

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 655**

[FHWA Docket No. FHWA-2012-0118]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices for Streets and Highways**AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Notification; response to comments.

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, a Request for Comments was published on January 11, 2013, to solicit input 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. One hundred and sixty-nine unique letters were received and this document provides a summary of the input from these letters. Given the lack of support from the MUTCD user community, the FHWA will not proceed with restructuring the MUTCD into two documents at this time.

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. For legal questions, please contact Mr. William Winne, Office of the Chief Counsel, (202) 366-1397, or via email at 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**

This document, all comments, and the request for comments notice may be viewed on line through the Federal eRulemaking portal at: <http://www.regulations.gov>. The docket identification number is FHWA-2012-0118. The Web site is available 24 hours each day, 365 days each year. Anyone is able to search the electronic form of all comments in any 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). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Request for Comments

On January 11, 2013, the FHWA published a Request for Comments at 78 FR 2347 (Docket ID: FHWA-2012-0118) soliciting input on the option of splitting the material in the MUTCD into two separate documents in the interest of providing a simpler, streamlined MUTCD that would be easier to use, and that would address concerns regarding its increasing size and complexity. Two potential formats for dividing the MUTCD content into a streamlined MUTCD and a companion Applications Supplement were presented for consideration along with nine specific questions. The specific questions posed in the Request for Comments were primarily based on the premise that splitting the MUTCD into two documents would be the preferred solution.

Summary of Responses

The FHWA received comments from 40 State DOT representatives, 26 local agencies, 17 associations, 34 consultants, 3 vendors and 49 private citizens. Out of 169 unique letters received, 155 (92%) of the letters were either against splitting the MUTCD into 2 separate documents, or recommended postponing any action to split the manual pending results from the ongoing National Cooperative Highway Research Program (NCHRP) strategic planning effort, which are expected to be available in January 2014. The strategic planning effort will be addressing many issues that would impact future MUTCD content and structure, including consideration of an MUTCD that would consist of more than one volume.

At least one-half of the State DOT's, local agencies, associations, consultants, citizens, stakeholders, and vendors who commented all suggested waiting until the NCHRP strategic planning effort was complete before making a decision about splitting the MUTCD content. In addition to requesting that the FHWA wait for the results of the NCHRP strategic planning effort, many State and local agencies, associations, and consultants suggested that if a decision were to be made to restructure the MUTCD in any significant way, it would be critical for FHWA to partner with

stakeholders, to develop content for a restructured MUTCD.

In addition to requesting public comment on the option of splitting the material in the MUTCD into two separate documents, the FHWA requested input on nine questions, many of which were directly related to the concept of splitting the MUTCD into two documents. Given the significant number of responses against splitting the manual, this discussion of the comments will focus primarily on the rationale commenters gave for their opposition or concerns related to splitting the manual as well as input from commenters on alternatives to splitting the manual. Should the results of the NCHRP strategic planning effort reveal that separating the MUTCD into more than one volume is desirable; the input from commenters directly related to the specifics of splitting the MUTCD into two documents will be analyzed in further detail as part of developing the next edition of the MUTCD.

Several commenters, including State and local agencies as well as the Institute of Transportation Engineers, indicated that the amount of information in the MUTCD and resulting size is not the issue; rather, the organization of the information is far more critical. In addition, many commenters felt that separating the material into two documents could potentially increase, rather than decrease, the amount of material included in the MUTCD. Commenters felt that working from two books would cause unnecessary confusion because users would have to determine how to correctly apply the information from two different documents. Ultimately, commenters felt that uniformity in application of the MUTCD's provisions could begin to degrade as practitioners navigate between the two documents, leading to a potential decrease in safety. Finally, several commenters expressed concern that an Applications Supplement would be difficult for the FHWA to maintain in a consistent, timely manner and could potentially experience the same fate as the Traffic Engineering Manual, which was developed to supplement the 1978 MUTCD, but was not updated.

Aside from the potential difficulties associated with using two documents, several commenters raised issues regarding the legal status of the applications document. Commenters expressed concerns that some State or local agencies may choose not to recognize or use the Applications Supplement, and those who may need the supplemental information the most may not refer to the Applications

Supplement because it is not required. Furthermore, public agencies suggested that the standard for due care in tort liability cases could be negatively impacted since material in the

Applications Supplement would no longer be part of the national standard. An association, a consultant, and a vendor stated that some agencies could find themselves under political pressure to ignore the Guidance statements in the Applications Supplement, since it is not required.

Over 30 State DOT's adopt either their own State MUTCD or adopt the National MUTCD with a State Supplement. Many State DOT's also develop their own policies based on the National MUTCD. Commenters indicated that creating two separate documents would make it more difficult for those agencies that choose to adopt both manuals to adapt their own material into the MUTCD and Applications Supplement and incorporate the materials into policy.

Several State and local DOT's, and consultants suggested that the proposed split does not meet the intent of the Executive Order 13563 to conduct a government wide review of rules and regulations that are "outdated" or "unnecessary." One of the commenters stated that the MUTCD is neither outdated nor unnecessary. The MUTCD is incorporated in Federal regulations as the national standard for traffic control devices, and in some States is adopted as part of the State code. The commenter suggested that there has not been a comprehensive analysis to suggest that restructuring the MUTCD would be the most appropriate means of accomplishing the goals of this Executive Order. Some of the comments suggested that reorganizing and streamlining the content would be more consistent with the objectives of the Executive Order than splitting the content into two documents. Other comments suggested that splitting the MUTCD provides more burden on the FHWA, State DOT's, and local agencies because more resources will be required to review and manage two documents (or four if a State creates its own supplements for each document) as compared to one document.

Within their answers to the question on other potential options for splitting the MUTCD, four State DOT's, five local agencies, two associations, seven consultants, and four citizens suggested alternatives to the method FHWA proposed splitting the content. Some of the alternatives included separating Part 2 (signs) from the rest of the MUTCD, separating Part 6 (temporary traffic control) from the rest of the MUTCD, providing a multivolume document and

limiting the rulemaking to one volume, and splitting the content so that one document is for "simple" jurisdiction settings and the second is for more "complex" jurisdiction settings. Other commenters said they support exploring other alternatives. Five State DOT's, six local agencies, nine citizens, three associations, and two consultants suggested reorganizing or streamlining the MUTCD instead of splitting the content.

As the FHWA moves forward, we will explore several of the reorganizing and streamlining suggestions to make the next edition of the MUTCD more user-friendly. The FHWA is reviewing options to better organize the technical content so that MUTCD users can find information more easily. Such options range from reorganizing information within individual parts and sections of the MUTCD to reviewing content to identify redundant or unnecessary language that could be removed. To help users find information more quickly, the FHWA may separate especially lengthy sections into several shorter sections. The FHWA is reviewing opportunities to add more figures and tables to replace corresponding text; as well as reassessing the size and content of the figures themselves.

In addition to formatting and reorganizing, the FHWA is exploring new enhancements to make the MUTCD content easier to find. Preliminary options for the electronic version are adding cross-indexing, exploring ways to expand hot links and pop-ups as well as smart search options. The FHWA realizes more and more users are likely to use the electronic version and therefore it needs to be developed in such a manner that it can be used from a number of electronic devices including computers, tablets, and smart phones. Enhancing search capabilities and incorporating additional hot links, pop-ups for definitions, and graphics, for example, are all components that are under consideration as the FHWA develops ideas for the next edition of the MUTCD.

A few commenters suggested presenting traffic control device information more in a modular, tabular format, such as a "fact sheet" and provided examples. The FHWA is reviewing some alternatives to do this; however, it is unclear at this time where this material would be located. It could be included within the MUTCD or as part of an applications document or the Standard Highway Signs Manual. Other commenters requested narrative guidance for traffic control devices. This

narrative may also be appropriate in a separate accompanying document.

In addition to providing comments about the MUTCD structure and content, several commenters provided input related to the process used to regulate the MUTCD. Clearly, many commenters felt that stakeholder input into Standards in the MUTCD is a critical component of the rulemaking process even though it can be cumbersome and lengthy. Some commenters suggested that a mechanism for distinguishing between regulatory information, subject to rulemaking, and guidance or supplementary information, not subject to rulemaking, could provide a means for reducing the burden associated with the rulemaking process. In such a scenario there was consent that the material should still be contained within one document, rather than split into two documents.

Commenters were also asked to describe the use of the printed version of the MUTCD within their agency compared to the electronic version and which version they preferred to use along with their rationale. The FHWA received comments from 29 State DOT's, 10 associations, 10 local agencies, 11 consultants, 13 citizens, 1 committee, and 1 vendor stating that they or their organization use both the printed and electronic versions and suggested that both the electronic and printed versions should be maintained. Several of the commenters noted that while the electronic version is commonly used, there is also a need to retain the MUTCD as a printable document to provide project documentation or to highlight a specific statement when communicating within their agency or with project stakeholders. The FHWA received comments from four State DOT's, four local agencies, one association, three consultants, and three citizens stating a preference for the electronic version. The commenters who preferred the electronic version cited the ability to search quickly for information, easier navigation through hotlinks/bookmarks, portability, and having the flexibility to build in enhanced features now and in the future as key reasons as to why they preferred the electronic version. The FHWA received comments from one State DOT, three associations, three local agencies, and one citizen stating a preference for the printed version. The commenters who preferred the printed version stated that field personnel do not have access to the electronic version, not all workers have access to computers, and convenience of use in an office environment as their primary

reason for preferring the printed version.

Conclusion

Given the lack of support from the MUTCD user community, the FHWA will not proceed with splitting the MUTCD into two documents at this time. Instead, we will focus on options that would make the MUTCD easier to use. We believe that focusing on these types of options while continuing to explore ways to enhance and streamline the current MUTCD updating process will best serve the user community. The FHWA will use the valuable information offered in the responses to guide our approach to updating the MUTCD.

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: June 8, 2013.

Victor M. Mendez,

Administrator, Federal Highway Administration.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 232

[Docket ID: DoD-2013-OS-0133]

RIN 0790-AJ10

Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

AGENCY: Department of Defense.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Department of Defense (the Department or DoD) issues this advanced notice of proposed rulemaking (ANPR) regarding enhancement of the protections that apply to consumer credit extended to members of the armed forces and their dependents, such as by a provision (as proposed in a recent Senate bill) that would require the Secretary of Defense to develop a policy on the predatory extension of credit through installment loans that target members of the armed forces and their dependents. This ANPR requests comment on the need to revise the Department's existing regulation that, in general, imposes certain limits on and requires certain disclosures relating to the provision of consumer credit to a covered borrower.

DATES: Comments must be received by August 1, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Marcus Beauregard, (571) 372-5357.

SUPPLEMENTARY INFORMATION: DoD invites comments and recommendations on: (1) The need to revise the implementing regulation (32 CFR part 232) adopted in August 2007,¹ with special attention to the scope of the definition of "consumer credit;" (2) whether there is a need for change, and, if so, any specific revision(s) and why; (3) what should not be included in any revision and why; and (4) examples of alternative programs designed to assist Service members who need small dollar loans.

For background, an excerpt of the text contained on pages 782 and 783 of the Conference Report accompanying H.R. 4310, "National Defense Authorization Act for Fiscal Year 2013" (available at http://www.dtic.mil/congressional_budget/pdfs/FY2013_pdfs/AUTH_CRPT-112hrpt705.pdf) referring to this subject is as follows:

"Enhancement of protections on consumer credit for members of the armed forces and their dependents: The Senate amendment contained a provision (sec. 651) that would amend section 987 of title 10, United States Code, to require that vehicle title loans and payday loans, regardless of duration or whether they are open- or closed-end, are included within the definition of "consumer credit" contained in regulations promulgated by the Secretary of Defense pursuant to that section. The provision would also require the Secretary to develop a policy on the predatory extension of credit through installment loans that target

¹ See Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 72 FR 50580-50594 (August 31, 2007).

members of the armed forces and their dependents. The House bill contained no similar provision. The Senate recedes. The conferees recognize the progress the Department of Defense has made since consumer protections for military members and their dependents against predatory lending were enacted in the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), codified in section 987 of title 10, United States Code. A recent report by the Consumer Federation of America, *The Military Lending Act Five Years Later*, found that 'the law has been largely effective in curbing predatory . . . lending to covered borrowers.' Nevertheless, the report found that many predatory lenders have modified their products to avoid coverage by the Department's rules implementing section 987, and recommended that 'the Department of Defense . . . conduct an internal study of service members, financial counselors, and legal assistance/JAG officers to ascertain the impact of the current set of . . . rules on the use of defined products, problems caused by similar and emerging products, and the use of allotments to pay for commercial credit.'

"The conferees are concerned that the Department must remain vigilant to eliminate continuing, evolving predatory lending practices targeting service members and their families, and believe the Department should review its regulations implementing section 987, to address changes in the industry and the evolution of lending products offered since 2007, continuing use of predatory marketing practices, and other abuses identified by consumer protection advocates, including the Consumer Financial Protection Bureau's Office of Servicemember Affairs. The conferees direct the Secretary to conduct surveys of counselors, legal assistance attorneys, service members, and other appropriate personnel, and to consult with both consumer protection advocacy groups and representatives of the financial services industry to determine if changes to rules implementing section 987 are necessary to protect covered borrowers from continuing and evolving predatory lending practices, and to report to the Committees on Armed Services of the Senate and House of Representatives no later than 1 year after the date of enactment of this Act on the results of such review."

Comments and recommendations received in response to this ANPR will be reviewed as part of a proposed rulemaking, which may be the next step in this process.