

rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586-2945, or via email at [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

Issued in Washington, DC, on January 7, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

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**BILLING CODE 6450-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 655

[FHWA Docket No. FHWA-2012-0118]

#### National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Notification and Request for Comment

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

**ACTION:** Notification; request for comment.

**SUMMARY:** The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated in our regulations, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all streets, highways, bikeways, and private roads open to public travel. Consistent with Executive Order 13563, and in particular its emphasis on burden-reduction and on retrospective analysis of existing rules, this document requests comments on potential formats for restructuring the MUTCD into two documents, one that would be subject to rulemaking and one that would contain supplemental information that is not subject to rulemaking. This document asks for responses to a series of questions regarding formats, types of material to be included in each document, implications on agency acceptance of the MUTCD, ease of use, and effects on future MUTCD updates.

**DATES:** Comments must be received on or before March 12, 2013.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of

Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, or fax comments to (202) 493-2251. Alternatively, comments may be submitted to the Federal eRulemaking portal at <http://www.regulations.gov>. All comments must include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78).

**FOR FURTHER INFORMATION CONTACT:** For questions about the program discussed herein, contact Mr. Chung Eng, MUTCD Team Leader, FHWA Office of Transportation Operations, (202) 366-8043 or via email at [chung.eng@dot.gov](mailto:chung.eng@dot.gov). For legal questions, please contact Mr. William Winne, Office of the Chief Counsel, (202) 366-1397, or via email at [william.winne@dot.gov](mailto:william.winne@dot.gov). Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

##### Purpose of This Notification

The FHWA is interested in examining how to provide a simpler, streamlined MUTCD through restructuring the content into two separate documents—one with material deemed critical to traffic control device design, application

or traffic safety that would be subject to rulemaking, and one containing supplemental application information that would not be subject to rulemaking. This action promotes a more responsive and efficient government. It is consistent with the requirements of Executive Order 13563, and in particular its requirement for retrospective analysis of existing rules, with an emphasis on streamlining its regulations. This action is also consistent with Presidential Memorandum, Administrative Flexibility, which calls for reducing burdens and promoting flexibility for State and local governments.

The purpose of this document is to present a discussion of potential formats for a restructured MUTCD as well as to provide descriptions and examples of the types of material that could potentially be moved from the MUTCD to the Applications Supplement, including examples showing two restructuring options with text from Chapter 2B of the 2009 MUTCD. The examples can be viewed at [www.regulations.gov](http://www.regulations.gov) under the docket number listed in the heading of this document. The FHWA is seeking comments from all interested parties to help the FHWA in further examining these issues and in evaluating potential future alternative courses of action. Specifically, the FHWA seeks input on the type of material to be included in the MUTCD and the Applications Supplement, as well as the formats for both documents. This document also includes a set of specific questions for which the FHWA requests input. While there are specific questions presented on aspects associated with restructuring the MUTCD, comments and input may be offered on any part of this notification.

##### Background

The MUTCD is incorporated by reference within Federal regulations at 23 CFR part 655, approved by the FHWA, and recognized as the national standard for traffic control devices used on all public roads. The FHWA has received comments from a variety of parties expressing concerns about the size and complexity in application of the MUTCD as it has evolved over the decades. To address those issues, the FHWA is exploring the possibility of separating the MUTCD into two documents.

Since its inception in 1935, the MUTCD has grown from slightly over 150 pages to more than 850 pages. The most significant expansion in the number of pages in the MUTCD has occurred in the last three editions, the

2000, 2003, and the 2009 Editions. The size and complexity of the MUTCD has significantly increased, in large part because of an expansion of the number of devices included in the MUTCD and the desire to provide more specifics in conveying the intent of the language in order to avoid uncertainty. Along with the expanded content, the layout of the MUTCD has changed over the years to its current format with four headings (Standard, Guidance, Option, and Support) and three font styles (regular, bold, and italic). The four headings of Standard, Guidance, Option, and Support are defined as:

1. **Standard**—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device.
2. **Guidance**—a statement of recommended, but not mandatory, practice in typical situations.
3. **Option**—a statement of practice that is a permissive condition and carries no requirement or recommendation.
4. **Support**—an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition.

The increase in the size and complexity of the MUTCD results in a lengthy rulemaking process for incorporating changes (new devices, clarifications, corrections, etc.). A larger and more complex MUTCD also makes it more difficult to find material within the manual because of the amount of information provided. In addition, some users of the MUTCD have expressed concerns that due to the amount of detail included, the MUTCD is becoming too prescriptive rather than allowing engineering judgment to optimize the traffic control device decision for a particular situation or location.

In response to the interest for a simpler, streamlined MUTCD, the FHWA is requesting public comment on the option of splitting the material in the MUTCD into two separate documents:

- **MUTCD**—The MUTCD itself would be the document incorporated by reference into the Code of Federal Regulations (CFR) as the national standard for all traffic control devices. The publication of this document, and any subsequent updates, would be subject to the rulemaking process. It could contain Standard statements, and potentially Guidance statements that are considered to be critical to traffic control device design, application, or traffic safety, as well as Option statements that provide exceptions to

these Standard and Guidance statements.

- **Applications Supplement**—The second document would be an “applications supplement” that would include recommendations and best practices and would be a companion document to the MUTCD. Material from the 2009 MUTCD that is not included in the next edition of the restructured MUTCD would form the core of the companion document. It is possible that the companion document would also contain useful information brought in from other sources such as “The Grade Crossing Handbook” and “The Roundabout Guide.” The companion document could be updated whenever needed without requiring rulemaking to do so. The Applications Supplement would not be incorporated by reference into the CFR, and compliance with it would be encouraged, but not legally required.

The MUTCD and the initial edition of the Applications Supplement would both be available on the MUTCD Web site in electronic format and each document would include hotlinks to assist readers who use the electronic versions of the MUTCD and the Applications Supplement in navigating through the many cross-references that are contained within both documents. Hotlinks to cross-referenced chapters, sections, figures, and tables; pop-up definitions; links to external documents and Web sites; and links to official interpretations would be made available, similar to the current hotlinks version of the 2009 MUTCD available on the Web site today.

#### Discussion of Restructuring

Because of the large audience with interest in the MUTCD, there are numerous thoughts and opinions related to the type and amount of information that should be retained in the MUTCD. The FHWA has given initial consideration to the type of material to include in each document, balancing the desire to retain material deemed critical to traffic control device design, application or traffic safety in the MUTCD, while moving supplemental application information to the Applications Supplement.

In addition to the efforts underway within the FHWA, the National Cooperative Highway Research Program has initiated a parallel effort (NCHRP Project 20–07/Task 323) to develop a long-range vision and strategic plan for the MUTCD.<sup>1</sup> The NCHRP effort is

<sup>1</sup> General information about the NCHRP Project 20–07/Task 323 can be viewed at the following Internet Web site: <http://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=3203>.

addressing many different issues related to the future of the MUTCD. The NCHRP project has developed a series of white papers on critical MUTCD issues and is soliciting public comment on those white papers.<sup>2</sup> Examples of white paper topics include: The purpose of the MUTCD, the MUTCD target audience, the appropriate level of detail for content, and options for dividing the MUTCD into multiple documents. Readers are encouraged to review the background and supplementary material related to the past, present, and future of the MUTCD discussed in this research effort. Although both the FHWA staff and the NCHRP research team are coordinating their efforts, readers that have an interest in each activity should submit comments to both this request for comments and the NCHRP project Web site.

The spectrum of ideas related to the amount of material to be contained in the MUTCD and the Applications Supplement has led the FHWA to develop two possible restructuring alternatives.

1. *Option A* would retain Standard statements and important Guidance statements, along with associated Option statements in the MUTCD. Support statements and stand-alone Option statements (those that are not exceptions to the Standard and Guidance statements that were retained in the MUTCD) would be moved from the MUTCD to the Applications Supplement.

2. *Option B* would move a greater amount of information from the MUTCD to the Applications Supplement, retaining in the MUTCD only Standard statements and any related Option statements that contain exceptions to the Standard statements.

For both Options A and B, material from the 2009 MUTCD that is not included in the next edition of the restructured MUTCD would form the core of the Applications Supplement. To serve as a document that is easily relatable to the MUTCD provisions on the same subject, the Applications Supplement document would need to be written and organized in a manner that makes it a cohesive stand-alone document that is fully consistent with the MUTCD. Among the larger items that would likely be moved to the Applications Supplement would be most of the figures illustrating how to apply the provisions of the MUTCD, including all of the Typical Applications in Chapter 6H, as well as most of the material in chapters such as

<sup>2</sup> The white papers and public comments are available on the project Web site: <http://mutcd.tamu.edu/>.

4C, 6G, and 6I. The Applications Supplement could potentially be expanded to include useful information brought in from other sources and could be updated whenever needed without requiring rulemaking to do so.

The FHWA perceives several benefits to the development of a stand-alone Applications Supplement. For example, the Applications Supplement could include a chapter providing users with references on where to find subject area information regarding traffic control treatment of a particular roadway feature, such as roundabouts. Such a chapter would list sections in the MUTCD, as well as sections in the Applications Supplement, that users could reference for signing and markings at roundabouts, including treatment of pedestrians at roundabouts and how roundabouts relate to nearby at-grade railroad crossings. Another example is that supplemental material regarding emerging and innovative traffic control devices could be more easily disseminated and used by engineers interested in their applications, without the delays associated with updating the MUTCD.

**Discussion of Material in Separate Documents**

For the purpose of illustrating the separation of current 2009 MUTCD material into two documents, FHWA developed examples showing two possible options for Sections 2B.01 through 2B.18 and Sections 2B.37 through 2B.42 of Chapter 2B Regulatory Signs, Barricades, and Gates. These examples are available for review on [www.regulations.gov](http://www.regulations.gov) under the docket number listed in the heading of this document. In order to make a comparison with the existing material in the 2009 MUTCD easier, no improvements were made in these examples to the text, figures, or tables of the existing 2009 MUTCD other than those directly related to the development of the alternative format. Readers are encouraged to view Options A and B, along with the comparison documents for each Option, which describe the revisions that were made in the development of each of the

examples. The files illustrating Options A and B formatted for the MUTCD and the Applications Supplement are also embedded with hotlinks from the MUTCD to the Applications Supplement and vice versa in order to illustrate how users would interact with both documents. Where an “AS” in a blue box is placed to the left of the section heading in the MUTCD, a direct link to the same section in the Applications Supplement is available. Where an “M” in a blue box is placed to the left of the section heading in the Applications Supplement, a direct link to the same section in the MUTCD is available. In addition, all of the chapter, section, figure, and table titles, and all of the page numbers in the Applications Supplement have a parenthetical suffix of “(AS)” immediately following the “2B” to distinguish the Applications Supplement from the MUTCD. Readers can access all of these files from the Docket. The following paragraphs explain some of the differences between the content and formatting used for Options A and B.

There are only Standard statements in Section 2B.14 of the 2009 MUTCD. Please note in the Option A Applications Supplement that the title for this section is included in the Option A Applications Supplement along with parenthetical text that informs the reader that “there is no supplemental information for this section.” Accordingly, there is no “AS” in a blue box to the left of the Section 2B.14 heading in the MUTCD.

Because the Option B MUTCD is comprised almost exclusively of Standard statements with only an occasional related Option paragraph, showing Standard statements in bold font resulted in an awkward looking document that was almost entirely bold-faced type. As a result, the section titles were lost in the mix. Thus, regular font is used for the Standard statements and italicized font is used to distinguish the few Option paragraphs. Because italics are used for the Option statements in the MUTCD, the Option statements in the Option B Applications Supplement are also italicized for consistency. This resulted in a need for doing something

different than italics for the Guidance statements in the Option B Applications Supplement. Because there are no Standard statements in the Option B Applications Supplement, bold-faced type was available for the Guidance statements to distinguish them from the Support statements.

There are no Standard statements in Sections 2B.06 and 2B.07 of the 2009 MUTCD. In the Option B Applications Supplement these sections were incorporated into Section 2B(AS).05 and the section titles were included as subheadings because of the length of the consolidated section. There are also no Standard statements in Section 2B.38 of the 2009 MUTCD. In the Option B Applications Supplement this section was incorporated into Section 2B(AG).37 and the section title for Section 2B.37 was revised in both the Option B MUTCD and the Option B Applications Supplement to reflect this consolidation of material. Even though the only Standard statement in Section 2B.37 of the Option B MUTCD relates to DO NOT ENTER signs, the reader is alerted to the fact that WRONG WAY signs are included in the corresponding section of the Option B Applications Supplement. Similarly, there are only Standard statements in Section 2B.14 of the 2009 MUTCD. In the Option B Applications Supplement the title for this section (which has been renumbered as Section 2B(AS).12) is included in the Option B Applications Supplement along with parenthetical text that informs the reader that “there is no supplemental information for this section.” Accordingly, there is no “AS” in a blue box to the left of the Section 2B.12 heading in the MUTCD.

For the purpose of this Request for Comments, it was not practical for FHWA to develop examples for the entire MUTCD; however, the FHWA has given some initial thought as to the separation of content in several other parts of the manual. In addition to most of the support paragraphs and stand-alone option paragraphs, following are examples of other items from some of the chapters that could be moved from the MUTCD to the Applications Supplement:

| MUTCD Part   | Sections that could be moved to the Applications Supplement  |
|--------------|--|
| Part 4 ..... | Chapters 4A and 4B, Chapter 4C (with Standard statements either reduced to Guidance or moved to other places in Part 4), Section 4D.02, Section 4D.33, and Figures 4D-1, 4D-2, 4D-6 through 4D-20, 4E-1, 4E-2, 4E-3, and 4E-4. |
| Part 6 ..... | Sections 6G, 6H, and 6I.   |
| Part 8 ..... | Section 8A.06, and Figures 8B-5, 8B-6, 8B-8, 8B-9, 8C-2, 8C-4 through 8C-10, and 8D-1.   |
| Part 9 ..... | Figures 9B-5, 9B-6, 9B-7, 9B-8, 9C-1, 9C-2, 9C-4, 9C-5, 9C-6, and 9C-8.  |

## Questions

The FHWA requests input on each of the following questions. In addition, comments and input may be offered on any part of this notice.

1. Regardless of the ultimate restructuring format chosen, would you support separating the current material in the MUTCD into two documents? Please explain your reasoning for supporting or opposing the concept of having two documents.

2. Referring to the examples shown for Chapter 2B, should the format of the MUTCD and the Applications Supplement remain consistent between the two documents? For example, should the same headings, such as "Support" and "Option" be used in the Applications Supplement? Should the type of section, figure, and table numbering remain consistent between the MUTCD and the Applications Supplement? Should the sections in the Applications Supplement have a one-to-one correspondence to the sections of the MUTCD, even if that means that some sections of the Applications Supplement would either be skipped or simply have a sentence that says something such as "No additional guidance is available for this section"?

3. Regarding the philosophy of the type of material to retain in the MUTCD versus the Applications Supplement, does Option A move enough material to the Applications Supplement, thus achieving the goal of a streamlined MUTCD, or does Option B better achieve the intended result while maintaining the appropriate balance to retain material deemed critical to traffic control device design and road user safety in the MUTCD? Please explain the reasoning for your response to this question.

4. How would restructuring the MUTCD affect the approval process of the MUTCD in your State? If your State develops a supplement to the MUTCD or creates its own State MUTCD that is in substantial conformance with the National MUTCD, how would restructuring the National MUTCD impact your organization?

5. Describe the use of the printed version of the MUTCD within your agency compared to the electronic version. Which users prefer the printed version and which users prefer the electronic version? Why?

6. In addition to providing hotlinks between the new MUTCD and the Applications Supplement, would providing hotlinks in the Applications Supplement to supplementary documents or additional resources be helpful or more cumbersome for

MUTCD users? Should the important elements of the additional resources be incorporated into the Applications Supplement?

7. After the initial edition of the Applications Supplement is developed by the FHWA as a part of the process of developing the next edition of the MUTCD, should the FHWA continue to maintain and update the Applications Supplement, or should some other organization or group take on this responsibility? Please explain the reasoning for your response to this question. If you feel that another organization should be responsible for the Applications Supplement, please provide thoughts on the appropriate organization and why.

8. Is there an advantage to the FHWA (or some other organization or group) making revisions to the Applications Supplement without seeking public comments and why? Should there be a structured process for making revisions to the Applications Supplement? If yes, what should this involve and who should be included in the process? How often should this occur?

9. Should the FHWA consider other options for splitting MUTCD content into separate documents? Please explain.

**Authority:** 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and, 49 CFR 1.85.

Issued on: December 20, 2012.

**Victor M. Mendez,**  
*Administrator.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[Docket No. FWS-R7-SM-2012-0104;  
FXFR13350700640-134-FF07J00000]

RIN 1018-AY85

### Subsistence Management Regulations for Public Lands in Alaska—2014–15 and 2015–16 Subsistence Taking of Wildlife Regulations

**AGENCY:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, methods and means related to taking of wildlife for subsistence uses during the 2014–15 and 2015–16 regulatory years. The Federal Subsistence Board is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This rule would also amend the general regulations on subsistence taking of fish and wildlife.

**DATES: Public meetings:** The Federal Subsistence Regional Advisory Councils will hold public meetings to receive comments and make proposals to change this proposed rule on several dates between February 12 and March 26, 2013, and then hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between August 19 and October 30, 2013. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2014. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

**Public comments:** Comments and proposals to change this proposed rule must be received or postmarked by March 29, 2013.

**ADDRESSES: Public meetings:** The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

**Public comments:** You may submit comments by one of the following methods:

- **Electronically:** Go to the Federal eRulemaking Portal: <http://www.regulations.gov> and search for FWS-R7-SM-2012-0104, which is the docket number for this rulemaking.

- **By hard copy:** U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503-6199, or hand delivery to the Designated Federal Official attending any of the