

U.S. Department of Transportation
Dockets Management Facility
Room W12 – 140
1200 New Jersey Avenue, SE
Washington, DC 20590

January 22, 2013

Ref: FHWA Docket No. FHWA-2012-0118

Dear Sir or Madam:

On January 11, 2013, the Federal Highway Administration (FHWA) published a Notice and Request for Comments (RFC) in the *Federal Register* (FHWA Docket No. FHWA-2012-0118). The notice seeks answers, comments, and concerns related to providing “a simplified, streamlined” *Manual on Uniform Traffic Control Devices* (MUTCD) by dividing it into two documents, one that would continue as the official MUTCD and would require rulemaking to change and a second that would be a supplemental document containing best practices and that could be changed without going through rulemaking.

The National Committee on Uniform Traffic Control Devices (NCUTCD) submits this docket comment recommending that the MUTCD continue in its present form (a single document) for the near future. There are many reasons for our recommendation and they are identified throughout this document. The most significant of these reasons is that the NCUTCD is nearing completion of a multi-year effort to develop a long-range vision and strategic plan for the MUTCD, which is expected to be completed in January 2014. That effort is addressing many issues that would impact future MUTCD content and structure, and we feel that any effort to restructure MUTCD content prior to completion of the strategic plan would be counterproductive. While there may be valid reasons to restructure the MUTCD in the future, we believe that doing so before completion of the vision and strategic plan could have consequences that are detrimental to the long-term value of the MUTCD as a critical document for achieving improved highway safety and mobility.

The *Federal Register* notice indicates the purpose of the notice is to provide a simpler, streamlined MUTCD to promote a more responsive and efficient government consistent with Executive Order 13563. Unfortunately, the notice offers only one option for accomplishing that purpose – restructuring the MUTCD into two documents. The notice does not describe any other options for accomplishing the purpose of the notice. The NCUTCD believes that there are likely multiple options for simplifying and streamlining the MUTCD and recommends a thorough evaluation of all options before determining that restructuring the MUTCD is the optimal solution.

The NCUTCD shares the overall goal of Executive Order 13563 to conduct a government-wide review of rules and regulations that are “outdated” or “unnecessary regulations ... stifling job creation and economic growth.” The MUTCD is codified in federal regulations as the national standard for traffic control devices. The NCUTCD believes that, at present, there are no comprehensive analyses to suggest that restructuring the MUTCD would be the most appropriate means

of accomplishing the goals of this Executive Order. However, the NCUTCD's efforts to strategically evaluate the long-term needs, impacts, and use of the MUTCD are ideally aligned with the intent of the President's Executive Order and we believe that it is highly important that any decisions on how to streamline the MUTCD should await the completion of our strategic plan.

The NCUTCD also wishes to emphasize that restructuring the MUTCD into two or more documents is not a simple undertaking and should not be accomplished by simply retaining the "shall" statements in the current MUTCD in a future slimmed-down edition. As such, the NCUTCD recommends that, if a decision is made to restructure the MUTCD in any significant way, it is critical for FHWA to partner with the NCUTCD to develop the draft content for a restructured MUTCD and any supplemental document(s), in the same manner that FHWA partnered with the NCUTCD in reformatting and rewriting the 1988 MUTCD (which ultimately resulted in the 2000 MUTCD). Such a partnership would allow the NCUTCD to evaluate each statement in the existing MUTCD and determine whether it should be retained in a restructured MUTCD or relocated to a supplemental document. The 1990s partnership with the NCUTCD allowed FHWA to benefit from over 75,000 person-hours of effort, with a conservative value of over \$7 million. The NCUTCD is committed to replicating such an effort in a new MUTCD restructuring activity. In fact, the NCUTCD is nearing completion of the process of evaluating every Standard statement in the MUTCD to determine if each Standard statement should continue to exist as a Standard or be revised to a Guidance, Option, or Support statement. The NCUTCD has already submitted most of this work to FHWA.

Background on the NCUTCD and the MUTCD Strategic Planning Effort

The NCUTCD is an organization that exists solely to contribute to the improvement of the MUTCD. The NCUTCD meets twice a year. At each meeting, over 250 professionals representing a wide cross-section of MUTCD users develop suggested MUTCD language, review proposed MUTCD language published by the FHWA, and/or offer recommendations to FHWA staff related to important MUTCD issues. There are 20 individual organizations that sponsor the NCUTCD and the total annual contribution of NCUTCD participants exceeds 10,000 person-hours, all of it devoted to improving the MUTCD. A large proportion of the MUTCD content was developed by the NCUTCD prior to FHWA beginning rulemaking on that content. Many of the sponsoring NCUTCD organizations include public agencies that are subject to MUTCD provisions and whose staff use the MUTCD on a daily basis. The NCUTCD believes that the MUTCD is dramatically improved due to the input and thousands of person-hours of volunteer labor that the NCUTCD provides to FHWA. The NCUTCD is particularly significant as it is the only group external to FHWA that provides a means of building consensus opinions of city/county/state government jurisdictions (public sector engineering), private sector engineering, manufacturers and suppliers, professional organizations, law enforcement, road user groups, safety advocates, construction and utility industries, and research groups regarding MUTCD issues.

As noted above, the NCUTCD is currently developing a long-range vision and strategic plan for the MUTCD of the future. This multi-year effort is also supported by funding from the National Cooperative Highway Research Program (Project 20-7/323). The NCHRP funds for this effort come directly from the states. This effort is evaluating a large number of issues that relate to the

future of the MUTCD, of which the size/structure of the document is only one. The website for the effort is <http://mutcd.tamu.edu>. It is expected that the NCUTCD will send the draft vision and strategic plan to its sponsors for their comments after the June 2013 meeting; and the Council will consider the sponsors' comments, make any changes felt to be needed in response to the comments, and approve the final version at its January 2014 meeting. Once approved by its Council, the NCUTCD will submit the strategic plan to FHWA. Some of the key questions being addressed in the strategic planning effort include:

1. What is the purpose of the MUTCD?
2. What target audience should the MUTCD be written for?
3. What level of detail should be in the MUTCD?
4. What is the future of traffic control devices?
5. What are the options for organizing the MUTCD?
6. What is the target group of road users that MUTCD content is intended to accommodate, if any?
7. What content should be included in the MUTCD and what are the guiding principles that should be considered when deciding whether to put specific content in the MUTCD?
8. What information is needed to justify changes to the MUTCD?
9. How often should the MUTCD be revised?
10. What is the ideal process for revising the MUTCD?
11. How many individual changes are appropriate to include in an MUTCD revision?
12. What is the desirable process for incorporating new technologies and new devices into the MUTCD?
13. What technologies are desirable for improving the usability of the MUTCD?

The NCUTCD recommends delaying a decision to restructure the MUTCD because such a restructuring would be a very significant milestone in the evolution of the MUTCD, is closely related to numerous other strategic issues being evaluated by the NCUTCD, and would likely have a significant impact on the daily decision-making of state and local agencies regarding traffic control devices. Decisions related to restructuring the MUTCD would be more responsive to actual, rather than perceived, user needs if the visioning and strategic planning effort were finished before beginning the restructuring process.

Responses to the Nine Questions:

A portion of the Federal Register notice includes nine questions related to dividing the MUTCD into two documents. These questions are listed below and the NCUTCD response follows each question. Although the NCUTCD strongly recommends that the restructuring process be delayed, this docket response includes our best answer at the present time to questions that presuppose a particular restructuring method, given the lack of the strategically useful information needed to provide a more complete response to these questions.

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.

NCUTCD Response: The NCUTCD recommends that the MUTCD be maintained as a single document until the strategic planning effort is completed. Delaying the restructuring activity would provide for a more thorough evaluation of the merits of restructuring and improve the assessments of the benefits to be realized by restructuring the MUTCD. There may be other options currently being evaluated as part of the NCUTCD strategic planning effort that would more effectively address the goals of the Executive Order.

The NCUTCD recognizes that there are individuals, agencies, and organizations that objected to the complexity and rigidity of the 2009 MUTCD as originally published. However, the NCUTCD believes that the recent MUTCD revisions that restored the ability to use engineering judgment and eliminated many compliance dates have generally eased these concerns and reduced the urgency associated with addressing the initial comments related to the complexity and size of the MUTCD via a major restructuring. At this time, the NCUTCD does not see compelling evidence that restructuring the current MUTCD into two documents would advance highway safety or streamline its use/application by practitioners. Instead, a quick effort to restructure the MUTCD (which would not benefit from the final consensus of the strategic plan) could result in multiple documents that might be more cumbersome for practitioners to use, create inconsistencies between multiple documents (further confusing practitioners), and create new challenges associated with the coordination and maintenance of multiple, closely-related 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”?

NCUTCD Response: If the NCUTCD strategic planning effort determines that the existing MUTCD should be divided into multiple documents, it will also address how the content of multiple documents should be coordinated. If, contrary to our primary recommendation, FHWA chooses to initiate the MUTCD restructuring process prior to completion of the strategic plan, the NCUTCD believes that the content of all documents that would result from an MUTCD restructuring should provide a consistent format and easy means of associating content in one document with related content in another document.

The NCUTCD would like to point out that the headings in the MUTCD are nothing more than a reinforcement of the key operative words (shall, should, may) in the language for those headings. The more appropriate question that should be asked is whether a supplemental document(s) should use the same operative words (shall, should, may) as the MUTCD document.

Any effort to divide existing MUTCD content into multiple documents should include an intensive evaluation of existing shall statements and whether those statements and concepts should continue in the national standard document (the official MUTCD) or whether they should be relocated to a supplemental document. As mentioned at the beginning of this docket comment, the NCUTCD is in the process of identifying shall statements in the current MUTCD that do not need to continue as shall statements. That effort will help to simplify the MUTCD and reduce its complexity.

The NCUTCD's current position is that, if any supplemental document is developed, it would be appropriate to have Guidance (should), Option (may), and Support content in a supplemental document(s), but the headings themselves may not be necessary. The NCUTCD also believes that a restructured MUTCD consisting primarily of shall statements may also need to retain some Support statements so that it can provide a logical connection to content that may be in other documents.

One of the issues that the NCUTCD strategic planning effort is dealing with is the future form of the MUTCD. While the printed MUTCD has value, recent and future advances in communications technologies will lessen the need to deal with the proposed documents as separate printed documents. It will be possible to have an electronic MUTCD that has direct links to the content of other supplemental documents such that independent documents can be merged so that they appear as a single document to the user. The ability to relate information in the restructured MUTCD to content in a supplemental document is critical, implying that there should be a consistent use of section numbers between all the documents. This aspect of the restructuring concept implies that it might be more effective at a later time when communication technologies have advanced to a point that they are more universally used. This will make it easier to provide independent documents that can be combined in a coordinated manner. FHWA has taken a step in this direction by adding hotlinks to the 2009 MUTCD, which has proven to be a valuable improvement. Such advancements are dependent upon increased use of electronic delivery methods. It is worth noting that some agencies and other MUTCD users have not yet implemented such technology on a widespread basis, providing further evidence that it may be premature to divide the MUTCD into multiple documents.

The NCUTCD believes that, ultimately, there should be a set of electronic reference documents for traffic control devices (not just the MUTCD and its official supplements) that have links or connections between all of the content. This should extend beyond just the use of a common section numbering scheme, and should go as far as providing the ability to identify, for example, all traffic control devices related to a signalized intersection (signs, markings, signals, temporary traffic control, school, grade crossings, and bicycle provisions) and pertinent reference material on the topic.

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.

NCUTCD Response: With respect to this question, the NCUTCD reiterates its position that there are many critical strategic MUTCD issues that affect the answer and until the NCUTCD strategic planning effort is completed, a thoughtful and complete answer to this question is not possible. One key question is whether or not a reformat of the MUTCD would promote uniformity and safety. Another question is “What is the purpose of the MUTCD?” The NCUTCD strongly believes that there needs to be a national dialogue on the purpose of the MUTCD before a decision can be made on how/whether to split the MUTCD into multiple documents.

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?

NCUTCD Response: This is a state-specific question that the NCUTCD cannot answer with specificity, although we do believe that there could be negative impacts on state processes. The NCUTCD will request that its sponsoring organizations respond to this question through the docket process.

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?

NCUTCD Response: The NCUTCD cannot speak for how the printed and electronic versions of the MUTCD are used within individual agencies. The NCUTCD will request that its sponsoring organizations respond to this question through the docket process.

The NCUTCD suggests that FHWA should consider more than how agencies use the printed and electronic versions of the MUTCD. In that regard, the NCUTCD offers the following comments regarding use of printed and electronic versions of the MUTCD:

- The NCUTCD believes that it is likely that printed copies of the MUTCD will be the exception rather than the rule at some point in the not too distant future.

- While there will likely always be a need for a printed version of the MUTCD and any related supplemental documents, future day-to-day use of the MUTCD is likely to focus on electronic delivery of the content.
- As mentioned in the response to Question #2, there is a need to provide a more effective means of coordinating/connecting related content in the MUTCD, particularly if it is split into two or more documents. Users of the 2009 MUTCD must already refer to content in multiple locations of the document when making traffic control device decisions for most locations. Restructuring the MUTCD into multiple documents would potentially increase the difficulty of making traffic control device decisions if a printed version or PDF with limited features is the primary delivery mechanism for the content. Regardless of whether the MUTCD is restructured, there will likely be a need to better connect related MUTCD content.
- There are already phone apps on the market for the MUTCD and the ability to deliver MUTCD-type content on a phone or tablet will only increase. The search engine and cut and paste functions of the electronic versions are highly utilized.

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?

NCUTCD Response: The current MUTCD lists 42 individual documents that are useful sources of information. While desirable, it would be a challenge to provide and maintain direct links to content in all 42 documents, especially since at least half of them are copyrighted publications. Where direct links cannot be provided, citations could serve a similar purpose. Direct links to content in the 10 FHWA documents in the list (such as the Standard Highway Signs Book) and other federal documents would be appropriate. It is worth noting that connecting or linking important elements of additional resources into a supplemental document(s) would simply make the document(s) larger without providing new information to the user. This is a potentially undesirable outcome with negative consequences for the MUTCD user.

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.

NCUTCD Response: The NCUTCD strongly believes that the NCUTCD's consensus developing process used for current MUTCD content will be critical to both a restructured MUTCD and any supplemental document(s). The NCUTCD believes that it is absolutely

necessary that FHWA continue its involvement with both the restructured MUTCD and any related supplemental documents if that is ultimately decided as the best way to restructure. The NCUTCD also believes that the consensus-developing process used by the NCUTCD should be used as the means of developing, revising, and updating content in both the MUTCD and any supplemental document(s). If the FHWA decides to restructure the MUTCD, the NCUTCD wishes to be a partner in the process as it and its predecessor organizations have been from the inception of the MUTCD. Content for any MUTCD supplemental document(s) should be developed only through a process that incorporates the opinions and expertise of individuals with traffic control device expertise that represent experience at the city, county, and state government levels (public sector engineering), private sector engineering, manufacturers and suppliers, professional organizations, law enforcement, road user groups, safety advocates, construction and utility industries, and research groups. Such a consensus is unlikely to be obtained if the responsibility for a supplemental document(s) is assigned to some other organization other than the NCUTCD. The NCUTCD would like to sign a formal agreement with FHWA indicating that we will develop and periodically update content of the supplemental document(s) in a cooperative manner with FHWA, and that FHWA will officially support the initial supplemental document(s) and any update thereto, making it clear to users that the FHWA recognizes the supplemental document(s). The NCUTCD is willing to expand its meeting time frame to provide the effort needed to accomplish this task.

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?

NCUTCD Response: Revising a supplemental document(s) without a widespread consensus building process could disenfranchise valued MUTCD stakeholders. Both a strength and weakness of the current MUTCD is that it can be revised only through formal rulemaking. This ensures that changes to the Manual are properly vetted, but it also means that important changes that need to be made on a timely basis may be delayed. Interim approvals provide a limited means of accelerating implementation of potential new devices into the MUTCD. The NCUTCD believes that if the supplemental document(s) is supported by the FHWA and relies upon the NCUTCD process for making changes to the supplemental document(s), then the necessary structure for stakeholder input to the revisions will be provided. FHWA could contribute to the consensus-building process by publishing a notice that announces draft content and encourages readers to offer comments to the NCUTCD. The NCUTCD strongly believes that it should not be possible for one or a small number of individuals or individual organizations representing a single or limited group of MUTCD user types to be able to make changes to the supplemental document(s).

The NCUTCD cannot make a specific recommendation on the frequency of supplemental document(s) changes until the strategic planning effort is complete. The period of transition from the current MUTCD to a restructured MUTCD with a supplement document(s) would

likely require extensive time and more frequent revisions to provide the necessary consistency and coordination. Once equilibrium is achieved, the NCUTCD believes that a regular periodic schedule for issuing an updated supplemental document could be established.

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

NCUTCD Response: The NCUTCD recommends that FHWA not limit their options for simplifying the MUTCD to a restructuring effort, nor should a restructuring effort be limited to the options listed in the notice. The FHWA should also wait until the NCUTCD strategic planning effort is completed (planned completion in January 2014) so that a complete picture of MUTCD purpose, needs, users, and future can be developed. The NCUTCD strategic planning effort has developed a white paper that describes several options for restructuring the MUTCD. These include dividing the MUTCD based on headings (as the FHWA proposes with this notice), function of the content, the content's basis in statute, and by the intended user of the content. (see <http://mutcd.tamu.edu>). We recognize the benefits of reducing the burden and timeframes involved in MUTCD rulemaking, but it is possible that the strategic planning effort might conclude that a single document would best serve the users and therefore best serve highway safety. In recognition of that possibility, we suggest that FHWA explore the potential of making only a portion of the current MUTCD content subject to rulemaking (perhaps through a change to the Code of Federal Regulations) but enabling the entire content of the MUTCD to be published as a seamless document.

Additional Comments:

In addition to the answers provided above, the NCUTCD offers the following comments related to restructuring the MUTCD:

- NCUTCD members have expressed concerns related to the legal status of any supplemental document(s) and the related impact on tort liability. Due to variation in state tort laws, the impacts of an applications document(s) could vary from one state to another.
- No one document can be all things to all people. A critical issue in the NCUTCD strategic planning effort (and for FHWA in determining whether to restructure the MUTCD) is determining who the MUTCD is written for. This would also help to determine what links and citations are appropriate to include in the restructured MUTCD and supplemental document(s). There has been significant discussion within the NCUTCD regarding whether the target user is someone with little or no professional qualifications/expertise, a traffic engineer with appropriate expertise and experience, or somewhere in between.

In summary, the NCUTCD recommends that the MUTCD be maintained as a single document until the results of the NCUTCD MUTCD strategic planning effort can be completed. Waiting for the results of the strategic planning effort will help to produce a Manual that best meets the

needs of road users and the practitioners that are responsible for implementing the principles contained in the document. The NCUTCD is not aware of any compelling evidence that restructuring the MUTCD will advance highway safety or improve MUTCD application by practitioners. At this time, it is unclear whether restructuring the MUTCD into multiple documents will make it easier to use, smaller in content, or speed up the revision process. The NCUTCD believes that restructuring the MUTCD may not be the most effective means of providing a simpler, streamlined MUTCD, which is identified as the purpose of the *Federal Register* notice. The FHWA should evaluate a complete range of options for simplifying the MUTCD in addition to restructuring the document.