



NATIONAL MOTORISTS ASSOCIATION

Empowering Drivers Since 1982

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Docket FHWA-2020-0001, Corrected MUTCD Proposed Text (11th Edition) Comments and Recommendations to Proposed Amendments

Thank you for the opportunity to register our comments for the public record. We reserve the right to post additional recommendations during the public comment period for this docket.

The National Motorists Association, Inc. is a 501(c)(3) nonprofit organization founded to protect drivers' rights by advocating for fair traffic laws and regulations, and highway safety based on proven engineering solutions. Our members, who number in the thousands, are active in all 50 states. Our comments here represent their interests as well as those of a multitude of other drivers across the United States.

Section 1A.03, Target Road Users

Remove the word "lawful" in Paragraph A as follows:

"Operators of vehicles, including bicyclists — This target user is a reasonable and prudent individual who is alert and attentive, had demonstrated a basic proficiency in operating a vehicle on a specific facility, has demonstrated a basic understanding of traffic control devices and traffic laws, and is operating in a ~~lawful~~ manner that is appropriate for the facility and conditions, while demonstrating due care for the current conditions on the roadway."

Traffic control devices are for all road users, including the driver who inadvertently travels two mph over the posted speed limit or the bicyclist who turns right on red without coming to a complete stop.

Section 1C.01, Definitions of Headings Used in this Manual

The definition of Standard in Item A has been dangerously weakened. Originally "standard" meant mandatory. A 2010 memo (https://mutcd.fhwa.dot.gov/interpretations/1_09_1.htm) stated that formerly mandatory standards could be weakened if "site-specific" conditions made it "impossible or impractical" for compliance. Now the FHWA proposes diluting the meaning of "standard" further to allow deviations when "appropriate." The language of the 2010 memo should be used consistently.

It should also be a requirement that the local FHWA office be notified in writing whenever a jurisdiction deems it appropriate to deviate from an MUTCD standard. This serves two purposes: 1) The FHWA can object if an exception isn't justified, and 2) if a pattern of exceptions appears, the MUTCD should be amended to recognize the situation (as has been done, for example, for the diamond warning sign).

Sections 2B.12 through 2B.17, All-Way Stop Control

Under current rules, all-way stop signs are supposed to be posted when an intersection has a lot of accidents or to equalize traffic flow when side streets routinely become congested. Objective measures

determine when stop signs should be posted. The proposed changes in these sections, allowing for all-way stop signs "where pedestrian and/or bicycle movement justify the installation of all-way stop control," raise the potential for postings at nearly every non-signalized intersection on every road.

The proposed rule would also lower the accident threshold for posting all-way stop signs for safety concerns from five per year to two per year. This also has the potential to increase the number of all-way stops by multiples over current installations. The new rules are written so that there is an expectation that stop signs should be posted. Unlike current guidelines, engineers would be called to review every uncontrolled intersection and add signs unless proven safe without them.

Regarding traffic equalization measures, the new rules would do away with the need for an engineer to measure long delays on side streets before adding a stop sign. The same engineer wouldn't have to observe traffic operations to add all-way stop signs. Again, the path of least resistance could easily lead to an enormous increase in stop signs across the country.

When road users — not just drivers, but bicyclists too — encounter an overuse of stop signs, noncompliance will more than likely become the norm. All-way stop signs should be posted only as necessary, i.e., backed by an objective gathering of data and observations by the engineer, if they are to be effective as a traffic control device.

Section 2B.21, Speed Limit Sign

The requirement, "The engineering study shall include an analysis of the current speed distribution of free-flowing vehicles," must remain a vital requirement of the Standard, as opposed to being relegated to "should" (optional) Guidance in the proposed changes to this section.

State Departments of Transportation (DOT) understand the essential need to post viable speed limits based on typical driving behaviors. The Iowa DOT, for example, notes publicly that, "We use a process driven by research and data coupled with engineering judgment and nationally accepted safety principles to determine the most appropriate speed limit. The first step involves conducting a speed study. We collect data on all drivers to identify the speed that 85 percent of drivers feel they can safely travel." It goes on to say, "When a good speed limit is set based on data-driven decision-making, drivers adapt, and less enforcement is needed. Sometimes we are asked to reduce speed limits in hopes of preventing crashes, but in most cases, lower speed limits aren't the solution. When a speed limit is set too low without supporting data, we see more variability in speeds. This creates conflicts and makes assessing the speed of other drivers difficult to determine."

Such state DOT speed limit determination procedures are supported by, and likely based on, the FHWA's own publication, FHWA-RD-97-084, *Effects of Raising and Lowering Speed Limits on Selected Roadway Sections*, researched by Martin R. Parker & Associates. The Parker study, which has not been refuted in any meaningful way in the intervening years, shows no safety benefits for (and often adverse effects resulting from) limits posted below the 85th percentile.

If gathering speed-study data as a necessary component of speed limit determination is made optional, many localities won't go to the expense of conducting such surveys. The result can easily be arbitrarily low speed limit postings based on the individual decisions of engineers in thousands of different jurisdictions. The word "uniform" is prominent in the MUTCD title. By foregoing the need for a speed distribution study, there will be no uniformity of speed limit decision-making from one locality to the next.

Without a coherent national standard, drivers will become unwitting violators as they travel from one community to the next. Traffic enforcement has a history of being applied inequitably, as today's headlines

too often point out. The suggested change of eliminating a speed distribution study as a required component of determining the proper speed limit posting would impact all drivers, but particularly the poor and marginalized communities worst of all.

Speed Limit Sign, Additional Comment #1

In a comment to Section 2B.21 posted on this docket, the National Committee on Uniform Traffic Control Devices recommends that material dealing solely with speed zoning practice be removed. Further, the NCUTCD claims, "Setting speed limits is a traffic engineering practice and should not be in a national standard for traffic control devices."

We disagree. The MUTCD sets the national standards for regulatory traffic signs. Those standards necessarily identify the precise wording that must be on each type of sign for it to be legal and to convey the proper messaging to drivers. A speed limit sign is a traffic control device that, without a justified number indicating the speed ceiling for the road, is a post in the ground that lacks meaningful regulatory value. Therefore it is proper, and indeed necessary, that the MUTCD includes criteria for traffic engineers, regardless of location, to have a consistent method for determining the speed limits for their unique road configurations. Without that standard from the MUTCD, the assigned numbers on speed limits signs become subjective values based on varying and inconsistent local decisions. If the MUTCD is to continue to be the source of national standards for regulatory signs, complied with consistently by federal, state, and local jurisdictions, Section 2B.21 must include the basis for how the information on speed limits signs is to be determined.

Speed Limit Sign, Additional Comment #2

Title 49 Section 104 of the U.S. Code (shown immediately below) establishes that the FHWA is assigned by law the responsibility (via the Secretary of Transportation) for, among other things, traffic control devices. Hence its "ownership" of the Manual of Uniform Traffic Control Devices.

49 U.S. Code § 104. Federal Highway Administration

U.S. Code Notes

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(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b)

(1) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the [Truman-Hobbs Act](#) may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.

On the FHWA's own page (https://ops.fhwa.dot.gov/aboutus/one_pagers/mutcd.htm, pertinent section captured below) about the MUTCD, it is acknowledged that "The Manual on Uniform Traffic Devices (MUTCD) is the national standard for the design, application, and placement of traffic control devices. Its main purpose is to provide uniformity and consistency so road users know what to expect no matter where their travels take them."

 U.S. Department of Transportation
Federal Highway Administration

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Manual on Uniform Traffic Control Devices

This publication is an archived publication and may contain dated technical, contact, and link information.

Traffic Control Challenges

Traffic control devices communicate important messages that are critical to transportation safety and efficiency. They provide for the orderly movement of all road users on streets, highways, and bike paths throughout our nation. Have you ever considered what it would be like to travel on roads not operated by traffic control devices? Traffic control devices such as signs, signals, and pavement markings not only methodically guide road users to their destinations and decrease potential congestion, but they also reduce the severity and number of roadway crashes.

The Manual on Uniform Traffic Devices (MUTCD) is the national standard for the design, application, and placement of traffic control devices. Its main purpose is to provide uniformity and consistency so road users know what to expect no matter where their travels take them. Uniformity also helps reduce the cost of traffic control devices through standardization, and it assists with the commercial movement of goods.

New traffic patterns, unique roadway features, driver behavior, vehicle design innovations, and advances in technology all make it necessary to update the MUTCD on a periodic basis. The latest edition of the MUTCD was released in November 2003. The Federal Highway Administration (FHWA) recognizes that comprehensive analysis and careful consideration is required before changes are adopted in the MUTCD.



The uniformity requirement is also cited in 23 CFR 655. Subsection 601, Purpose, includes the phrase, "to obtain basic uniformity of traffic control devices on all streets and highways," while all of Subsection 603 is written to encourage states and local governments to adopt the MUTCD in its entirety in the name of standardization. The long history of traffic control devices, dating back to the AASHTO Green Book, has been built on the need to standardize traffic control.

With this proposed rule, the FHWA is recommending the optional use of the proven element — a traffic speed distribution study and determination of the 85th percentile speed — for such standardization. At the same time, the rule requires no specific alternative method to ensure that engineers who disregard the speed study option follow a procedure that results in consistent speed limit methodology.

23 USC 402(a)(2)(A)(i) requires state highway safety programs "to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits." That indicates speed limits and their credibility are among the highest priority traffic control devices in the FHWA's assigned mission.

By downgrading from mandatory to optional the current requirement to conduct a speed distribution study as a necessary step to determine a proper speed limit, the FHWA would be unlawfully forsaking the authority assigned to it by the U.S. Congress to maintain a national standard for speed limit postings. The proposed rule would delegate that decision-making to thousands of engineers in unique jurisdictions around the country, creating a patchwork quilt of speed limit regulations that, in effect, would do away with the notion of a uniform, national standard. The FHWA cannot, must not, shirk its statutory responsibility for maintaining this important standard. The current 2009 version of the MUTCD with Revision Numbers 1 and 2 incorporated provides those requirements. An amended MUTCD per the proposed rule would not.

Section 4B.02, Basis of Installation of Traffic Control Signals

New guidance: "Traffic control signals should not be installed or operated for the purpose of penalizing drivers who are speeding, especially in conjunction with signs that have a legend that informs drivers that speeding triggers a red light."

"Should not" should be replaced with "must not" or "are not to." If not, the FHWA through the MUTCD will be condoning traffic control devices based not on safety, but on revenue generation.

Section 4F.04, Signal Indications for Permissive Only Left-Turn Movements in a Separate Signal Face

A new standard is proposed: "A separate left-turn signal shall not be used for an approach that does not include an exclusive left-turn lane." A potential problem is that arrows are allowed to be greens sometimes and yellow sometimes in the same location of the signal head. This would eliminate a cue that color blind people may have been using to understand the signal correctly.

Please note that the practical effect of the abandonment of uniform standards would be to subject reasonable and prudent motorists across the country to an increased risk of unnecessary law enforcement interaction while delivering no proven safety benefit. The public's trust in traffic controls would also be jeopardized. The Proposed Rule, particularly with its recommended revisions to speed-zoning requirements and stop sign placements, would therefore cause direct harm to the millions of motorists that the NMA represents under its mandate to protect the rights of the motoring public.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Biller". The signature is fluid and cursive, with the first name "Gary" and last name "Biller" clearly distinguishable.

Gary Biller
President