

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Rescinding the Notice of Intent for an Environmental Impact Statement (EIS): Harrison and Stone Counties, MS

AGENCY: Federal Highway Administration, DOT.

ACTION: Rescind Notice of Intent to prepare an EIS.

SUMMARY: This notice rescinds the Notice of Intent for preparing an Environmental Impact Statement (EIS) for a proposed highway to provide a connection between U.S. Highway 49 near the town of Star to Interstate 20 near the Interchange with State Route 475 in the City of Pearl, Rankin County, Mississippi. The original Notice of Intent for this EIS process was published in the *Federal Register* on May 22, 2009.

FOR FURTHER INFORMATION CONTACT: Claiborne Barnwell, Project Development Team Leader, Federal Highway Administration, Mississippi Division, 100 West Capitol Street, Suite 1026, Jackson, Mississippi 39269, Telephone: (601) 965-4217.

SUPPLEMENTARY INFORMATION:**Background**

The Federal Highway Administration (FHWA) in cooperation with the Mississippi Department of Transportation (MDOT) initiated an Environmental Impact Statement (EIS) with a Notice of Intent May 22, 2009, to provide a connector road, to be built to interstate standards, between U.S. Highway 49 and Interstate 20.

Due to funding constraints this Notice of Intent is rescinded.

Andrew H. Hughes,

Division Administrator, Mississippi, Federal Highway Administration, Jackson, Mississippi.

[FR Doc. 2010-30022 Filed 11-29-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-2010-0159-]

Manual on Uniform Traffic Control Devices (MUTCD) Compliance Dates

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; Request for comments.

SUMMARY: This notice requests comments on compliance dates for highway agencies to upgrade their

existing non-compliant traffic control devices to comply with certain requirements established in the Manual on Uniform Traffic Control Devices (MUTCD). This notice asks for responses to a series of questions about compliance dates, their benefits and economic impacts, and other related issues.

DATES: Comments must be received on or before January 14, 2011.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or fax comments to (202) 493-2251. Alternatively, comments may be submitted to the Federal eRulemaking portal at <http://www.regulations.gov>. All comments must 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 you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78), or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Mr. Hari Kalla, MUTCD Team Leader, FHWA Office of Operations, (202) 366-5915, or via e-mail at hari.kalla@dot.gov. For legal questions, please contact Mr. Raymond Cuprill, Senior Attorney Advisor, FHWA Office of the Chief Counsel, (202) 366-1392, or via e-mail at raymond.cuprill@dot.gov. Business hours for the FHWA are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access and Filing**

You may submit or retrieve comments online through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and

guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: http://www.archives.gov/federal_register and the Government Printing Office's Web page at: <http://www.gpoaccess.gov>.

Background

The MUTCD is incorporated by reference within Federal regulations at 23 CFR Part 655, approved by FHWA, and recognized as the national standard for traffic control devices used on all public roads. When new provisions are adopted in a new edition or revision of the MUTCD, any new or reconstructed traffic control devices being installed after adoption are generally required to be in compliance with the new provisions. Existing devices in the 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, but there are no specific dates for required completion of the upgrades. The Code of Federal Regulations, at 23 CFR 655.603(d)(1), authorizes FHWA to establish target compliance dates for compliance of particular existing devices. The FHWA establishes such compliance dates via the Federal rulemaking process.

The Final Rule for the 2009 edition of the MUTCD¹ established 12 new specific compliance dates in Table I-2 for upgrading existing devices to comply with certain new provisions adopted in that edition. Table I-2 in the 2009 MUTCD also included 46 other compliance dates that had not been reached by 2009 that were established in previous Final Rules in 2000,² 2003,³ and 2007⁴ for new provisions adopted in those Final Rules. The FHWA is aware of concerns on the part of some State and local highway agencies about the potential impacts of MUTCD compliance dates in the current economic downturn, which has significantly reduced the resources available to such agencies.

Purpose of This Notice

The FHWA is interested in examining the issues of the safety benefits provided by traffic control device uniformity and the economic hardships to State and local governments that might result from specific compliance dates for upgrading some non-compliant existing devices.

¹ 74 FR 66732, December 16, 2009.

² 65 FR 78923, December 18, 2000.

³ 68 FR 65496, November 20, 2003.

⁴ 72 FR 72574, December 21, 2007.

The purpose of this notice is to present a general discussion of issues related to MUTCD compliance dates, to present a discussion of existing compliance dates for seven specific 2009 MUTCD provisions, and to request comments and input on those issues and dates. This notice also includes a series of specific questions for which the FHWA requests input on each.

While there are questions presented on specific aspects of MUTCD compliance dates, comments and input may be offered on any part of this notice.

The FHWA is seeking comments from all interested parties to help FHWA in further examining these issues and evaluating potential future alternative courses of action, including additional rulemaking.

Discussion of General Compliance Date Issues

The FHWA has established MUTCD compliance dates for upgrading existing non-compliant devices based on what it believes to be a reasonable balance of the safety benefits afforded by uniformity of traffic control devices and the economic costs to agencies to achieve compliance. Highway agencies are allowed to use systematic upgrading programs (without specific compliance dates) to upgrade their existing devices in the field to meet the vast majority of all new MUTCD provisions. For example, the 2009 MUTCD requires that the lettering on street name signs shall be composed of combination of lower-case letters with initial upper case letters. However, there is no specific compliance date for replacement of existing Street Name signs that use all capital lettering. Existing Street Name signs using all capital letters can remain in place until they need to be replaced due to end of service life or some other reason. As a result, agencies do not incur any additional cost to meet this MUTCD requirement. In addition, FHWA has established specific compliance dates predominantly based on the useful service life of devices. This approach enables highway agencies to defer upgrading non-compliant devices until the device wears out, is damaged or destroyed, or is replaced due to other events such as highway reconstruction, thus minimizing economic impacts.

In the 2009 MUTCD, specific compliance dates were established for only 12 of the hundreds of new provisions that were adopted with that new edition. In those 12 cases, FHWA determined that the safety benefits that the traveling public would derive from those new provisions were so critical

that compliance of existing devices in the field potentially prior to the end of their service lives was necessary. Traffic control device upgrades are eligible for use of Federal-aid highway funds, thus mitigating the impacts on State and local highway agencies.

The FHWA understands that there are many competing demands on State and local government resources, particularly to highway and public works agencies, that State and local governments must balance with highway safety and traffic control device uniformity in allocating their limited resources. The FHWA also believes that traffic control device uniformity is important to the safety of not only of motor vehicles, but also of pedestrians, bicyclists, and other road users, and as such this uniformity provides important benefits to society. The MUTCD was originally developed in 1930s because of the consensus among State and local governments, organizations representing motorists, and many safety-related organizations, that traffic control device uniformity was essential to reducing crashes and the deaths, injuries, and property damage that results from crashes. The 1966 Highway Safety Act⁵ further recognized the safety benefits of traffic control device uniformity by legislating the change in status of the MUTCD from a recommended practice with voluntary compliance to a national standard with mandatory compliance.

Further, FHWA believes that the establishment of specific compliance dates for limited numbers of new MUTCD requirements is effective in achieving uniformity for those critical items. Requirements with specific compliance dates receive much greater attention and upgrading action by highway agencies because of the potential for tort liability and the potential loss of Federal-aid funds.

Discussion of Specific Compliance Dates

The FHWA has identified three compliance dates established in the December 2007 Final Rule on maintaining minimum sign retroreflectivity and four of the new compliance dates established in the Final Rule for the 2009 edition of the MUTCD that might potentially present the greatest challenges to overcome. A discussion of each follows.

Maintaining Minimum Sign Retroreflectivity (Section 2A.08)

On December 21, 2007, the Final Rule for revision number 2 of the 2003 edition of the MUTCD was issued

regarding maintaining minimum levels of sign retroreflectivity. This rulemaking was in response to a statutory requirement.⁶ As a part of this Final Rule, three specific compliance dates were established regarding the new requirements: (1) January 22, 2012 (4 years)—implementation and continued use of an assessment or management method that is designed to maintain traffic sign retroreflectivity at or above the established minimum levels; (2) January 22, 2015 (7 years)—replacement of regulatory, warning, and post-mounted guide (except street name) signs that are identified using the assessment or management method as failing to meet the established minimum levels; and (3) January 22, 2018 (10 years)—replacement of street name signs and overhead guide signs that are identified using the assessment or management method as failing to meet the established minimum levels.

The new minimum sign retroreflectivity requirements were intended to assure adequate nighttime visibility of traffic signs, especially for older drivers, but with significant safety benefits for all drivers, as clearly documented by research.⁷ Further, the 7-year and 10-year compliance periods were set based on expected service life of sign sheeting materials.

One-Way Signs (Section 2B.40)

On December 16, 2009, the Final Rule for the 2009 edition of the MUTCD was issued and a compliance date of December 31, 2019, (10 years) was established for upgrading existing field locations to comply with a new requirement for the number and location of One-Way regulatory signs. The new requirement is that One-Way signs shall be installed on the near-right and far-left corners of each intersection with the directional roadways of a divided highway having a median width of 30 feet or more. This was a recommendation (Guidance) in the 2003 MUTCD that was strengthened to a requirement (Standard) in the 2009 MUTCD.

Some highway agencies already have a policy, per the 2003 guidance, to install near-right and far-left One-Way signs at each directional roadway intersection of their divided highways with medians 30 feet or wider.

⁶ Section 406 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Pub. L. 102-388; October 6, 1992).

⁷ D. Ripley. Quantifying the Safety Benefits of Traffic Control Devices—Benefit-Cost Analysis of Traffic Sign Upgrades. Accepted for publication in the proceedings of the 2005 Mid-Continent Research Symposium, Ames, Iowa, August 2005. This paper can be found at <http://tcd.tamu.edu/Documents/MinRetro/MinRetro.htm>.

⁵ Public Law 89-564, 80 Stat. 731.

However, agencies that did not comply with the 2003 guidance at all or only at some of the applicable intersections now must change their policy for use of One-Way signs at newly constructed intersections, and, by the end of 2019, install any additional One-Way signs needed at their existing locations to meet the Standard. Even though 10 years is allowed for this work to be done, this might constitute a burden for some agencies with significant mileage of divided highways with medians 30 feet or wider.

The strengthening of this provision to a Standard was based on safety research as detailed in the Older Driver Handbook.⁸ Further, the 10-year compliance date for existing locations was established in consideration of the demonstrated safety issues associated with wrong-way travel on divided highways and because FHWA anticipates that installation of the required additional signs at existing locations will provide significant safety benefits to road users. The FHWA believes that State and local highway agencies and owners of private roads open to public travel can schedule the installation of the additional required signs in conjunction with their programs for maintaining and replacing other signs at existing locations along divided highways that are worn out or damaged, thus minimizing any impacts.

Horizontal Alignment Warning Signs (Sections 2C.06 through 2C.14)

The 2009 MUTCD established new requirements that engineering practices shall be used to determine the appropriate advisory speed on horizontal curves and requiring a hierarchical approach to determine the use of various horizontal alignment warning signs, including Turn or Curve signs, Advisory Speed plaques, Chevrons and Large Arrow signs, and Exit Speed/Ramp Speed signs. For these signs, the Table 2C-5 matrix of "Required, Recommended, or Optional" must be used to determine use of each type of sign, based on the difference between the speed limit on the approach and the advisory speed of the curve. The new requirement applies to arterials and collectors with an Average Annual Daily Traffic volume of over 1,000 vehicles per day. A compliance date of December 31, 2019 (10 years), was established for upgrading signing at existing field locations to comply with

⁸ "Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians," FHWA Report no. FHWA-RD-01-051, May 2001, can be viewed at the following Internet Web site: <http://www.tfhrc.gov/humanfac/01105/cover.htm>. Recommendations I.E(4), I.K(2), and I.K(3).

the new horizontal alignment warning sign requirements.

Even though 10 years is allowed for this work to be done, this might constitute a burden for some agencies with a network of higher volume arterial and collector roads having large numbers of horizontal curves.

The new requirement for use of engineering practices to determine advisory speeds for curves and to use Table 2C-5 to determine the required, recommended, and optional use of horizontal alignment warning signs and plaques was determined to be needed because fatalities at horizontal curves account for 25 percent of all highway fatalities, even though horizontal curves are only a small portion of the nation's highway mileage, and because the past application of engineering judgment for determination of advisory speeds and horizontal curve signing, without specific uniform criteria, has not sufficiently improved the safety performance of horizontal curves. Also, the 10-year compliance date was established because of the demonstrated safety issues associated with run-off-the-road crashes at horizontal curves and because FHWA anticipates that a uniform method of determining advisory speeds and installation of the required additional signs at existing locations will provide significant safety benefits to road users. The FHWA believes that State and local highway agencies and owners of private roads open to public travel can schedule the installation of the additional required signs in conjunction with their programs for maintaining and replacing other signs at existing locations that are worn out or damaged, thus minimizing any financial impacts.

Yellow Change Intervals and Red Clearance Intervals (Section 4D.26)

The 2009 MUTCD established a new requirement that durations of yellow change intervals and red clearance intervals for traffic signals shall be determined using engineering practices, such as the kinematic formulas published by the Institute of Transportation Engineers that take into account approach speeds, deceleration rates of stopping vehicles, intersection width, and roadway grades. Previously, the MUTCD did not require or recommend any particular methods for determining the durations of these critical safety intervals in the traffic signal sequence. A compliance date of December 31, 2014 (5 years), or when timing adjustments are made to the individual intersection and/or corridor, whichever occurs first, was established for highway agencies to use engineering

practices to determine times for the yellow change intervals and red clearance interval at their existing signalized locations and to revise the timing of those intervals based on the determinations.

Many highway agencies have been using engineering practices to determine yellow change interval and red clearance interval durations. However, there are some agencies that have been using jurisdiction-wide constant durations, "rules of thumb," or assigning durations to these intervals without applying any engineering factors. Such highway agencies might be burdened by the need to evaluate all their signalized intersections and adjust the durations of the yellow change intervals and red clearance intervals to comply with the new requirement within the 5-year compliance period.

As documented in the FHWA report "Signalized Intersections: Informational Guide,"⁹ a variety of studies from 1985 through 2002 found significant safety benefits from using accepted engineering practices to determine the durations of yellow change and red clearance intervals. Subsequent safety studies¹⁰ have further documented significant major reductions in crashes when jurisdictions have revised the durations of the yellow change and red clearance intervals using accepted engineering practices. The 5-year compliance date was established because of the demonstrated safety benefits, as discussed above, of proper engineering-based timing of these critical signal intervals, and because traffic signals and signal control equipment have a very long service life (30 to 50 years is not uncommon) and very long intervals between signal timing adjustments are typical at many traffic signal locations in many jurisdictions. The FHWA believes that relying on systematic upgrading provisions, based on service life, to achieve compliance with this critical timing need would take an inordinately long time, to the detriment of road user safety. The FHWA believes that State and local highway agencies and owners

⁹ "Signalized Intersections: Informational Guide," FHWA publication number FHWA-HRT-04-091, August 2004, pages 209-211, can be viewed at the following Internet Web site: <http://www.tfhrc.gov/safety/pubs/04091/>.

¹⁰ NCHRP Research Results Digest 299, November 2005, can be viewed at the following Internet Web site: http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rrd_299.pdf. This digest includes data from the study "Changes in Crash Risk Following Retiming of the Traffic Signal Change Intervals," by R.A. Retting, J.F. Chapline, and A.F. Williams, as published in *Accident Analysis and Prevention*, Volume 34, number 2, pages 215-220, available from Pergamon Press, Oxford, NY.

of private roads open to public travel can minimize any impact of this signal timing requirement by adopting a policy that determines durations of yellow change and red clearance intervals that is based on engineering practices and then by applying that policy whenever an existing individual signal location or system of interconnected locations is being checked or adjusted for any reason, such as investigation of citizen complaints or routine maintenance.

Pedestrian Intervals and Signal Phases (Section 4E.06)

The 2009 MUTCD established a new requirement for pedestrian signals that the pedestrian change interval (flashing upraised orange hand) shall not extend into the red clearance interval and shall be followed by a buffer interval of at least 3 seconds. Previously, it was allowable to continue the flashing orange hand display into and through the vehicular red clearance interval, and thus there was no requirement for any pedestrian safety "buffer time" between the end of the flashing orange hand display and the start of green for conflicting traffic on the street being crossed by pedestrians. A compliance date of December 31, 2014 (5 years), or when timing adjustments are made to the individual intersection and/or corridor, whichever occurs first, was established for this new requirement.

Most highway agencies have operated their pedestrian signals so that the flashing upraised hand terminates no later than the start of the yellow change interval for parallel vehicular traffic. With this display sequence, the yellow time and any red clearance time serves as the buffer interval and would comply with the new requirement. However, there are some highway agencies that have made it a practice at some or all of their signals to extend the flashing orange hand to the end of the yellow change interval or even all the way to the end of the red clearance interval. Most such pedestrian signal displays do not provide the required minimum 3 seconds after the end of the flashing orange hand as a margin of safety that allows a pedestrian who underestimates the time needed to cross a roadway, with or without a countdown display, to better avoid a conflict with vehicles. Highway agencies that have existing pedestrian signals operated in this manner might be burdened by the need to adjust the control equipment and/or durations of timing intervals to comply with the new requirement within the 5-year compliance period.

The FHWA established the 5-year compliance date because of the demonstrated safety issues associated

with pedestrian crossings at traffic signals, the need for consistent display of signal indications for pedestrians, and the pedestrian confusion that would likely occur as a result of a long-term mixing of a variety of pedestrian signal displays associated with the pedestrian clearance interval. Traffic signals and signal control equipment have a very long service life (30 to 50 years is not uncommon) and very long intervals between signal retiming are typical at many traffic signal locations in many jurisdictions. The FHWA believes that relying on systematic upgrading, based on service life, to achieve compliance with this critical timing need would take an inordinately long time, to the detriment of pedestrian safety. The FHWA believes that State and local highway agencies and owners of private roads open to public travel can minimize any impact of this signal timing requirement by adopting a policy for timing and display of pedestrian change intervals in relation to vehicular intervals in compliance with Section 4E.06 and then by applying that policy whenever an existing individual signal location or system of interconnected locations is being checked or adjusted for any reason, such as investigation of citizen complaints or routine maintenance.

Questions

A series of seven specific questions regarding MUTCD compliance dates are listed below, for which the FHWA requests input on each, to help further examine this issue.

The seven questions are as follows:

1. What, if any, difficulties does your organization anticipate in meeting the seven MUTCD compliance dates discussed above for upgrading existing non-compliant devices in the field?
2. Are there one or more of these seven compliance dates that are more problematic than the others for your organization? If so, which ones, and why?
3. If some or all of these seven compliance dates were extended, how long do you estimate it would take to complete the necessary traffic control device upgrades?
4. What safety or other impacts would result from extending some or all of these seven compliance dates?
5. Are there other MUTCD compliance dates not described in this notice that are problematic for your organization? If yes, which ones, and why?
6. What considerations should be applied to establish new compliance dates in the MUTCD?

7. What other comments or input do you wish to provide to FHWA regarding MUTCD compliance dates for upgrading existing traffic control devices?

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).

Issued on: November 18, 2010.

Shailen Bhatt,
Acting Administrator.

[FR Doc. 2010-29587 Filed 11-29-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Finding of No Significant Impact for the Washington State Portion of the Pacific Northwest Rail Corridor Upgrades Tier-1 Environmental Assessment

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA) and the FRA's Procedures for Considering Environmental Impacts (FRA Environmental Procedures) (64 FR 28545 (May 26, 1999)), the FRA and the Washington State Department of Transportation (WSDOT) prepared a Tier-1 Environmental Assessment (Tier-1 EA) that evaluates the impacts of a corridor improvements program to the Washington State portion of the Pacific Northwest Rail Corridor (PNWRC Program). This notice advises the public that FRA finds that the corridor improvement program will not have a significant impact on the quality of the human or natural environment and has issued a Finding of No Significant Impact (FONSI) supporting that determination. Copies of both the Tier-1 EA and FONSI are available on FRA's Web site at <http://www.fra.dot.gov/rpd/freight/3011.shtml>.

FOR FURTHER INFORMATION CONTACT: For further information regarding either the Tier-1 EA or FONSI please contact Melissa DuMond, Environmental Protection Specialist, Federal Railroad Administration, 1200 New Jersey Ave., SE., Stop 20, Washington, DC 20590, telephone: (202) 493-6366.

SUPPLEMENTARY INFORMATION: The purpose of the PNWRC Program in Washington State is to improve intercity passenger rail service by reducing travel times, achieving greater schedule reliability, and creating capacity for additional trip frequencies in order to accommodate growing intercity travel