



National Committee on Uniform Traffic Control Devices

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National Committee on Uniform Traffic Control Devices (NCUTCD) Recommended Changes to Proposed Text for 11th Edition of the MUTCD Docket Number: FHWA-2020-0001

Federal Register Item Number: 9 - 15

NPA MUTCD Section Number: Sections 1B.01-1B.09

Legend: Base text shown in proposal is the NPA “clean” proposed text.

- [NCUTCD recommendation for text to be added in final rule.](#)
- ~~[NCUTCD recommendation for text to be deleted in final rule.](#)~~
- [NCUTCD recommendation for text to be moved/relocated in final rule.](#)
- [NPA text that was not previously approved by NCUTCD but is now approved.](#)
- Explanatory note: [\[Note that explains purpose of recommended change.\]](#)

The following pages present NCUTCD recommendations for changes to the MUTCD NPA proposed text, tables, and figures for Chapter 1B. Below is a short summary of the NCUTCD position for each section of this chapter. A more detailed summary is provided at the beginning of each section.

- NPA #9, Section 1B.01: Changes recommended based on Council action in spring 2021.
- NPA #10, Section 1B.02: Changes recommended based on Council action in spring 2021.
- NPA #11, Section 1B.03: NCUTCD agrees with NPA content (no changes recommended).
- NPA #12, Section 1B.04: NCUTCD agrees with NPA content (no changes recommended).
- NPA #12, Section 1B.05: NCUTCD agrees with NPA content (no changes recommended).
- NPA #13, Section 1B.06: Changes recommended based on Council action in spring 2021.
- NPA #12, Section 1B.07: Changes recommended based on Council action in spring 2021.
- NPA #14, Section 1B.08: Changes recommended based on Council action in spring 2021.
- NPA #15, Section 1B.09: Changes recommended based on Council action in spring 2021.

Section 1B.01 Comments: NCUTCD generally agrees with 1B.01 as presented in the NPA, but recommends adding “or use a registered account” to the item on toll roads and adding “sidewalks or pathways” to the items on grade crossings to fully encompass the scope of the standard.

Section 1B.01 National Standard Standard:

The Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, bikeway, or site roadways open to public travel (see definition in Section 1C.02) in accordance with 23 U.S.C. 109(d) and 402(a).

40 In accordance with 23 CFR 655.603(a), the MUTCD shall apply to all of the following
41 types of facilities:

- 42 A. Any street, roadway, or bikeway open to public travel, either publicly or privately
43 owned;
- 44 B. Streets and roadways on sites that are off the public right-of-way that are open to
45 public travel without full-time access restrictions. Examples include roadways
46 within shopping centers, office parks, airports, sports arenas, other similar business
47 and/or recreation facilities, governmental office complexes, schools, universities,
48 airports recreational parks, and other similar publicly owned complexes and/or
49 recreation facilities. The above-described examples of streets and roadways are
50 referred to in this Manual as Site Roadways Open to Public Travel;
- 51 C. Publicly-owned toll roads, including those under the jurisdiction of a public agency,
52 public authority, or public-private partnership;
- 53 D. Privately-owned toll roads where the public is allowed to travel without access
54 restriction. This includes gated toll roads or roadways where the general public is
55 able to pay or use a registered account to access the facility; and
- 56 E. Grade crossings of publicly-owned roadways, sidewalks, and pathways with
57 railroads or light rail transit.

58 The MUTCD shall not apply to the following types of facilities:

- 59 A. Roadways within private gated properties where access to the general public is
60 restricted at all times;
- 61 B. Grade crossings of privately-owned roadways, sidewalks, and pathways with
62 railroads;
- 63 C. Parking areas, including the driving aisles within those parking areas, that are either
64 publicly or privately owned and
- 65 D. Pedestrian ways internal to buildings.

66 **(add items to fully encompass scope of standard)**

67 Support:

68 The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic
69 uniformity of traffic control devices are as described in 23 CFR 655, Subpart F.

70 Section 15-116 of the UVC states, “No person shall install or maintain in any area of private
71 property used by the public any sign, signal, marking, or other device intended to regulate, warn,
72 or guide traffic unless it conforms with the State manual and specifications adopted under
73 Section 15-104.” Adoption by agencies of such a provision through statute or ordinance can help
74 maintain the integrity of official traffic control devices and provide continuity of uniformity at
75 locations that are not subject to the provisions of this Manual.

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79 **Section 1B.02 Comments:** NCUTCD generally agrees with 1B.02 as presented in the NPA, but
80 recommends changing the 2nd paragraph of the NPA proposed Standard to Guidance. While it
81 is clear that traffic control devices need to be in substantial conformance with the MUTCD, the
82 Standard would imply that all documents related to the use and application of traffic control
83 devices are considered agency Supplements to the MUTCD and therefore subject to FHWA
84 approval. This would be overly burdensome if applied literally. NCUTCD also recommends
85 deleting the NPA proposed Guidance as it contradicts the proposed Standard. Agencies would

86 have to document guidelines for the implementation of Interim Approval items in some manner,
87 and the previous proposed Standard would consider that documentation to be a Supplement to
88 the MUTCD, while this Guidance says that Interim Approval items should not be in State
89 MUTCDs or Supplements.

91 Section 1B.02 State Adoption and Conformance

92 Support:

93 All States have officially adopted the National MUTCD either in its entirety, with
94 supplemental provisions, or as a separate published document. The National MUTCD has also
95 been adopted by the National Park Service, the U.S. Forest Service, the U.S. Military Command,
96 the Bureau of Indian Affairs, the Bureau of Land Management, and the U.S. Fish and Wildlife
97 Service.

98 *Guidance:*

99 *These individual State or agency manuals or supplements should be reviewed for specific*
100 *provisions relating to that State or agency.*

101 **Standard:**

102 **States or other Federal agencies that have their own MUTCDs or Supplements shall**
103 **revise these MUTCDs or Supplements to be in substantial conformance with changes to the**
104 **National MUTCD within 2 years of the effective date of the Final Rule for the changes [23**
105 **CFR 655.603(b)(3)]. Substantial conformance of such State or other Federal agency**
106 **MUTCDs or Supplements shall be as defined in 23 CFR 655.603(b)(1).**

107 *Guidance*

108 *For purposes of Paragraph 3 of this Section, policies, directives, specifications, standard*
109 *drawings, or similar documents related to traffic control devices that are issued by an agency*
110 *are ~~shall be~~ considered as supplements to the MUTCD and ~~should shall~~ be in substantial*
111 *conformance with the National MUTCD.*

112 (change Standard to Guidance)

113 *Guidance:*

114 *Traffic control devices that have been granted Interim Approval in accordance with Section*
115 *1B.07, but which have not yet been adopted into the National MUTCD, should not be included in*
116 *State MUTCDs or Supplements.*

117 (delete)

121 **Section 1B.03 Comments: NCUTCD agrees with 1B.03 as presented in the NPA.**

123 Section 1B.03 Compliance of Devices

124 **Standard:**

125 **The U.S. Secretary of Transportation, under authority granted by the Highway Safety**
126 **Act of 1966, decreed that traffic control devices on all streets and highways open to public**
127 **travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial**
128 **conformance with the Standards issued or endorsed by the FHWA.**

129 Support:

130 23 CFR 655.603 also requires traffic control devices on all streets, highways, bikeways, and
 131 site roadways open to public travel in each State be in substantial conformance with standards
 132 issued or endorsed by the Federal Highway Administrator.

133 **Standard:**

134 **After the effective date of a new edition of the MUTCD or a revision thereto, or after**
 135 **the adoption thereof by the State, whichever occurs later, new or reconstructed devices**
 136 **installed shall comply with the new edition or revision.**

137 **In cases involving Federal-aid projects for new construction or reconstruction of a**
 138 **facility to which this Manual applies, the traffic control devices installed (temporary or**
 139 **permanent) shall comply with the most recent edition of the National MUTCD before that**
 140 **highway is opened or re-opened to the public for unrestricted travel [23 CFR 655.603(d)(2)**
 141 **and (d)(3)].**

142 **Unless a particular device is no longer serviceable (see Section 1C.02 for definition),**
 143 **non-compliant devices on existing highways and bikeways shall be brought into compliance**
 144 **with the current edition of the National MUTCD as part of the systematic upgrading of**
 145 **substandard traffic control devices (and installation of new required traffic control devices)**
 146 **required pursuant to the Highway Safety Program, 23 U.S.C. §402(a).**

147 **Support:**

148 The FHWA has the authority to establish other target compliance dates for implementation of
 149 particular changes to the MUTCD [23 CFR 655.603(d)(1)].

150 **Standard:**

151 **The target compliance dates established by the FHWA shall be as shown in Table 1B-1.**

152 **Design, application, and placement of traffic control devices other than those adopted in**
 153 **this Manual shall be prohibited unless the provisions of Sections 1B.04 through 1B.07 are**
 154 **followed regarding official interpretations, experiments, changes to the MUTCD, and**
 155 **interim approvals granted by the FHWA.**

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158 **NCUTCD agrees with Table 1B-1 as presented in the NPA.**

Table 1B-1. Target Compliance Dates Established by the FHWA

MUTCD Section(s)	Subject Area	Specific Provision	Compliance Date
2C.25	Low Clearance Signs (W12-2, W12-2a, W12-2b)	Placement of the Low Clearance sign at the nearest intersecting road or wide point in the road at which a vehicle can detour or turn around (see Paragraph 4). Use of the Low Clearance Overhead sign to indicate the portion of the structure with low clearance if the posted clearance does not apply to the entire structure (see Paragraph 7).	5 years from the effective date of this edition of the MUTCD

8B.16	High-Profile Grade Crossings	Installation of Low Ground Clearance and/or Vehicle Exclusion signs for vehicles with low ground clearances that might hang up on high-profile grade crossings at locations with a known history.	5 years from the effective date of this edition of the MUTCD
8D.10 through 8D.13	Highway Traffic Signals at or Near Grade Crossings	Determination and installation of appropriate treatment (preemption, movement prohibition, pre-signals, queue cutter signals).	10 years from the effective date of this edition of the MUTCD

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160 Support:

161 Many of the provisions in this Manual that are explicitly prohibitive have been included to
 162 address practices that have come to be known as counterintuitive, ineffective, or inconsistent
 163 with uniformity. A provision of mandatory or recommended practice represents the accepted
 164 and established practice that promotes uniformity and consistency. The absence of a provision in
 165 this Manual that explicitly prohibits a particular practice, use, design, application, operation, or
 166 other aspect of a traffic control device does not, in itself, constitute acceptability or permission to
 167 use the device. The FHWA can issue an official interpretation (see Section 1B.05) in a case
 168 where an agency is considering employing a practice or application that is not explicitly
 169 addressed in this Manual.

170 **Standard:**

171 **A non-compliant traffic control device that is being replaced or refurbished because it**
 172 **is damaged, missing, or no longer serviceable (see Section 1C.02 for definition) for any**
 173 **reason shall be replaced with a compliant device, except when engineering judgment**
 174 **indicates that replacement in kind is more appropriate because:**

- 175 **A. One compliant device in the midst of a series of adjacent non-compliant devices**
 176 **would be confusing to road users; and/or**
- 177 **B. The schedule for replacement of the whole series of non-compliant devices will**
 178 **result in achieving timely compliance with the MUTCD.**

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182 **Section 1B.04 Comments: NCUTCD agrees with 1B.04 as presented in the NPA.**

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184 **Section 1B.04 Issuance of Official Rulings Related to this Manual**

185 Option:

186 The FHWA, in response to requests for interpretation, experimentation, or change, may issue
 187 an Official Ruling in response to such requests.

188 Support:

189 Official Rulings are issued by the FHWA. Official Rulings include responses to requests for
 190 interpretation of the provisions of this Manual, experimentation with novel traffic control devices

191 or application, and changes to the provisions of this Manual. Each Official Ruling is assigned a
192 unique number and title for recordkeeping purposes.

193 Official Rulings issued under previous editions of the MUTCD are typically addressed, either
194 in whole or part, in the next rulemaking to amend the MUTCD. Official Rulings issued under
195 previous editions of the MUTCD are considered to be superseded by the new edition of the
196 MUTCD.

197 The MUTCD Web site contains a searchable database of current and past Official Rulings.
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201 **Section 1B.05 Comments:** NCUTCD agrees with 1B.05 as presented in the NPA.
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203 **Section 1B.05 Official Interpretations**

204 Support:

205 Unique situations often arise for device applications that might require interpretation or
206 clarification of this Manual.

207 An interpretation includes a consideration of the application and operation of standard traffic
208 control devices, official meanings of standard traffic control devices, or the variations from
209 standard device designs.

210 *Guidance:*

211 *Requests for an interpretation of this Manual should contain the following information:*

- 212 *A. A concise statement of the interpretation being sought;*
213 *B. A description of the condition that provoked the need for an interpretation;*
214 *C. Any illustration that would be helpful to understand the request; and*
215 *D. Any supporting research data that is pertinent to the item to be interpreted.*
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219 **Section 1B.06 Comments:** NCUTCD supports the premise that no traffic control device should
220 be placed on a public way or site open to public travel that would compromise the safety or
221 mobility of road users; however, NCUTCD also notes that there are “provisions of this Manual”
222 that are arguably not related to traffic control devices and others that have a wide variety of
223 associated risk. NCUTCD recommends that this be considered when the Standards in this
224 section are applied.

225 NCUTCD recommends revising 1B.06 as follows:

- 226 • Add a Support paragraph at the beginning of the Section explaining the importance of
227 experimentation
- 228 • Add a Support paragraph after the first Standard statement to reinforce the value of
229 experienced research professionals in the planning and implementation of effective
230 experimentation plans and the subsequent value when the results are considered for inclusion
231 in the MUTCD
- 232 • Delete “authority” and restore the 2009 MUTCD term “operator” in Support, as the term
233 “authority” is commonly used in the industry to represent public toll agencies and may imply
234 that the condition would not apply to privately-owned and operated toll facilities -
235 recommend this change in 6 other instances of “authority” in this context in the MUTCD

- 236 • Change the second Standard statement to Guidance as it was in the 2009 MUTCD and in
237 accordance with NCUTCD recommendation 17A-EC-01, because there should be flexibility
238 to adjust the level of experimentation on a case-by-case basis
- 239 • Add “if applicable” to control sites because not all experiments can/will have control sites
240 available
- 241 • Add “or as otherwise directed by FHWA” to Guidance to provide more flexibility for sites
242 where the experimental device or application is unquestionably successful and may remain
243 pending Interim Approval or inclusion in revisions to the MUTCD or subsequent editions
- 244 • Add an Option statement that details the various means for jurisdictions to participate in,
245 contribute to, or extend the scope of ongoing experimentation efforts to help simplify the
246 process for subsequent jurisdictions
- 247 • Clarify Support and Option language, simplify the reporting language, and delete added
248 material that is considered unnecessary

250 Section 1B.06 Experimentation

251 Support:

252 Experimentation is an important step in the process of introducing a new device or
253 application to the Manual because it can demonstrate whether or not a proposed device or
254 application improves safety and/or operations.

255 (add to explain why experimentation is important)

256 Requests for experimentation include consideration of field deployment for the purpose of
257 testing or evaluating a new traffic control device, its application or manner of use, or a provision
258 not specifically described in this Manual.

259 **Standard:**

260 **A traffic control device or application that does not comply with the provisions of this**
261 **Manual shall not be used on any street, highway, bikeway, or site roadway open to public**
262 **travel (see definition in Section 1C.02-1A.13) without first receiving official approval to**
263 **experiment from the FHWA’s Office of Transportation Operations.**

264 (editorial)

265 Support:

266 A jurisdiction considering the submission of a request for experimentation is encouraged to
267 collaborate with experienced researchers for advice on experimental design and selection of
268 measures of effectiveness for an experiment. A request for experimentation with a strong study
269 design is more likely to be approved by FHWA and is more likely to result in ultimate inclusion
270 of a new device or application in the Manual.

271 (add to reinforce the value of experienced research professionals in experimentation)

272 A request for permission to experiment will be considered only when submitted by the public
273 agency or toll facility ~~operator authority~~ responsible for the operation of the road or street on
274 which the experiment is to take place. For a site roadway open to public travel, the request will
275 be considered only if it is submitted by the private owner or official having jurisdiction.

276 [restore “operator” as “authority” may not apply to private toll facilities]

277 Manufacturers or inventors of novel devices are encouraged to engage the services of a
278 qualified traffic engineer or other professional who is versed in traffic control devices. Early
279 engagement during the concept and development processes will help ensure the efficacy of the
280 device with regard to human factors, operational, safety, and other considerations prior to an
281 agency requesting experimentation.

282 In some cases, an off-roadway closed-course or laboratory study might be required before a
283 request for experimentation can be considered. The purpose of such a study is to determine
284 whether testing the experimental device or application in an open-road setting could result in an
285 undue safety risk.

286 *Guidance:*

287 *Before requesting permission to experiment with a new device or application, an owner of a*
288 *site roadway open to public travel should first check for any laws, regulations, and/or directives*
289 *covering the application of the MUTCD that might apply.*

290 *Support:*

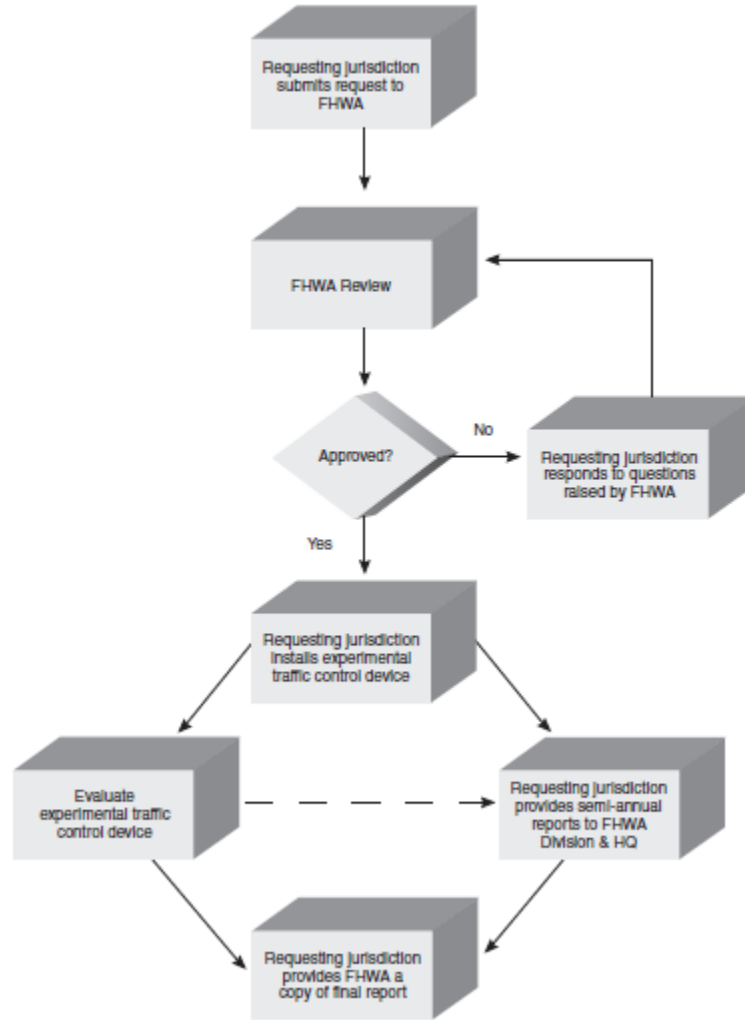
291 A diagram indicating the process for experimenting with traffic control devices is shown in
292 Figure 1B-1.

293 **NCUTCD agrees with Figure 1B-1 as presented in the NPA, but recommends correcting the**
294 **figure number as depicted from 1A-1 to 1B-1.**

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Figure 1B-1. Process for Requesting and Conducting Experimentations for New Traffic Control Devices

Figure 1A-1. Process for Requesting and Conducting Experimentations for New Traffic Control Devices



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Guidance Standard:

[change Standard to Guidance for flexibility on a case-by-case basis per 2009 MUTCD and 17A-EC-01]

The request for permission to experiment ~~shall~~ *should* contain the following:

- A. A statement indicating the nature of the problem ~~and a hypothesis establishing the premise of the experiment.~~ [delete - unnecessary]
- B. A description of the proposed *new device*, change to ~~the~~ *an existing* traffic control device or application of the traffic control device, including the manner in which it deviates from the standard, and how it is expected to be an improvement over existing standards.
- C. Illustrations that would help to explain the traffic control device or use of the traffic control device.

309 D. Any supporting data explaining how the traffic control device was developed, including if
310 it has been tested, in what ways it was found to be adequate or inadequate, and how this
311 choice of device or application was derived.

312 ~~E. Comparison of the proposed device to other compliant devices or treatments, either~~
313 ~~individually or in combination, that address the same condition, if applicable.~~

314 [delete- redundant to items A - D above]

315 E. A legally binding statement that the experimental device or application is in the public
316 domain, in accordance with ~~Paragraph 11 of this~~ [Section 1D.08](#).

317 [refer to Section 1D.08]

318 F. The time period and location(s) of the experiment.

319 G. Control sites for comparison purposes, if applicable.

320 [add “if applicable” because not all experiments can/will have control sites available]

321 H. A ~~detailed~~ research and evaluation plan that provides for ~~close~~ monitoring of the
322 experimentation, throughout all stages of its field implementation. The evaluation plan
323 should ~~shall~~ include before and after studies as well as quantitative data describing the
324 performance of the experimental device.

325 [delete unnecessarily prescriptive and undefined words “detailed” and “close”]

326 I. An agreement to restore the site of the experiment to a condition that complies with the
327 provisions of this Manual within 3 months following the end of the time period of the
328 experiment, or as otherwise directed by the FHWA. This agreement should ~~shall~~ also
329 provide that the requesting jurisdiction ~~agency sponsoring the experimentation~~ will
330 terminate the experimentation at any time that it determines that safety concerns are
331 directly or indirectly attributable to the experimentation and the agency should ~~shall~~
332 provide timely notification to the FHWA’s Office of Transportation Operations. The
333 FHWA’s Office of Transportation Operations ~~shall have~~ has the right to terminate
334 approval of the experimentation at any time if there is an indication of safety or
335 operational concerns, or if the terms of the approval are not being adhered to. If, as a
336 result of the experimentation, a request is made that this Manual be changed to include
337 the device or application being experimented with, the FHWA’s Office of Transportation
338 Operations will determine whether the device or application can be permitted to remain
339 in place until an official rulemaking action has occurred.

340 [add “or as otherwise directed by FHWA” to provide more flexibility for successful sites]

341 J. An agreement to provide semi-annual progress reports for the duration of the
342 experimentation, in accordance with the following schedule: ~~provided in Paragraph 8~~
343 ~~of this Section~~

344 a. August 1, for the preceding period of January through June; and

345 b. February 1, for the preceding period of July through December.

346 [move schedule dates from NPA proposed Standard below to simplify the language]

347 K. ~~a~~An agreement to provide a report of the final results of the experimentation to the
348 FHWA’s Office of Transportation Operations within 3 months following completion of
349 the experimentation (~~see Paragraph 10 of this Section~~). The FHWA’s Office of
350 Transportation Operations ~~shall have~~ has the right to terminate approval of an agency’s
351 experiment if reports are not received in accordance with this schedule.

352 [split NPA item K into two items, shown above as items J and K - item J addresses the semi-
353 annual report and a new item K addresses the final report, including removal of the reference
354 to Paragraph 10 which is recommended for deletion]

355 Option:

356 A jurisdiction desiring to conduct experimentation similar to an on-going approved
357 experiment may:

358 A. Submit a request letter, attaching a copy of the approved experimentation request,
359 providing locations and agreeing to the terms of the approved request and schedule of
360 reporting; or

361 B. Submit a request letter, attaching a copy of the approved experimentation request,
362 providing locations, modifying the data collection to include additional/alternative
363 performance measures and modified schedule of completion, and agreeing to the terms of
364 the approved request, or

365 C. Submit a new independent request to experiment.

366 [add an Option statement listing means for jurisdictions to participate in scope of ongoing
367 experimentation to simplify the process for subsequent jurisdictions]

368 ~~The required semi-annual progress reports shall be submitted throughout the course of~~
369 ~~an approved experiment in accordance with the following schedule:~~

370 ~~A. August 1, for the preceding period of January through June; and~~

371 ~~B. February 1, for the preceding period of July through December.~~

372 ~~The experimenting agency shall submit a semi-annual progress report for any approved~~
373 ~~experiment even if no work was performed during the previous reporting period. Failure~~
374 ~~to submit two consecutive progress reports shall result in termination of the experiment~~
375 ~~and shall constitute rescission of the FHWA's approval to the experimenting agency,~~
376 ~~requiring restoration of the site(s) to a condition that complies with the provisions of this~~
377 ~~Manual within 3 months.~~

378 ~~The experimenting agency shall submit a final report within 3 months of the conclusion~~
379 ~~of an approved experiment. If a final report is not received by the FHWA's Office of~~
380 ~~Transportation Operations, and the experimenting agency fails to notify the FHWA of any~~
381 ~~mitigating circumstances within 6 months of the end of the approved experimentation~~
382 ~~period, then the experiment shall be considered terminated and shall constitute rescission~~
383 ~~of the FHWA's approval to the experimenting agency, requiring restoration of the site(s) to~~
384 ~~a condition that complies with the provisions of this Manual within 3 months.~~

385 [delete 3 above Standard paragraphs - redundant to Items K & L as modified above]

386 ~~A request for experimentation that involves a new traffic control device or a new~~
387 ~~application of an existing traffic control device shall include from the agency conducting~~
388 ~~the experiment, the manufacturer and/or developer of the device, and the supplier of the~~
389 ~~device, a legally binding statement certifying that the traffic control device is not protected~~
390 ~~by a patent, trademark, or copyright, and that the traffic control device is in the public~~
391 ~~domain and may be used freely in traffic control device design and application without~~
392 ~~infringement or claim of trade secret misappropriation. The legally binding statement~~
393 ~~shall also state that the agency conducting the experiment, the manufacturer and/or~~
394 ~~developer of the device, and the supplier of the device are aware that if patent, trademark,~~
395 ~~or copyright protection is established in the future for the device or application, such action~~
396 ~~will result in its removal from the MUTCD, cancellation of its interim approval, or~~
397 ~~cancellation of the authorization for experimentation.~~

398 [delete - redundant to Section 1D.08 and Item F above]

399 Support:

400 ~~For the purpose of the Standard in the Paragraph 7 of this Section, traffic control device~~
401 ~~means those aspects of a sign, signal, marking or other device which regulates, warns, or guides~~
402 ~~traffic. The limitation on patent, trademark, or copyright protection does not include the legal~~
403 ~~protection of individual elements of such devices. For example, manufacturing methods,~~
404 ~~assembly methods, or individual components of such devices can be protected, whereas the~~
405 ~~traffic control device cannot be subject to protection so long as it remains in this Manual. As~~
406 ~~further example, an internal circuit board for an electronic traffic control device can be legally~~
407 ~~protected, but the electronic traffic control device itself or its operational function cannot be~~
408 ~~legally protected by any of the above forms of intellectual property.~~

409 [delete - duplicates 1D.08 as referred to in Item F above]

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413 **Section 1B.07 Comments:** NCUTCD agrees with 1B.07 as presented in the NPA, but with a
414 minor editorial correction.

415

416 **Section 1B.07 Changes to the MUTCD**

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Support:

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Continuing advances in technology will produce changes in the highway, vehicle, and road
419 user proficiency; therefore, portions of the system of traffic control devices in this Manual will
420 require updating. It is important to have a procedure for recognizing these developments and for
421 introducing new ideas and modifications into the system.

422

A change includes consideration of a new device to replace a present standard device, an
423 additional device to be added to the list of standard devices, or a revision to a traffic control
424 device application or placement criteria.

425

Guidance:

426

Requests for a change to this Manual should contain the following information:

427

A. A statement indicating what change is proposed;

428

B. Any illustration that would be helpful to understand the request; and

429

C. Any supporting research data that is pertinent to the item to be reviewed.

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Support:

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Requests for a change to this Manual will be evaluated for consideration in the next
432 rulemaking to issue a new edition or revision of the Manual. A diagram indicating the process
433 for incorporating new traffic control devices into this Manual is shown in Figure 1B-2.

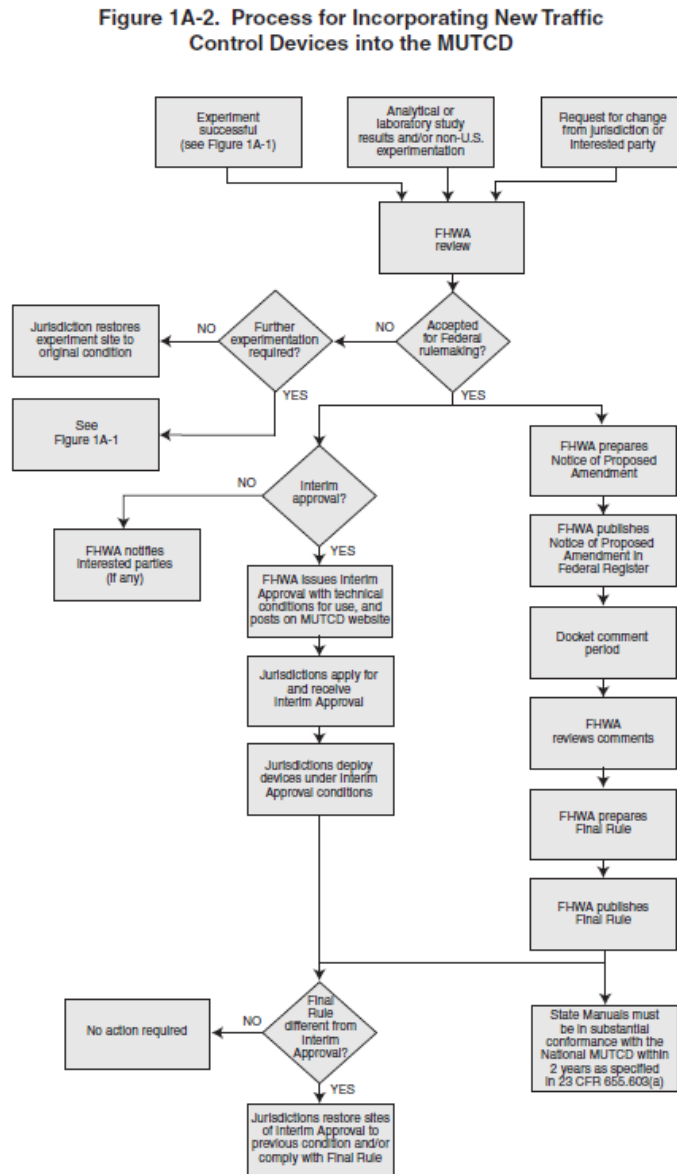
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NCUTCD agrees with Figure 1B-2 as presented in the NPA, but recommends correcting the figure number as depicted from 1A-2 to 1B-2.

Figure 1B-2. Process for Incorporating New Traffic Control Devices into the MUTCD



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Section 1B.08 Comments: NCUTCD generally agrees with 1B.08 as presented in the NPA, but recommends corrections consistent with revisions to Sections 1B.06 and 1B.07.

Section 1B.08 Interim Approvals Support:

450 Interim approval allows for provisional use, pending official rulemaking, of a new traffic
451 control device, a revision to the application or manner of use of an existing traffic control device,
452 or a provision not specifically described in this Manual.

453 The FHWA issues an interim approval by official memorandum signed by the Associate
454 Administrator for Operations and posts this memorandum on the MUTCD website.

455 Interim approval allows for optional use of a traffic control device or application and does
456 not create a new mandate or recommendation for use. Interim approval includes conditions that
457 jurisdictions, toll facility operators-authorities, or owners of site roadways open to public travel
458 agree to comply with in order to use the traffic control device or application until an official
459 rulemaking action has occurred.

460 The issuance by FHWA of an interim approval might result in the traffic control device or
461 application being proposed for adoption in the next scheduled rulemaking process to issue a new
462 edition or revision of this Manual. If the device or application under interim approval is not
463 proposed in the next rulemaking for a new edition or revision, then a statement of the status of
464 the interim approval, whether it is to be rescinded or remain in effect, will be included in the
465 Federal Register notice for the rulemaking.

466 Interim approval is considered based on the results of successful experimentation, results of
467 analytical or laboratory studies, and/or review of documented non-U.S. experience with a traffic
468 control device or application. Interim approval considerations include an assessment of relative
469 risks, benefits, costs, impacts, and other factors.

470 Interim approval is ordinarily considered only after published authoritative research
471 demonstrates that the device or application provides a safety or operational improvement or
472 meets other objectives established by FHWA. Individual experiments by various jurisdictions,
473 without a research report on the overall findings of the experimental device or application, will
474 not ordinarily qualify for issuance of an interim approval.

475 **Standard:**

476 **A jurisdiction, toll facility operator-authority, or owner of a site roadway open to public**
477 **travel that desires to use a traffic control device for which FHWA has issued an interim**
478 **approval shall request and receive permission from FHWA in writing prior to applying the**
479 **device.**

480 **The request to place a traffic control device under an existing interim approval shall**
481 **contain the following:**

- 482 **A. A description of where the device will be used, such as a list of specific locations or**
483 **highway segments or types of situations, or a statement of the intent to use the**
484 **device jurisdiction-wide;**
- 485 **B. An agreement to abide by the specific conditions for use of the device as contained**
486 **in the FHWA's interim approval memorandum;**
- 487 **C. An agreement to maintain and continually update a list of locations where the**
488 **device has been installed; and**
- 489 **D. An agreement to:**
- 490 **1. Restore the site(s) of the interim approval to a condition that complies with the**
491 **provisions in this Manual within 3 months following the issuance of a Final Rule**
492 **on this traffic control device; and**
 - 493 **2. Terminate use of the device or application installed under the interim approval**
494 **at any time that it determines that safety concerns are directly or indirectly**
495 **attributable to the device or application. The FHWA's Office of Transportation**

496 **Operations shall have the right to terminate the interim approval at any time if**
497 **there is an indication of safety, operational, or other concerns.**

498 Option:

499 A State may submit a request for permission to use a device under an existing interim
500 approval for all jurisdictions in that State, as long as the request contains the information
501 required in Paragraph 8 of this Section.

502 **Standard:**

503 A jurisdiction, toll facility operator ~~authority~~, or owner of a site roadway open to public
504 travel that elects to use a device or application under a statewide interim approval shall
505 inform the State of its use of the device or application.

506 The respective jurisdictions, toll facility operators ~~authorities~~, and owners of site
507 roadways open to public travel shall maintain and continually update a record of all
508 locations on their roads where the device or application is implemented (see Item C of
509 Paragraph 8 of this Section), and shall furnish this information to the State.

510 Option:

511 Except in a case in which an interim approval is rescinded and such rescission explicitly
512 requires removal of the device or application installed under that interim approval, a device or
513 application installed under an interim approval may remain in place, under the conditions
514 established in the interim approval, until an official rulemaking action has occurred.

517 **Section 1B.09 Comments:** NCUTCD generally agrees with Section 1B.09 as presented in the
518 NPA, but recommends corrections consistent with revisions to Sections 1B.06.

519 **Section 1B.09 Requesting Official Interpretations, Experiments, Changes to the MUTCD,**
520 **or Interim Approvals**

521 *Guidance:*

522 *A local jurisdiction, toll facility operator ~~authority~~, or owner of a site roadway open to public*
523 *travel that is requesting permission to experiment or permission to use a device or application*
524 *under an existing interim approval should first check for any State laws, regulations, and/or*
525 *directives covering the application of the MUTCD provisions that might apply.*

526 **Standard:**

527 **Except as provided in Paragraph 3 of this Section, requests for an interpretation,**
528 **permission to experiment, a change to the MUTCD, granting of an interim approval, or**
529 **permission to use an existing interim approval shall be submitted electronically to the**
530 **Federal Highway Administration (FHWA), Office of Transportation Operations, MUTCD**
531 **team, at the following e-mail address: MUTCDofficialrequest@dot.gov.**

532 Option:

533 If electronic submittal is not possible, requests for an interpretation, permission to
534 experiment, a change to the MUTCD, or granting of an interim approval may instead be mailed
535 to the Office of Transportation Operations, HOTO-1, Federal Highway Administration, 1200
536 New Jersey Avenue, SE, Washington, DC 20590.

537 Support:

538 Communications regarding other MUTCD matters that are not related to official requests will
539 receive quicker attention if they are submitted electronically to the MUTCD Team Leader or to
540 the appropriate individual MUTCD technical lead team member. Their e-mail addresses are
541

542 available through the links contained on the “MUTCD Team” page on the MUTCD website at
543 <http://mutcd.fhwa.dot.gov/team.htm>.

544 For additional information concerning interpretations, experimentation, changes, or interim
545 approvals, visit the MUTCD Web site at <http://mutcd.fhwa.dot.gov>.

546 Each official ruling (response to a request for interpretation, experimentation, or change)
547 issued by the FHWA is assigned a unique alphanumeric designation that corresponds to the
548 relevant Part and edition of the MUTCD under which it was issued. Beginning with the 11th
549 edition, the designation includes the consecutive edition number, in parentheses, following the
550 MUTCD Part number. The number that follows the Part and edition numbers is the sequential
551 number of the official ruling for that Part and edition. The type of official ruling is denoted in
552 parentheses by the letter I, E, or C for interpretation, experimentation, or change, respectively.
553 For example, Official Ruling “4(11)-20 (I)” denotes the twentieth official ruling for Part 4 of the
554 11th edition of the MUTCD, which is an official interpretation.

555 The 10th edition of the MUTCD, issued in 2009, included the edition reference as “(09)”
556 denoting the 2009 edition of the MUTCD rather than the 10th edition of the MUTCD. The
557 reference to the year of the edition is discontinued and replaced with the consecutive number of
558 the edition beginning with the 11th edition of the MUTCD.