

entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E airspace at Danville Airport, Danville, PA.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### **§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

##### **AEA PA E5 Danville, PA [New]**

Danville Airport, PA  
(Lat. 40°56'90" N., long. 76°38'64" W.)

That airspace extending upward from 700 feet above the surface within a 10.7-mile radius of Danville Airport.

Issued in College Park, Georgia, on August 19, 2011.

##### **Mark D. Ward,**

*Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2011–22317 Filed 8–30–11; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 655

[FHWA Docket No. FHWA–2010–0159]

RIN 2125–AF43

#### **National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Revision**

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of proposed amendments; request for comments.

**SUMMARY:** The MUTCD is incorporated in our regulations, approved by the Federal Highway Administration, and recognized as the national standard for traffic control devices used on all streets, highways, bikeways, and private roads open to public travel. The FHWA proposes to revise certain information relating to target compliance dates for traffic control devices. Consistent with Executive Order 13563, and in particular its emphasis on burden-reduction and on retrospective analysis of existing rules, the proposed changes are intended to reduce the costs and impacts of compliance dates on State and local highway agencies and to streamline and simplify the information.

**DATES:** Comments must be received on or before October 31, 2011. Late comments will be considered to the extent practicable.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit electronically at <http://www.regulations.gov> or fax comments to (202) 493–2251. 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 from 9 a.m. to 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 may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act

Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Page 19477–78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hari Kalla, Office of Transportation Operations, (202) 366–5915; or Mr. William Winne, Office of the Chief Counsel, (202) 366–1397, Federal Highway Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access and Filing**

This document, the notice of and request for comments, and all comments received may be viewed online through the Federal eRulemaking portal at <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: <http://www.archives.gov> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

To help make the FHWA's docket comment review process more efficient, the FHWA requests that commenters cite the Section number identified in Table I–2 for any comment to the docket about a specific proposed revision to the text of the table.

##### *Background*

When new provisions are adopted in a new edition or revision of the MUTCD, any new or reconstructed traffic control devices installed after adoption are required to be in compliance with the new provisions. For existing devices in the field that do not comply with the new MUTCD provisions, 23 CFR 655.603(d)(1), authorizes the FHWA to establish target compliance dates for compliance of particular existing devices. Table I–2 in the Introduction of the 2009 edition of the MUTCD lists 58 specific provisions for which the FHWA has established target compliance dates for upgrading existing devices in the field via the Federal rulemaking process in Final Rules issued in 2000,<sup>1</sup> 2003,<sup>2</sup> 2007,<sup>3</sup> and 2009.<sup>4</sup>

In the absence of a specific target compliance date, existing devices in the

<sup>1</sup> 65 FR 78923, December 18, 2000.

<sup>2</sup> 68 FR 65496, November 20, 2003.

<sup>3</sup> 72 FR 72574, December 21, 2007.

<sup>4</sup> 74 FR 66732, December 16, 2009.

field that do not meet the new MUTCD provisions are expected to be upgraded by highway agencies over time to meet the new provisions via a systematic upgrading process as required by 23 CFR 655.603(d)(1), but there are no specific dates for required completion of the upgrades. Systematic upgrading programs enable highway agencies to prioritize traffic control upgrades based on a variety of factors such as relative safety needs, costs, and available resources. Agencies can decide, where appropriate, to defer upgrading certain non-compliant devices until the device wears out, is damaged or destroyed, or is replaced.

In response to concerns about the potential costs and impact of previously adopted MUTCD compliance dates on State and local governments in the current economic climate, on November 30, 2010, the FHWA published in the **Federal Register** a Request for Comments<sup>5</sup> on traffic control device compliance dates. The FHWA asked for responses to a series of seven questions about compliance dates, their benefits and potential economic impacts, especially economic hardships to State and local governments that might result from specific target compliance dates for upgrading certain non-compliant existing devices.

By the end of the comment period, the FHWA received 592 letters to the docket. The comments were submitted by 360 private citizens, 168 local government highway agencies, 28 State DOTs, 16 industry representatives, 6 national associations representing practitioners, 5 national associations representing safety advocates, 5 elected officials, and 4 traffic engineering consultants.

The overwhelming majority of comments from all responders addressed the target compliance dates associated with maintaining minimum levels of sign retroreflectivity and with minimum letter heights for street name signs. There were also many comments from private citizens expressing concerns about requiring the use of mixed-case lettering for street name signs and other guide signs.

Comments from private citizens were evenly balanced between support for and opposition to compliance dates for upgrading existing signs that do not meet minimum levels of retroreflectivity. Often emphasizing the current economic climate, local highway agencies predominantly expressed concerns about the target compliance dates for sign retroreflectivity because of economic

concerns. Similarly, State DOTs and national associations representing practitioners generally suggested that all dates should be eliminated or extended because of current economic conditions. Representatives of the traffic control materials industry and national safety associations supported retaining all existing compliance dates for safety reasons, often specifically citing concerns about the needs of older road users. Also, a variety of comments indicated confusion about target compliance dates in general and that the number and complexity of compliance dates listed in Table I-2 makes it difficult for agencies to understand what is required in order to take appropriate actions.

In general, the FHWA has intended that target compliance dates coincide with the useful service life of the devices that would need to be replaced to meet any new requirements, thus minimizing economic and logistical impacts on highway agencies. This approach is consistent with Executive Order 13563 and in particular its emphasis on the avoidance of unjustified costs. Some comments indicated that variations in climate and other environmental conditions around the country may result in considerably longer useful service lives of certain devices than the estimates used by the FHWA in establishing the compliance dates. In such cases, compliance dates can create an undue burden for the agency, requiring device replacement before the end of actual useful service life.

The FHWA has carefully reviewed and considered all of the comments received in response to the request for comments. It has decided to propose revisions to Table I-2 to simplify it and reduce the impacts of target compliance dates on agencies by eliminating, extending, or otherwise revising most of the dates. This approach is consistent with the requirements of Executive Order 13563, including its emphasis on consideration of benefits and costs (sections 1(a) and 1(b)), its requirement of an open exchange of information with stakeholders (section 2(a)), and, in particular, its call for retrospective analysis of existing rules, including streamlining and modification to make such rules less burdensome (section 6). This approach is also consistent with Presidential Memorandum, Administrative Flexibility, which calls for reducing burdens and promoting flexibility for State and local governments.

### *Proposed Amendment*

Of the 58 items for which target compliance dates are currently listed in Table I-2, the FHWA proposes to eliminate altogether the compliance dates for 46 items (8 that have already expired and 38 that have future compliance dates) and to extend and/or revise the dates for 4 items. We are not proposing a change for the dates for the other eight items, which actually represent only six specific requirements in the MUTCD, since three of the eight items are all related to the required use of high-visibility apparel by workers in the right-of-way. For these six requirements, the compliance dates would remain in effect.

A summary of the specific proposed changes in Table I-2 of the MUTCD is included in the following section.

The text of this proposed revision to the 2009 edition of the MUTCD is available for inspection and copying, as prescribed in 49 CFR part 7, at the FHWA Office of Transportation Operations (HOTO-1), 1200 New Jersey Avenue, SE., Washington, DC 20590. Furthermore, the text of the proposed revision is available on the MUTCD Internet Web site <http://mutcd.fhwa.dot.gov> and on the docket for this rulemaking at <http://www.regulations.gov>. The proposed text is available in two formats. The first format shows the current MUTCD text of Table I-2 with proposed additions in blue, underlined text and proposed deletions as red strikeout text. The second format shows a "clean" version of Table I-2, with all the proposed changes incorporated. The complete 2009 edition of the MUTCD is also available on the same Internet Web site.

This NPA is being issued to provide an opportunity for public comment on the desirability of these proposed amendments to the MUTCD. The FHWA is interested in receiving comments regarding the safety benefits provided by traffic device uniformity, the costs and other burdens associated with achieving compliance for existing non-compliant devices, and the proposed revisions, extensions, eliminations, and retention of compliance dates outlined in this notice. In all cases, and consistent with Executive Order 13563, section 2, the FHWA seeks comments not only on its proposals but also on possible alternative approaches. Based on the comments received and its own experience, the FHWA may issue a Final Rule concerning the proposed changes included in this notice.

<sup>5</sup> 75 FR 74128, November 30, 2010.

Discussion of Proposed Amendments to Table I-2

1. The FHWA proposes to eliminate target compliance dates, which were based on estimated useful service lives, for 33 items in Table I-2 that were established in the Final Rules for the 2000 and 2003 editions of the MUTCD, that have not yet expired. These 33 target compliance dates proposed for elimination are for provisions in Sections 2B.03, 2B.10, 2B.11, 2B.13, 2B.26, 2B.55, 2C.04, 2C.13, 2C.20, 2C.38, 2C.40, 2C.41, 2C.42, 2C.46, 2C.49, 2C.61, 2C.63, 2D.43 (two provisions), 2D.44, 2G.01 through 2G.07, 2G.11 through 2G.15, 2H.05 and 2H.06, 2I.09, 2I.10, 2N.03, 3B.18, 4D.01, 4D.31, 4E.07, 5C.05, 7B.16, and 8C.09. These items mostly involve new or revised sign designs, including larger letter heights and/or larger sizes for some signs, and certain other changes in traffic control device design, location, or operation that have made some existing devices in the field obsolete. Based on comments received and other communications with State and local highway agencies, the FHWA believes that these 33 dates in Table I-2 may create fiscal and logistical burdens on highway agencies. Based on comments received, the FHWA believes that agencies can better organize and track the replacement or upgrade of these devices in the ordinary course of implementation of their systematic upgrading programs. Additionally, highway agencies are in the best position to make decisions on device replacements based on actual useful service lives in their particular climates and environments, rather than having a universal compliance date based on estimated useful service life. The FHWA requests comments on the safety benefits, the costs, and other burdens associated with achieving compliance for existing non-compliant devices, and the proposed elimination of these compliance dates. The FHWA also requests comments on alternative approaches, such as extending rather than eliminating these compliance dates.

2. The FHWA proposes to eliminate the target compliance dates for three items in Table I-2 that were established with the Final Rule for the 2009 edition of the MUTCD. Although these dates were recently established, the FHWA believes their elimination is warranted based on consideration of specific concerns raised in responses to the November 30, 2010, Request for Comments, as explained below. For each of these three items, the FHWA requests comments on the safety

benefits, the costs, and other burdens associated with achieving compliance for these existing non-compliant devices, and the proposed elimination of these compliance dates.

The December 31, 2019, target compliance date would be eliminated for a provision in Section 2D.45 that requires multilane conventional road approaches to interchanges to have guide signs to identify which direction of turn is necessary for access to each direction of the freeway or expressway. Agencies expressed confusion about this date because they interpreted it as requiring the replacement of existing overhead sign structures (which typically have a very long useful service life, well beyond 10 years) in order to install the required new signs. The MUTCD allows post-mounted signs to be used to provide the needed information to road users about turn directions at the interchange, even if overhead sign structures are present for other signs. The FHWA believes that eliminating this target compliance date will reduce the confusion. Highway agencies will still need to install the required signs under their systematic upgrading programs, but will not have a specific date by which this must be accomplished.

The target compliance date of December 31, 2016, or at resurfacing, whichever comes first, would be eliminated for provisions in Sections 3B.04 and 3B.05 that require dotted, rather than broken, lane lines for dropped lanes and for acceleration, deceleration, and auxiliary lanes. Some agencies indicated that they have durable markings for lane lines that have a useful service life that will extend beyond the 2016 date. Some agencies also use recessed or inlaid markings, for which it is not practical to change the marking pattern from broken to dotted until the next resurfacing occurs, but resource constraints will cause the resurfacing cycle to exceed 7 years. Some agencies also indicated it would be very difficult to meet the 2016 compliance date because of the large number of individual pavement marking layout drawings for individual existing intersections and interchanges that need to be revised to show the locations and lengths of dotted lane lines before crews can be instructed to revise the markings in the field. Eliminating this target compliance date would allow agencies to implement the new marking requirement when existing lines become significantly worn to the point they can be marked over without causing road user confusion, or when resurfacing occurs.

The December 31, 2014, target compliance date for the provision in Section 8C.12 that requires a traffic queuing study of grade crossings within 200 feet of roundabouts or other circular intersections would be eliminated. Based on knowledge gained from frequent interactions with State and local agencies, the FHWA believes that there are extremely few existing roundabouts or other circular intersections within 200 feet of a grade crossing and that those that do exist have likely already been studied for queuing issues as a part of or subsequent to their original design. As roundabouts are increasingly being given consideration as an alternative to installing a traffic signal, any such considerations at locations near grade crossings will be required by the language in Section 8C.12 to be studied as a part of the process of evaluating whether to construct a roundabout.

The FHWA requests comments on the safety benefits, the costs, and other burdens associated with the proposed elimination of these compliance dates. The FHWA also requests comments on alternative approaches, such as extending rather than eliminating these compliance dates.

3. The FHWA proposes to eliminate from Table I-2 eight items for which the previously established target compliance dates have expired. These dates (pertaining to certain provisions in Sections 2B.09, 2C.30, 2C.50, 2J.05, 7B.11, 7B.12, 8B.19 and 8C.02 through 8C.05, and 9B.18) were established in the Final Rules for the 2000 and 2003 editions of the MUTCD. Elimination of these items from the table is consistent with the FHWA's previous practice of eliminating target compliance dates from subsequent MUTCD editions after they have expired. Based on frequent communications and interactions with numerous State and local highway agencies, the FHWA believes that most agencies have already upgraded these devices as their useful service lives have been reached. Although some of these non-compliant devices might still exist in the field, they are expected to be replaced with compliant devices under agencies' systematic upgrading programs. The FHWA requests comments on this proposal.

4. The FHWA proposes to revise the January 22, 2012, target compliance date that was established in December 2007, with the Final Rule for Revision 2 of the 2003 edition of the MUTCD, for the Section 2A.08 provision that requires agencies to implement an assessment or management method designed to maintain sign retroreflectivity at or above the established minimum levels.

This compliance date does not require any signs to be replaced by a given date. It requires highway agencies to implement an assessment or management method for maintaining sign retroreflectivity by the compliance date in accordance with section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Pub. L. 102-388; October 6, 1992). The compliance date for this requirement would be extended to a date 2 years after the effective date of the Final Rule for this proposed revision of the MUTCD. This would provide agencies with an estimated additional 1 to 2 years to implement their chosen assessment or management method. Additionally, the FHWA proposes to make the new compliance date apply only to implementing an assessment or management method for regulatory and warning signs. The requirement in the MUTCD language to implement a method for all types of signs would remain, but there would not be a specific target compliance date for required implementation of the method for signs other than regulatory and warning signs. Based on our subject matter expertise and experience with the benefits and impacts of traffic control devices, the FHWA believes that, because of the critical safety nature of the messages they convey, especially for older road users, regulatory and warning signs constitute the highest priority for assessing retroreflectivity of existing signs. The proposed revisions to the compliance date and its applicability will provide relief and enable agencies to determine when their resources will allow them to add signs other than regulatory and warning signs to their retroreflectivity assessment or management method.

Additionally, the FHWA proposes to eliminate the two existing target compliance dates for replacement of signs that are identified using the assessment or management method as failing to meet the established minimum retroreflectivity levels. The January 22, 2015, date for regulatory, warning, and post-mounted guide (except street name) signs and the January 22, 2018, date for street name signs and overhead guide signs would both be eliminated. Without specific compliance dates for these items, agencies will still need to replace any sign they identify as not meeting the established minimum retroreflectivity levels.

The FHWA requests comments on the safety benefits, the costs, and other burdens associated with achieving compliance with this requirement, and the proposed revisions of these compliance dates. The FHWA also

requests comments on alternative approaches, including retention of the current compliance dates and extending rather than eliminating some of them.

5. The FHWA proposes to revise the target compliance date of December 31, 2014, or when timing adjustments are made to the individual intersection and/or corridor, whichever occurs first, that applies to provisions on timing requirements for vehicular yellow and red clearance intervals in Section 4D.26 and pedestrian clearance intervals in Section 4E.06. These compliance dates were established with the Final Rule for the 2009 edition of the MUTCD. As noted in that Final Rule, the compliance dates were established to achieve a more rapid implementation of these new requirements at existing locations, because safety studies found that significant crash reductions were achieved where the required timing methods were used to determine the yellow and red clearance intervals, and because the FHWA believes that the new requirements for pedestrian clearance intervals are needed to provide a buffer between pedestrian movements and vehicular movements. The compliance dates were based on what FHWA believed to be the typical signal retiming frequency of about 5 years. Some agencies commented that current budgetary constraints have made it difficult to retime all of their traffic signals on a 5-year cycle. The FHWA proposes to extend the existing compliance date to a date of 5 years after the effective date of the Final Rule for this proposed revision of the MUTCD, or when timing adjustments are made to the individual intersection and/or corridor, whichever occurs first. This would provide agencies with an estimated additional 2 years to implement the new requirements of Sections 4D.26 and 4E.06 at any locations that have not already been made compliant under a previous intersection or corridor retiming.

The FHWA requests comments on the safety benefits, the costs, and other burdens associated with achieving compliance for these existing non-compliant devices, and the proposed revision of this compliance date. The FHWA also requests comments on alternative approaches, including retention of the current compliance dates and extending them for a longer period.

6. The FHWA proposes to revise and extend the compliance date for the provisions in Sections 8B.03 and 8B.04 that require a retroreflective strip on the back of Crossbuck signs and on the front and back of supports for Crossbuck signs at passive grade crossings. The

existing compliance date of January 17, 2011, was established with the Final Rule for the 2000 edition of the MUTCD. The 2003 edition of the MUTCD eliminated the requirement to install the retroreflective strips on the fronts of Crossbuck sign supports, if a *Yield* or *Stop* sign is present along with the Crossbuck sign. During the last decade, the FHWA was considering establishing requirements to add a *Yield* or *Stop* sign at all passive railroad crossings. The addition of a *Yield* or *Stop* sign could necessitate replacing the Crossbuck support post in order to achieve minimum mounting heights. As a result, many railroad companies and highway agencies have deferred installing the retroreflective strips until a final decision was made on this issue in order to avoid unnecessary expense and to achieve the economies of sending sign crews to crossings only once rather than twice. The December 2009 Final Rule for the 2009 MUTCD did incorporate the requirement for *YIELD* or *STOP* signs at passive crossings in Section 8B.04, and a target compliance date for adding these signs at existing crossings was established as December 31, 2019. The January 12, 2011, compliance date for the retroreflective strips provided railroads and public agencies with only 1 year after the final decision on the rule for *Yield* or *Stop* signs to install the retroreflective strips at the thousands of crossings where such work was deferred.

The FHWA proposes to extend the target compliance date for the retroreflective strips to December 31, 2019, to coincide with the date for adding *Yield* or *Stop* signs with Crossbuck signs at passive grade crossings. As noted in the Final Rule that established the target compliance date for the retroreflective strips, the addition of such strips provides safety benefits that justify having a target compliance date, but having a single compliance date for both the retroreflective strips and the *Yield* or *Stop* signs at grade crossings is more practical. The FHWA also proposes to adjust the item for Section 8B.03 in Table I-2 to more accurately reflect that the requirements for retroreflective strips are in Section 8B.04 as well as in Section 8B.03 and to accurately reflect that the compliance date was also intended to apply to the retroreflective strips on the backs of the Crossbuck signs.

The FHWA requests comments on the safety benefits, the costs, and other burdens associated with achieving compliance for these existing non-compliant devices, and the proposed revision of this compliance date. The

FHWA also requests comments on alternative approaches, including retention of the current compliance dates and extending them for a longer period.

7. The FHWA proposes to retain the existing target compliance dates in Table I-2 for eight items that we deem to be of critical safety importance, based on existing evidence and our subject matter expertise and experience in traffic control device matters. For each of these eight items, the Final Rules establishing the compliance dates clearly identified the safety justification for such compliance dates. These justifications remain valid, as summarized below. For each of these eight items, the FHWA requests comments on the safety benefits, the costs, and other burdens associated with achieving compliance for these existing non-compliant devices, and the proposed retention of this compliance date. The FHWA also requests comments on alternative approaches, including extension of the current compliance dates.

The January 17, 2013, compliance date for Section 2A.19 provisions requiring crashworthiness of existing sign supports on roads with posted speed limits of 50 mph or higher was established in the Final Rule for the 2003 edition of the MUTCD to be consistent with information previously communicated to jurisdictions in a variety of training and presentations by the FHWA Office of Safety regarding roadside safety and countermeasures for run-off-the-road crashes. Eliminating fixed-object hazards such as non-crashworthy sign supports on high-speed roads remains a critical safety need due to the deaths and severe injuries that high-speed run-off-the-road crashes can result in when a non-crashworthy sign support is struck. Therefore, the 10-year period for compliance from the 2003 Final Rule is proposed to be retained.

The Final Rule for the 2009 edition of the MUTCD established new requirements in Section 2B.40 to install additional *One Way* signs at certain types of intersections and established a December 31, 2019, compliance date for adding the required signs at existing intersections where the signs are not in place in the required number and location. This 10-year period was established because of the demonstrated safety issues associated with wrong-way travel on divided highways, research on the needs of older drivers, and because the additional signs would provide significant safety benefits to road users. These safety benefits justify retaining the existing compliance date for

installing the critically-needed *One Way* signs at existing intersections.

In Sections 2C.06 through 2C.14, revised requirements on the use of various horizontal alignment warning signs and determinations of advisory speed values were adopted in the Final Rule for the 2009 edition of the MUTCD and a compliance date of December 31, 2019, was established for any required revisions in posted advisory speeds and for installing any newly-required horizontal alignment warning signs that are not currently in place at existing curves. This 10-year compliance date was established because of the demonstrated safety issues associated with run-off-the-road crashes at horizontal curves. Fatalities at horizontal curves account for approximately 25 percent of all highway fatalities, yet horizontal curves are only a small portion of the Nation's highway mileage. The more rational and uniform posting of advisory speeds and the installation of the required additional horizontal alignment warning signs at existing locations will provide significant safety benefits to road users and a 10-year period for achieving compliance is remains appropriate.

The Final Rule for the 2009 edition of the MUTCD established new requirements in Sections 2E.31, 2E.33, and 2E.36 for the use of black-on-yellow "Left" or "Left Exit" plaques on guide signs for all left-hand freeway and expressway exits and established a compliance date of December 31, 2014, for adding such plaques to existing guide signs. This 5-year target compliance date was established to address a recommendation of the National Transportation Safety Board as a result of a significant safety concern exhibited with left-hand exits. The installation of these plaques at all existing left-hand exits within 5 years is necessary to achieve critical safety improvements for road users at left-side exits. The installation of these plaques generally does not require replacement of the existing sign or sign supports and this change affects relatively few existing locations throughout the country.

The Final Rule for the 2009 edition of the MUTCD also established new requirements in Sections 6D.03, 6E.02, and 7D.04 that all workers, including flaggers and school crossing guards, within the right-of-way of all highways, not just Federal-aid highways, must wear high-visibility apparel, and established a 2-year target compliance date of December 31, 2011. Required compliance of apparel for workers, including law enforcement officers, on Federal-aid highways has been in effect

since November 24, 2008. The 2-year target compliance date for these three provisions applicable to non-Federal-aid highways was established to be consistent with the 2-year compliance period that was previously established for workers on Federal-aid highways. The December 31, 2011, compliance date remains appropriate for this low-cost, but highly critical, safety requirement and no changes are proposed to the compliance dates for Sections 6D.03, 6E.02, and 7D.04.

In Section 8B.04, as discussed above, a new requirement was adopted in the Final Rule for the 2009 edition of the MUTCD to require the use of either a *Yield* or *Stop* sign with the Crossbuck sign at all passive grade crossings, and a target compliance date of December 31, 2019, was established for adding these signs at existing crossings. This 10-year compliance date was established to promote increased safety at passive grade crossings, especially during nighttime hours. Although the new requirements involve conducting engineering studies for some locations and installing signs that do not currently exist at existing grade crossings, the existing 10-year target compliance date for installation of the required additional signs at existing locations remains appropriate.

#### Conclusion

The proposed revisions to Table I-2 are intended to reduce the regulatory burden and provide increased flexibility to State and local highway agencies and to enable those agencies to make decisions on when to replace or upgrade existing noncompliant devices in accordance with their own local environmental conditions and the competing priorities in their communities for a wide variety of safety-related measures that might be needed in the context of limited budgets. The proposed revisions also simplify procedures for traffic control device replacements and reinforce the principle that most noncompliant traffic control devices can be replaced in the ordinary course of routine maintenance and/or when the useful life of such devices has expired. The few items for which target compliance dates are proposed to be retained or extended are, based on FHWA's experience and subject matter expertise on traffic control device issues, considered to be essential for statutory or safety reasons and/or of relatively low-cost to implement.

It is important to understand that elimination of a compliance date for a given Standard contained in the MUTCD does not eliminate the

regulatory requirement to comply with that Standard. The Standard itself remains in the MUTCD and applies to any new installations, but the firm fixed date for replacing noncompliant devices that exist in the field is eliminated.

On April 22, 2010, a separate NPA was published in the **Federal Register**<sup>6</sup> proposing to revise the 2009 edition of the MUTCD regarding maintaining minimum retroreflectivity of longitudinal pavement markings. The deadline for comments to that docket has passed and the FHWA is currently reviewing the docket comments received. In that NPA, FHWA suggested that the proposed revisions regarding maintaining minimum retroreflectivity of longitudinal pavement markings would be designated as Revision 1 to the 2009 edition of the MUTCD. Actual designation of revision numbers will depend on the relative timing of any Final Rules that may be issued by the FHWA as a result of the April 22, 2010, NPA, this NPA, and any other NPAs regarding the MUTCD.

#### *Rulemaking Analysis and Notices*

*Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures*

The FHWA has determined that this action would be a significant regulatory action within the meaning of Executive Order 12866 and within the meaning of DOT regulatory policies and procedures due to the significant public interest in issues surrounding the MUTCD. This action complies with Executive Orders 12866 and 13563 to improve regulation. In particular, this action is consistent with, and can be seen as directly responsive to, the requirements of Executive Order 13563, and in particular its requirement for retrospective analysis of existing rules (section 6), with an emphasis on streamlining its regulations. This approach is also consistent with Presidential Memorandum, Administrative Flexibility, which calls for reducing burdens and promoting flexibility for State and local governments.

The proposed changes in the MUTCD would reduce burdens on State and local government in the application of traffic control devices. They would provide additional clarification, guidance, and flexibility to such governments. The uniform application of traffic control devices will greatly improve roadway safety and traffic

operations efficiency. The standards, guidance, options, and support are also used to create uniformity and to enhance safety and mobility. The proposed changes in this rulemaking will not require the expenditure of funds, but rather will provide State and local governments with the flexibility to allocate scarce financial resources based on local conditions and the useful service life of its traffic control devices. It is anticipated that the economic impact of this rulemaking would be minimal and indeed costs and burdens will be reduced, not increased; therefore, a full regulatory evaluation is not required.

As noted, this action streamlines existing significant regulation to reduce burden and promote the flexibilities of State and local governments under Executive Order 13563. In response to concerns about the potential impact of previously adopted MUTCD compliance dates on State and local governments in the current economic climate, the FHWA published a Request for Comments on traffic control device compliance dates. The FHWA asked for responses to a series of seven questions about compliance dates, their benefits and potential economic impacts, especially economic hardships to State and local governments that might result from specific target compliance dates for upgrading certain non-compliant existing devices. The responses received from that notice were considered in the development of this proposal. The FHWA anticipates that this proposed rulemaking will reduce the impacts of compliance dates on State and local highway agencies and will streamline and simplify information contained in the MUTCD.

#### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of these changes on small entities and anticipates that this action would not have a significant economic impact on a substantial number of small entities. This proposed rule would reduce burdens and provide clarification and additional flexibility, and would not require an expenditure of funds.

#### *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, 109 Stat. 48, March 22, 1995). On the contrary, the proposed changes provide additional guidance, flexibility, and clarification and would not require an expenditure of funds.

This action would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$140.8 million or more in any 1 year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

#### *Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999. This action would increase flexibility for State and local governments. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this rulemaking will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F. These proposed amendments are in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the highway. The overriding safety benefits of the uniformity prescribed by the MUTCD are shared by all of the State and local governments, and changes made to this rule are directed at enhancing safety. In general, the proposed amendments increase flexibility for States and local governments. To the extent that these proposed amendments override any existing State requirements regarding traffic control devices, they do so in the interest of national uniformity.

#### *Executive Order 13175 (Tribal Consultation)*

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that it would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### *Executive Order 13211 (Energy Effects)*

The FHWA has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have

<sup>6</sup> 75 FR 20935, April 22, 2010.

determined that it is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 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 for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain collection information requirements for purposes of the PRA.

*Executive Order 12988 (Civil Justice Reform)*

This 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 action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not concern an environmental risk to health or safety that might disproportionately affect children.

*Executive Order 12630 (Taking of Private Property)*

The FHWA does not anticipate that this action would affect 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 action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) 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.

Issued on: August 23, 2011.

**Victor M. Mendez,**  
*Administrator.*

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations part 655 as follows:

**PART 655—TRAFFIC OPERATIONS**

1. The authority citation for part 655 continues to read as follows:

**Authority:** 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).

**Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways—[Amended]**

2. Revise § 655.601(a), to read as follows:

**§ 655.601 Purpose.**

\* \* \* \* \*

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2009 Edition, with Revision(s) number \_\_\_\_\_ [revision number to be inserted] incorporated, FHWA, dated \_\_\_\_\_ [date to be inserted]. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA call (202) 741–6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). It is available for inspection and copying at the Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone 202–366–1993, as provided in 49 CFR part 7. The text is also available from the FHWA Office of

Operations Web site at: <http://mutcd.fhwa.dot.gov>.

\* \* \* \* \*

[FR Doc. 2011–22006 Filed 8–30–11; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Chapter I**

**No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee—Notice of Meeting**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the Bureau of Indian Affairs is announcing that the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee will hold its seventh and final meeting in Washington, DC. The purpose of the meeting is to finalize the language and appearance of a final report to Congress and the Secretary as required under the No Child Left Behind Act of 2001.

**DATES:** The Committee's seventh meeting will begin at 8 a.m. on September 19, 2011, and end at 12:30 p.m. on September 22, 2011.

**ADDRESSES:** The meeting will be held at the Residence Inn Capitol Marriott, 333 E Street, SW., Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** The Designated Federal Official, Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104; telephone (505) 563–3805; fax (505) 563–3811.

**SUPPLEMENTARY INFORMATION:** The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee was established to prepare and submit to the Secretary a catalog of the conditions at Bureau-funded schools, and to prepare reports covering: The school replacement and new construction needs at Bureau-funded school facilities; a formula for the equitable distribution of funds to address those needs; a list of major and minor renovation needs at those facilities; and a formula for equitable distribution of funds to address those needs. The reports are to be submitted to Congress and to the Secretary. The Committee also expects to draft