, a "May" condition was changed to a "Shall" condition. The third paragraph, second sentence was changed to read as follows: "Traffic signals shall be

2. "Uneven Lanes (W8-11)," which should be used during operations that create a difference in elevation between adjacent lanes;

3. "Turn Off Two-Way Radios and Cellular Telephones (W22-2)," which should follow the "Blasting Zone Ahead" sign and is placed at least 1,000 feet before the beginning of the blasting zone;

4. "No Center Line Stripe (W8-12)," which should be used when the work obliterates the center stripe. The sign should be placed at the beginning of the zone and repeated at 2-mile intervals in long zones to remind the motorist. It should also be used at major connections, traffic generators, and/or at appropriate intervals as determined by the engineer, to advise motorist entering within the zone. Most commenters agreed with the addition of the new signs.

Arrow Panel Displays

Previously arrow panel display specifications were written for bulb-type panels. The specifications in section 6F-3 have been modified to allow a matrix of elements. This modification will allow Portable Changeable Message Signs (PCMS's) to be used as arrow panel displays.

Volume of Guidance Material

The city of Phoenix, Arizona, had the following concerns:

Comment: "The proposed part VI should not be published to substitute for the existing part VI of the MUTCD until and when it is substantially thinned out, and until and when good judgment is used

either hard wired or controlled by radio signals. "This requirement assures that traffic signals are interconnected when controlling a one-lane two-way operation.

New Devices

to sort out only those factors that deserve to be 'national standards.'"

Response: Comments on the voluminous nature of the revised part VI and the validity of the standards was solicited in Notice No. 5 issued on January 10, 1992, advance notice of proposed amendments to the MUTCD.

Comments on the validity of the standards was solicited again in Notice No. 6, issued on January 5, 1993. The FHWA, the National Committee on Uniform Traffic Control Devices, and the commenters offered no substantive suggestions on how to thin out part VI or on the "good judgment" of the standards that are in the revised part VI.

Comment: The City of Phoenix also expressed concern over what it perceived as an increase in the use of the mandatory term "Shall" in the latest version of part VI.

Response: With the addition of the new sections: Utility and Emergency Traffic Control, Pedestrian and Worker Safety, and Portable Changeable Message Signs, the use of Shall was increased simple because there are more sections in part VI. In addition, the number of Typical Application Diagrams has increased significantly. Many of the Shalls found in the text of part VI are simply repeated in the explanation of these Typical Application Diagrams. Therefore, no significant increase in regulatory requirements has occurred.

Comment: Phoenix also stated that several cities had expressed strong opposition to the FHWA's statements in earlier notices that the revised part

VI will not have a significant economic impact on a substantial number of small entities.

Response: Many of the MUTCD requirements cited by these cities are requirements of the 1988 and earlier editions of the MUTCD that have been carried forward to the proposed text, and, therefore, are not attributable to the current regulatory action. The majority of the commenters did not feel that the

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 previously discussed in the above sections on "Changed Standards" and "New Devices," this revision of part VI adds some new, alternate traffic control devices, and only a very limited number of new or changed requirements. Most of the changes included in this version of part VI are expanded guidance materials, including many new Typical Application Diagrams. The FHWA expects that application uniformity will improve at virtually no additional expense to public agencies or the motoring public. Therefore, based on this analysis a full regulatory evaluation is not required.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. As already discussed, this revision of part VI adds some new, alternate traffic control devices, and only a very limited number of new or changed requirements. Most of changes brought about by this version of part VI are expanded guidance materials, including many new typical application diagrams. Based on this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small

revised part VI will have a significant economic impact. Based upon its evaluation of the matter, including the comments received in response to the earlier notices, the FHWA has determined that the present regulatory action will not have a significant economic impact on small entities.

Phoenix commented on several other technical issues. Each issue has been specifically addressed by appropriate text entities.

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 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 guidelines to promote the safe and efficient use of the highways. Therefore, nothing in the rule preempts any State laws, regulations, or requirements.

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

modifications.

There were 53 other commenters that provided comments to the docket that were substantially similar to the Phoenix letter.

Rulemaking Analyses and Notices

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

This action does not contain a collection of information requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The FHWA 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, Signs, Traffic regulations, Incorporation by reference.

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

PART 655—TRAFFIC OPERATIONS

Issued on: December 3, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93-30209 Filed 12-9-93; 8:45 am]

BILLING CODE 4910-22-P

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).

Subpart F (Amended)

2. In § 655.601, paragraph (a) is revised to 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, Revision No. 2 dated March 17, 1992, and Revision No. 3 dated September 3, 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 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. The amendments to the MUTCD, titled "1988 MUTCD Revision 1," dated January 17, 1990, "1988 MUTCD Revision 2," dated March 17, 1992, and "1988 MUTCD Revision 3," dated September 3, 1993, are available from the Federal Highway Administration, Office of Highway Safety, HHS-21, 400 Seventh Street SW., Washington, DC 20590. These documents are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

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