



March 11, 2013

**Docket FHWA-2012-0118**

Docket Management Facility (M-30)  
U.S. Department of Transportation  
West Building  
Ground Floor, Room 12-140  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590-0001

**National Standards for Traffic Control Devices;  
the Manual on Uniform Traffic Control Devices for Streets and Highways  
Notification; Request for Comment, 78 FR 2347, January 11, 2013**

Advocates for Highway and Auto Safety (Advocates) provides these comments in response to the Federal Highway Administration (FHWA) notice, and request for public comment on the proposed restructuring of the Manual on Uniform Traffic Control Devices (MUTCD) into two separate documents. The FHWA notice, 78 FR 2347 (Jan. 11, 2013) proposes two alternative methods for bifurcating the contents of the existing version of the manual, MUTCD 2009 edition, into separate documents. Under each option, one document would contain the mandatory aspects of the MUTCD and be known as the “official” MUTCD that would be updated through public notice and comment agency rulemaking, while the other document containing non-mandatory guidance, options and support materials, including information on best-practices, would be detached from the MUTCD, renamed and updated by a private organization.

Advocates has a long history of involvement with the MUTCD and the National Committee on Uniform Traffic Control Devices (NCUTCD). Advocates was a sponsor of the NCUTCD for many years while Advocates’ former Senior Research Director, Dr. Gerald Donaldson served as a member of the National Committee. In addition, Advocates has filed numerous public comments to agency dockets regarding the content of the MUTCD.

Advocates generally endorses and supports the comments filed by the NCUTCD<sup>1</sup> and those filed by Mr. Jonathan Upchurch, P.E., P.T.O.E.<sup>2</sup> Advocates opposes the bifurcation of the MUTCD content into two documents because that form of restructuring will lead to less uniformity in the application and use of traffic control devices that will, in turn, be detrimental to public safety.

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<sup>1</sup> U.S. DOT docket No. FHWA-2012-0118-0015.

<sup>2</sup> *Id.*, FHWA-2012-0118-0039.

The MUTCD represents the definitive, comprehensive document governing the application and use of traffic control devices (TCD) that regulate traffic and enhance public safety. The public safety benefits provided by the MUTCD are derived from the fact that the MUTCD promotes uniformity in TCD treatments, so that regardless of state, highway class or specific location, vehicle operators know what to expect and how to react when they encounter a particular TCD. Any scheme to divide the MUTCD into multiple documents, and to jettison guidance and recommendations for the adoption of best-practices, will reduce uniformity and negatively impact highway safety.

The premise that mandatory requirements (“shalls”) for TCD use can readily be separated from the recommendations and information regarding non-mandatory applications (“shoulds”) for the same TCDs is simplistic. Many of the guidance provisions, examples, and advisory information in the MUTCD are inextricably interwoven with the mandatory statements or provisions. Elimination of the non-mandatory sections of the MUTCD will weaken the document because strong guidance and options, or even recommended practices would be teased out from the existing text, thereby reducing the strength of the MUTCD's provisions. Traffic engineers or other responsible parties who refer to the MUTCD should have all the expert information and advice about each TCD available in a single location in order to provide comprehensive information for decision-making and the exercise of good engineering judgment. While this may require internal reorganization of the MUTCD to ensure that related TCD information is readily available, and that cross-references can be immediately accessed through hypertext links (highly achievable for electronic versions of the MUTCD), it does not necessitate eviscerating the non-mandatory best practices guidance from the MUTCD.

Moreover, it is not just the mandatory requirements of the MUTCD that promote uniformity. Obviously, mandatory TCD treatments must be uniform from state to state and locale to locale. As important, however, is the achievement of uniformity among TCDs when traffic engineers have discretion to choose the TCD application they think best. The importance of the non-mandatory, best-practices portions of the MUTCD – the guidance, options and support – is that they promote uniformity based on state-of-the-art engineering practices even if those practices are not required by regulation. These features of the MUTCD help narrow the range and variety of distinct TCD treatments by providing, in the *corpus* of the MUTCD, the collective judgment and distilled expertise of the traffic safety and engineering community, and has been subjected to open and transparent public review and comment. By disengaging the guidance and advisory portions of the current MUTCD text from the mandatory text, FHWA will ensure that the current MUTCD guidance portion of the manual will receive less attention and be viewed as a second-class authority in the future. Rather than promote efficiency, the proposed injudicious division of the MUTCD will add confusion and increase burdens on those engineers and local officials who want to access the relevant, albeit non-mandatory, portions of the MUTCD. The danger is that the important information contained in the guidance portion of the MUTCD may no longer be referenced at all once it is quarantined in a separate, non-official, non-MUTCD document. There is no doubt that in the decades and generations to come, the result will be less uniformity of practice with respect to the use of TCDs on our nation's highways.

Advocates believes that much valuable information contained in the current MUTCD, although included as Guidance, Options or Support categories, amplifies and illuminates the engineering judgment that should be applied by practitioners in the exercise of discretionary decisions regarding TCD use. Divorcing this language from the MUTCD would weaken its overall purpose not only as a document that directs the required use of certain devices and engineering practices, but also its long standing function as an instructional compendium of state-of-the-art and state-of-the-practice knowledge that provides invaluable guidance to practitioners. The MUTCD has functioned for many years as a *de facto* text for instruction in traffic engineering. The material that is arguably non-regulatory, however, has been included with the assent and participation of practicing traffic engineers because they clearly perceive the need to supplement bald mandatory and strongly recommended language with additional explanatory narrative. Advocates urges the FHWA not to abandon the one-stop-shopping approach to traffic control engineering that has been integral in improving highway and public safety.

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