

May 14, 2021

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
West Building Ground Floor Room W12-140  
Washington, DC 20590-0001

Re: Federal Docket No. FHWA-2020-0001  
National Standards for Traffic Control Devices

The American Association of State Highway and Transportation Officials (AASHTO) hereby submits comments to Docket No. FHWA-2020-0001 related to the next edition of the *Manual on Uniform Traffic Control Devices* (MUTCD). Detailed comments are submitted via the attached spreadsheet. In addition, overarching comments on the manual and the process by which it is updated are provided below.

AASHTO appreciates the extension of the comment period from the initial 90 days, with an initial deadline of March 15, 2021, to 150 days, with a deadline of May 14, 2021. While the primary effort to review and respond to the Notice of Proposed Amendment (NPA) was assigned to the AASHTO Committee on Traffic Engineering (CTE), the content of the MUTCD affects several other committees and councils within AASHTO; thus, our review included a collaborative effort of numerous perspectives within the State DOTs. The additional time provided was invaluable in facilitating this collaborative effort.

AASHTO also appreciates that many of the recommendations submitted by the National Committee on Uniform Traffic Control Devices (NCUTCD) over the past decade have been incorporated into the NPA. Membership on the NCUTCD consists of representatives from AASHTO and 20 other professional organizations – including such organizations as the American Public Transportation Association (APTA), the Association of American Railroads (AAR), the League of American Bicyclists (LAB), the National Safety Council (NSC), the National Association of City Transportation Officials (NACTO), the American Society of Civil Engineers (ASCE), the Institute of Transportation Engineers (ITE), and the American Automobile Association (AAA) – and includes a wide range of responsibilities, experience, and perspectives. The NCUTCD works collaboratively to develop recommendations on the MUTCD, and their input reflects a consensus of stakeholder organizations that are recognized as practical subject matter experts on traffic control devices.

Regarding AASHTO's recommendations, first and foremost the transportation community and the traveling public need the MUTCD to be updated. It has been over 10 years since the last update and, during this time, numerous advancements have been made in transportation research, technology, and practice that are not yet reflected in the manual. These advancements have the potential to save lives

and prevent serious injuries on the nation's transportation system. Rescinding the NPA and starting over, as some have suggested, would negate years of important work by FHWA and countless volunteers, and would miss the opportunity to save lives now. AASHTO supports the continuation of this NPA process to completion – including thorough review and consideration of all input received – and stands ready to work with FHWA to ensure that the manual meets the needs of all users in an equitable and consistent manner going forward. In addition, AASHTO recommends updating the MUTCD on a more regular basis, potentially allowing for section-by-section updates as needed to incorporate evolving data and research, especially in the area of active transportation.

The overview in the Federal Register describes the rule-making as a means to “improve uniformity” and “improve and promote the safe and efficient utilization of roads that are open to public travel.” AASHTO supports these goals and understands that the uniform application of critical traffic control devices is essential to the safe performance of the nation's roads and highways. AASHTO also notes that the manual includes alternatives that reflect a variety of physical, institutional, and cultural conditions that affect the application of its contents. We believe it is important that the MUTCD continue to provide for uniformity related to critical traffic control devices, but also maintain flexibility to better accommodate all road users in urban and suburban contexts – such as commonly-used bike lane markings used in intersections and driveways – and to allow consideration for unique regional or local conditions, including cultural conditions that can differ considerably from place to place.

With the recent increase in pedestrian and bicyclist fatalities, FHWA should focus additional attention on the most vulnerable users of our transportation system during the review of comments submitted on the NPA. The safety of all users should be the motivating factor behind the requirements and guidance in the MUTCD, as it should be with all policies, guidelines, and manuals that contribute to the overall design of our transportation system. Recent research has established the contributions of a proactive safe systems approach and the need to address speed management to minimize serious injuries and fatalities. AASHTO recommends that greater emphasis be placed on the safety of vulnerable road users, including all ages and abilities, and that greater attention should be given to the needs of pedestrians and bicyclists where their facilities intersect with the road environment, such as consideration for pedestrian signal indications at traffic signals. As noted in the detailed comments, AASHTO supports the flexibility to use an expert system to validate the engineering study in determining speed limits, which should include consideration of context and community. In addition, engineering studies should be encouraged to consider criteria to evaluate the safety and mobility needs of people walking, biking, and riding transit.

Another concern of AASHTO is related to FHWA's position that State transportation agencies receiving Federal transportation funding are responsible for enforcing compliance with the MUTCD within the State's borders, even on roads that are not within the State transportation agency's statutory jurisdiction. This position was presented to the AASHTO Committee on Traffic Engineering during their December 2020 meeting. While this position is not stated directly within the NPA, it is a significant statement that AASHTO contends is in conflict with most state constitutions and/or statutes where the separation of State and local powers are defined. AASHTO understands that FHWA has the authority to withhold Federal transportation funding when State transportation agencies do not comply with the

MUTCD on highways under State authority, but would object to the position that a similar penalty could be levied for non-conforming practices on local or county roads where State transportation agencies do not have regulatory authority.

AASHTO also notes that the NPA places an emphasis on the qualifications of persons responsible for implementing the requirements in the MUTCD, including a new definition for “Professional Engineer” and additional emphasis on “Engineering Study” and “Engineering Judgment.” While this emphasis is likely not an issue for decisions regarding traffic control devices on roads under the jurisdiction of State transportation agencies, it is important to note that there are many jurisdictions where the statutory authority for regulating roadways is granted to the local or county governing body, especially with regard to intersection control, speed limit, weight restriction, parking, and other regulations. This is an important distinction for AASHTO when considered with respect to the aforementioned FHWA position regarding State transportation agencies’ responsibility for enforcing compliance with the MUTCD.

Lastly, AASHTO believes that the existing and proposed MUTCD language includes a number of items that should not be considered traffic control devices, such as state and local Welcome Signs, Project Information Signs, Acknowledgment Signs, and Memorial or Dedication Signing. This extends to the premise included in new Guidance language related to changeable message signs (CMS) that they are “a traffic control device at all times regardless of the type of message being displayed.” Decisions regarding the use of such signs are often not made by the State Transportation agencies, or by local and county public works officials in their jurisdictions, but by policy makers who wish to use such signs to make a statement. If FHWA wishes to enforce the referenced CFR relative to allowable uses of the highway right-of-way, it would be best accomplished by separate action and not included in the MUTCD, which should be reserved specifically for traffic control devices.

Thank you for your consideration of the overarching recommendations contained within this letter, as well as the detailed comments contained in the attached spreadsheet. We greatly appreciate your leadership and support for the transportation community and look forward to working with you on the issuance of a new MUTCD.

Sincerely,

A handwritten signature in blue ink that reads "Victoria F. Sheehan". The signature is fluid and cursive, with the first name being the most prominent.

Victoria F. Sheehan, President  
Commissioner, New Hampshire Department of Transportation

Attachment