

Federal Highway Administration**23 CFR Part 655****FHWA Docket No. 87-21, Notice No. 3****RIN 2125-AC40****National Standards for Traffic Control Devices; Revision of Manual on Uniform Traffic Control Devices; Pavement Markings; Comments Requested**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final Rule; request for comments.

SUMMARY: This document contains notice of an amendment to 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. The amendment affects Part VI of the MUTCD and is intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals, and markings. The amendment will permit a highway agency to use short-term pavement markings until the earliest date when it is practical and possible to install pavement markings that meet full MUTCD standards.

Also, this document gives notice of the availability of the 1988 edition of the MUTCD and amends the section of regulations dealing with traffic control device standards for highways accordingly.

DATES: The final rule is effective January 24, 1990. Comments on the final rule must be received on or before February 15, 1990. Incorporation by reference of the publications listed in the regulations is approved by the director of the Federal Register as of January 24, 1990.

ADDRESS: Submit signed, written comments concerning this interim amendment Docket No. 87-21, Notice No. 3, to the 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. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION

CONTACT: Mr. Philip O. Russell, Office of Traffic Operations, (202) 266-2184, or Mr. Michael J. Laska, Office of chief Counsel, (202) 266-1383, 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 legal holidays.

SUPPLEMENTARY INFORMATION:

The FHWA has updated the 1978 edition of the MUTCD. This update, the 1988 edition, includes all of the materials contained in the 1978 edition as well as all the official revisions that were published in the **Federal Register** through the present time. A list of all official rulings with appropriate compliance dates is contained in this latest edition. This edition of the MUTCD continues the trend set in the previous editions toward broader use of symbols as alternatives to word messages. Also, the following new parts have been added: II-G, Motorist Service Signing; II-H, Recreational and Cultural Interest Area signs; II-I, tourist Oriented Directional Signs; and VI-H, Control of Traffic Through Incident Management Areas.

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.

Advance copies of the text changes to the MUTCD for all of the parts of this final rule will be distributed to everyone currently appearing on the FHWA **Federal Register** mailing list for MUTCD matters. Those wishing to receive an advance copy of the text changes or to be added to this mailing list should write to the Federal Highway

Administration, Office of Traffic Operations, HTO-21, 400 Seventh Street SW, Washington, DC 20590.

Background

Each proposed revision 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-3).

Request VI-57(C)—Temporary Pavement Markings in construction and Maintenance Areas

This provision was originally published as Request VI-3 in a final rule on March 9, 1967, at 52 FR 7126. The provision, as published in the MUTCD, implemented requirements for minimum pavement marking treatments for traffic control in work zones. This revision provided for the minimum length of a temporary pavement marking stripe and the minimum stripe-to-gap ratios, allowed raised pavement markers to be used as supplements to or substitutes for temporary pavement markings, and made other changes. The compliance date for this request was December 31, 1988.

This provision was reissued as Request VI-57 in a final rule on January 23, 1989, at 54 FR 2998. The final rule stated that it is the policy of the FHWA that full standards for pavement markings are desirable for all pavements and the minimums should be used only when full standards are not practical or possible. Two of the more significant changes brought about by this request was the substitution of the term "short-term markings" for the term "temporary markings" and the definition of "short-term pavement markings" as those that will be in place up to 2 weeks. The compliance date for this request was also December 31,

1998.

The FHWA has reevaluated the comments received in response to the notice of proposed rulemaking docket No. 87-21, Notice No. 1 regarding Request VI-57 which was published as final on January 23, 1989. Discussions during the recent Tri-regional Safety conferences and the American Association of State Highway and Transportation Officials Subcommittee on Traffic Engineering meeting, plus some prior docket comments on short-term pavement markings support the contention that there are practical problems with implementing a day specific standard as stated in the MUTCD. The definition of short-term pavement markings contained in the existing standards is: "Short-term pavement markings are those that will be in place up to 2 weeks." The time period used in this definition, based on experience, is within a reasonable range. The currently written standard (that is, a specific time period) is presented as a mandate in the form of a shall (will) condition. The standard does not allow for any deviations. The proper standards format for a situation of this type would be a presentation of reasonable goals or performance levels.

Therefore, the FHWA has decided to correct this standard. The FHWA finds that the format for the standard is not proper. A time period, in this case 2 weeks, was used to define "short-term pavement markings" in the January 23 final rule. This standard must be corrected to allow for reasonable deviations that occur under actual field conditions.

Section 6D-3, the first paragraph, the first sentence will be replaced with two sentences and will read:

Short-term pavement marking are those that may be used until the earliest date when it is practical and possible to install pavement markings that meet the full MUTCD standards for pavement markings. Normally, it should not be necessary to leave short-term pavement markings in place for more than 2 weeks.

Discussion of Amendment

In consideration of the foregoing and under the authority of 23 U.S.C. 109(d), 315, 402(a), and the delegation of authority in 49 CFR 1.48(b), the FHWA hereby adopts the MUTCD as amended herein.

Regulatory Impact

The FHWA has determined that his document contains neither a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. As stated herein, the economic impact of these amendments is so minimal as not to require preparation of a full regulatory evaluation. For the same reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

The subject matter addressed by this final rule was the subject of a notice of proposed rulemaking (NPRM) on January 27, 1988. In this NPRM, wording similar to that contained in this revision was proposed. Public comments could have justified a 2-week definition or could have supported this more flexible approach. Since publication of the final rule, the FHWA has reevaluated the standard based on available data and has determined that the more flexible approach is warranted. To propose the revision once again would only serve to duplicate the comments that were received to the original NPRM.

For the foregoing reasons, the FHWA finds good cause to make the amendment effective without additional notice and opportunity for comment and without a 30-day delay in effective date pursuant to 5 U.S.C. 553(b)(3)(B). Accordingly, the amendment will become effective immediately. However, the FHWA gives notice that comments on this amendment will be accepted and evaluated in

determining the need for future procedural provisions.

While the FHWA does not anticipate that there will be any additional useful public comment on the amendment, there may be some procedural comments on the provisions contained in this final rule. For this reason, publication of this final without an opportunity for additional comment, but with a request for comments following publication is consistent with the Department of Transportation's regulatory policies and procedures.

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 Federalism Assessment.

Incorporation by Reference

The MUTCD has been incorporated by reference in 23 CFR part 655 under the provisions of 5 U.S.C. 552(a) and 1 CFR part 51 and approved by the Director of the Federal Register as of April 1, 1989. The MUTCD was last revised on January 23, 1989 (54 FR 2998). The MUTCD citation included to reflect the amendments contained in this document.

A regulatory information 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 number 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, Signs, Traffic regulations.

(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.)

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 48 CFR 1.48(b).

2. In § 655.601, paragraph (a) is amended by revising the first sentence to read as follows:

§ 655.601 Purpose.
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(a) Manual on Uniform Traffic Control Devices for Street and Highways, FHWA, 1988, as of March 1989.
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[FR Doc. 90-1545 Filed 1-23-90; 8:45 a.m.]
BILLING CODE 4910-22-M

Issued on: January 12, 1990.

T.D. Larson,
Administrator.

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

PART 655—TRAFFIC OPERATIONS

1. The authority citation for part 655 is revised to read as set forth below and all other authority citations which appear throughout part 655 are removed: