

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## 23 CFR Part 655

[FHWA Docket No. 89-1]

RIN 2125-AD50

**National Standards for Traffic Control Devices; Revision of the Manual on Uniform Traffic Control Devices**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Corrections to final amendments to the Manual on Uniform Traffic Control Devices (MUTCD).

**SUMMARY:** This document incorporates by reference into the Code of Federal Regulations errata corrections to the MUTCD, Part VI, Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations. The MUTCD is incorporated by reference in 23 CFR 655, subpart F, and recognized as the national standard for traffic control on all public roads. These corrections 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.

**EFFECTIVE DATE:** The final rule is effective April 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael E. Robinson, Office of Highway Safety, (202) 366-2193, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366-0780, Federal Highway Administration, 400 Seventh Street, SW., Room 3419, Washington, D.C. 20590.

**SUPPLEMENTARY INFORMATION:** The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, appendix D. Part VI of the MUTCD may be purchased for \$16.00 from the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402, Stock No. 050-001-00316-3.

The FHWA both receives and initiates requests for amendments to the MUTCD. Each request is assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received (e.g., Request VIII-9).

This amendment, which the FHWA is incorporating by reference into 23 CFR 655, contains errata corrections to Part VI of the MUTCD, Standards and Guides for Traffic Control for Street and Highway Construction, Maintenance,

Utility, and Incident Management Operations. Part VI sets forth 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 current emphasis on repairing the Nation's highways and improving safety in temporary traffic control zone areas, an updated and more accurate part VI will better serve the highway community. Previous **Federal Register** actions regarding changes to part VI are contained in FHWA docket number 89-1, Notice No. 7.

The text changes resulting from this amendment to the MUTCD have been titled "Errata No.1 to the 1988 Edition of MUTCD, Revision 3" dated November 1994. It will be available from the Government Printing Office (GPO), Superintendent of Documents, Washington, D.C. 20402, (202) 783-3238. Everyone currently appearing on the FHWA Office of Highway Safety's **Federal Register** mailing list will be sent a copy.

**Discussion of Amendments**

The FHWA discovered several errors in Part VI after the document was incorporated by reference into 23 CFR 655 on December 10, 1993 (FHWA docket number 89-1, Notice No. 7). The errors were not substantial in nature, and the FHWA has been able to correct most of them by way of "pen and ink" changes to provide text clarification and consistency and correct grammatical, typographical, and pictorial errors. Examples of errors that were corrected include: assigning numbers to several signs for which no numbers had been provided in the original Part VI; using correct terminology for certain signs and other traffic control devices (e.g., octagonal in shape in lieu of square); correcting distances (i.e., changing the term "2S" to "Buffer Space" in some Typical Application diagrams); and changing a "shall" to a "should" condition for Truck Mounted Attenuators (this was an inadvertent change made during the rulemaking process).

Another correction involved figure VI-9 on page 62 and figure TA-4 on page 115. As revised, the MUTCD part VI disallowed the use of four or more lights arranged horizontally, as the caution mode for Arrow Displays. The FHWA has since learned that making the electrical modifications needed to alter Arrow Displays which currently use the horizontal arrangement would cause an undue financial burden on

many public agencies. After further review of this matter, the FHWA has found no research or operational experience showing the horizontal caution mode display creates an unsafe condition. Accordingly, the FHWA has decided to allow the use of such devices; figure VI-9 on page 62 and figure TA-4 on page 115 have been modified to allow the use of four or more lights in a horizontal direction as the caution mode for Arrow Displays. As modified, this section gives public agencies an option to use either method of operation.

**Rulemaking Analyses and Notices**

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, allows agencies engaged in rulemaking to dispense with prior notice to the public when the agency for the good cause finds that such procedure is impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(3)(B).

The FHWA has determined that providing prior notice to the public on this action is unnecessary. This action merely incorporates by reference into 23 CFR part 655 a document containing errata changes to Part VI of the MUTCD. These changes are not substantive in nature; for the most part they involve the correction of grammatical, typographical, and pictorial errors. For these same reasons, the FHWA has determined that it has good cause to make the rule effective upon publication in the **Federal Register**. 5 U.S.C. 553(d)(3).

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

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. This action merely incorporates by reference into 23 CFR part 655 a document containing non-substantive errata changes to part VI of the MUTCD. The economic impact of these changes is expected to be minimal. For this reason, the FHWA has determined that a full regulatory evaluation is not required.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (Pub.L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on

a substantial number of small entities. This action merely incorporates by reference into 23 CFR part 655 a document containing non-substantive errata changes to part VI of the MUTCD.

#### **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 this action 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 Federal Agencies within two years of issuance. This amendment is in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the Highway. To the extent that these amendments override any existing State requirements regarding traffic control devices, they do so in the interest of national uniformity.

#### **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 contain a collection of information requirement

for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

#### **National Environmental Policy Act**

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

The FHWA hereby amends chapter I of title 23, Code of Federal Regulations, part 655, 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).

#### **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 Streets and Highways (MUTCD), FHWA, 1988, including Revision No. 1 dated January 17, 1990, Revision No. 2 dated March 17, 1992, Revision No. 3 dated September 3, 1993, Revision No. 4 dated January 4, 1995, and "Errata No. 1 to the 1988 MUTCD, Revision 3," dated November 1994. 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**, 800 N. Capitol St., Suite 700, Washington, DC. The 1988 MUTCD, including Revision No. 3 dated September 3, 1993, 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, "1988 MUTCD Revision No. 3" dated September 3, 1993, Revision No. 4 dated January 4, 1995, and "Errata No. 1 to the 1988 MUTCD, Revision 3" dated November 1994 are available from the Federal Highway Administration, Office of Highway Safety, HHS-20, 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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Issued on April 4, 1995.

**Rodney E. Slater,**

*Federal Highway Administrator.*

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