

association which is registered under section 17 of the Act and which provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

(b) The requirements of paragraph (a) of this section shall not apply to a futures commission merchant registered in accordance with § 3.10(a)(3) of this chapter.

Issued in Washington, DC on May 14, 2001 by the Commission.

Edward W. Colbert,

Deputy Secretary of the Commission.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA-2001-8846]

RIN 2125-AE83

Revision of the Manual on Uniform Traffic Control Devices; General Provisions, Markings, and Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices on all public roads. The purpose of this notice is to propose revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD.

This document proposes new text for the MUTCD in Part 1—General and Part 4—Signals. The proposed changes included herein are intended to revise supporting information and guidance relating to the decisionmaking process concerning accessible pedestrian signals.

DATES: Comments must be received on or before June 18, 2001.

ADDRESSES: Mail or hand deliver comments with the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590 or submit electronically at [http://](http://dms.dot.gov/submit)

dms.dot.gov/submit. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information regarding the notice of proposed amendments contact Mr. Ernest Huckaby, Office of Transportation Operations, Room 3408, (202) 366-9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, Room 4230, (202) 366-0791, U.S. Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL 401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this notice of proposed amendment may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7 on the FHWA's website at <http://mutcd.fhwa.dot.gov>. This notice is being issued to provide an opportunity for public comment on the desirability of proposed amendments to Section 1A.11 and to Section 4E.06 concerning accessible pedestrian signals. Based on the comments received and its own experience, the FHWA may issue a final rule concerning the proposed changes included in this notice.

This notice of proposed amendment is being published in response to several letters received by the U.S. Department of Transportation objecting to language in the text of the MUTCD summarized

in the final rule published at 65 FR 78923 on December 18, 2000. The letters received by the U.S. Department of Transportation were written by the American Council of the Blind, the Association for Education and Rehabilitation of the Blind and Visually Impaired Division Nine—Orientation and Mobility, the National Committee on Uniform Traffic Control Devices, and Accessible Design for the Blind.

The letter from the National Committee on Uniform Traffic Control Devices (NCUTCD) discusses a meeting it held in January 2001 with representatives of various organizations that represent individuals with visual disabilities. During the meeting the attendees drafted text they believe would be more acceptable to pedestrians with visual disabilities and the organizations that represent them. However, the NCUTCD recommended one sentence of the draft text be deleted because it believed it may encourage a "do nothing" response by a traffic agency as opposed to conducting an engineering study of the request to install a traffic control device at a location.

The FHWA agrees with this position as Federal, State, and local agencies are required to comply with the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 1201 *et seq.*). Title II of the ADA of 1990 requires that public entities not discriminate against people with disabilities. Subject to the provisions of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. The FHWA believes that a traffic agency should review a request for pedestrian signals accessible to visually impaired persons in the same manner as it does all other requests to install a traffic control device. Also, the FHWA has the added requirement under the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and the ADA of 1990 of overseeing that recipients of Federal-aid funding comply with the laws and do not discriminate against people with disabilities.

The FHWA invites comments on the proposed new text for the last paragraph of the MUTCD Section 1A.11 and the first six paragraphs of the MUTCD Section 4E.06. The proposed changes are included in the following discussion:

Discussion of Proposed Amendments to Part 1—General

1. In Section 1A.11 Relation to Other Documents, the FHWA is proposing to add a new document in subparagraph U to paragraph 3 to read, “ ‘Accessible Pedestrian Signals,’ A–37, U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board).” This new document would be a useful source of information for traffic engineers to use because it provides various techniques for making pedestrian signal information available to pedestrians with visual disabilities. The address for the U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board) would be added to page i of the MUTCD.

Discussion of Proposed Amendments to Part 4—Signals

1. In Section 4E.06, the FHWA proposes to revise paragraph 1 to read, “The primary technique that pedestrians who have visual disabilities use to cross streets at signalized intersections is to initiate their crossing when they hear the traffic in front of them stop and the traffic alongside them begin to move, corresponding to the onset of the green interval. This technique is effective at many signalized intersections. The existing environment is often sufficient to provide the information that pedestrians who have visual disabilities need to operate safely at a signalized intersection. Therefore, many signalized intersections will not require any accessible pedestrian signals.” The FHWA is proposing to replace the phrase “the vast majority of” with “many” because “many signalized intersections” better represents the degree of effectiveness of the technique used by pedestrians who have visual disabilities to cross the street.

2. In Section 4E.06, the FHWA proposes to revise paragraph 2 to read, “If a particular signalized intersection presents difficulties for pedestrians who have visual disabilities to cross safely and effectively, an engineering study should be conducted that considers the safety and effectiveness for pedestrians in general, as well as the information needs of pedestrians with visual disabilities.” The FHWA is proposing to delete text from this paragraph that suggested safety and effectiveness concerns for all pedestrians be examined first before considering any access issues for pedestrians with visual disabilities. The FHWA is proposing to use the term “engineering study” rather than “examination” or “review” to explain the general practice used for determining needed intersection

improvements for road users, including all pedestrians. Engineering studies can examine numerous tools to assist pedestrians, including accessible pedestrian signals.

3. In Section 4E.06, the FHWA proposes to revise paragraph 4 to read, “Local organizations, providing support services to pedestrians who have visual and/or hearing disabilities, can often act as important advisors to the traffic engineer when consideration is being given to the installation of devices to assist such pedestrians. Additionally, orientation and mobility specialists or similar staff also might be able to provide a wide range of advice. The U.S. Access Board’s Document A–37, ‘Accessible Pedestrian Signals,’¹ provides various techniques for making pedestrian signal information available to persons with visual disabilities.” The FHWA is proposing to replace “professionals” with “staff,” because the term “professionals” could connote that a certification is necessary. The FHWA is proposing to add the sentence “The U.S. Access Board’s Document A–37, ‘Accessible Pedestrian Signals,’ provides various techniques for making pedestrian signal information available to persons with visual disabilities” to the end of the paragraph. This reference was published in the NPA of December 30, 1999, at 64 FR 73612, 73670 under FHWA docket 99–6575, but inadvertently deleted from the final rule.

4. In Section 4E.06, the FHWA proposes to delete existing paragraphs 5 and 6. The FHWA proposes to delete these paragraphs because paragraph 4 covers the consideration of advice from organizations that represent individuals with disabilities. In addition, an engineering study, mentioned in paragraph 2, covers consideration of cost.

Rulemaking Analysis and Notices

The FHWA believes a 30-day comment period is sufficient for these proposed changes inasmuch as the issue has already been the subject of a notice-and-comment rulemaking (RIN 2125–AE71) and the proposed changes are in response to the aforementioned comments by the National Committee on Uniform Traffic Control Devices, organizations providing support services to pedestrians with visual

¹ “Accessible Pedestrian Signals,” U.S. Access Board, August 1998, is available online at URL: <http://www.access-board.gov>. A single hardcopy may be obtained without charge by contacting the U.S. Access Board at (202) 272–5343 (voice) or (202) 272–5449 (TTY); or by writing to the Board at 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111.

disabilities, and others. It appears that the concerns indicated by the different organizations have been addressed in these proposed changes. The notice of the FHWA’s intent to add a section on accessible pedestrian signals in the MUTCD was first published in a notice of proposed amendment on December 30, 1999 (RIN 2125–AE71). The FHWA provided an extensive opportunity for public comment and review by accepting comments on this issue for a period of 6 months until June 30, 2000. Because the public is very familiar with the issues, the FHWA believes a 30-day comment period would be sufficient. In addition, there are three national organizations, American Association of State Highway and Transportation Officials, Institute of Transportation Engineers and American Traffic Safety Services Association, that are in the process of printing the new MUTCD. Providing more than a 30-day comment period would be contrary to the public interest because it would also delay implementation of a massive publication effort and distribution of the MUTCD to traffic engineering practitioners. Since printing the MUTCD involves a large investment and they are aware of the possible changes to Section 4E.06, these national organizations would not like to print a MUTCD when such a significant change is pending. In addition, all of the concerned parties have expressed that they would be greatly concerned if the national organizations who plan to print the MUTCD do so with the current text of Section 4E.06. The FHWA believes that this is the most equitable and economic solution; and therefore, a comment period longer than 30-days would be contrary to public interest.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action will not be

a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. The new standards and other changes proposed in this notice are intended to improve traffic operations and safety, and provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA expects that these proposed changes will create uniformity and enhance safety and mobility at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities. This notice of proposed amendment proposes revised wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The proposed changes are intended to improve traffic operations and safety, expand guidance, and clarify application of traffic control devices as it relates to accessible pedestrian signals. The FHWA hereby certifies that these proposed revisions would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 13132 (Federalism)

The FHWA has analyzed this proposed action in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. This proposal amends the existing regulation to revise wording on the design and installation of traffic control devices, specifically accessible pedestrian signals, in the MUTCD. The FHWA has consulted with States and local governments and believes that the proposed changes will not increase direct cost compliance costs of States and local governments.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the notice of proposed amendment would not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. The proposed changes in this notice of proposed amendment revise guidance and supporting information, not standards, related to the decisionmaking process concerning whether or not to install accessible pedestrian signals. Therefore, a tribal summary impact statement is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed action does not contain a collection of information requirement for purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This is not an economically significant action and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed action would not effect a taking of private property or otherwise

have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

(23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b))

Issued on: May 11, 2001.

Vincent F. Schimmoller,
Deputy Executive Director, Federal Highway Administration.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 054–1031b; FRL–6981–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of establishing a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units, beginning in 2003. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal