

EXHIBIT A

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 30th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 16- 648 -CZ
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Court address: Veterans Memorial Courthouse, 313 W. Kalamazoo Street, Lansing, MI 48933
 Court telephone no.: (517) 483-6500

Plaintiff's name(s), address(es), and telephone no(s).
 State of Michigan

Plaintiff's attorney, bar no., address, and telephone no.
 Toni L. Harris (P63111)
 Assistant Attorney General
 425 W. Ottawa Street, PO Box 30050
 Lansing, MI 48909
 (517) 373-1479

v

Defendant's name(s), address(es), and telephone no(s).
 M22, LLC
 125 E. Front Street
 Traverse City, MI 49684

Resident Agent: KEEGAN LEVI MEYERS
 125 E. Front Street
 Traverse City, MI 49684

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

- You are being sued.
- YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
- If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued AUG 23 2016	This summons expires NOV 22 2016	Court clerk FARA DUFFEY
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*This summons is invalid unless served on or before its expiration date.
 This document must be sealed by the seal of the court.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

Family Division Cases

- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.

General Civil Cases

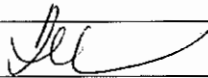
- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in United States Patent and Trademark Office, Trademark Trial and Appeal Board Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no. 92058315	Judge Trademark Trial and Appeal Board	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Ingham County	Defendant(s) residence (include city, township, or village) Traverse City, MI
Place where action arose or business conducted Ingham County	

Date: 8-23-16

Signature of attorney/plaintiff: 

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE

SUMMONS AND COMPLAINT
Case No. 16- -CZ

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

<input type="checkbox"/> OFFICER CERTIFICATE I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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I served personally a copy of the summons and complaint,
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,
 together with _____
List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____
 Name (type or print) _____
 Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments
 _____ on _____
Day, date, time
 _____ on behalf of _____
 Signature _____

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

State of Michigan,

Plaintiff,

v

M22 LLC,

Defendant.

No. 16- 648 -CZ


HON.

CLINTON CANADY III

Toni L. Harris (P63111)
Attorney for Plaintiff
Michigan Department of Attorney General
Van Wagoner Building
425 W. Ottawa Street
Lansing, MI 48913
(517) 335-0737


A Trademark Cancellation Proceeding arising
out of the same transaction or occurrence as alleged
in the Complaint is pending before the United States
Patent and Trademark Office, Trademark Trial and
Appeal Board

COMPLAINT FOR DECLARATORY JUDGMENT



Plaintiff State of Michigan ("State"), by and through its attorneys, Attorney
General Bill Schuette and First Assistant Attorney General Toni L. Harris, brings
this action for declaratory judgment that the Manual on Uniform Traffic Control
Devices ("MUTCD"), as supplemented by the State, applies to Defendant M22, LLC,
that Defendant M22, LLC's registration and use of the State's highway route
marker, e.g., , as a trademark violates the MUTCD, as supplemented by the

State, and that Defendant's use and registration is unlawful, and for its Complaint alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. The State has long-established interests in enforcing state and federal laws, including laws that preclude using and registering as trademarks the State's road sign, e.g., , included in the MUTCD, as supplemented by the State with approval by FHWA, and installed on numerous federal aid projects throughout the State.

2. Defendant M22, L.L.C. is a Michigan limited liability company with its principal place of business in Traverse City, Michigan.

3. Defendant uses the State's trunkline route marker sign as a trademark in violation of state and federal law. Defendant also registered two federal trademarks on the State's distinctive and historical route marker design: the first registration trademarks the State's road sign with "M22online.com" below the sign in nearly indiscernible print, i.e.,  (Serial No. 78963038), and the second registration covers a mark that is virtually identical to the State's road sign, i.e.,  (Serial No. 85041051) (collectively "Registered Marks").

4. The MUTCD, which has the force and effect of law vis-à-vis its incorporation by reference in the Code of Federal Regulations, is the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel.

5. The Michigan Vehicle Code, in compliance with federal law, requires

the State to adopt a uniform system of traffic-control devices. The State has adopted the MUTCD with supplements as approved by FHWA.

6. The Michigan Vehicle Code further requires that all traffic control devices, including road signs, conform to the MUTCD as supplemented by the State with FHWA approval.

7. The State's trunkline route marker is installed on numerous federal aid projects in Michigan and, as such, the MUTCD Standard precluding trademark protection for all signs installed on federal aid projects applies.

8. As a result of Defendant's use and registration of the State's trunkline route marker as a trademark, the road sign does not conform to the MUTCD.

9. The State is required to maintain all signs in compliance with the MUTCD. MCL § 257.609(a).

10. In May 2012, the Michigan Attorney General determined that no entity can lawfully claim exclusive control over use of the State's trunkline route marker design.

11. In December 2013, Plaintiff filed a cancellation proceeding with the United States Patent and Trademark Office, Trademark Trial and Appeal Board ("TTAB") alleging, *inter alia*, that the registrations should be canceled on grounds that the Defendant's use of the marks as trademarks is in violation of the law and, therefore, Defendant's use was unlawful use for purposes of trademark eligibility.

12. In August 2015, Plaintiff moved for summary judgment on its unlawful use in commerce claim. In denying Plaintiff's motion for summary judgment for

cancellation on grounds that Defendant's use of the State's sign as a trademark does not constitute lawful use as required for trademark registration, the TTAB found a question of fact as to whether the MUTCD, as supplemented, is applicable to Defendant, whether Defendant's use violates the MUTCD, and whether a governmental agency or court having competent jurisdiction has found that Defendant's failure to comply with the MUTCD violates the law so as to warrant cancellation of the trademarks. (Ex. 1.)

13. Under the Revised Judicature Act, MCL § 600.605, "Circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state."

14. Plaintiff alleges that Defendant's use and registration of the State's road sign as a trademark violates state and federal law because such use and registrations cause the State's road sign to be non-compliant with the MUTCD.

15. Plaintiff seeks declaratory relief pursuant to MCR 2.605 to declare that Defendant's use and registration of the State's trunkline route marker violates state and federal law.

16. Under Revised Judicature Act, MCL § 600.1631(a), "The county in which the seat of state government is located is a proper county in which to commence and try the following actions: (a) when the action is commenced by the attorney general in the name of the state or of the people of the state for the use and benefit thereof."

17. The Attorney General brings this action in the name of the state.
18. Venue is therefore appropriate in Ingham County.

GENERAL ALLEGATIONS

A. Evolution of the MUTCD and preclusion of trademarks

19. In 1935, the first Manual on Uniform Traffic Control Devices (“MUTCD”) was published and approved as an American Standard. (Ex. 2, p. 3.)

20. In 1971, the United States Department of Transportation, Federal Highway Administration (“FHWA”) issued regulations designed to bring uniformity the roadways of the United States pursuant to the Highway Safety Act of 1966; the regulations are set forth in the MUTCD.

21. In 1971, FHWA began administering the MUTCD and published a rewritten version of the manual. (Ex. 2, p. 3; Ex. 3, p. I-1.)

22. Pursuant to 23 CFR 655.603(a), the federal MUTCD sets the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. § 109(d) and 23 U.S.C. § 402(a).

23. The first MUTCD was published in 1935. (Ex. 2, pp. 2-3.)

24. In November 1935 the first edition was approved as the American standard. (Ex. 2, pp. 2-3.)

25. The manual has been revised nearly every decade to reflect the growth and change of the country. (Ex. 2, pp. 2-3.)

26. In 1971, the MUTCD was rewritten to include the addition of the definitions of “should,” “shall,” and “may” requirements:

In the Manual sections dealing with the design and application of traffic control devices, the words “shall,” “should” and “may” are used to describe specific conditions concerning these devices. To clarify the meanings intended in this Manual by use of these words, the following definitions apply:

1. **SHALL** – A mandatory condition. Where certain requirements in the design or application of the device are described with the “shall” stipulation, it is mandatory when an installation is made that these requirements be met.
2. **SHOULD** – An advisory condition. Where the word “should” is used, it is considered to be advisable usage, recommended but not mandatory.
3. **MAY** – A permissive condition. No requirement for design or application is intended.

(Ex. 4, p. 5.)

27. In the MUTCD, the term “Standard” is defined as follows:

Standard:

When used in this Manual, the text headings shall be defined as follows:

Standard – *a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All standards are labeled, and the text appears in bold type. The verb shall is typically used. Standards are sometimes modified by Options.*

(Ex. 3, MUTCD, 2003 ed., p. I-1, bold emphasis in original, italics emphasis added.)

28. The 2000 edition of MUTCD included, *inter alia*, the following new Standard prohibiting patent and copyright protection for any sign in the MUTCD:

Standard:

Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bikeway by authority of a public agency having jurisdiction.

The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for traffic control devices on all public roads open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.

Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent or copyright, except for the Interstate Shield.

29. The language requiring that signs in the MUTCD are in the public domain and not protectable by patent or copyright was included to address frequently asked questions on the matter. (Ex. 5, 65 Fed Reg 78,923, 78,924 (Dec. 18, 2000) (to be codified at 23 CFR pt. 655)).

30. The 2003 edition of the MUTCD added “trademark” to the protections prohibited to the Standard, as well as other language:

Standard:

Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bikeway by authority of a public agency having jurisdiction.

The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.

Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, *trademark*, or copyright, except for the Interstate Shield *and any other items owned by the FHWA*.

(Ex. 3, MUTCD, 2003 ed., p. I-1, bold emphasis in original, italics emphasis added.)

31. Although additional language was added to this section in the 2009 edition of the MUTCD, the Standard language requiring device designs to be in the public domain and not protectable as trademarks remains unchanged. (Ex. 6.)

32. Standards in the MUTCD are incorporated by reference in the Code of Federal Regulations and, thus, have the force and effect of law. 23 CFR § 655.601(d).

33. The MUTCD Standard prohibiting trademark protection for signs therein, and signs installed on federal-aid projects, apply to private parties as well as public parties.

34. The FHWA intended to preclude trademark protection by any public or private party for any sign design contained in the MUTCD, its own interpretation of the provision, as explained in a final rule published in the Federal Register on December 1, 2004, thus having the force and effect of law, demonstrates that

inclusion of a sign in the MUTCD is tantamount to rendering it not protectable by a trademark by any private or public party. (Ex. 7, 69 Fed Reg 69,815 (Dec. 1, 2004) (to be codified at 23 CFR pt. 655)).

35. To qualify for federal funding, states must adopt the MUTCD, adopt the MUTCD with supplements in substantial conformance with the MUTCD and approved by FHWA, or adopt a state manual in substantial conformance with the MUTCD as determined by the FHWA.

36. Where state manuals or supplements are required by law, they must be in substantial conformance with the MUTCD, meaning the state manual or supplement must conform as a minimum to the Standard statements in the MUTCD as determined by the FHWA, except where an exception is granted by the FHWA where the manual or supplement cannot conform due to requirements due to state law and where the FHWA determines that such nonconformance does not create a safety concern. 23 CFR § 655.603(b)(1).

37. Section 603(d)(2) also requires that all traffic control devices installed on federal-aid projects must comply with the MUTCD.

38. For state route signs, the MUTCD Standard provides that they shall be designed by the individual State highway agencies. MUTCD Guidance suggests that the state route signs should include black numerals on a white area surrounded by a black background, and the white area should be circular in the absence of any determination to the contrary by the state agency. (Ex. 3, Section 2D.11)

B. History of Michigan's trunkline route marker and State MUTCD.

39. Since the early 1900s, the State of Michigan's standard trunkline route marker has been the shape of a diamond with a block letter "M" in the upper corner and the route number in the lower corner. (Ex. 8.)

40. In 1913, the State's trunkline highway known as "M22" was established as the first state trunkline passing through the Michigan counties of Benzie, Leelenau, and Manistee. (Ex. 9, p. 139.)

41. In 1919, Michigan began designating and signing its state trunkline highways using the diamond-shaped route marker. (Ex. 8.)

42. For more than four decades, the sign has remained relatively unchanged. (Ex. 4; Ex. 8.)

43. The State has continuously used the FHWA-approved sign to designate roads and to market and encourage tourism in northwest Michigan.

44. In the mid-1980s, the State of Michigan Department of Transportation, in conjunction with then-Michigan First Lady Paula Blanchard acting as an advisor to the Michigan Department of Commerce, devised a route that was designated as the Great Lakes Circle Tour, a scenic road system connecting all of the Great Lakes and the St. Lawrence River.

45. The M-22 trunkline route was included in the Lake Michigan Circle Tour completed in 1986. (Ex. 10.)

46. Great Lakes Circle Tour signs and Lake Michigan Circle Tour signs are displayed and advertised with the M-22 state trunkline route sign. (Ex. 10.)

47. In 1993, the Michigan Heritage Route Program, created by Public Act 69 of 1993, was established to identify, inventory, protect, enhance, and promote state trunklines and adjacent land with distinctive or unique scenic, cultural, or historic qualities. (Ex. 11.)

48. A Scenic Heritage Route is one with areas of “outstanding natural beauty whose features include, but are not limited to, significant natural features such as vegetation, land form, water, and open areas with exceptional vistas and views that singly or in combination make that area unique and distinct in character.” (Ex. 12, MCL § 247.951(f).)

49. By its terms, the intent of Public Act 69 is to provide the State with authority to maintain and enhance the scenic roadways and surrounding areas:

[E]stablish the state’s responsibility for the enhancement and enjoyment of Michigan’s scenic, recreational, and historic resources along its roadside by identifying and designating certain portions of the state trunk line highway system as a Pure Michigan byway . . . [and] to provide criteria for the location and length of Pure Michigan byways and adjacent areas requiring continuing and careful coordination of planning, design, construction, maintenance, land use, and development, by state and local agencies as appropriate, to encourage adjacent land use consistent with the intent of the designation. (Ex. 11, MCL § 247.952.)

50. In 2014, the designation “Scenic Heritage Route” was rebranded as “Pure Michigan Byway.” In accordance with MCL § 247.957a, the State is in the process of replacing the Scenic Heritage Route signs posted along the M-22 route with a new marker identifying it as a Pure Michigan Byway. (Ex. 10, MCL § 247.957a.)

51. Under the Act, a Heritage Route is one to which the old adage “getting there is half the fun” applies:



Certain portions of the state trunkline highway system are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination. . . . The improvement philosophy for these roads is to maintain the essential elements of the road and the area immediately surrounding the road that create its unique character. (Ex. 11, MCL § 247.953.)

52. In 2001, the State of Michigan designated approximately 60 miles of the M-22 state trunkline route as the M-22 Scenic Heritage Route. (Ex. 12.)

53. The diamond design has been and is currently used to designate the M22 state trunkline highway, as well as other trunkline routes throughout the state, such as M1, M13, M15, M19, M21, M24, M25, M28, M37, M46, M53, M57, M61, M90, M115, M119, and M142, to name a few.

54. Under the Michigan Vehicle Code, the State is required to adopt and maintain a uniform system of traffic control devices in conformance with the federal MUTCD. MCL § 257.608.

55. To qualify for federal funding, the State adopts the MUTCD and supplements thereto, with approval by FHWA Division Administrators that any supplement is in substantial conformance with the MUTCD.

56. In adopting the 1971 version  the MUTCD, in accordance with federal law, the State included in its supplement, with FHWA approval, the distinctive white diamond design, e.g., , in place of the white circle design, for its state trunkline highway sign. (Ex. 3, p. 104.)


57. Under Michigan law, "traffic control devices" include all signs erected by authority of the State for the purpose of guiding traffic, including the State's trunkline route marker. MCL § 257.70

58. Michigan law also requires that all traffic control devices conform to the MUTCD, and the State is required to enforce compliance with the MUTCD. MCL §§ 247.609(a) and 610(a).

59. The MUTCD has the force and effect of law in Michigan pursuant to mandated compliance vis-à-vis State and federal law.

60. In adopting the 2003 MUTCD, while Plaintiff could have retained its trademark rights in its distinctive diamond design by leaving it out of the MUTCD, the State adopted the 2003 MUTCD with a supplement substituting the State's historical diamond state highway route marker design for the circle design. (Ex. 13; Ex. 14 at p. 18.) The substitution was approved by the FHWA. (Ex. 15.) In doing so, pursuant to federal regulations and State law, the sign was rendered not protectable as a trademark by public or private parties.

61. In 2009, the FHWA published an updated MUTCD having the same language requiring that any sign designs in the manual are not protectable as a trademark. (Ex. 16, p. I-1.)

62. In 2011, Michigan adopted the 2009 version of the MUTCD, including the same state trunkline route marker in a supplement approved by the FHWA, and it remains in effect today, i.e., . (Ex. 17; Ex. 18.)

63. Accordingly, the State's trunkline highway route sign must conform to the Standards of the MUTCD.


64. The MUTCD includes a Standard whereby the signs therein are in the public domain and *shall* not be protected by trademark.

65. The MUTCD Standard prohibiting trademark protection for signs included in the MUTCD applies to private parties as well as public parties.

66. When the State's sign is installed on a federal aid project, the Code of Federal Regulations require such devices to comply with the MUTCD. 23 CFR 655.603(d)(2). More specifically, such signs are not eligible for use as a trademark.


67. Federal-aid projects on trunkline highways throughout the State include projects where the State's route marker design was installed.

C. Defendant uses and registered the State's trunkline route marker as a trademark.

68. In August 29, 2006, Defendant applied to register a federal trademark on the State's diamond state route design -  - with "M22online.com" below the sign in "tiny" print, as described by the Trademark Examiner (Serial No. 78963038). See May 2, 2007 Office Action.

69. In its application, Defendant claimed that it has used the State's road sign as a trademark since January 1, 2004.

70. The mark was registered on December 4, 2007 in violation of federal regulations and State law prohibiting trademark protection for the State's route marker design (Registration No. 3348635).

71. In May 2010, Defendant filed a second application for registration of a mark -  - that the Trademark Examining Attorney determined was used in "exactly the way the Michigan Department of Transportation uses 'M22' in its road signs for this highway" (Serial No. 85041051).

72. Defendant did not dispute that the Examiner's finding, but rather made a new claim of acquired distinctiveness.

73. In its application, Defendant claimed that it has used the State's road sign as a trademark since November 21, 2007.

74. The mark was registered on July 12, 2011, again without reference to or consideration of the applicable state laws and federal regulations prohibiting trademark protection for the State's road sign design (Registration No. 3992159).

75. In May 2012, the Michigan Attorney General determined that no entity can lawfully claim exclusive control over use of the State's trunkline route marker design. (Ex. 19.)

76. Plaintiff sent a letter to Defendant seeking its cooperation in canceling the marks, which Defendant refused.

77. Defendant has also used the State's sign as a trademark by

threatening to sue users of the State's sign with M22, M25, M26, M28, M37, and M119 in the diamond for trademark infringement.

D. TTAB proceedings

78. In December 2013, Plaintiff filed a cancellation proceeding before the United States Patent and Trademark Office, Trademark Trial and Appeal Board, as broadly permitted under MCL §§ 247.609 and 610.

79. In its Second Amended Petition for Cancellation, Plaintiff alleged unlawful use in commerce by Defendant based on its use of Plaintiff's road sign design and registration as a trademark in violation of the MUTCD.

80. In August 2015, Plaintiff moved for summary judgment on its unlawful use in commerce claim. In denying Plaintiff's motion for summary judgment for cancellation on grounds that Defendant's use of the State's sign as a trademark does not constitute lawful use as required for trademark registration, the TTAB found a question of fact as to whether the MUTCD, as supplemented, is applicable to Defendant, whether Defendant's use violates the MUTCD, and whether a governmental agency or court having competent jurisdiction has found that Defendant's failure to comply with the MUTCD violates the law so as to warrant cancellation of the trademarks. (Ex. 1.)

81.

COUNT I

CLAIM FOR DECLARATORY RELIEF

82. Plaintiff incorporates by reference the allegations of paragraphs 1

through 80 of the Complaint as set forth above.

83. Plaintiff is required to maintain the State's trunkline route marker design in compliance with the MUTCD.

84. The MUTCD precludes trademark protection for the State's route marker design in the Manual and used on federal-aid projects.

85. The MUTCD prohibition on trademark protection for signs in the Manual applies to Defendant.

86. Defendant has used the State's trunkline route marker design as a trademark through trademark registration based on use in commerce, and claiming and enforcing alleged trademark rights against third parties.

87. Defendant has refused to cease use of the State's sign as a trademark and to cancel its federal registrations.

88. Defendant's use and registration of the State's trunkline route marker as a trademark is not compliant with the MUTCD Standard prohibiting trademark protection for the State's road sign design.

89. Defendant's failure to comply with the MUTCD is a violation of the law prohibiting trademark protection for the State's sign.

90. Therefore, there is currently an actual controversy between the parties within the jurisdiction of the Court, and Plaintiff is entitled to declaratory relief pursuant to the Michigan Vehicle Code, the MUTCD and MCR 2.605.

RELIEF REQUESTED

Plaintiff requests that this Honorable Court find that the Manual on Uniform Traffic Control Devices (“MUTCD”), as supplemented by the State, applies to Defendant M22, LLC, that Defendant M22, LLC’s registration and use of the State’s highway route marker as a trademark violates the MUTCD, as supplemented by the State, and that Defendant’s use and registration is unlawful, and order such other relief as the Court may find appropriate.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Toni L. Harris (P63111)
Assistant Attorney General
Attorneys for Plaintiff
Van Wagoner Building
425 W. Ottawa Street
Lansing, MI 48913
(517) 335-0737

Dated: August 23, 2016

EXHIBIT 1

THIS DECISION IS NOT A
PRECEDENT OF THE TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

RK

Mailed: March 9, 2016

Cancellation No. 92058315

State of Michigan

v.

M22, LLC

**Before Mermelstein, Kuczma and Adlin,
Administrative Trademark Judges**

By the Board:

This matter comes up on Petitioner's motion (filed August 27, 2015) and Respondent's cross-motion (filed September 24, 2015) for partial summary judgment on Petitioner's claim of unlawful use in commerce. The motions are fully briefed.

The Board presumes the parties' familiarity with the pleadings, the history of the proceeding and the arguments and evidence submitted with the cross-motions. Accordingly, this order will not summarize the proceeding background or recount the parties' arguments except as necessary.

Decision

Summary judgment is a pretrial device intended to save the time and expense of a full trial when the moving party is able to demonstrate, prior to

Cancellation No. 92058315

trial, that there is no genuine dispute of material fact, and that it is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Opryland USA Inc. v. Great Am. Music Show Inc.*, 970 F.2d 847, 23 USPQ2d 1471 (Fed. Cir. 1992); and *Sweats Fashions Inc. v. Pannill Knitting Co. Inc.*, 833 F.2d 1560, 4 USPQ2d 1793 (Fed. Cir. 1987). Where, as here, the parties have filed cross-motions for summary judgment, each party has the initial burden of demonstrating the absence of any genuine dispute of material fact with respect to its own motion. *See Univ. Book Store v. Univ. of Wisconsin Bd. of Regents*, 33 USPQ2d 1385 (TTAB 1994). If the moving party is able to meet this initial burden, the burden shifts to the nonmoving party to demonstrate the existence of specific genuinely disputed facts that must be resolved at trial.¹ The nonmoving party may not rest on mere allegations or assertions but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute of material fact for trial. Should the nonmoving party fail to raise a genuine dispute of material fact as to an essential element of the moving party's case, judgment as a matter of law may be entered in the moving party's favor.

A factual dispute is genuine if, on the evidence of record, a reasonable fact finder could resolve the matter in favor of the non-moving party. *See Olde*

¹ That cross-motions for summary judgment have been filed does not necessarily mean that there is no genuine dispute as to a material fact and that trial is unnecessary. *See* 10A Wright, Miller, Kane, Marcus & Steinman, *Fed. Prac. & Proc. Civ.* § 2382 (3d ed. 2015).

Cancellation No. 92058315

Tyme Foods, Inc. v. Roundy's, Inc., 961 F.2d 200, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992). The evidence must be viewed in a light most favorable to the non-moving party, and all reasonable inferences are to be drawn in the non-movant's favor. *Lloyd's Food Prods., Inc. v. Eli's, Inc.*, 987 F.2d 766, 25 USPQ2d 2027, 2029 (Fed. Cir. 1993); *Opryland USA, supra*. The Board does not resolve disputes of material fact but rather only ascertains whether disputes of material fact exist. *See Lloyd's Food Prods.*, 987 F.2d at 767, 25 USPQ2d at 2029; *Olde Tyme Foods*, 961 F.2d at 200, 22 USPQ2d at 1542.

“[T]rademark rights cannot accrue from an unlawful use of a mark in commerce.” *See Satinine Societa in Nome Collettivo dis S.A. e M. Usellini v. P.A.B. Produits et Appareils de Beaute*, 209 USPQ 958, 966 (TTAB 1981). The Board will find a use unlawful only “when the issue of compliance has previously been determined (with a finding of noncompliance) by an entity, such as a court or government agency, having competent jurisdiction under the statute in question, or when there has been a per se violation of a statute regulating the sale of a party's goods, or the rendering of his services, in commerce.” *Id.* at 964. However, “[t]here must be [some] nexus between the use of the mark and the alleged violation before it can be said that the unlawfulness ... has resulted in the invalidity of an application or registration.” *Id.* at 967.

Upon careful consideration of the arguments and evidence presented by the parties, and drawing all inferences with respect to each party's motion in

Cancellation No. 92058315

favor of the nonmoving party, we find that neither party has demonstrated the absence of a genuine dispute of material fact. At a minimum, genuine disputes of material fact remain as to the legal effect, if any, of the Manual on Uniform Traffic Control Devices (MUTCD), as supplemented, whether the provisions of the supplemented MUTCD apply to Respondent, whether there has been a violation of the supplemented MUTCD, and, if so, whether such violation can be considered unlawful so as to warrant the cancellation of Respondent's registrations. In view thereof, Petitioner's motion and Respondent's cross-motion for partial summary judgment are hereby **DENIED**.²

To the extent that Respondent seeks summary judgment on its affirmative defenses of laches and acquiescence, the cross-motion is **DENIED** as such equitable defenses are inapplicable against an unlawful use claim. *See United States Olympic Comm. v. O-M Bread Inc.*, 29 USPQ2d 1555, 1558 (TTAB 1993).

Proceedings herein are **RESUMED** and dates are **RESET** as follows:

Expert Disclosures Due	5/9/2016
Discovery Closes	6/8/2016
Plaintiff's Pretrial Disclosures Due	7/23/2016
Plaintiff's 30-day Trial Period Ends	9/6/2016
Defendant's Pretrial Disclosures Due	9/21/2016
Defendant's 30-day Trial Period Ends	11/5/2016

² The parties are reminded that evidence submitted in support of or in opposition to a motion for summary judgment is of record only for consideration of that motion. Any such evidence to be considered at final hearing must be properly introduced during the appropriate trial period. *See, e.g., Levi Strauss & Co. v. R. Joseph Sportswear Inc.*, 28 USPQ2d 1464 (TTAB 1993).

Cancellation No. 92058315

Plaintiff's Rebuttal Disclosures Due
Plaintiff's 15-day Rebuttal Period Ends

11/20/2016
12/20/2016

IN EACH INSTANCE, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

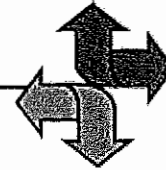
* * *

EXHIBIT 2



[FHWA Home](#) | [Feedback](#)

Manual on Uniform Traffic Control Devices (MUTCD)



Knowledge

Knowledge

The Evolution of MUTCD

Information for this article was developed from a series of articles by H. Gene Hawkins, Jr. published in the [ITE Journal](#) published between 1991 and 1994. Dr. Hawkins also maintains a [Web site](#) that contains scans of old MUTCD editions and predecessors of the MUTCD dating from 1927 to 1988, as well as a great deal of other information of historical interest regarding traffic control devices.

The arrival of the automobile early in this century started a revolution in travel - and traffic control devices have developed to keep 20th century travelers moving ever more safely to their destinations. Road signs were the first traffic control devices to direct travelers on their journeys. The evolution of these road signs provides a fascinating insight not only into the evolution of traffic control devices, but also to the pace of economic and social development in our Nation.

The Horseless Carriage Arrives

It was a bit like the old saying about being "all dressed up, and no place to go." The early days of the automobile found intrepid "tourers" out for a drive, only to wind up losing their way because directional signs were either nonexistent or they were broken, unreadable, or knocked down. In fact, as early as 1899, horseless carriage owners in New York City met at the Waldorf-Astoria Hotel for the purpose of forming an automobile club - the predecessor of the American Automobile Association - and part of their function was to place and maintain signs on principal local highways to guide drivers through the area or to specific sites.

Records indicate that in 1905, the Buffalo Automobile Club installed an extensive signpost network in the New York State. In 1909, the Automobile Club of California undertook the task of signing the principal highways within a 250-mile radius of San Francisco. These could be actual signs, or perhaps they were colored bands around a utility pole. Similar clubs conducted comparable efforts in local areas around the Nation. Unfortunately, competition for signing certain popular routes was fierce and organizations became increasingly aggressive as to which club would sign which routes. One study noted that for 40 to 50 percent of the more traveled roads, it was common to encounter as many as 11 different signs for one single trail or route.

But First, Some Other Firsts

While automobile clubs were busy developing early road signs, other entities were developing devices to control the flow of traffic. For example:

- 1911, a centerline is painted on a Michigan road.
- 1914, the first electric traffic signal is installed in Cleveland.
- 1915, the first STOP sign appears in Detroit.
- 1916, the Federal-Aid Act requires that a State have a highway department before it can get Federal money.
- 1918, Wisconsin is the first state to erect official route signs as part of its maintenance functions.

- 1920, the first 3-color traffic signal is installed in Detroit.

The First Signs of the Times

In the early 1920s, representatives from Wisconsin, Minnesota, and Indiana toured several States with the intent of developing a basis for uniform signs and road markings. The group reported its findings to the Mississippi Valley Association of Highway Departments (MVASHD) in 1932. Their efforts resulted in standards for sign shapes, some of which are still in use as we enter the 21st century.

These pioneers devised a plan to classify sign shapes according to the level of danger represented by highway situations. For example, round signs warned of approaching railroad crossings, which even then represented the most potential danger to the driver. The octagon advised of the next level of danger - the need to STOP for intersections. Diamond signs indicated more ordinary conditions that required drivers to be cautious. Rectangular signs provided direction or other regulatory information. All signs were black letters on white background and were limited to 2 feet (0.6 m) square - that was the maximum width of sign-making equipment. Because round and octagon shapes required the most cutting and wastage, they were chosen for the fewest installations. These shapes made sense because there was little illumination of signs and the rationale was that drivers would respond to the shape of the sign even when they couldn't see the letters.

In 1924, the First National Conference on Street and Highway Safety (NCSHS) improved on earlier efforts and proposed standardizing colors for traffic control devices. Again, many remain in use today. For example, signs with white letters on a red background indicated STOP. White letters on a green background signified proceed. Black letters on a yellow background advised caution. Black and white signs providing information on direction and distance were specified for every intersection and junction. One combination that didn't last was white letters on purple background, indicating an intersection!

The First Signing Manual

Also in 1924, the American Association of State Highway Officials (AASHO, the forerunner of AASHTO) took earlier efforts one step further by issuing a report that combined the previous efforts to standardize sign shapes and colors. The report recognized the superior visibility of the yellow background and advised its adoption for all danger and caution signs, including the STOP sign. The use of red was rejected because of its inadequate visibility at night. This report was also the first to propose the shield to designate U.S. highways.

The importance of the AASHO report is that it became the basis for the first guidebook, *Manual and Specifications for the Manufacture, Display, and Erection of U.S. Standard Road Markers and Signs*, in 1927. However, this manual addressed only use and design for signs on rural roads. Following a national survey of existing traffic control devices, the *Manual on Street Traffic Signs, Signals, and Markings* was published to address urban traffic control devices. This manual corresponded with the AASHO rural manual, except that material also addressed traffic signals, pavement markings, and safety zones. The manual also allowed smaller signs in urban areas, and the STOP sign was modified to allow red letters on a yellow background.

MUTCD, Vol. 1

It was immediately apparent that having two different manuals simply confused the attempt to standardize traffic control devices. Thus in 1932, AASHO and NCSHS formed the first Joint Committee on Uniform Traffic Control Devices (JC). In 1935, the first MUTCD was published. More accurately, it was mimeographed. The demand for the manual was so great, that a printed version was published in 1937. In comparison to the *Millennium Edition*, the 1937 printed version was only 166 pages; content was separated into four parts that addressed signs, markings, signals, and islands.

The 1935 edition set the standard for types of signs by classifying them as regulatory, warning, or guide signs. Regulatory signs were black on white rectangles (except the STOP sign was black on yellow or yellow on a red octagon); diamond-shaped slow-type signs warned drivers to slow down; signs that cautioned were square. The manual also promoted using symbols on signs because nighttime roadway illumination was becoming more common.

The 1935 MUTCD also defined some pavement markings. For example, centerlines were required only on approaches to hill crests with a clear view of less than 500 feet (152 m), short-radius curves, curves with restricted view, or pavements wider than 40 feet (12 m). Acceptable colors for centerlines were white, yellow, or black, depending on which provided the greatest contrast. It also supplied much-needed clarification on the number, color, and meaning of signal indications. The 3-color signal was adopted as the standard for signal lenses.

In November 1935, the first edition of MUTCD was approved as an American Standard.

MUTCD Editions Reflect Life in America

The 1935 MUTCD established the need for a manual that standardized the use and design of traffic control devices (TCDs). As the Nation grew and changed, the MUTCD has grown and changed. The manual has been revised approximately every decade to reflect that growth and change.

Early revisions were just that - supplements to the existing edition. For example, in 1939, the JC issued a 25-page supplement to the 1935 edition. The supplement recommended changes for sign illumination, speed signs, no-passing zone pavement markings, signal warrants, and pedestrian signals. And, although illumination was recommended, white reflectors (red for STOP signs) could be used to illuminate all signs.

The 1942, 208-page, MUTCD described the types of traffic control devices to be used during blackout conditions resulting from the war. Traffic control standards were not lowered for blackout conditions, but rather special blackout devices were to be used where necessary. For example, reflectorized beads were required for use on all pavement markings required for blackout conditions. Pavement markings were also used in lieu of many signs that would normally be illuminated. This, by the way, was the advent of using word messages in pavement markings.

As the end of the war neared, traffic engineers realized that the MUTCD had to be completely rewritten. Work on a peacetime edition began in 1944, and a new volume was published in 1948. The major format change in the postwar edition was reorganizing material so that every control device was addressed in only one place. There was also a concerted effort to simplify word signs, and a rounded-letter alphabet was adopted as standard for all signs.

The 1954 15-page supplement to the 1948 MUTCD included 47 revisions and a brief description of each. The most significant change is that the color for the STOP sign was white letters on red background, which resulted primarily from the development of new fade-resistant finishes. The 1954 manual also represents the shift from using mainly regulatory and warning signs on interstate highways to including guide signs. This manual also adopted the use of white letters on green background for Interstate highways.

New MUTCD Editions Signal America on the Move

Changes incorporated into the 1961 MUTCD truly supplement reflected a changing America. The text was 333 pages long and the manual had two new sections, one to address construction and maintenance operations, which complemented a major section addressing needs of the new Interstate Highway System. There was also a section included for civil defense signing.

A completely rewritten MUTCD premiered in 1971. Some of the most significant changes included adding definition of "should," "shall," and "may" requirements. Orange was designated for construction signing, yellow markings separated opposing traffic, and there was a wider use of symbol signs. School signs were also adopted.

The 1978 MUTCD contained two new parts that addressed highway-rail grade crossings and traffic control for bicycle facilities. There were also revisions addressing the fundamental safety principals concerning work zones, the need for traffic control plans, and an upgraded section on barricades and channelizing devices. New illustrations reinforced the signing and pavement marking standards.

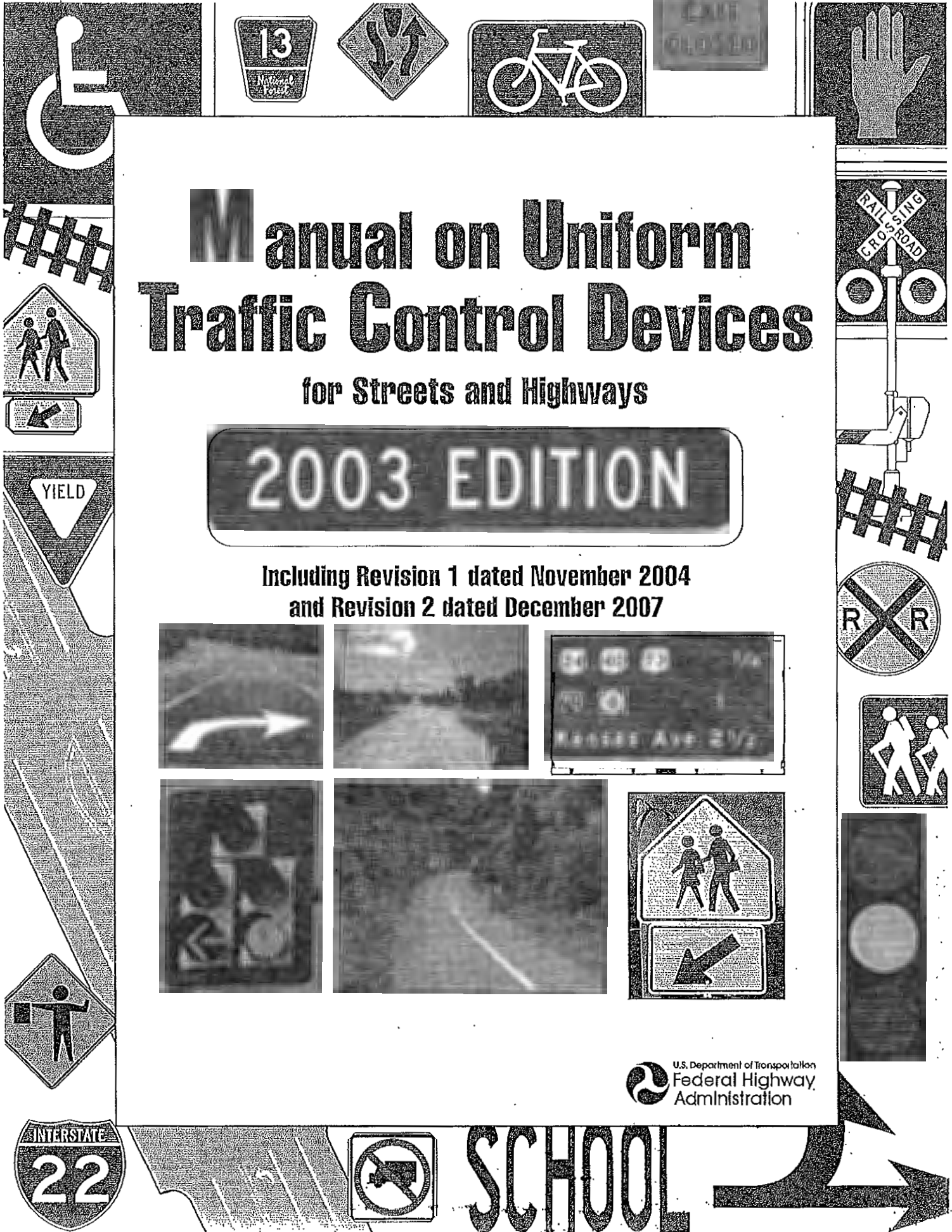
Revise, Update, Amend

Succeeding publications of the MUTCD reflect the changing need of traffic control devices to accommodate increased traffic, higher speeds, more commercial traffic, and roads that serve travelers 24-

hours a day in all types of weather. The speed with which technology, traffic control, and traffic operations change makes the MUTCD a dynamic and constantly changing document. This makes it difficult for those who depend on the MUTCD to remain current with new and changing standards and guidance. By publishing the MUTCD on the Internet, users have greater access to the most current information.

FHWA

EXHIBIT 3

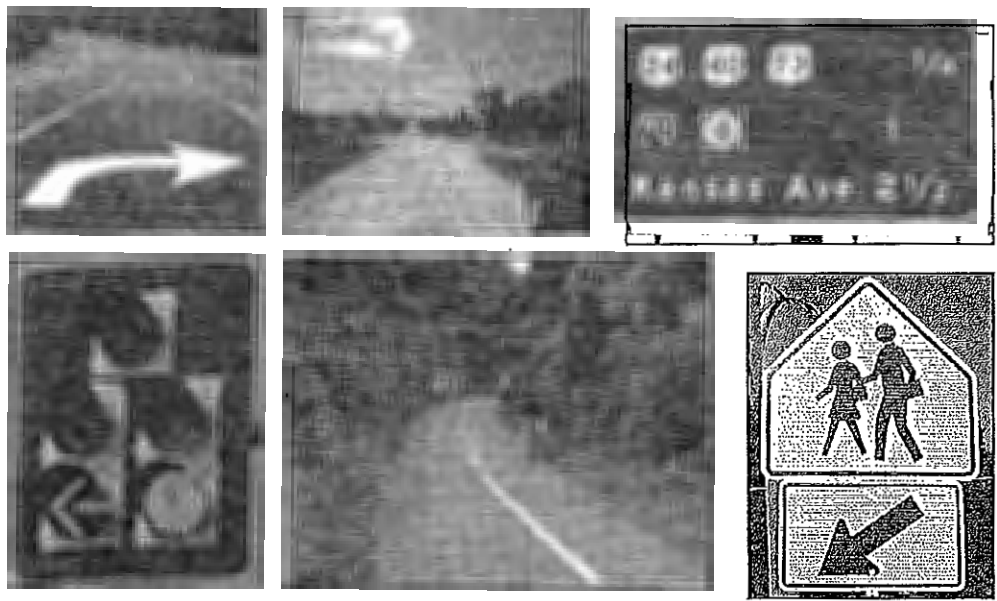


Manual on Uniform Traffic Control Devices

for Streets and Highways

2003 EDITION

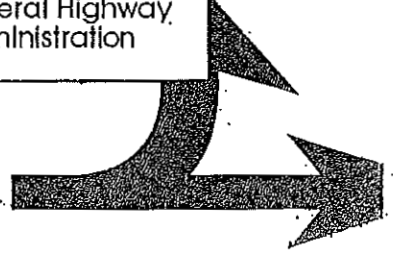
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and Revision 2 dated December 2007



U.S. Department of Transportation
Federal Highway Administration



SCHOOL



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**Manual on Uniform Traffic Control Devices
for Streets and Highways**

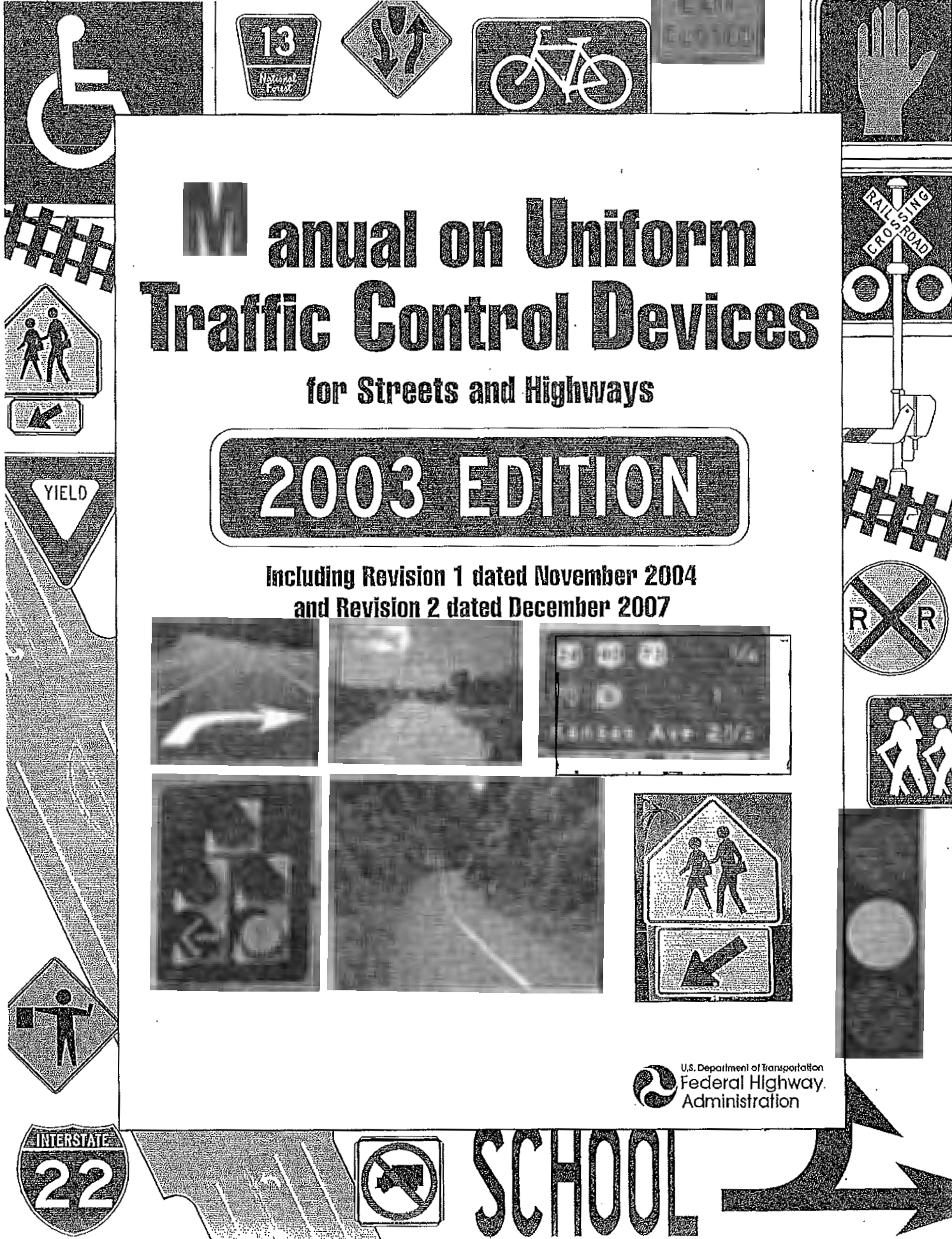


MUTCD

2003 EDITION

**Including Revision 1
dated November 2004
and Revision 2
dated December 2007**



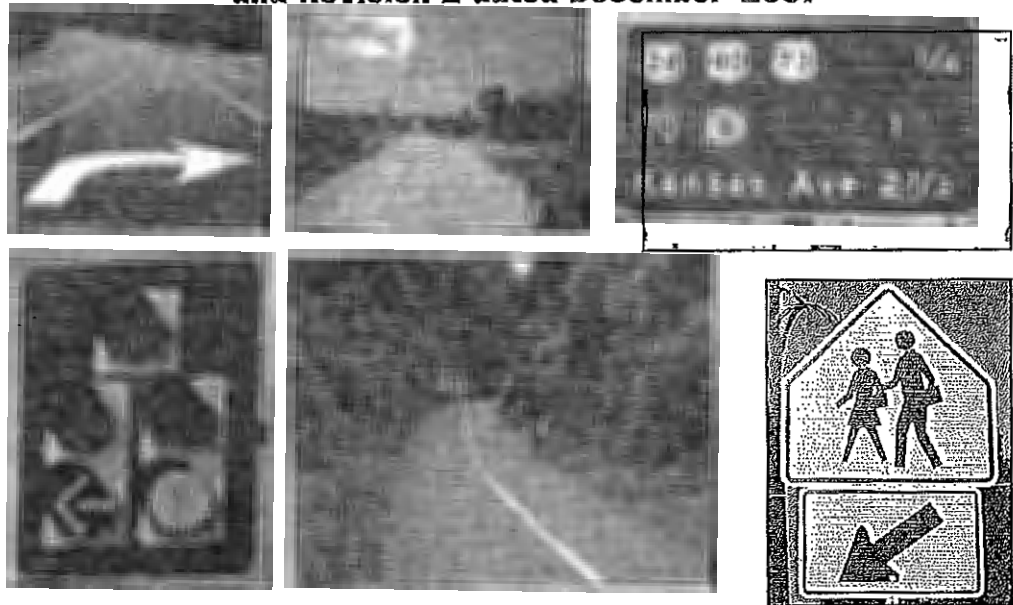


Manual on Uniform Traffic Control Devices

for Streets and Highways

2003 EDITION

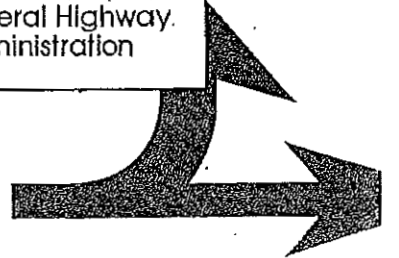
Including Revision 1 dated November 2004
and Revision 2 dated December 2007



U.S. Department of Transportation
Federal Highway Administration



SCHOOL



The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

Addresses for Publications Referenced in the MUTCD

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, NW, Suite 249
Washington, DC 20001
www.transportation.org

American Railway Engineering and Maintenance-of-Way Association (AREMA)
8201 Corporate Drive, Suite 1125
Landover, MD 20785-2230
www.arena.org

Federal Highway Administration Report Center
Facsimile number: 301.577.1421
report.center@fhwa.dot.gov

Illuminating Engineering Society (IES)
120 Wall Street, Floor 17
New York, NY 10005
www.iesna.org

Institute of Makers of Explosives
1120 19th Street, NW, Suite 310
Washington, DC 20036-3605
www.ime.org

Institute of Transportation Engineers (ITE)
1099 14th Street, NW, Suite 300 West
Washington, DC 20005-3438
www.ite.org

International Organization for Standards
c/o Mr. Gerard Kuso
Austrian Standards Institute
Heinestrasse 38
Postfach 130
A-1021
Wien, Austria
www.iso.ch

ISEA - The Safety Equipment Association
1901 North Moore Street, Suite 808
Arlington, VA 22209
www.safetysystem.org

National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)
107 South West Street, Suite 110
Alexandria, VA 22314
www.ncutlo.org

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
www.osha.gov

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

INTRODUCTION

Standard:

Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bikeway by authority of a public agency having jurisdiction.

The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.

Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any other items owned by FHWA.

Support:

The need for uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO), now known as the American Association of State Highway and Transportation Officials (AASHTO), published a manual for rural highways in 1927, and the National Conference on Street and Highway Safety (NCSHS) published a manual for urban streets in 1930. In the early years, the necessity for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of AASHO and NCSHS developed and published the original edition of this Manual on Uniform Traffic Control Devices (MUTCD) in 1935. That committee, now called the National Committee on Uniform Traffic Control Devices (NCUTCD), though changed from time to time in name, organization, and personnel, has been in continuous existence and has contributed to periodic revisions of this Manual. The FHWA has administered the MUTCD since the 1971 edition. The FHWA and its predecessor organizations have participated in the development and publishing of the previous editions. There were eight previous editions of the MUTCD, and several of those editions were revised one or more times. Table I-1 traces the evolution of the MUTCD, including the two manuals developed by AASHO and NCSHS.

Standard:

The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the FHWA.

Support:

23 CFR 655.603 adopts the MUTCD as the national standard for any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The "Uniform Vehicle Code (UVC)" is one of the publications referenced in the MUTCD. The UVC contains a model set of motor vehicle codes and traffic laws for use throughout the United States. The States are encouraged to adopt Section 15-116 of the UVC, which states that, "No person shall install or maintain in any area of private property used by the public any sign, signal, marking, or other device intended to regulate, warn, or guide traffic unless it conforms with the State manual and specifications adopted under Section 15-104."

The Standard, Guidance, Option, and Support material described in this edition of the MUTCD provide the transportation professional with the information needed to make appropriate decisions regarding the use of traffic control devices on streets and highways. The material in this edition is organized to better differentiate between Standards that must be satisfied for the particular circumstances of a situation, Guidances that should be followed for the particular circumstances of a situation, and Options that may be applicable for the particular circumstances of a situation.

Throughout this Manual the headings Standard, Guidance, Option, and Support are used to classify the nature of the text that follows. Figures, tables, and illustrations supplement the text and might constitute a Standard, Guidance, Option, or Support. The user needs to refer to the appropriate text to classify the nature of the figure, table, or illustration.

Standard:

When used in this Manual, the text headings shall be defined as follows:

1. **Standard**—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All standards are labeled, and the text appears in bold type. The verb shall be typically used. Standards are sometimes modified by Options.

2. **Guidance**—a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements are labeled, and the text appears in unbold type. The verb *should* is typically used. Guidance statements are sometimes modified by Options.
3. **Option**—a statement of practice that is a permissive condition and carries no requirement or recommendation. Options may contain allowable modifications to a Standard or Guidance. All Option statements are labeled, and the text appears in unbold type. The verb *may* is typically used.
4. **Support**—an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements are labeled, and the text appears in unbold type. The verbs *shall*, *should*, and *may* are not used in Support statements.

Support:

Throughout this Manual all dimensions and distances are provided in the International System of Units, a modernized version of the Metric system, and their English equivalent units are shown in parentheses.

Guidance:

Before laying out distances or determining sign sizes, the public agency should decide whether to use the International System of Units (Metric) or the English equivalent units. The chosen units should be specified on plan drawings. The chosen unit of measurement should be made known to those responsible for designing, installing, or maintaining traffic control devices.

Except when a specific numeral is required by the text of a Section of this Manual, numerals shown on the sign images in the figures that specify quantities such as times, distances, speed limits, and weights should be regarded as examples only. When installing any of these signs, the numerals should be appropriately altered to fit the specific signing situation.

Support:

The following information will be useful when reference is being made to a specific portion of text in this Manual.

There are ten Parts in this Manual and each Part is comprised of one or more Chapters. Each Chapter is comprised of one or more Sections. Parts are given a numerical identification, such as Part 2-Signs. Chapters are identified by the Part number and a letter, such as Chapter 2B-Regulatory Signs. Sections are identified by the Chapter number and letter followed by a decimal point and a number, such as Section 2B.03-Size of Regulatory Signs.

Each Section is comprised of one or more paragraphs. The paragraphs are indented but are not identified by a number or letter. Paragraphs are counted from the beginning of each Section without regard to the intervening text headings (Standard, Guidance, Option, or Support). Some paragraphs have lettered or numbered items. As an example of how to cite this Manual, the phrase "Not less than 12 m (40 ft) beyond the stop line" that appears on Page 4D-12 of this Manual would be referenced in writing as "Section 4D.15, P7, D1(a)," and would be verbally referenced as "Item D1(a) of Paragraph 7 of Section 4D.15."

Standard:

In accordance with 23 CFR 655.603(b)(1), States or other Federal agencies that have their own MUTCDs or Supplements shall revise these MUTCDs or Supplements to be in substantial conformance with changes to the National MUTCD within 2 years of issuance of the changes. Unless a particular device is no longer serviceable, non-compliant devices on existing highways and bikeways shall be brought into compliance with the current edition of the National MUTCD as part of the systematic upgrading of substandard traffic control devices (and installation of new required traffic control devices) required pursuant to the Highway Safety Program, 23 U.S.C. § 402(a). In cases involving Federal-aid projects for new highway or bikeway construction or reconstruction, the traffic control devices installed (temporary or permanent) shall be in conformance with the most recent edition of the National MUTCD before that highway is opened or reopened to the public for unrestricted travel [23 CFR 655.603(d)(2)]. The FHWA has the authority to establish other target compliance dates for implementation of particular changes to the MUTCD [23 CFR 655.603(d)(4)]. These target compliance dates established by the FHWA shall be as follows:

Section 2A.09 Maintaining Minimum Retroreflectivity—new section—from the effective date of the Final Rule for Revision 2 of the 2003 MUTCD:

- 4 years for 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;
- 7 years for replacement of regulatory, warning, and ground-mounted guide (except street name) signs that are identified using the assessment or management method as failing to meet the established minimum levels; and
- 10 years for 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.

Section 2A.19 Lateral Offset—crashworthiness of sign supports—January 17, 2013 for roads with posted speed limit of 80 km/h (50 mph) or higher.

- Section 2C.53 PHOTO ENFORCED Plaque (W16-10)—new section—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2D.38 Street Name Sign (D3-1)—symbol sizes, 150 mm (6 in) letter sizes for lettering on ground-mounted Street Name signs on roads that are not multi-lane streets with speed limits greater than 60 km/h (40 mph), other new provisions of Millennium Edition—January 9, 2012.
- Section 2D.38 Street Name Sign (D3-1)—letter sizes on ground-mounted signs on multi-lane streets with speed limits greater than 60 km/h (40 mph) and letter sizes on overhead-mounted signs—15 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2D.39 Advance Street Name Signs (D3-2)—new section in 2000 MUTCD and revisions in 2003 MUTCD—15 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2D.45 General Service Signs (D9 Series)—Traveler Info Call 511 (D12-5) sign, Channel 9 Monitored (D12-3) sign—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2D.46 Reference Location Signs (D10-1 through D10-3) and Intermediate Reference Location Signs (D10-1a through D10-3a)—location and spacing of Reference Location signs and design of Intermediate Reference Location signs—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2E.28 Interchange Exit Numbering—size of exit number plaque—January 17, 2008.
- Section 2E.28 Interchange Exit Numbering—LEFT on exit number plaques for left exits—5 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2E.30 Advance Guide Signs—advance placement distance—January 17, 2008.
- Section 2E.54 Reference Location Signs and Enhanced Reference Location Signs (D10-4, D10-5)—design of Enhanced Reference Location signs and Intermediate Enhanced Reference Location signs—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2E.59 Preferential Only Lane Signs—new section in 2003 Edition—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 2F.05 Size of Lettering—minimum height of letters and numerals on specific service signs—January 17, 2011.
- Section 2I.03 EVACUATION ROUTE Sign (EM-1)—new design and size of EM-1 sign—15 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 3B.01 Yellow Centerline Pavement Markings and Warrants—new section in Millennium Edition—January 3, 2003.
- Section 3B.03 Other Yellow Longitudinal Pavement Markings—spacing requirements for pavement marking arrows in two-way left-turn lanes—5 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 3B.07 Warrants for Use of Edge Lines—new section in Millennium Edition—January 3, 2003.
- Section 3B.17 Crosswalk Markings—gap between transverse lines of a crosswalk—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 3B.19 Pavement Word and Symbol Markings—typical spacing of lane-use arrows in two-way left-turn lanes shown in Figure 3B-7—5 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 3C.01 Object Marker Design and Placement Height—width of stripes on Type 3 striped marker—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 4D.01 General—location of signalized midblock crosswalks—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 4D.05 Application of Steady Signal Indications—Item B.4 in STANDARD—5 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 4D.12 Flashing Operation of Traffic Control Signals—duration of steady red clearance interval in change from red-red flashing mode to steady (stop-and-go) mode—10 years from the effective date of the Final Rule for the 2003 MUTCD.
- Section 4E.06 Accessible Pedestrian Signals—new section in Millennium Edition—January 17, 2005.
- Section 4E.07 Countdown Pedestrian Signals—new section—10 years from the effective date of the Final Rule for the 2003 MUTCD for countdown pedestrian signal hardware; 3 years from the effective date of the Final Rule for the 2003 MUTCD for operational requirements of countdown pedestrian signals.
- Section 4E.09 Accessible Pedestrian Signal Detectors—new section in Millennium Edition—January 17, 2005.
- Section 4E.10 Pedestrian Intervals and Signal Phases—pedestrian clearance time sufficient to travel to far side of the traveled way—5 years from the effective date of the Final Rule for the 2003 MUTCD.

Option:

Arrows may be placed below the principal sign legend or on the appropriate side of the legend.

Guidance:

At an exit, an arrow should be placed at the side of the sign which will reinforce the movement of exiting traffic. The up-arrow design should be used.

The width across the arrowhead should be at least equal to the height of the largest letter on the sign. For short downward pointing arrows on overhead signs, the width across the arrowhead should be 1.75 times the letter height.

Diagrammatic signing used on conventional roads should follow the principles set forth in Section 2E.19.

Section 2D.09 Numbered Highway Systems**Support:**

The purpose of numbering and signing highway systems is to identify routes and facilitate travel.

The Interstate and United States (U.S.) highway systems are numbered by the American Association of State Highway and Transportation Officials (AASHTO) upon recommendations of the State highway organizations because the respective States own these systems. State and County road systems are numbered by the appropriate authorities.

The basic policy for numbering the U.S. and Interstate highway systems is contained in the following Purpose and Policy statements published by AASHTO (see Page i for AASHTO's address):

- A. "Establishment and Development of United States Numbered Highways"; and
- B. "Establishment of a Marking System of the Routes Comprising the National System of Interstate and Defense Highways."

Guidance:

The principles of these policies should be followed in establishing the above highway systems and any other systems, with effective coordination between adjacent jurisdictions. Care should be taken to avoid the use of numbers or other designations that have been assigned to Interstate, U.S., or State routes in the same geographic area. Overlapping numbered routes should be kept to a minimum.

Standard:

Route systems shall be given preference in this order: Interstate, United States, State, and County. The preference shall be given by installing the highest-priority legend on the top or the left of the sign panel.

Section 2D.10 Route Signs and Auxiliary Signs**Standard:**

All numbered highway routes shall be identified by route signs and auxiliary signs.

The signs for each system of numbered highways, which are distinctive in shape and color, shall be used only on that system and the approaches thereto.

Route signs and any auxiliary signs that accompany them shall be retroreflective.

Option:

Route signs and auxiliary signs may be proportionally enlarged where greater legibility is needed.

Support:

Route signs are typically mounted in assemblies with auxiliary signs.

Section 2D.11 Design of Route Signs**Standard:**

The "Standard Highway Signs" book (see Section 1A.11) shall be used for designing route signs. Other route sign designs shall be established by the authority having jurisdiction.

Interstate Route signs (see Figure 2D-3) shall consist of a cutout shield, with the route number in white letters on a blue background, the word INTERSTATE in white capital letters on a red background, and a white border. This sign shall be used on all Interstate routes and in connection with route sign assemblies on intersecting highways.

A 600 x 600 mm (24 x 24 in) minimum sign size shall be used for Interstate route numbers with one or two digits, and a 750 x 600 mm (30 x 24 in) minimum sign size shall be used for Interstate route numbers having three digits.

If a jurisdiction uses letters instead of numbers to identify routes, all references to numbered routes in this Chapter shall be interpreted to also include lettered routes.

Guidance:

If used with other route signs in common assemblies, the County Route sign should be of a size compatible with that of the other route signs.

Option:

When used on a green guide sign, a yellow square or rectangle may be placed behind the County Route sign to improve contrast.

Standard:

Route signs (see Figure 2D-3) for park and forest roads shall be designed with adequate distinctiveness and legibility and of a size compatible with other route signs used in common assemblies.

Section 2D.12 Design of Route Sign Auxiliaries

Standard:

Route sign auxiliaries carrying word legends, except the JCT sign, shall have a standard size of 600 x 300 mm (24 x 12 in). Those carrying arrow symbols, or the JCT sign, shall have a standard size of 525 x 375 mm (21 x 15 in). All route sign auxiliaries shall match the color combination of the route sign that they supplement.

Guidance:

Auxiliary signs carrying word messages and mounted with 750 x 600 mm (30 x 24 in) Interstate Route signs should be 750 x 375 mm (30 x 15 in). With route signs of larger sizes, auxiliary signs should be suitably enlarged, but not such that they exceed the width of the route sign.

Option:

A route sign and any auxiliary signs used with it may be combined on a single panel.

Section 2D.13 Junction Auxiliary Sign (M2-1)

Standard:

The Junction (M2-1) auxiliary sign (see Figure 2D-4) shall carry the abbreviated legend JCT and shall be mounted at the top of an assembly (see Section 2D.27) either directly above the route sign or above a sign for an alternative route (see Section 2D.16) that is part of the route designation. The minimum size of the Junction auxiliary sign shall be 525 x 375 mm (21 x 15 in) for compatibility with auxiliary signs carrying arrow symbols.

Section 2D.14 Combination Junction Sign (M2-2)

Option:

As an alternative to the standard Junction assembly where more than one route is to be intersected or joined, a rectangular sign may be used carrying the word JUNCTION above the route numbers.

Other designs may be used to accommodate State and County Route signs.

Standard:

The Combination Junction (M2-2) sign (see Figure 2D-4) shall have a green background with white border and lettering for the word JUNCTION.

Guidance:

Where U.S. or State Route signs are used as components of guide signs, only the outline of the shield or other distinctive shape should be used.

Although the size of the Combination Junction sign will depend on the number of routes involved, the numerals should be large enough for clear legibility and should be of a size comparable with those in the individual route signs.

Section 2D.15 Cardinal Direction Auxiliary Signs (M3-1 through M3-4)

Guidance:

Cardinal Direction auxiliary signs (see Figure 2D-4) carrying the legend NORTH, EAST, SOUTH, or WEST should be used to indicate the general direction of the entire route.

Standard:

To improve the readability, the first letter of the cardinal direction words shall be ten percent larger, rounded up to the nearest whole number size.

EXHIBIT 4



MICHIGAN

**manual of uniform
traffic control devices**

MICHIGAN DEPARTMENT OF STATE HIGHWAYS. ● MICHIGAN DEPARTMENT OF STATE POLICE

ERRATA

MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

3RD REVISION

Publication of the 3rd Revision to the Michigan Manual of Uniform Traffic Control Devices has the following errors which require correction:

1. The BUS STOP symbol sign, page 58a, should have a black transit logo if a logo is utilized.
2. The supplemental NO PARKING educational plaque, page 62, shall have red legend and border on white background rather than black legend and border as shown.
3. Figure 3-10c, page 231, the identification of the LANE ENDS MERGE RIGHT sign and the Pavement Width Transition symbol sign should be transposed.
4. The General Information Signs (I Series), pages 139 through 141c, shall have white legend on green background; except State Police/Sheriff Dept. Signs, 17-1 and 17-2, shall have white legend on blue background. The 17-3, 17-4 signs shall remain as shown.

5

Handwritten marks and symbols along the right margin, including several curved lines and small dashes.

A horizontal dashed line spanning across the lower portion of the page.

E. V. ERIKSON
CHAIRMAN
CHARLES H. HEWITT
VICE CHAIRMAN
PETER B. FLETCHER
CARL V. FELLOHPAA



WILLIAM G. MILLIKEN, GOVERNOR

DEPARTMENT OF STATE HIGHWAYS

STATE HIGHWAYS BUILDING - POST OFFICE DRAWER K - LANSING, MICHIGAN 48904
JOHN P. WOODFORD, STATE HIGHWAY DIRECTOR

October 1, 1973

To: Manual Recipient

John P. Woodford, Director
From: Michigan Department of
State Highways

John R. Plants, Director
Michigan Department of State Police

Subject: 1973 Edition of the Michigan Manual of Uniform Traffic Control
Devices

The 1973 edition of the Michigan Manual of Uniform Traffic Control Devices includes recent changes in national standards relating to traffic control device design, construction, and application on all public highways and streets throughout the State of Michigan. In accordance with Section 608, Act 300, P.A. 1949 as amended, the provisions included in this Manual are the standards to be adopted by the State, counties, townships and municipalities.

If you are an official of a municipality or other governmental agency, and you do not personally have a direct need to retain your copy of this publication, we suggest that you make it available to that person in your organization most concerned with highway traffic operations. We would appreciate being advised if you transfer your copy of the Manual to another individual or if you change your address so that distribution records can be kept current. Future revisions can then be appropriately directed.

If additional copies of the Manual are desired, they can be obtained for the production cost of \$9.00 each. Checks should be made payable to the State of Michigan. Notification of address change or Manual transfer, as well as request for additional copies, should be directed to the Contracts Section, Publications Unit, Michigan Department of State Highways, Drawer K, Lansing, Michigan, 48904.

During the next few months, the Michigan Department of State Highways will be conducting workshops at various locations throughout the State for the benefit of selected local authorities who have responsibilities for certain phases of traffic operations on public highways and streets. If you have such responsibilities, we urge you to become familiar with provisions included in the Michigan Manual and plan to attend a workshop when it is held in your area.

We believe this Manual offers the best means of attaining traffic control device uniformity on all roads and streets, thereby increasing the comfort and safety of all highway users.

John P. Woodford Director
Michigan Department of State
Highways

John R. Plants Director
Michigan Department of State
Police



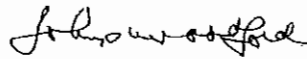


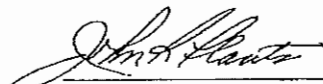
1973 EDITION

MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES
ADDENDUM

In section 2B-35, a sign with the legend RIGHT TURN ON RED AFTER STOP (R10-9) is included. According to section 612 (d) (2), Act 300, P.A. 1949, as amended, a red flashing arrow is the only traffic control device which will permit a driver to make a right turn when facing a steady red signal indication.

At the present time, legislation is being considered that would provide for permitting the R10-9 sign as well as the red flashing arrow to be used to designate locations where a right turn may be permitted with a steady red signal indication displayed. However, until such legislation has been approved, the red flashing arrow is the only device available to permit right turns in the face of a steady red indication. The R10-9 sign is not to be used as outlined in section 2B-35 and other sections of the 1973 edition of the Michigan Manual of Uniform Traffic Control Devices until legislation permitting the sign has been enacted.

 Director
Michigan Department of State Highways

 Director
Michigan Department of State Police

October 1, 1973

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MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES 1973 EDITION

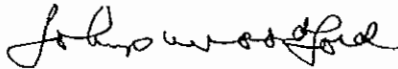


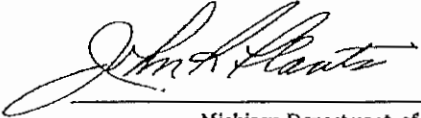
Prepared By:
**MICHIGAN DEPARTMENT
OF STATE HIGHWAYS**
JOHN P. WOODFORD, Director

In Conjunction With
**MICHIGAN DEPARTMENT
OF STATE POLICE**
JOHN R. PLANTS, Director

CERTIFICATION

In accordance with Section 608, Act 300, P.A. 1949 as amended, we hereby certify that the provisions of this Manual constitute the prescribed standards of design, construction and application of traffic control devices for use upon highways within this State and declare these to be the standards to be adopted by the State, counties, townships, and municipalities.

 Director
Michigan Department of State Highways

 Director
Michigan Department of State Police

October 1, 1973

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MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES

INTRODUCTION

Traffic control devices are all signs, signals, markings, and devices placed on or adjacent to a street or highway by authority of a public body or official having jurisdiction to regulate, warn, or guide traffic.

The need for high uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO) published a manual for rural highways in 1927 and the National Conference on Street and Highway Safety published a manual for urban streets in 1929. But the necessity for unification of the standards applicable to different road and street systems was obvious. To meet this need, a joint committee of the American Association of State Highway Officials and the National Conference on Street and Highway Safety developed, and published in 1935, the original edition of the National "Manual on Uniform Traffic Control Devices" (MUTCD). That committee, though changed from time to time in organization and personnel, has been in continuous existence and has been responsible for periodic revisions to the National MUTCD.

The first "Michigan Manual of Uniform Traffic Control Devices" was issued in 1939 by State Highway Commissioner Murray D. Van Wagoner and State Police Commissioner Oscar G. Olander. The Michigan Manual was revised and expanded in 1953, and again in 1963. This, then, is the fourth edition of the "Michigan Manual of Uniform Traffic Control Devices".

In the interest of national uniformity, the Michigan Manual is patterned after and, insofar as Michigan law will permit, conforms very closely with the 1971 edition of the National MUTCD, issued by the Federal Highway Administration of the U.S. Department of Transportation.

This 1973 edition of the Michigan Manual, under the provisions of the Michigan Vehicle Code (Act 300, P.A. 1949, as amended), revises the standards for traffic control devices for use in the State of Michigan and supersedes all previous editions. Unless otherwise provided either herein or by federal compliance schedules, all traffic control devices hereafter erected shall conform to this Manual.

In recognition of the proven international value and need for symbols, and to present a uniform and better understood system of signing, this 1973 revision includes a wider use of symbols, both in the regulatory and warning series. Color coding is employed more extensively in signs and to define direction of travel by pavement markings.

PART I. GENERAL PROVISIONS

1A-1 Requirements of Traffic Control Devices

This Manual sets forth the basic principles that govern the design and usage of traffic control devices. These principles appear throughout the text in discussions of the devices to which they apply, and it is important that they be given primary consideration in the selection and application of each device.

The Manual presents traffic control device standards for all streets and highways regardless of type or class or the governmental agency having jurisdiction. Where a device is intended for limited application only, or for a specific system, the text specifies the restrictions on its use.

To be effective, a traffic control device should meet five basic requirements. They are:

1. Fulfill a need.
2. Command attention.
3. Convey a clear, simple meaning.
4. Command respect of road users.
5. Give adequate time for proper response.

In the case of regulatory devices, the actions required of motorists and pedestrians are specified by State statute or by local ordinance or resolution. Uniformity of meaning is vital to effective traffic control devices. Meanings ascribed to devices in this Manual are in accord with the Michigan Vehicle Code.

Five basic considerations are employed to insure that these requirements are met. They are: design, placement, operation, maintenance, and uniformity.

Design of the device should assure that such features as size, contrast, colors, shape, composition, and lighting or reflectorization are combined to draw attention to the device; that shape, size, colors, and simplicity of message combine to produce a clear meaning; that legibility and size combine with placement to permit adequate time for response; and that uniformity, reasonableness of the regulation, size and legibility combine to command respect. In the design of a device, minor modifications of the specified design elements may be made as necessary to fit special conditions, provided that the essential appearance characteristics are met.

Placement of the device should assure that it is within the cone of vision of the user so that it will command attention, that it is positioned with respect to the point, object, or situation to which it applies to aid in

conveying the proper meaning; and that its location, combined with suitable legibility, is such that a driver traveling at normal speed has adequate time to make the proper response.

Operation or application should assure that appropriate devices and related equipment are installed to meet the traffic requirements at a given location. Furthermore, the device must be operated and placed in a uniform and consistent manner to assure, to the extent possible, that the motorist can be expected to respond properly to the device, conditioned by his previous exposure to similar traffic control situations.

Maintenance of devices should be to high standards to assure that legibility is retained, that the device is visible, and that it is removed if no longer needed. Clean legible, properly mounted devices in good working condition command the respect of motorists and pedestrians. In addition to physical maintenance, functional maintenance is required to adjust needed traffic control devices to current conditions and to remove those which are not needed. The fact that a device is in good physical condition should not be a basis for deferring needed replacement or change. Furthermore, carelessly executed maintenance can destroy the value of a group of devices by throwing them out of balance. For example, replacement of a sign in a group or series by one that is disproportionately large may tend to deprecate others in the vicinity.

Uniformity of traffic control devices simplifies the task of the road user because it aids in recognition and understanding. It aids road users, police officers, and traffic courts by giving everyone the same interpretation. It aids public highway and traffic officials through economy in manufacture, installation, maintenance and administration.

Simply stated, uniformity means treating similar situations in the same way. The use of uniform traffic control devices does not, in itself, constitute uniformity. A standard device used where it is not appropriate is as objectionable as a nonstandard device; in fact, it may be worse, in that such misuse may result in disrespect for the device at those locations where it is used properly.

1A-2 Responsibility for Traffic Control Devices

The responsibility for traffic control devices rests with many governmental jurisdictions. However, traffic control devices placed and maintained by State and local officials are required by statute to conform to the Michigan Manual of Uniform Traffic Control Devices. Section 608 of the Michigan Vehicle Code contains the following pertinent provision:

"The state highway commissioner and commissioner of state police shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall

correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials and such manual may be revised whenever necessary to carry out the provisions of this act. It is hereby declared to be the policy of the state of Michigan to achieve, insofar as is practicable, uniformity in the design, and shape and color scheme of traffic signs, signals and guide posts erected and maintained upon the streets and highways within the state with other states."

1A-3 Engineering Study Required

The decision to use a particular device at a particular location should be made on the basis of an engineering study of the location, notwithstanding requirements specified throughout this Manual. Thus, while this Manual provides standards for design and application of traffic control devices, the Manual is not a substitute for engineering judgment.

Qualified engineers are needed to exercise the engineering judgment inherent in the selection of traffic control devices, just as they are needed to locate and design the roads and streets which the devices complement. Jurisdictions with responsibility for traffic control that do not have qualified engineers on their staffs should seek assistance from the Michigan Department of State Highways, their county, a nearby large city, or a qualified traffic engineering consultant.

1A-4 Meanings of "Shall," "Should" and "May"

In the Manual sections dealing with the design and application of traffic control devices, the words "shall," "should" and "may" are used to describe specific conditions concerning these devices. To clarify the meanings intended in this Manual by the use of these words, the following definitions apply:

1. SHALL — A mandatory condition. Where certain requirements in the design or application of the device are described with the "shall" stipulation, it is mandatory when an installation is made that these requirements be met.
2. SHOULD — An advisory condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.
3. MAY — A permissive condition. No requirement for design or application is intended.

1A-5 Developing New Standards and Interpretation and Revision of Existing Standards

Advances in technology will produce changes in the highway, the motor vehicle, and in driver proficiency. As a result, portions of the system

of control devices shown in this Manual will gradually become obsolete. In addition, unique situations often arise for device applications which may require interpretation or clarification of this Manual. It is important to have a procedure for recognizing these developments and for introducing new ideas and modifications into the system.

The following procedure will generally apply to the handling of interpretations, experimentation, and changes to the Michigan Manual of Uniform Traffic Control Devices.

1. A written request for clarification, permission to experiment, or change in Manual provisions should be forwarded to the Michigan Department of State Highways. When the request cannot be resolved at the State level, and it is judged the item can best be handled by the Federal Highway Administration, it will be processed through the American Association of State Highway Officials in accordance with Federal Highway Administration procedures.

2. All requests should contain the following information:

a. A brief statement indicating what change, modification, or question is to be resolved.

b. Any illustrations which would help to explain the request.

c. Any supporting research data which is pertinent to the item to be reviewed.

3. Rulings on requests will be given as:

a. Interpretation — this would generally be a clarification of intended applications of Manual requirements for specific situations.

b. Approval as an alternate — this would be permission to use a new device or modification, even though the Manual prescribes a device for the same purpose. Generally, it would be expected that the proposed alternate would offer advantages over the device prescribed in the Manual.

c. Approval for experimentation — this would be permission to use, for test and evaluation, an unproven device or modification which appeared to be a sound idea. The type of information to be gathered during the test and evaluation of the device would be stated as part of the request and the gathering of these data would be a conditional part of the approval.

4. The Michigan Department of State Highways will be responsible for acknowledgement of all requests and dissemination of official rulings to the appropriate authority. When rulings involve changes in Michigan Manual provisions, revisions to this Manual will be issued. Generally, an annual revision will be issued including all changes for the preceding calendar year.

1A-6 Relation to Other Documents

Two publications are specifically designed to provide the content and language of legislation needed to give regulatory devices the same meaning in all jurisdictions. These are the Michigan Vehicle Code and the Uniform Traffic Code for Cities, Townships and Villages. Both Codes require the placing of signs or other traffic control devices to make some of their provisions effective, and both define the legal meaning of certain devices. The Michigan Vehicle Code directs State authorities to adopt a manual for a uniform system of traffic control devices, and the Uniform Traffic Code for Cities, Townships and Villages requires devices under municipal jurisdiction to conform thereto.

The standards in the Manual for Signing and Pavement Marking of the National System of Interstate and Defense Highways, published by the American Association of State Highway Officials, have been incorporated herein for freeway application, providing one document for all streets and highways.

Other documents, to the extent they are incorporated by specific reference, are made part of this Manual:

Standard Alphabets – Federal Highway Administration, 1966

Standard Color Charts – Federal Highway Administration, 1970

Standard Highway Signs – Federal Highway Administration or Michigan Department of State Highways

Institute of Traffic Engineers, Adjustable Face Vehicle Traffic Control Signal Head Standards, 1970

Association of American Railroads, Bulletin 6, Railroad Highway Grade Crossing Protection, 1966

Institute of Traffic Engineers, Adjustable Face Pedestrian Signal Head Standard, 1963

Other documents that are useful sources of information with respect to utilization of these standards include:

Traffic Engineering Handbook – Institute of Traffic Engineers

Highway Capacity Manual – Highway Research Board

A Policy on Geometric Design of Rural Highways – American Association of State Highway Officials

A Policy on Arterial Highways in Urban Areas – American Association of State Highway Officials

Manual of Traffic Engineering Studies – Institute of Traffic Engineers
Volume 12, Highway Safety Program Manual, Highway Design
Construction and Maintenance, Federal Highway Administration

Volume 13, Highway Safety Program Manual, Traffic Control Devices,
Federal Highway Administration

1A-7 Color Code

The following color code establishes general meanings for eight colors in a total of twelve colors that have been identified as being appropriate for use in conveying traffic control information. Central values and tolerance limits for each color are available.¹

The four colors for which no meaning has been assigned are being reserved for future applications. The meanings described in this Section are of a general nature. More specific assignments of colors are given in the individual Parts of this Manual relating to each class of devices.

Color Code:

- RED—Stop or prohibition.
- GREEN—Indicated movements permitted, direction guidance.
- BLUE—Motorist services guidance.
- YELLOW—General warning.
- BLACK—Regulation.
- WHITE—Regulation.
- ORANGE—Construction and maintenance warning.
- PURPLE—Unassigned
- BROWN—Public recreation and scenic guidance.
- STRONG YELLOW-GREEN—Unassigned.
- LIGHT BLUE—Unassigned.
- CORAL—Unassigned.

¹Available from the Federal Highway Administration, Washington, D.C. 20591.

D. GUIDE SIGNS – CONVENTIONAL ROADS

2D-1 Scope of Conventional Road Guide Sign Standards

Specifications for Conventional Road Guide Signs prescribed herein shall apply to any road or street other than an expressway or freeway.

2D-2 Application

Guide signs are essential to guide the motorist along streets and highways, to inform him of intersecting routes, to direct him to cities, villages, or other important destinations, to identify nearby rivers and streams, parks, forests, and historical sites, and generally to give him such information as will help him along his way in the most simple, direct manner possible.

2D-3 Color, Reflectorization, and Illumination

Except where otherwise specified herein for individual signs or groups of signs or markers, Guide signs on conventional roads and streets shall have a white message on a green background, or as an alternate for this class of roads only, a black message on a white background. In either case, there should be consistency of application on any given highway.

Requirements for reflectorization or illumination are stated under the specific headings for individual guide signs or groups of signs. General provisions are given in sections 2A-16 through 2A-18.

2D-4 Size of Signs

For most guide signs, the legend is so variable that there can be no rigidly standardized size. The sign size must be fixed primarily in terms of length of the message and the size of the lettering and spacing necessary for proper legibility. However, for signs with standardized designs, such as route markers, it is practicable to fix standard sizes.

Under some circumstances, particularly for overhead signs, the available space may limit sign width. A sign mounted over a particular roadway lane to which it applies may have to be limited in width to the width of the lane. Where vertical clearances are limited and standard sign design cannot be used, a reduced letter height, interline and edge spacing may be used. When a reduction in the standard size is necessary, the design used should be as nearly comparable to standards as possible.

2D-5 Lettering Style

The standard lettering for conventional highway signs is upper-case letters (sec. 2A-15). However, when letter height exceeds 8 inches, place names on guide signs should be composed of lower-case letters with an

initial upper-case letter. The initial upper-case letters shall be one and one-third time the "loop" height of the lower-case letters. Recommended designs have been developed for the upper-case and lower-case alphabets, together with tables of spacing.⁴

2D-6 Size of Lettering

For guide signs with varying legend, sign legibility is a direct function of letter size. The legibility distance must give the driver sufficient time to read the sign before he has passed it. Although, under the best conditions, a guide sign message can be read and understood in a brief glance, a reasonable safety factor must be allowed for inattention, blocking of view by other vehicles, unfavorable weather, inferior eyesight, or other causes for delayed or slow reading. On the other hand, the usual repetition of guide information on successive signs where conditions permit often gives a driver more than one opportunity to obtain the information he needs.

Though the reading time for any given sign varies greatly with the approach speed, standard lettering sizes should be consistent on any particular class of highways. The same conditions that induce lower speed — heavy traffic, frequent intersections or interchanges, unfavorable alignment, or extraneous distractions — usually create a need for greater legibility. Hence the size standards set forth are related to the type of highway rather than to variable speeds on any class of highways (Table II-1).

The minimum sizes specified should be exceeded where conditions indicate a need for greater legibility.

In rural districts on major routes, the principal legend on guide signs shall be in letters at least 7 inches in height. If desired, Destination signs (E11-4) and Mileage signs (E7-1) — standardized for special purposes on expressways and freeways — may be provided on conventional roads in rural districts for major highways. There should, however, be consistency of application for sign size on a given highway. On less important rural roads and on urban streets, the principal legend shall be in letters at least 5 inches high. Sign panels shall be large enough to accommodate the required legend without crowding.

Recommended layouts have been developed for standard highway signs showing interline, edge spacing and other specification detail. These layouts may be obtained from the Michigan Department of State Highways or from the Federal Highway Administration.

⁴ Available from the Federal Highway Administration, Washington, D.C. 20591.

2D-7 Amount of Legend

Regardless of letter size, the legend on a guide sign must be kept to a minimum to be legible at a glance during the few moments that a driver can turn his eyes from the road. Guide signs should be limited to three lines of principal legend. Where two or more signs are included in the same overhead display, extra effort should be made to further reduce and simplify the amount of legend.

"Principal legend" here includes only place names, route numbers, and street names. Symbols, action information, cardinal directions and exit numbers may make up other lines of legend, within reasonable limits.

2D-8 Arrows and Symbols

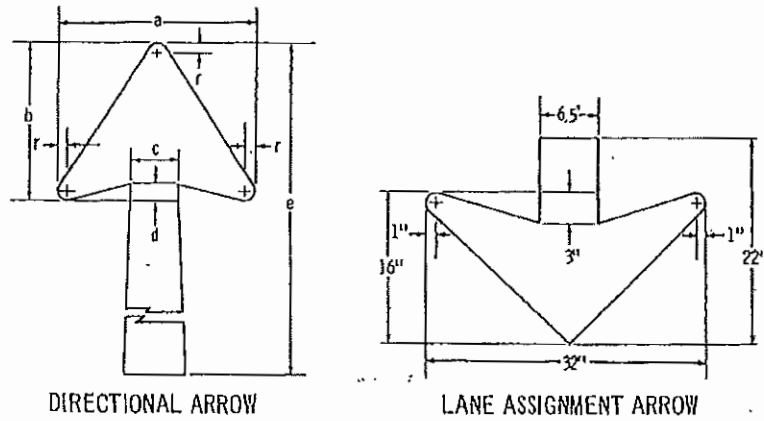
Arrows are used on many guide signs to indicate the directions toward designated routes or destinations. Arrows are pointed at any desired angle to convey a clear comprehension of the direction to be taken. At right-angle intersections, a horizontal arrow is appropriate. On a roadside sign, a directional arrow for a straight-through movement should point upward. For a turn, the arrow should be pointed upward as will best describe the design of the intersection, and at an angle related to the sharpness of the turn.

On overhead signs where it is desired to indicate a lane to be followed, the arrow shall point downward toward the center of that lane. Where a roadway is leaving the through lanes, the arrow shall point upward at an angle representative of the alignment of the exit roadway. If required, the through roadway lanes will be identified by downward-pointing arrows.

Downward-pointing arrows shall be used only on overhead guide signs which restrict the use of specific lanes to traffic bound for the destination(s) and/or route(s) indicated by these arrows. Downward-pointing arrows shall not be used unless an arrow can be pointed to each lane that can be used to reach the destination shown on the sign.

Arrows may be placed below the other sign legend, or to one side of it. At an exit, an arrow at the far side of the sign may help to emphasize the directional significance of the sign. For adequate legibility, it is recommended that the width across the barbs of the arrow be at least equal to the height of the largest letters on the sign, and for short downward-pointing arrows on overhead signs, about one and three-quarters times the letter height (figure 2-10).

Diagrammatic signing using arrows should approximate the intersection roadway geometrics, or the necessary part of it, in a clear, understandable manner to impart a glance-legible message (secs. 2E-20, 2E-24). Therefore, the standard arrow designs and applications may not be applicable to this type of signing. Other symbol designs should be essentially as shown in this Manual.



Dimensions of Directional Arrow When Used With Various Letter Sizes

LETTER SIZE (Upper-Case)	Arrow Dimensions in Inches					
	a	b	c	d	e*	r
8"	8	5.51	1.90	0.74	10-14	0.44
10.67"	11	7.57	2.61	1.01	14-19	0.63
13.33"	14	9.64	3.32	1.29	17-23	0.75
16"	16	11.02	3.79	1.47	19-26	0.88

* Taper of 1/8" per ft. should be held constant for longer or shorter shaft lengths.

Figure 2-10. Dimensions of arrows on guide signs.

2D-9 Numbered Highway Systems

The purpose of numbering and marking highway systems is to identify routes and facilitate travel over the shortest and best roads.

The Interstate System and the United States (U.S.) System are numbered by the American Association of State Highway Officials, upon recommendation of the State highway departments. State and county systems are numbered by the appropriate authorities.

The basic guide for designating and numbering the U.S. System is the "Purpose and Policy in the Establishment and Development of United States Numbered Highways," published by the American Association of State Highway Officials.⁵

⁵ Available from the American Association of State Highway Officials, 341 National Press Building, Washington, D.C. 20004.

The principles of this policy should be followed in establishing other systems, with effective coordination between adjacent jurisdictions. Care should be taken to avoid the use of numbers or other designations which have been assigned to Interstate, U.S. or State routes in the same area. Overlapping numbered routes should be avoided, and the systems shall be given preference in this order: Interstate, United States, State and County.

2D-10 Route Markers and Auxiliary Markers

Route markers shall be used to identify and mark numbered highways, including Federal, State, or County roads, and park, forest, and other public roads. The markers for each system of numbered highways, which are distinctive in shape and color, shall be used only on that respective system and the approaches thereto.

To accomplish their purpose, route markers are usually mounted in assemblies which are formed when the route markers are accompanied by any of the various types of auxiliary markers.

Route markers, as well as any auxiliary markers which accompany them, shall be reflectorized for nighttime visibility as detailed in subsequent sections.

2D-11 Design of Route Markers (M1-1 to M1-7)

The design of route markers shall be established by the authority having jurisdiction. Specifications and provisions are as follows:

1. The Interstate Route Marker for use on intersecting highways and roads approaching an interchange with an Interstate route shall consist of a cutout shield, with the route number in white letters on a blue background, the word INTERSTATE in white letters on a red background, and white border and may contain the State name in white letters on a blue background (fig. 2-11). A 24-inch by 24-inch size is prescribed to accommodate route numbers with one or two digits, and a 30-inch by 24-inch size for route numbers having three digits.

2. The Off-Interstate Business Route Marker shall consist of a cutout shield carrying the number of the connecting Interstate route and the words BUSINESS (LOOP or SPUR). The legend and border shall be white on a green background, and the shield shall be of the same shape and dimensions as the Interstate Route Marker previously described (fig. 2-11). In no instance is the word INTERSTATE to appear on the Off-Interstate Business Route Marker. This marker may be used on a major highway that is not a part of the Interstate System, but one that serves the business area of a city from interchanges on the System.



Interstate
Route Marker
M1-1
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)



Off-Interstate
Business Loop Marker
M1-2
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)



Off-Interstate
Business Spur Marker
M1-3
24" X 24" (2-digit)
30" X 24" (3-digit)
(1½" and 2½" letters)
(10" numerals)

3. The U.S. Route Marker shall consist of a rectangular 24-inch by 24-inch or 30-inch by 24-inch plate, with black numerals on a white shield surrounded by a black background without a border (fig. 2-12). This marker shall be used on all U.S. routes and in connection with route marker assemblies on intersecting highways.

4. The Michigan Route Marker shall consist of a rectangular 24-inch by 24-inch plate, with a black letter "M" and numerals on a white diamond surrounded by a black background without a border (fig. 2-13). This marker shall be used on all State routes and in connection with route marker assemblies on intersecting highways.



U.S.
Route Marker
M1-4
24" X 24" (2-digit)
30" X 24" (3-digit)
(12" numerals)



State Route Marker
M1-6
24" X 24"
(3½" block letter M)
(8" numerals)

5. Wherever County road authorities elect to establish and identify a special system of important County roads, County road identification markers are to be designed and used as specified in the publication "A

Proposal for a Uniform County Route Marker Program on a National Scale.”⁶
The Uniform County Route Marker shall be a pentagonal shape and shall consist of a reflectorized yellow legend (County name, route letter and number) and border on a reflectorized blue background, of a size compatible with other route markers used in common assemblies.

Signs of other designs may be used to designate County routes not a part of this special system of County roads, but such signs should be of a size comparable to the County Route Marker (M1-5).

6. The Forest Route Marker is designed in a trapezoidal shape and has white legend and border on a brown background. Its size shall be compatible with other route markers used in common assemblies. Forest Route Markers are intended for use on National park and forest roads.



County
Route Marker
M1-5
24" X 24"
(2" letters)
(8" route designation)

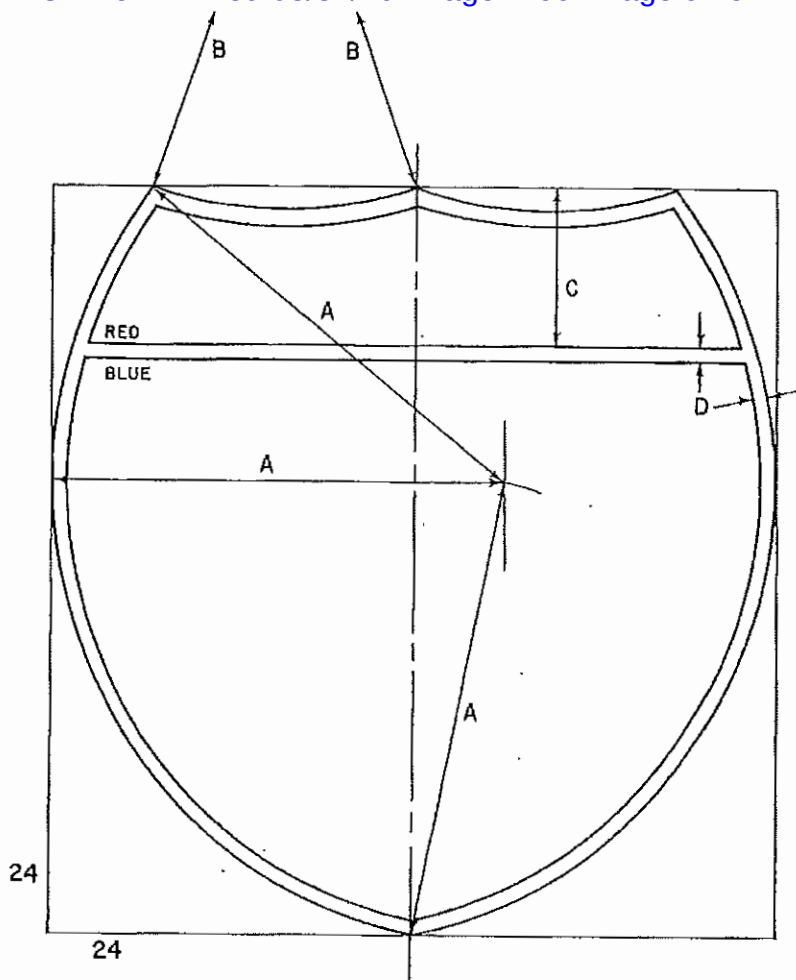


Forest Route Marker
M1-7
24" X 24"
(10" numerals)

Route markers of any type may be proportionally enlarged in any required size where greater legibility is needed. Where U.S. or State Route Markers are used as components of guide signs, only the outline of the shield or other distinctive shape should be used as shown in the illustration of the Combination Junction sign (sec. 2D-14).

Route markers shall be fully reflectorized as color design permits.

⁶Available from the National Association of Counties, Washington, D.C. 20006.



	A	B	C	D
24 X 24	15	15	5	1/2
30 X 24	17	24	5	1/2
36 X 36	22 1/2	22 1/2	7 1/2	3/4
45 X 36	25 1/2	36	7 1/2	3/4
48 X 48	30	30	10	1
60 X 48	34	48	10	1

Figure 2-11. Design of interstate and aff-interstate route markers.

EXHIBIT 5

(A) None of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$30 million (positive or negative).

(B) For fiscal year 2002 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and none of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds \$100 million (positive or negative).

(C) For fiscal years other than 2002, it is less than 20 percent owned, directly or indirectly by all U.S. Reporters of the affiliate combined.

* * * * *
[FR Doc. 00-32089 Filed 12-15-00; 8:45 am]
BILLING CODE 3510-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket Nos. 97-2295 (Formerly 96-47), 97-3032, 98-3644, 98-4720, 99-5704, 99-6298, 99-6575, and 99-6576]

RIN 2125-AE11, AE25, AE38, AE50, AE58, AE66, AE71, and AE72

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices for Streets and Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final amendments to the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

SUMMARY: This document contains the complete revision to the MUTCD as adopted by the FHWA. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F and recognized as the national standard for traffic control devices on all public roads. The new MUTCD has incorporated technological advances and application change, as well as improved the overall organization to clarify the discussion of the content.

DATES: The final rule is effective January 17, 2001. However, the FHWA is setting later compliance dates for some portions of the MUTCD; see the **SUPPLEMENTARY INFORMATION** section for further details. Incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of January 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest D. L. Huckaby, Office of Transportation Operations (HOTO-1), (202) 366-9064, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Room 3412, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. E.T., Monday through Friday, except Federal holidays.

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 document 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 web site at <http://www.access.gpo.gov/nara>.

The text for the millennium edition of the MUTCD is available from the FHWA Office of Transportation Operations' web site at: <http://mutcd.fhwa.dot.gov>

Background

The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR 1134. The purpose of this rewrite effort is to reformat the text for clarity of intended meanings, to include metric dimensions (*i.e.*, both English and metric dimensions will be included in the text)

and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD.

Although the Federal Highway Administrator is responsible for adopting the changes contained in this new millennium edition, the National Committee on Uniform Traffic Control Devices (NCUTCD) took the lead in this effort to rewrite and reformat the MUTCD. The NCUTCD is a national organization of individuals from the American Association of State Highway and Transportation Officials (AASHTO), the National Association of County Engineers (NACE), the American Public Works Association (APWA), the Institute of Transportation Engineers (ITE), and other organizations that have extensive experience in the installation and maintenance of traffic control devices. The NCUTCD voluntarily assumed the arduous task of rewriting, reformatting and editing the entire 1988 MUTCD into an updated and more user friendly document.

The FHWA reviewed and incorporated most of the NCUTCD's proposals for revising the MUTCD in several Federal Register notices of proposed amendments. This document contains the disposition of the comments to the dockets of the notices of proposed amendments which were published in the Federal Register shown in the table below. The table also shows the number of letters submitted to each docket and the number of separate comments addressed as part of the FHWA review and deliberation.

Adopted changes to the MUTCD text, as discussed herein, are available on the MUTCD Internet site (<http://mutcd.fhwa.dot.gov>). The final rule text will be available on the MUTCD Internet site in December 2000. Anyone unable to download the text should write to the Federal Highway Administration, Office of Transportation Operations, HOTO-1, 400 Seventh Street, SW., Washington, DC 20590.

TABLE OF NOTICES OF PROPOSED AMENDMENTS PUBLISHED BY FHWA

MUTCD part	Title	Docket number and date	Number of letters received	Separate comment entries
Part 1	General provisions/Definitions	97-3032 12/05/97	24	86
Part 1 (update)	General provisions/Definitions	99-6575 12/30/99	14	60
Chapters 2A,D,E,F,I	Signs	98-3644 06/11/98	47	800
Chapters 2G, 2H	Tourist oriented directional signs, & recreation & cultural interest signs.	98-4720 06/24/99	80	95

TABLE OF NOTICES OF PROPOSED AMENDMENTS PUBLISHED BY FHWA—Continued

MUTCD part	Title	Docket number and date	Number of letters received	Separate comment entries
Chapter 2C	Warning signs	99-5704 06/24/99	42	329
Chapter 2B	Regulatory signs	99-6298 12/21/99	86	304
Part 3	Markings	97-2295 01/06/97	40	247
Part 3 (update)	Markings	99-6575 12/30/99	27	181
Part 4	Signals	97-2295 01/06/97	24	264
Part 4 (update)	Signals	99-6575 12/30/99	111	578
Part 5	Low volume roads	99-6298 12/21/99	23	231
Part 6	Temporary traffic control	99-6576 12/30/99	56	2652
Part 7	Traffic controls for school areas	97-3032 12/05/97	20	156
Part 8	Traffic control systems for railroad-highway grade crossings	97-2295 01/06/97	29	210
Part 8 (update)	Highway-rail grade crossings	99-6298 12/21/99	23	210
Part 9	Traffic controls for bicycles	98-4720 06/24/99	79	357
Part 10	Traffic controls for highway-light rail grade crossings	99-5704 06/24/99	46	381

Summary of Comments

The FHWA has reviewed the comments received in response to the dockets listed above and other information related to the MUTCD and these proposals. The FHWA is acting on the following items published in the notice of proposed amendments. Each action and its basis is summarized below:

Discussion of Adopted Amendments to Part 1—General Provisions

The FHWA received 146 comments from 38 commenters concerning Part 1. Only the technical (not editorial) comments are addressed in this discussion. Two notices of proposed amendments (NPA) were published at 62 FR 64324 on December 5, 1997, and at 64 FR 73612 on December 30, 1999.

1. In Part 1 Introduction, the FHWA is incorporating a discussion on defining the following condition headings: STANDARD, OPTION, GUIDANCE, and SUPPORT. This change addresses many comments received regarding the difficulty in distinguishing between distinct sections in previous editions of the MUTCD. In the NPA for Part 1, this discussion was covered in Section 1A.10 MUTCD Changes, Interpretations, and Experimentations. Based on docket comments, the FHWA believes it is important for the reader to see this discussion before proceeding to the

other sections of the manual. Therefore, the FHWA is moving this discussion to the Introduction.

The FHWA is also changing the way that these condition headings appear throughout the text. The FHWA received many comments expressing a need for improvement in the blocked headings found in the notice of proposed amendments. An explanation of both the terms and new heading style is included in the Introduction.

Also being added is a new STANDARD statement indicating that any traffic control device design or application provision contained in the MUTCD shall be considered in the public domain. The FHWA will not include any copyrighted or patented devices in the MUTCD with the exception of the Interstate Shield, a copyrighted device developed by the American Association of State Highway and Transportation Officials (AASHTO). Since this is a frequently asked question, the FHWA has decided to include language in the MUTCD to address this policy.

A new GUIDANCE paragraph is added to Part 1 Introduction to discuss the use of the International System of Units, a modernized version of the Metric system, and English units used throughout the MUTCD. The FHWA recommends that a decision be made to consistently use either the International System of Units (Metric) or English

units in the design and installation of traffic control devices.

2. In Table I.1, Evolution of the MUTCD, two other revisions to the 1988 MUTCD are added for a total of seven revisions to the 1988 MUTCD, instead of the five revisions previously shown in the table. The FHWA has also added the new millennium edition to this table.

3. In Section 1A.01 Purpose of Traffic Control Devices, paragraph 1, the term "road users" is referenced. Road user is the preferred term because it encompasses both motorized and non-motorized traffic. The term "road user" is defined in Section 1A.13. The FHWA did not receive any docket comments on this change.

4. In Section 1A.02 Principles of Traffic Control Devices, under the SUPPORT statement, the term "speed" is added as a variable that governs the design, operation, placement, and location of various traffic control devices. The traveling speed of road users can affect their ability to appropriately respond to the driving task. The FHWA did not receive any docket comments on this change.

5. In Section 1A.03 Design of Traffic Control Devices, under the STANDARD statement, the term "colors" is added to the statement that all symbols not shown in the "Standard Highway Signs" ¹ book shall be adopted using the

¹ "Standard Highway Signs," FHWA, 1979 Edition is included by reference in the 1988

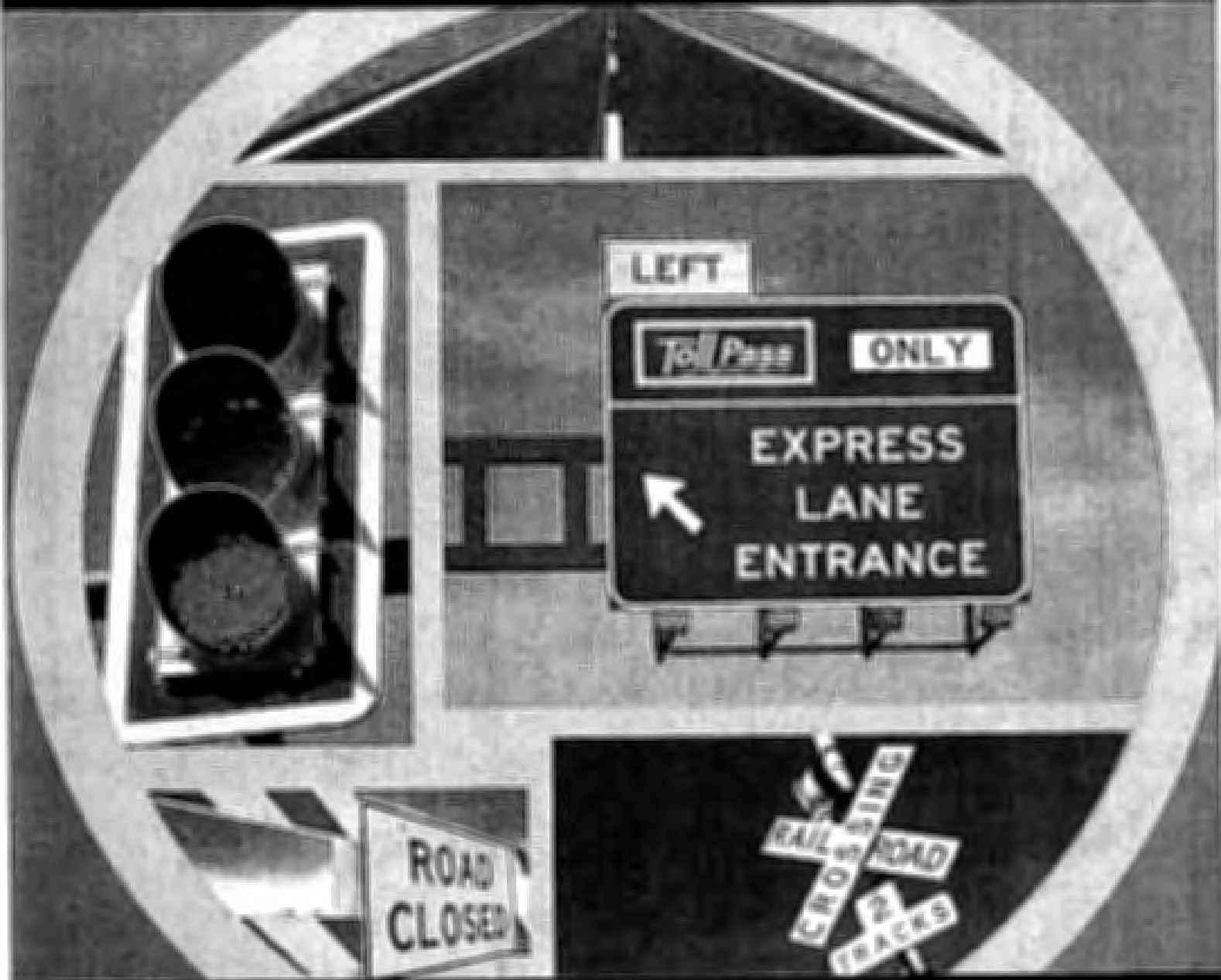
EXHIBIT 6

Manual on Uniform Traffic Control Devices

for Streets and Highways

2009 Edition

Including Revision 1 dated May 2012
and Revision 2 dated May 2012





**Manual on Uniform
Traffic Control Devices**

**2009
Edition**

The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

Addresses for Publications Referenced in the MUTCD

American Automobile Association (AAA)
1000 AAA Drive
Heathrow, FL 32746
www.aaa.com
800-222-4357

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, NW, Suite 249
Washington, DC 20001
www.transportation.org
202-624-5800

American National Standards Institute (ANSI)
1819 L Street, NW, 6th Floor
Washington, DC 20036
www.ansi.org
202-293-8020

American Railway Engineering and Maintenance-of-Way Association (AREMA)
10003 Derekwood Lane, Suite 210
Lanham, MD 20706
www.arena.org
301-459-3200

Federal Highway Administration Report Center
Facsimile number: 814-239-2156
report.center@fhwa.dot.gov

Illuminating Engineering Society (IES)
120 Wall Street, Floor 17
New York, NY 10005
www.iesna.org
212-248-5000

Institute of Makers of Explosives
1120 19th Street, NW, Suite 310
Washington, DC 20036-3605
www.ime.org
202-429-9280

Institute of Transportation Engineers (ITE)
1099 14th Street, NW, Suite 300 West
Washington, DC 20005-3438
www.ite.org
202-289-0222

International Organization for Standardization
1, ch. de la Voie-Creuse
Case Postale 56
CH-1211
Geneva 20, Switzerland
www.iso.ch
011-41-22-749-0111

International Safety Equipment Association (ISEA)
1901 North Moore Street, Suite 808
Arlington, VA 22209
www.safetysafetyequipment.org
703-525-1695

National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)
107 South West Street, Suite 110
Alexandria, VA 22314
www.ncutlo.org
800-807-5290

National Electrical Manufacturers Association (NEMA)
1300 North 17th Street, Suite 1752
Rosslyn, VA 22209
www.nema.org
703-841-3200

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
www.osha.gov
800-321-6742

Transportation Research Board (TRB)
The National Academies
500 Fifth Street, NW
Washington, DC 20001
www.nas.edu/trb
202-334-3072

U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
www.access-board.gov
202-272-0080

Acknowledgments

The Federal Highway Administration gratefully acknowledges the valuable assistance that it received from the National Committee on Uniform Traffic Control Devices and its more than 250 voluntary members in the development of this Manual.

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MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

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MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES INTRODUCTION

Standard:

- 01 **Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, bikeway, or private road open to public travel (see definition in Section 1A.13) by authority of a public agency or official having jurisdiction, or, in the case of a private road, by authority of the private owner or private official having jurisdiction.**
- 02 **The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel (see definition in Section 1A.13) in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.**
- 03 **In accordance with 23 CFR 655.603(a), for the purposes of applicability of the MUTCD:**
- A. **Toll roads under the jurisdiction of public agencies or authorities or public-private partnerships shall be considered to be public highways;**
 - B. **Private roads open to public travel shall be as defined in Section 1A.13; and**
 - C. **Parking areas, including the driving aisles within those parking areas, that are either publicly or privately owned shall not be considered to be “open to public travel” for purposes of MUTCD applicability.**
- 04 **Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any items owned by FHWA.**

Support:

- 05 Pictographs, as defined in Section 1A.13, are embedded in traffic control devices but the pictographs themselves are not considered traffic control devices for the purposes of Paragraph 4.
- 06 The need for uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO), now known as the American Association of State Highway and Transportation Officials (AASHTO), published a manual for rural highways in 1927, and the National Conference on Street and Highway Safety (NCSHS) published a manual for urban streets in 1930. In the early years, the necessity for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of AASHO and NCSHS developed and published the original edition of this Manual on Uniform Traffic Control Devices (MUTCD) in 1935. That committee, now called the National Committee on Uniform Traffic Control Devices (NCUTCD), though changed from time to time in name, organization, and personnel, has been in continuous existence and has contributed to periodic revisions of this Manual. The FHWA has administered the MUTCD since the 1971 edition. The FHWA and its predecessor organizations have participated in the development and publishing of the previous editions. There were nine previous editions of the MUTCD, and several of those editions were revised one or more times. Table I-1 traces the evolution of the MUTCD, including the two manuals developed by AASHO and NCSHS.

Standard:

- 07 **The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the FHWA.**

Support:

- 08 The “Uniform Vehicle Code (UVC)” is one of the publications referenced in the MUTCD. The UVC contains a model set of motor vehicle codes and traffic laws for use throughout the United States.

Guidance:

- 09 *The States should adopt Section 15-116 of the UVC, which states that, “No person shall install or maintain in any area of private property used by the public any sign, signal, marking, or other device intended to regulate, warn, or guide traffic unless it conforms with the State manual and specifications adopted under Section 15-104.”*

Table I-1. Evolution of the MUTCD

Year	Name	Month / Year Revised
1927	Manual and Specifications for the Manufacture, Display, and Erection of U.S. Standard Road Markers and Signs (for rural roads)	4/29, 12/31
1930	Manual on Street Traffic Signs, Signals, and Markings (for urban streets)	No revisions
1935	Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)	2/39
1942	Manual on Uniform Traffic Control Devices for Streets and Highways — War Emergency Edition	No revisions
1948	Manual on Uniform Traffic Control Devices for Streets and Highways	9/54
1961	Manual on Uniform Traffic Control Devices for Streets and Highways	No revisions
1971	Manual on Uniform Traffic Control Devices for Streets and Highways	11/71, 4/72, 3/73, 10/73, 6/74, 6/75, 9/76, 12/77
1978	Manual on Uniform Traffic Control Devices for Streets and Highways	12/79, 12/83, 9/84, 3/86
1988	Manual on Uniform Traffic Control Devices for Streets and Highways	1/90, 3/92, 9/93, 11/94, 12/96, 6/98, 1/00
2000	Manual on Uniform Traffic Control Devices for Streets and Highways — Millennium Edition	7/02
2003	Manual on Uniform Traffic Control Devices for Streets and Highways	11/04, 12/07
2009	Manual on Uniform Traffic Control Devices for Streets and Highways	

Support:

- 10 The Standard, Guidance, Option, and Support material described in this edition of the MUTCD provide the transportation professional with the information needed to make appropriate decisions regarding the use of traffic control devices on streets, highways, bikeways, and private roads open to public travel (see definition in Section 1A.13).
- 11 Throughout this Manual the headings Standard, Guidance, Option, and Support are used to classify the nature of the text that follows. Figures and tables, including the notes contained therein, supplement the text and might constitute a Standard, Guidance, Option, or Support. The user needs to refer to the appropriate text to classify the nature of the figure, table, or note contained therein.

Standard:

- 12 **When used in this Manual, the text headings of Standard, Guidance, Option, and Support shall be as defined in Paragraph 1 of Section 1A.13.**

Support:

- 13 Throughout this Manual all dimensions and distances are provided in English units. Appendix A2 contains tables for converting each of the English unit numerical values that are used in this Manual to the equivalent Metric (International System of Units) values.

Guidance:

- 14 *If Metric units are to be used in laying out distances or determining sizes of devices, such units should be specified on plan drawings and made known to those responsible for designing, installing, or maintaining traffic control devices.*
- 15 *Except when a specific numeral is required or recommended by the text of a Section of this Manual, numerals displayed on the images of devices in the figures that specify quantities such as times, distances, speed limits, and weights should be regarded as examples only. When installing any of these devices, the numerals should be appropriately altered to fit the specific situation.*

Support:

- 16 The following information will be useful when reference is being made to a specific portion of text in this Manual.
- 17 There are nine Parts in this Manual and each Part is comprised of one or more Chapters. Each Chapter is comprised of one or more Sections. Parts are given a numerical identification, such as Part 2 – Signs. Chapters are identified by the Part number and a letter, such as Chapter 2B – Regulatory Signs, Barricades, and Gates. Sections are identified by the Chapter number and letter followed by a decimal point and a number, such as Section 2B.03 – Size of Regulatory Signs.

- 39. "Guidelines for Accessible Pedestrian Signals (NCHRP Web-Only Document 117B)," 2008 Edition (TRB)
- 40. "Highway Capacity Manual," 2000 Edition (TRB)
- 41. "Recommended Procedures for the Safety Performance Evaluation of Highway Features," (NCHRP Report 350), 1993 Edition (TRB)
- 42. "The Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)," July 1998 Edition (The U.S. Access Board)

Section 1A.12 Color Code

Support:

- 01 The following color code establishes general meanings for 11 colors of a total of 13 colors that have been identified as being appropriate for use in conveying traffic control information. tolerance limits for each color are contained in 23 CFR Part 655, Appendix to Subpart F and are available at the Federal Highway Administration's MUTCD website at <http://mutcd.fhwa.dot.gov> or by writing to the FHWA, Office of Safety Research and Development (HRD-T-301), 6300 Georgetown Pike, McLean, VA 22101.
- 02 The two colors for which general meanings have not yet been assigned are being reserved for future applications that will be determined only by FHWA after consultation with the States, the engineering community, and the general public. The meanings described in this Section are of a general nature. More specific assignments of colors are given in the individual Parts of this Manual relating to each class of devices.

Standard:

- 03 **The general meaning of the 13 colors shall be as follows:**
 - A. **Black—regulation**
 - B. **Blue—road user services guidance, tourist information, and evacuation route**
 - C. **Brown—recreational and cultural interest area guidance**
 - D. **Coral—unassigned**
 - E. **Fluorescent Pink—incident management**
 - F. **Fluorescent Yellow-Green—pedestrian warning, bicycle warning, playground warning, school bus and school warning**
 - G. **Green—indicated movements permitted, direction guidance**
 - H. **Light Blue—unassigned**
 - I. **Orange—temporary traffic control**
 - J. **Purple—lanes restricted to use only by vehicles with registered electronic toll collection (ETC) accounts**
 - K. **Red—stop or prohibition**
 - L. **White—regulation**
 - M. **Yellow—warning**

Section 1A.13 Definitions of Headings, Words, and Phrases in this Manual

Standard:

- 01 When used in this Manual, the text headings of Standard, Guidance, Option, and Support shall be defined as follows:
 - A. **Standard**—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb "shall" is typically used. The verbs "should" and "may" are not used in Standard statements. Standard statements are sometimes modified by Options.
 - B. **Guidance**—a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements are labeled, and the text appears in unbold type. The verb "should" is typically used. The verbs "shall" and "may" are not used in Guidance statements. Guidance statements are sometimes modified by Options.
 - C. **Option**—a statement of practice that is a permissive condition and carries no requirement or recommendation. Option statements sometime contain allowable modifications to a Standard or Guidance statement. All Option statements are labeled, and the text appears in unbold type. The verb "may" is typically used. The verbs "shall" and "should" are not used in Option statements.
 - D. **Support**—an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements are labeled, and the text appears in unbold type. The verbs "shall," "should," and "may" are not used in Support statements.

Rev. 1

EXHIBIT 7

750 Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Eileen Albanese,

Director, Office of Exporter Services.

[FR Doc. 04-26518 Filed 11-30-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. FHWA-2004-17321]

RIN 2125-AF02

National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control Devices for Streets and Highways; Specific Service and General Service Signing for 24-Hour Pharmacies

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA published an interim final rule on May 10, 2004, that amended the 2003 Edition of the Manual on Uniform Traffic Control Devices (MUTCD) to permit the use of Specific Service and General Service signing to assist motorists in locating licensed 24-hour pharmacy services open to the public. Those changes were designated as Revision No. 1 to the 2003 Edition of the MUTCD, and they became effective on July 21, 2004. In the interim final rule, the FHWA provided a 50-day comment period for the public to review and make comment on the technical details. The FHWA adopts as final the interim rule for Revision No. 1, with certain changes to the technical details to address pertinent comments to the docket. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control devices used on all public roads.

DATES: This regulation is effective January 3, 2005. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Huckaby, Office of Transportation Operations (HOTO-1), (202) 366-9064, or Mr. Raymond Cuprill, Office of the Chief Counsel, (202) 366-0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15

p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document and all comments received by the U.S. DOT Docket Facility, Room PL-401, may be viewed through the Docket Management System (DMS) at <http://dms.dot.gov>. The DMS is available 24 hours each day, 365 days each year. Electronic retrieval help and guidelines are available under the help section of this Web site.

An electronic copy of this document may be downloaded by using a computer, 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.archives.gov> and the Government Printing Office's Web page at <http://www.gpoaccess.gov/nara>.

Background

On January 23, 2004, the President signed, thereby enacting into law, the Consolidated Appropriations Act, Fiscal Year 2004 (the Act), Public Law 108-199, 118 Stat. 3. Division F of the Act (the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004, at 118 Stat. 279), Title I, section 124, directs the Secretary of Transportation to amend the MUTCD to include a provision permitting information to be provided to motorists to assist motorists in locating licensed 24-hour pharmacy services open to the public. The Act also allows placement of logo panels that display information disclosing the names or logos of pharmacies that are located within three miles of an interchange on the Federal-aid system.¹

The FHWA published an interim final rule on May 10, 2004, at 69 FR 25828, that amended the 2003 Edition of the Manual on Uniform Traffic Control Devices (MUTCD) to implement the requirements of the Act and provide for the uniformity of signing for pharmacy services when jurisdictions choose to install such signs. Those changes were designated as Revision No. 1 to the 2003 Edition of the MUTCD, and they became effective on July 21, 2004. In the interim final rule, the FHWA provided a 50-day comment period for the public to review and make comment on the technical details. Based on the comments received and its own experience, the FHWA is adopting as final the interim rule for Revision No. 1, with certain changes to

the technical details to address pertinent comments to the docket.

The text of this Revision No. 1 and the text of the 2003 Edition of the MUTCD with Revision No. 1 final text incorporated are available for inspection and copying as prescribed in 49 CFR part 7 at the FHWA Office of Transportation Operations. Furthermore, final Revision No. 1 changes are available on the MUTCD Internet site (<http://mutcd.fhwa.dot.gov>). The entire MUTCD text with final Revision No. 1 text incorporated is also available on this Internet site.

Summary of Comments

The FHWA received 36 letters submitted to the docket, of which four were duplicates of letters previously submitted to the docket. Comments were received from the National Committee on Uniform Traffic Control Devices (NCUTCD), four State Departments of Transportation, four members of Congress and a Senator all representing the State of Illinois, two national organizations representing pharmacy businesses, six other national organizations representing a variety of interests, nine organizations representing retail merchants or drug stores in individual States, one major national chain drug store company, and four individual private citizens. The FHWA has reviewed and analyzed all the comments received. General comments are discussed first, followed by discussion of significant comments and adopted changes in each of the individual sections of the MUTCD affected by this final rule.

Discussion of General Comments—Part 2 Signs

Nearly all the letters to the docket expressed either support for or opposition to the general concept of adding signing for 24-hour pharmacies to the MUTCD. The comments from the four members of Congress and the Senator representing the State of Illinois were in support of the changes. The FHWA was required by the law described above to add pharmacy signing to the MUTCD and, as a result, the interim final rule solicited comments only on the technical details of the signing and not the general concept. The comments we received in opposition to the general concept provided insufficient information to suggest that the FHWA should seek legislative relief at this time.

¹ Federal-aid systems are defined in 23 U.S.C. 101 and 103.

Discussion of Section 2D.45 General Service Signs (D9 Series)

A private citizen commented that the MUTCD changes included in the interim final rule went beyond the legislative mandate by including General Service signs as well as Specific Service (logo) signs, and that this was inappropriate. Although General Service signs for 24-hour pharmacies were not specifically mentioned in the law, these were addressed in the interim final rule because some States have no program for Specific Service signs and only use General Service signs. Also, in urban areas it is often impractical to provide Specific Service signing due to close spacing of interchanges and, in these conditions, many States use General Service signs instead as a stand-alone supplemental sign (such as the D9-18 or D9-18a) or as sets of individual D9 series signs attached to (supplementing) interchange guide signs. Therefore, the FHWA retains the General Service signs for 24-hour pharmacies in this final rule.

A national association representing pharmacists commented that eligibility for signing should be extended to pharmacies that are open less than 24 hours per day. Many other commenters, however, supported limiting the signing eligibility to 24-hour pharmacies, stating that there is a need for access to pharmacy services 24 hours a day and that signing leading travelers to a closed pharmacy would not be in the public interest. Because of these reasons and the fact that the legislation was specific in directing that eligibility be limited to 24-hour pharmacies, the FHWA declines to make any change to the 24 hours per day criterion for eligibility for General Service signing as contained in the interim final rule. This discussion and decision also apply to the similar criterion for pharmacy signing eligibility as stated in other applicable sections of Part 2 of the MUTCD, and the FHWA makes minor editorial changes to the text of various sections in Part 2 to add the words "24-hour" preceding "pharmacy" where needed for clarity.

A national association representing chain drug stores commented that the signing eligibility requirement for a licensed pharmacist to be on duty "at all times" and "7 days per week" are too inflexible, since pharmacists could be "on a break" and since some 24-hour pharmacies are closed on some holidays. The FHWA declines to make a change in these requirements as stated in the interim final rule. The FHWA believes that the intent of the legislation is to assure that road users can locate pharmacy services that are available at

all times. A pharmacist can be on a "break" and still be on duty in the pharmacy, and in all probability will also be present on the pharmacy premises during the break. The service availability criterion for other 24 hours per day services, such as hospitals, emergency services, etc., is stated as "24 hour service, 7 days per week" in Section 2D.45 and these facilities are in fact open for service on holidays. States could make provisions in their service signing eligibility policies to account for pharmacist breaks and holidays, particularly if their individual State laws make reference to these situations and how they are to be handled.

The NCUTCD and a private citizen commented that the eligibility criteria for pharmacy signing should be modified to add that a State-licensed pharmacist must be "present" as well as "on duty" 24 hours per day, 7 days per week. The FHWA agrees with this comment and changes the text of Sections 2D.45, 2E.51, and 2F.01 accordingly. For a pharmacy to truly offer its prescription-dispensing services on a 24 hours per day basis, it is necessary that a licensed pharmacist be physically present at all times. It is possible for a pharmacist to be "on duty" in the employ of the individual pharmacy or of the pharmacy chain company that owns or operates the pharmacy, but not physically present (such as one "late night" pharmacist "shared" between two or more stores in a given city or region). If a pharmacist must travel to the pharmacy from some other location during late night hours if a road user needs his or her services, delays would result in filling the needed prescription. This would be inconsistent with the intent of the legislation. Adding the requirement for a licensed pharmacist to be "present" as well as on duty clarifies the intent.

The American Pharmacists Association (APhA), a national organization representing pharmacists, suggested that the D9-20 pharmacy symbol sign shown in Figure 2D-11 General Service Signs in the interim final rule should use a different design. Specifically, the APhA suggested that the "One Symbol for Pharmacy" design be used instead of the bold "Rx" symbol. The design of that symbol (hereafter referred to as "the APhA symbol"), features an "Rx" with the "x" visually less distinct from the "R" than in the symbol used by the FHWA in the interim final rule (hereafter referred to as "the FHWA symbol"). Also, inside the loop of the "R" of the APhA symbol are graphical stylized representations of three human figures (a man, a woman, and a child.) The APhA symbol is more

visually cluttered than the FHWA symbol and would therefore provide a legibility distance considerably less than that of the FHWA symbol. There is no research indicating that the APhA symbol is more recognizable by the traveling public than the FHWA symbol. The FHWA believes that the simplicity and boldness of the FHWA symbol will aid in recognition, conspicuity, and legibility for road users, as compared to the APhA symbol. Also, the APhA comments state that that organization trademarked the APhA symbol in 1993. Because patented or trademarked symbols cannot be included in the MUTCD, the FHWA would require that the symbol be released to the public domain. Although the comments indicate that APhA would be willing to allow the FHWA to use the symbol, that is different from placing it into the public domain. It is likely that the APhA would want to retain its trademark so that the symbol could be used for other purposes regarding pharmacies and pharmacists, such as letterhead, business signs, etc. For these reasons, the FHWA believes that the pharmacy symbol shown for the D9-20 sign in the interim final rule is a better alternative to the APhA symbol and therefore makes no change in the symbol design.

The NCUTCD, 3 State highway authorities, and one private citizen suggested that the D9-20a "24 HR" plaque shown with the D9-20 pharmacy symbol in Figure 2D-11 in the interim final rule should be eliminated. These commenters stated that "24 HR" plaques are not required in the MUTCD for other services that must be available 24 hours per day in order to be eligible for signing (such as hospitals and emergency services).

A comment from a national chain drug store company supported the "24 HR" plaque because of the information and benefit it provides to travelers.

The FHWA believes that, although other services that must operate 24 hours per day to be eligible for signing do not require the use of a "24 HR" plaque, there is good reason to require the D9-20a "24 HR" plaque with the D9-20 Pharmacy symbol. Most road users expect and understand that a hospital must be open 24 hours per day; however, this is not the case with pharmacies. Most pharmacies are not open 24 hours per day, but the legislation specifically limits eligibility to 24-hour pharmacies. Therefore, it is necessary that road users being guided to a 24-hour pharmacy by these signs be advised that it is in fact a 24-hour pharmacy that can be accessed via the signed exit. Otherwise, there would be

doubt in the road user's mind as to whether or not to exit if he or she were seeking the pharmacy services during the middle of the night. Also, if the plaque were made an option rather than a requirement, then some States might use it and others would not, and this lack of uniform application would lead to road user confusion. The FHWA retains the required use of the D9-20a plaque with the D9-20 pharmacy symbol sign as stated in the interim final rule.

Discussion of Section 2E.51 General Services Signs

As stated earlier in the discussion of comments on Section 2D.45 General Service Signs, the FHWA retains the required use of the D9-20a "24 HR" plaque with the D9-20 pharmacy symbol General Service sign. For consistency with the principles stated in that discussion, the FHWA modifies Figure 2E-42 Examples of General Service Signs (with Exit Numbering) accordingly. In the D9-18 sign (with six service symbols) shown as the lower right sign of the 4 signs shown in the figure, the "Rx" symbol is shifted slightly upward on the sign so that it is closer to the lodging symbol above it, and the legend "24 HR" is added underneath the "Rx" symbol. Also, in the D9-18a sign shown as the lower left sign of the 4 signs shown in the figure, the legend "24 HR" is added to precede the word "PHARMACY".

The NCUTCD commented that the order of the services shown on the D9-18a word message sign in the lower left of the figure should be modified so that "24 HR PHARMACY" would be above "HOSPITAL." The NCUTCD stated that this would avoid potential confusion with a hospital that has a pharmacy. The FHWA agrees with this comment and makes the change in Figure 2E-42. Some hospitals have pharmacies that serve hospital inpatients but not travelers, and a road user could misinterpret the two last lines of the D9-18a word message sign as being a single phrase "hospital pharmacy," rather than two separate services, and infer that the pharmacy services might not be available to the traveler. Changing the order of the services such that hospital is on the bottom line will help prevent such a misinterpretation. For consistency with this change in the figure, the FHWA also modifies the last sentence of the fourth Option statement of Section 2E.51 to delete the phrase "in the last position."

Discussion of Section 2F.01 Eligibility

A few commenters suggested that the maximum distance of 3 miles from an

interchange on the Federal-aid highway system to be eligible for pharmacy signing should be extended to up to 15 miles in cases where eligible pharmacies do not exist within 3 miles. These commenters cited the existing Option statement in Section 2F.01 that provides for extending the distance limit up to a maximum of 15 miles from an interchange for signing eligibility for other services, such as gas, food, and lodging, if those facilities within 3 miles are not available or choose not to participate in the program.

Other commenters stated their specific support of limiting eligibility to pharmacies within 3 miles and not extending that limit. These commenters stated that requiring the pharmacy to be within 3 miles is self-limiting and serve the best interests of travelers in need of pharmacy services. Further, the legislation was specific in directing that eligibility be limited to pharmacies within 3 miles of an interchange on the Federal-aid highway system. Accordingly, the FHWA declines to make any change to the maximum distance of 3 miles as a criterion for eligibility for Specific Service signing as contained in the interim final rule. This discussion and decision also apply to the similar criterion for pharmacy signing eligibility as stated in other applicable sections of Part 2 of the MUTCD.

A State highway authority commented that the phrase "in either direction" in both the last paragraph of the second Standard statement and the first paragraph of the second Guidance statement should be revised to "in any direction" to clarify that pharmacies are not limited to only one direction from an interchange. The FHWA agrees with this comment and makes this editorial change in both places in this final rule. "Any direction" is more accurate and inclusive than "either direction," since there could be more than two directions that can be traveled away from a given interchange.

Discussion of Section 2F.02 Application

In the interim final rule, the first paragraph of the Option statement was modified to remove the list of various services that may be signed on any class of highway. The resulting text of this paragraph in the interim final rule stated, "Specific Service signs may be used on any class of highway." The NCUTCD recommended that this wording is unnecessary because it repeats a similar statement that is in the first Option statement in Section 2F.01. The FHWA agrees that this is an unnecessary duplication and removes

the first paragraph of the Option statement in Section 2F.02 in this final rule.

Discussion of Chapter 2H Recreational and Cultural Interest Area Signs

Comments from the NCUTCD, one State highway authority, and one private citizen opposed the addition of the RM-230 24-Hour Pharmacy symbol sign in the series of brown and white recreational and cultural interest area symbol signs. These commenters stated that pharmacy signing is not needed as a recreational area sign.

A national chain drug store company stated its support for adding the RM-230 sign in Chapter 2H, citing consistency with similar brown and white symbol signs for gas, food, and lodging that are included in Chapter 2H. The FHWA agrees and declines to remove the RM-230 sign that was included in Chapter 2H in the interim final rule. Brown and white symbol signs for gas, food, and lodging are included in Chapter 2H because these services are often available within recreational areas such as National Parks, and thus there can be a need to provide guide signing to those facilities from the park entrance road or from other areas within the park. Also, there are certain park roadways in some urbanized areas, such as National Historical Parkways, and some linear park roads such as adjacent to Grand Tetons National Park, that also provide access to nearby towns and cities where 24-hour pharmacies may exist and may meet the criteria for signing. Chapter 2H provides for the use of brown and white General Service signing on park roadways. Therefore, it is appropriate and consistent to include in Chapter 2H a brown and white version of the pharmacy symbol sign for use if General Service signing for a 24-hour pharmacy is needed on a roadway of this type.

Rulemaking Analyses and Notices

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the U.S. Department of Transportation regulatory policies and procedures. Including 24-hour pharmacies in General and Specific Service signs is required by law (see section 124 Division F, Title I, of Public Law 108-199, January 23, 2004). States and other jurisdictions are not required to install signs for pharmacy services,

but if they elect to do so, these amendments to the MUTCD will create uniformity in how the Pharmacy signs are used on public roads. These changes will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs; nor will the changes raise any novel legal or policy issues. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (RFA) (Pub. L. 96-354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this action on small entities and has determined that this action will not have a significant economic impact on a substantial number of small entities. This action adds General Service and Specific Service signing for optional use by States to provide motorist information concerning pharmacies in order to aid the traveling public. States are not included in the definition of small entity set forth in 5 U.S.C. 601. For these reasons, the RFA does not apply and the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule will 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 final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$120.7 million or more in any one year (2 U.S.C. 1532). States and other jurisdictions are not required to install signs for pharmacy services, but if they elect to do so, these amendments to the MUTCD will create uniformity in how the signs are used on public roads.

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, and it has been determined that this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. The FHWA has also determined that this action does 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 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. To the extent that these amendments override any existing State requirements regarding traffic control devices, they do so in the interest of national uniformity.

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 of 1995

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that it will 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 requirements set forth in this final rule do not directly affect one or more Indian tribes. 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 determined that this is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 *et seq.*) and has

determined that it will not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this final rule under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this action will effect a taking of private property or otherwise have taking implications under Executive Order 12630.

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 will not cause an environmental risk to health or safety that may disproportionately affect children.

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 and symbols, Traffic regulations.

Issued on: November 22, 2004.

Mary E. Peters,
Federal Highway Administrator.

■ In consideration of the foregoing, FHWA adopts as final the interim final rule published May 10, 2004 (69 FR 25828), with the following change:

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

§ 655.601 Purpose.

* * * * *

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2003 Edition, including Revision No.1, FHWA, dated November 2004. 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 Record 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. It is available for inspection and copying at the Federal Highway Administration, 400 Seventh Street, SW, Room 3408, Washington, DC 20590, as provided in 49 CFR part 7. The text is also available from the FHWA Office of Transportation Operations' Web site at: <http://mutcd.fhwa.dot.gov>.

* * * * *

[FR Doc. 04-26417 Filed 11-30-04; 8:45 am]
BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 31**

[TD 9162]

RIN 1545-BB66

Federal Unemployment Tax Deposits—De Minimis Threshold

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal Unemployment Tax Act (FUTA) taxes. The regulations change the accumulated amount of tax liability above which taxpayers must begin depositing Federal unemployment taxes. The regulations affect employers that have an accumulated FUTA tax liability of \$500 or less.

DATES: *Effective Date:* These regulations are effective December 1, 2004.

Applicability Date: For dates of applicability, see § 31.6302(c)-3(a)(2) and (3).

FOR FURTHER INFORMATION CONTACT: Heather L. Dostaler, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

This document contains amendments to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31) under section 6302 relating to mode or time of collection. The current rules relating to the deposit of FUTA taxes generally require employers to deposit taxes on a quarterly basis. An exception provides that an employer is not required to make a deposit until accumulated FUTA tax liability exceeds \$100.

A notice of proposed rulemaking (REG-144908-02) providing an additional exception to the FUTA tax deposit requirements was published in the *Federal Register* (68 FR 42329) on July 17, 2003. Under the proposed exception, an employer would not be required to deposit FUTA taxes if the employer's liability for other employment taxes (FICA taxes and withheld income taxes) was below the threshold at which deposits were required for those other taxes.

Three written comments were received in response to the notice of proposed rulemaking, but there was no request for a public hearing and a public hearing was not held. All comments were considered and are available for public inspection upon request. After consideration of the written comments, the proposed regulations under section 6302 are adopted as revised by this Treasury decision. The public comments and the revisions are discussed below.

Summary of Comments

Two commentators expressed concern that the creation of an additional exception linked to the deposit rules for other employment taxes will create complexity and that a single exception based on FUTA tax liability is sufficient. One commentator expressed concern regarding the low threshold amounts under both exceptions, and also expressed concern that the proposed exception could be misinterpreted by those accustomed to referring only to the amount of accumulated FUTA taxes.

One commentator suggested that the regulations should exempt household employers who file Schedule H, "Household Employment Taxes," with Form 1040. This comment is outside the scope of these regulations, which are limited to the deposit rules issued under section 6302. Household employment taxes reported on Schedule H are paid with the employer's income taxes.

Explanation of Provisions

After considering the public comments, the IRS and Treasury Department agree that a single exception based on a higher FUTA tax liability threshold is preferable to the exception in the proposed regulations. Accordingly, the final regulations do not include an exception linked to the deposit rules for other employment taxes. Instead, they increase the FUTA tax liability threshold from \$100 to \$500. Thus, an employer will not be required to make a deposit of FUTA taxes until FUTA tax liability exceeds \$500. This change is a simple and straightforward step to reduce the burden on small businesses.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Heather L. Dostaler of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

EXHIBIT 8

Michigan Highways

Michigan's Highways

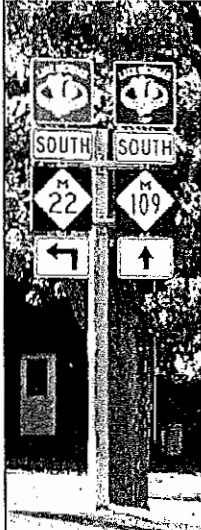
Trunkline Route Listings

County Routes & Listings

Other Routes

In Depth: News & Articles

About This Site



[Michigan Highways](#) > Michigan's Route Markers

Michigan's Route Markers

From the earliest times of numbered and marked state trunklines in Michigan, the standard state route marker has been the shape of a diamond with a block letter "M" in the upper corner. Early on, the diamond was taller than wide, had the words "STATE TRUNKLINE" across the widest part and the "M" and the route number were of the same size.

These early route markers would either be erected on stand-alone posts or on telephone and electric line poles along the highway. (Utility poles close by the side of the travelled-way were much more common in the first half of the 20th century.) Quite often, the "new" state trunkline marker of the late 1910s and early 1920s was applied directly over or adjacent to the colored bands designating one or more Named Auto Trails. By the 1930s, the diamond had been "squashed" down so that all angles were at 90 degrees.

The ubiquitous Michigan diamond state route marker was reportedly designed by Allan M. Williams (1892–1979) who joined the Michigan State Highway Department as a project engineer in 1918 and, in conjunction with a \$50 million dollar highway bond issue in 1919, he drafted the state's first complete highway map. Since Michigan began designating and signing its state trunkline highways at this time, it is quite possible Mr. Williams did, indeed, design the original state trunkline route marker. While Williams became engineer-manager of the Ionia County Road Commission in 1919, he also continued in a dual role as project engineer for the state highway department until 1927 and held his position with Ionia County until his retirement in 1957.

In the early 1970s when U.S. federal government mandated updated and standardized traffic signage, the traditional Michigan "cutout" diamond was then incorporated with a square black sign "blank," as it is today. For more than three decades, the Michigan state trunkline marker has remained relatively unchanged.

This page attempts to illustrate the many and varies types of route markers used on Michigan's highways, from Interstate, US and State highways to National Forest routes, Great Lakes Circle Tours, county roads and others. Pick a type of route marker to jump directly to it:

[Interstate](#) | [US Highway](#) | [State](#) | [County](#) | [Forest](#) | [Circle Tour](#) | [Heritage \(Byway\)](#) | [Other](#)

Interstate Highway Markers (Mainline Routes)



Original style Interstate route marker adopted in the late 1950s and in use into the 1980s.



Newer-style Interstate route marker omits the state name, allowing for larger and easier-to-read numerals.



Interstate Business Loop route marker, commonly used in Michigan.



Interstate Business Spur route marker is less common due to a smaller number of these routes.

Interstate Highway Markers (3-digit Loop & Spur Routes)



Original style Interstate three-digit route marker adopted in



Newer-style Interstate three-digit route marker omits the



Three-digit Interstate Business Spur route marker is less

the late 1950s and in use into the 1980s. state name, allowing for larger and easier-to-read numerals. Three-digit Interstate Business Loop route marker, commonly used in Michigan. common due to a smaller number of these routes.

US Highway Markers



Original "cutout" style US Highway route marker adopted in 1927 and in use into the late 1940s. Wider three-digit markers did not exist at this point.

In 1948, the US Highway route marker began using the "new" FHWA typeface, but was otherwise unchanged in shape. It remained in use into the 1970s.

Although it seems it may not have been adopted nationally, Michigan did use a wider variant of the 1948 cutout US Highway route marker for three-digit highways into the 1970s as well.

This "Outline Sign" was used from 1948 into the 1960s for junction, target and overhead route marker assemblies. A wider three-digit marker also existed.



While the US Highway marker was revised in 1961 to include a black "sign blank" background, Michigan continued using the 1948 version until this 1971 modified version was adopted. The state converted to this style still used today.

The modern-day three-digit US Highway route marker, also adopted in 1971 when Michigan converted from using the 1948 version.

The modern-day three-digit US Highway route marker using the narrower "Series C" of the FHWA typeface to accommodate larger numbers.

As Michigan has two US Highways with two "1"s in their designations, many US-131 and US-141 route markers have been posted using the two-digit route shield.

State Highway Markers



These are two representations of early state trunkline route markers from the 1920s, one wrapped around a utility pole (L) and the other an independently-mounted sign (R).

A more standard state highway route marker was settled upon in 1926 concurrent with the adoption of the first U.S. Highway route marker.

When the U.S. Highway route marker was modified to use the "new" FHWA typeface in 1948, the Michigan state trunkline marker followed suit with regard to the numerals. The "block M" remained as it was, however.

Again, when the FHWA updated the U.S. Highway route marker specification in 1971 to use black "sign blanks" as a background, Michigan followed suit to create its current style of route marker.



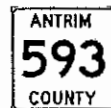
Another rendition of the present state highway marker, this one showing how three-digit route numbers appear using the "Series C" FHWA typeface.

To date, the only reassurance or other independently-mounted state highway markers in an elongated format appear along M-553 in Marquette Co.

A very unique route, Mackinac Island's M-185 is the only "motorless state highway" and sports unique signage, including distances from the visitor center.

Yet another unique trunkline route, the CAPITOL LOOP in downtown Lansing functions as a loop off I-496, but has its own unique markers.

Intercounty & County Route Markers



The standard Intercounty Highway route marker, although this one is unique in that A-2 is the only 'two-character' route. The marker was created in 1967 by the National Assoc. of Counties as part of their National Uniform County Route Marker Program.

Another Intercounty Highway route marker, this one uses a hyphen between the letter and numbers. There is no consensus between the "with" and "without" hyphen styles and both styles may be seen along the same route.

Some counties in Michigan sign their own county routes, such as Gogebic illustrated above, using the standard National Assoc. of Counties route marker.

Many other counties opt to use an older style of county route marker; a square white (or sometimes green) blank with the county name and route number in the center.

Federal Forest Highway & Forest Road Markers



Federal Forest Highway route markers appear in several of Michigan's national forests. These are high-quality, well-maintained (usually all-weather) highways.



Secondary Forest Road sign, used on roads generally open to automobile travel and closed to ORV use. These roads can range from paved to one-lane gravel.



Low-Standard Forest Road signs are used for roads which may be open to motorized use or may be closed to all but ORV or foot traffic. These range from one-lane gravel to two-track.



The National Forest Scenic Byway sign is used in many places across the U.S., specifically in Michigan on the Black River Harbor Scenic Byway north of Bessemer.

Great Lakes Circle Tour Markers



The Great Lakes Circle Tour sign, used very sparingly in Michigan, although it does appear once in awhile.



The Lake Erie Circle Tour route marker, appearing in only two Michigan counties: Monroe and Wayne.



The Lake Huron Circle Tour route marker as it appears along Lake Huron shoreline routes in both peninsulas.



The Lake Huron Circle Tour Loop route marker is used in the DeTour Village area.



The Lake Michigan Circle Tour route marker is found along many miles of Michigan trunkline.



The Lake Michigan Circle Tour Loop runs along M-109 in Leelanau Co.



The Lake Michigan Harbor Tour is a locally-posted route in the Saugatuck-Douglas area.



The Lake Superior Circle Tour route marker appears often throughout the U.P.



The Lake Superior Circle Tour Loop marker appears along at least two highways in the U.P.



The Lake Superior Circle Tour Scenic Spur runs via M-77 from Seney to Grand Marais.

Heritage Route (Michigan's Byways) Markers



Historic Heritage Route marker.



Recreational Heritage Route marker.



Scenic Heritage Route marker.

Other Route Markers



The Blue Star Highway route marker is used along a portion of the former route of US-31 in Van Buren Co.



The Oceana Circle Tour route marker appears along a locally-designated route in Muskegon and Oceana Cos.



The Polar Equator Trail route marker can be found in Antrim, Otsego, Montmorency and Alpena Cos.



The Red Arrow Highway route marker is used along the former route of US-12 in Van Buren and Berrien Cos.



The Shoreline Trail route marker appears on a locally-designated route in Muskegon Co running along the Lake Michigan shoreline.



In 2004, US-23 from Standish to Mackinaw City was designated as the Sunrise Side Scenic Highway and these route markers are posted along the route.



This "US-41 Scenic Route" marker was used from the late-1960s until 1999 along US-41 in northern Keweenaw Co.

Acknowledgements:

Nearly every route marker image above was created by Christopher J. Bessert and, therefore, all original graphics are copyrighted ©2008-2013 Christopher J. Bessert, All Rights Reserved. Please do not reproduce or otherwise use them without permission. Any commercial use is strictly prohibited. While certain components of these markers are not "copyrightable," these graphics are copyrighted. If you'd like to use one of them, please ask first!

However, some acknowledgements and credit are necessary.

- Many thanks to [Michael Adams](#) and his "[Roadgeek](#)" typeface series used to create many of these route markers.
- Additional thanks to Bruce S Criddlebaugh and his "[USHighwaysOldStyle](#)" typeface used for the 'original style' US and State route markers.
- Richard C. Moer's "[Sign Manual](#)" website provided a few of the graphic bases used in creating these markers.
- Many thanks to [Barry Camp](#) for his assistance with the Capitol Loop marker.
- James Lin's "[Highway Route Markers](#)" website provided much inspiration.
- The "Sunrise Side Coastal Highway" image is courtesy Michigan's Sunrise Side, Inc.
- The two earliest state trunkline markers ("M-2" and "M-11") were reproduced from a Rand McNally & Co. "Junior Auto Trails Map of Michigan," 1926.

Additional Information:

For more information on Michigan's state trunkline (and other) route markers, visit the following off-site sources:

- [Roadpix - Michigan's Changing Route Marker Styles](#) - a page at [Barry Camp's website](#) which captures examples of route marker experimenting by MDOT in mid-Michigan.
- [Highway Route Markers](#) by James Lin, features highway markers from the US, Canada, Asia, Australia, Europe and Mexico.
- [Road Signs of Michigan](#) by Mark O'Neil. Also includes route markers and traffic signal photos from across the US.
- [Michigan's Route Markers: The Clearview Future?](#) - See what Michigan's route markers might look like if MDOT switches from using the FHWA typeface to the new Clearview typeface now being used on freeway guide signs.
- [New! Allan M. Williams, 1892-1979](#) - an obituary posted on the Ionia County Road Commission website regarding the man who likely designed the Michigan state trunkline route marker in c.1918-1919.

- NEW! Allan M. Williams (1892-1979) - a short article from the Michigan Transportation Hall of Honor on the MDOT website.

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EXHIBIT 9



State Highway Commissioner Charles M. Ziegler does the ribbon-cutting honors at the Stephenson Highway in Oakland County. See related text on page 204.

**A DRIVE DOWN MEMORY LANE:
The Named State and Federal
Highways of Michigan**

By LeRoy Barnett, PhD



The Priscilla Press
Allegan Forest, Michigan
2004

cally superior Iroquois attacked the Ottawa nation and drove the people from their homelands west to the Straits of Mackinaw district. After living in that area for some years, most of the remaining tribe members relocated in 1742 to the Cross Village region, making contemporary Emmet County "the Ottawa capital of the Midwest."

As residents of the northwestern Lower Peninsula, the Ottawa made important contributions to the culture and economy of the territory. With one of the largest Indian populations in the state, the tribe's women produced substantial quantities of high-quality arts and handicrafts like woven baskets, quillwork, pottery, jewelry, beaded items, paintings, sculptures, carvings, and buckskin clothing. They were also responsible for harvesting surprising amounts of berries and maple sugar for sale in local markets.

The men also contributed their share. At various times in the evolving white man's world the Ottawa males served as trappers, hunters, guides, packers, boatmen, fishermen, lumbermen, farm workers, and winter mail carriers (when it was necessary to deliver the mail using snowshoes since there were no open roads and ice had temporarily ended navigation). The Ottawa "braves" also catered to Michigan's tourist trade by performing for the benefit of visitors in various plays and pageants, conducting periodic public pow wows, and reenacting popular tribal rituals.

The Ottawa men were also warriors. Not only were they formidable adversaries in olden days, they also proved their mettle in the more modern era. During World War I, for example, 1,029 men from Emmet County answered the call of their country and served in uniform. Of this number, 49 (4%) were Ottawa Indians fighting for a nation that had treated them at times in less than honorable ways. As an expression of appreciation for this act of sacrifice and forgiveness, the Emmet County Board of Supervisors on 15 October 1920 named the Harbor Springs to Cross Village shoreline drive the "Chippewa Memorial Pike."

When the earliest government surveyors came to Michigan they

found an Indian trail already existing between present-day Cross Village and Harbor Springs. The first atlas of our state shows that by 1873 this path had become a road, although by contemporary standards it would not be so generously characterized. Wishing to upgrade this picturesque route, on 25 June 1919 the Emmet County Road Commission announced it would rebuild the road so it could accommodate motorists.

The task of making the Chippewa Memorial Pike suitable for automobiles was roughly finished in 1921 and upgraded to the highest standards in 1923. Because of the beautiful vistas along this winding stretch of road, in 1927 Michigan's Highway Department said it would take over the route if a right-of-way 300 feet wide could be acquired along the wooded sections of its course to preserve the natural scenic qualities. By 1933 it had become clear that it would never be possible to obtain property rights to a swath that wide, so the state accepted the road as it existed and on 1 January 1934 declared the shoreline avenue through the "tunnel of trees" to be trunk line M-119.

And so it is by a three-digit number and not a name that the famous high-bluff road along Lake Michigan's western coast is known today. The memorial name of appreciation bestowed years ago by the Emmet County supervisors has long since been forgotten, as it never seemed to catch on with the white community. The resident Indians never cared much for it either, for the well-intentioned county fathers mistakenly named a tribute to the Ottawas after their Chippewa brethren.

Seventy years after the picturesque coast-hugging road was turned over to the state by Emmet county, local citizens there succeeded in getting the spectacular stretch of pavement declared a Michigan Scenic Heritage Route. This special designation was celebrated at a ceremony in the Indian settlement of Cross Village on 28 June 2003, a date that more or less represents the dedication of an alluring highway honoring one of our most famous groups of Native Americans.

Coordinates: E/10



CHIPPEWA TRAIL

In former times the Chippewa (or Ojibwa) Indians were the most populous tribe in the land that became Michigan, and they remain so today. In the Upper Peninsula they occupy reservations at Bay Mills, Keweenaw Bay, L'Anse, and Lac Vieux Desert, with large numbers also living on Sugar Island. South of the Straits the Chippewa have reservations at Mount Pleasant and Suttons Bay.

The Chippewa were the first natives seen by Europeans when the white man came to this area in 1622. Our woodland Indians got along well with these newcomers and helped them establish control over the western Great Lakes region by serving as hunters, trappers, guides and warriors. As allies of the French and then the British, the Chippewa became one of the largest tribal groups in North America with a territory covering 1,000 miles from east to west, extending from Lake Huron to North Dakota.

The word "Chippewa" means puckered up from roasting, a term derived from the peculiar seam the tribe members sewed on their moccasins. In addition to their noted skills in working with animal skin and needle, these people were also expert with the canoe, as fishermen, and in the use of birch bark to make things like boxes, baskets, and covers for wigwams. The Chippewa were also preeminent as gatherers of wild rice, and even now they harvest much of the wild rice that is eaten in this country.

As the dominant group of native Americans in our region, it is not surprising to find their tribal name well represented on the landscape. In Michigan the word "Chippewa" has been given to one county, three town-

ships, one hill, one waterfall, a harbor, one lake, a river, two creeks, three communities, a state forest, and two points along the Great Lakes shoreline. "Ojibwa," the alternative name for the tribe, appears on one lake, a mountain, and an island.



Though not well known, "Chippewa" also appeared on the Michigan landscape as a named highway. This event occurred on 25 February 1930, when the M-22 Association bestowed this title upon the scenic route that runs from Manistee to the tip of Leelanau County and back south to Traverse City.

For months the M-22 Association had sought a name that would appropriately describe its highway and lure tourists to drive the road. While the group was meeting at the Chippewa Hotel in Manistee, the magic term just suddenly came to mind.

The image of an Indian head was chosen as a symbol for the route, and plans were made to print 25,000 copies of a promotional brochure for distribution to tourists. But economic realities interfered with the sponsor's dreams, and a deepening national recession curtailed efforts to publicize the highway. Today, M-22 still remains one of the most popular scenic routes in Michigan, but the name "Chippewa Trail" exists only in history.

Coordinates: G-H/8-9



The ensuing improvements made these two routes some of the most popular avenues to the Straits, which is why no one any longer remem-

bers the Mackinaw Scenic Shortway Route. Coordinates: I-N/11-12

MACKINAW TRAIL

Mackinaw, or Mackinac, is one of the most famous terms in Michigan. The Indian word for "turtle," this name has been given to a village, city, township, county, straits, island, fort, bridge, lake, state forest, and state park plus a specific type of coat, boat, and blanket.

With such widespread use of the word, it is not surprising that it has also been applied to a road. But since two routes can lay claim to this honor, some explanation is in order for the benefit of readers.

The original Mackinaw Trail was an Indian path that ran from Saginaw north through the interior to present-day Mackinaw City, then across the Straits and on to Sault Ste. Marie. Most of this distance was surveyed for a road in 1835, but it was not until decades later that it was actually made passable for vehicular travel.

Though generally not known as the Mackinaw Trail today, evidence of this route's previous name can still be found on road signs in parts of Saginaw, Bay, Cheboygan, and Mackinac counties.

The contemporary Mackinaw Trail scarcely comes near the old track. For while the former course connected Saginaw Bay with the Soo, the present route runs from around Niles north to the Straits.

This transfer of a name from the eastern to the western part of the state all began at Cadillac in October of 1915. It was then and there that the Mackinaw Trail Association was formed for the purpose of developing a modern highway from Grand Rapids to Mackinaw City.

The concept for this road stemmed in part from traffic congestion along what is today highway US-31. With so many people driving that trunkline for tourist and sightseeing purposes, an alternate interior route for higher-speed travel was seen as

necessary.

To encourage use of what is today US-131, the Association dubbed this diversionary course the Mackinaw Trail. In devising a symbol for the route that motorists could follow on sign boards, the group adopted the Mackinaw Trout, the same logo used by the Grand Rapids & Indiana, the railroad that paralleled the highway.

As the number of cars traveling US-131 grew, the Association sought the government's blessing for its cause. In 1929 it convinced members of the Michigan House of Representatives to officially designate it the Mackinaw Trail, but the measure ultimately died in the Senate.

With the opening of the Mackinaw Bridge in 1957, some interest was focused on the old Indian word. Attempting to capitalize upon this situation, the legislature was once again asked by promoters to bless their naming of the road. The result was Public Act 170 of 1959, a statute declaring US-131 from Indiana to Petoskey, and US-31 from Petoskey to the Straits, the Mackinaw Trail.

Some alterations to this status occurred in 2001 when the Legislature passed Public Act 142. This piece of lawmaking essentially left the course of the Trail intact but it officially modified the name of the road from "Mackinaw" to "Mackinac." While the slight change in spelling may have affected how some travelers pronounced the word, it certainly did not detract in any way from the pleasure they experienced from the drive.

The latest chapter in this route's saga occurred in 2004 under color of Public Act 138. This statute declared that the portion of trunk line US-131 from Kalkaska to Petoskey, and the segment of US-31 from Petoskey



north to the Straits, would henceforth be known as the "Green Arrow Route-Mackinac Trail." Some people subsequently questioned the wisdom of having a compound road name whose

signboards will be nearly as long as the highway itself.

Coordinates: F-N/9-10

MANITOU TRAIL

The Algonquin Indians of the Great Lakes region worshipped or venerated forces with supernatural powers. These gods or spirits were called Manitou, and as such they were objects of religious awe and reverence. These masters of life—if appealed to or appeased—could make the hunt successful, the warrior strong in battle, and the perilous journey safe.

Since such deities played a major role in ancient Indian culture, it is not surprising that references to them would appear in the territories once inhabited by indigenous peoples. Here in Michigan, for example, there is Manitou Island off Keeweenaw Point, Lake Manitou (Leelanau, Oakland and Shiawassee counties), Manitou Passage (in eastern Lake Michigan), Manitou Payment Point (Mackinac County), the village of Manitou Beach (Lenawee County), plus a township and a former county (1855-1895).

By far the most famous landforms carrying the Manitou name are the North and South Manitou Islands just west of Leland. According to Indian lore, these large glacial remnants in Lake Michigan represent two drowned cubs who tried to follow their mother (Sleeping Bear) on a swim from the Wisconsin shore east to the Empire Dunes complex. As an aside, it is also worth noting here Manitoulin Island in northern Lake Huron. Though not within Michigan's borders, this largest freshwater island in the world is just on our doorstep.

In addition to all of these physical and cultural features named Manitou, there was also a long stretch of pavement possessing this title. The story of this christening goes back to 1913, when trunk line M-22 became the first state highway established in Benzie, Leelanau and Manistee counties. Despite its early presence on the

transportation scene, route M-22 was not heavily used because most drivers seemed to prefer riding on the nearby alternative US-31.

In an effort to attract more vehicles to the Lake Michigan shoreline drive, the M-22 Association was founded in February of 1953. The purpose of this organization was to increase traffic along the coastal road by publicizing its virtues through advertising and other promotional activities.

Before touting the benefits of a spin in the family car along M-22, the route's backers figured they first needed a "catchy" name for the highway. The Association ran a contest to find the best title for the road, and on 15 April 1953 its board of directors chose "Manitou Trail" out of more than 500 entries.

Almost immediately special brochures were printed up and placemats produced boosting travel on scenic M-22. And for a number of years thereafter advertisements could also be seen in various venues in favor of the winding vehicular path along the northwestern Lower Peninsula shore. But before the old Indian name could become popular with the motoring public, the as-

sets of the Association became unequal to the task of championing a road off the beaten path. The sponsoring group eventually dissolved due to funding problems and the Manitou Trail found itself beyond the help of even the great spirit gods of the Native Americans.

Coordinates: F-H/8-9

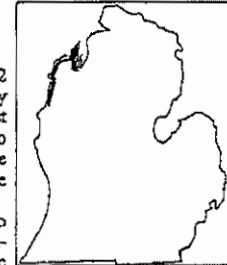


EXHIBIT 10

Great Lakes Circle Tour

The Circle Tours

Circle Tour Travel Info.

State & Provincial Tourism

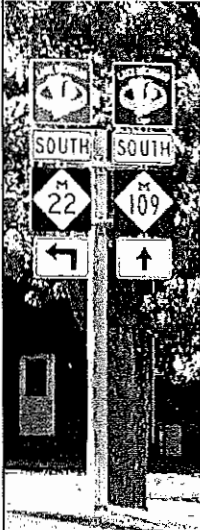
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About This Site

[Great Lakes Circle Tour](#) > [The Circle Tours](#) > Overview & Introduction

Overview & Introduction



The Great Lakes Circle Tours (GLCT) are a total of four routes circling each of the Great Lakes with the exception of Lake Ontario. These routes were conceived as an aid for travellers who wished to stick close to the shorelines of the lakes in their journeys as well as a vehicle for state, regional, and local tourism organizations to promote travel and activities along the shores of each lake. After the routes were established, many local and regional tourism organizations began tying their promotional activities into the Circle Tours.

The Lake Superior Circle Tour was the first route established in 1986, with Michigan following in 1987, then Huron and Erie following in the early 1990s.

In 1985, Michigan First Lady Paula Blanchard, an advisor to the Michigan Department of Commerce at the time, pitched the idea to establish a tour route around Lake Superior at a tourism conference that fall. Soon after, MDOT drafted a design for the signs and, working with the transportation departments in Wisconsin, Minnesota and Ontario, helped devise a route around the largest of the Great Lakes.



Once the Lake Superior Circle Tour signs had been erected in 1986, work began in earnest for a Lake Michigan Circle Tour, becoming a reality just one year later. Then in 1988, the Great Lakes Commission approved an overarching "Great Lakes Circle Tour" to help coordinate the various routes among the eight Great Lakes states and the province of Ontario.

The GLCT routes have generally been designated by each state or provincial transportation department or ministry along the state or provincial highway closest to the Great Lake shoreline. In a few areas, though, the Circle Tour is signed along locally maintained roadways and a few select GLCT Loops and Spurs, signed with special brown signs, have also been designated.

Since their creation, however, the Circle Tours have seen varying levels of success and waning support from the Great Lakes Commission has left their continued existence in the hands of the individual jurisdictions. Michigan, Wisconsin, Illinois, and Ohio still sign and maintain their portions of the Circle Tour routes, while signage Minnesota, Ontario and Pennsylvania is now less than complete or even missing in some areas.

Back to: [The Circle Tours](#).

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Michigan Highways

Michigan's Highways

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Lake Michigan Circle Tour

After Lake Superior's loosely-organized "circle route" which had been promoted by local tourist organizations since the 1960s became the first officially signed Great Lake circle tour route, the Lake Michigan Circle Tour (LMCT) was not far behind. The only single-nation Circle Tour (Lake Michigan being the only Great Lake completely within the US, of course), the LMCT also has the most mileage of any Circle Tour in the state of Michigan: 616 miles.



Working in conjunction with the Michigan Department of Transportation (MDOT), the West Michigan Tourist Association (WMTA) helped to make the first of the official Great Lakes Circle Tours a reality. On the MDOT side, Jack Morgan, assistant to the department's deputy director, introduced the concept of a Circle Tour in 1987. Just 14 months later, agreement had been reached on a route and signs to be posted along the 1,100-mile tour completely circling Lake Michigan. The WMTA filled the need for a guidebook and when the Chicago Tribune and Milwaukee Journal ran articles in 1988 about the new Circle Tour, 150 callers from the Chicagoland area along deluged the WMTA staff the next Monday morning, requesting the guide. Two days later, 700 guidebook requests came in from Illinois and Wisconsin and the following day an additional 1,000 phone and mail requests poured in to their offices.

Present-Day Concerns and the Tri-Modal Corridor

In November 2012, the inaugural meeting of the Lake Michigan Trails Conference was convened in Saugatuck by Western Michigan University professor Dave Lembeck. Lembeck is championing both the completion of a Lake Michigan "water trail" for kayakers, canoeists and other paddlers around the lake's entire shoreline as well as an interconnection between the water trail, the new U.S. Bicycle Route 35 (USBR-35) and the existing Lake Michigan Circle Tour. The envisioned "Tri-Modal Corridor" would accommodate non-motorized transportation and recreation via the "water trail" in the Lake and the bicycle route on land. The LMCT would help link the various bicycle trailheads and water access points together.

Unfortunately, actual signage along the Lake Michigan Circle Tour route has deteriorated over time. While Wisconsin has generally kept the Circle Tour reasonably well posted, signage in Michigan and Illinois is lacking and long segments of the LMCT in Indiana are now completely unsigned. Indeed, when the numbered highways that the Circle Tour ran along were rerouted in Northwest Indiana in recent years, the LMCT route markers were regrettably not relocated or replaced. Furthermore, highway signing standards may have changed to the point where including Circle Tour route markers alongside the other numbered highway markers on freeway signage is no longer allowed or encouraged. While hundreds of the standard Circle Tour markers are still found alongside the roadside in Michigan, some locations where the LMCT changes directions (e.g. transitions from one highway to another) are now under-signed or completely unsigned altogether. This was cited as a major concern by the attendees at the 2012 Lake Michigan Trails Conference.

Conference attendees vowed to support the ongoing efforts of the existing organizations assembling the resources necessary to complete the Lake Michigan Water Trail and the signed U.S. Bicycle Route network now underway around the periphery of the Lake. Additionally, attendees cited a need to renew coordination and oversight of the Great Lakes Circle Tour Program within the various state departments of transportation, the Ontario Ministry of Transportation and the *de facto* coordinating agency, the Great Lakes Commission. Several of those in attendance pledged resources and a commitment to both preserve the Circle Tour routes and look for ways to improve the coordination and signage into the future. Creating background documentation, documenting and recording the officially-adopted Circle Tour route, clarifying route signage standards and formalizing a route maintenance policy are just some of the concepts put forth in the revitalization of these important tourist routes.

Lack of Official Routing & Erroneous Information

Unfortunately, the Great Lakes Commission's own description of the LMCT is largely incorrect, both in terms of the actual route and because of numerous typos and incorrect community names. For example, as of last

check (March 2013), errors in just the "Lake Michigan Circle Tour Road Route" section of the Commission's [LMCT page](#) give the following description of the route in Lower Peninsula:

ROUTE: Follow I-96E to Holland; US-31N to Manistee; MI-22 to Traverse City; US-31 to Petoskey; MI-119 to the town of Cross Bridge; C66 to US-31; cross the Mackinaw Bridge (toll) into the Upper Peninsula

The first major issue is to get to Holland from Indiana, one needs to first follow US-12 East (not listed) before transitioning onto I-94 East (not listed), then exit that route and follow BL I-94 and M-63 through St Joseph and Benton Harbor (not listed), transitioning then onto I-196/US-31 North (also not listed!) with a loop through downtown South Haven via BL I-196 (not listed), then back to I-196/US-31 North, before exiting onto US-31 North to reach Holland. On top of that, I-96 doesn't go to Holland at all!

From Holland to Petoskey the directions are somewhat better, although loops through downtown Muskegon, the downtowns of Whitehall and Montague, and through Pentwater via the respective BUS US-31 routings are omitted. However, from Petoskey, the LMCT has never run along M-119 and even if it did, the directions erroneously call the community of Cross Village, *Cross Bridge*, instead! (It's never been called *Cross Bridge* since its was founded in 1830!) But after omitting the connection from US-31 onto I-75 once US-31, the name of one of Michigan's most famous landmarks is misspelled: the Mackinac Bridge! If these directions are this bad—and have been since it was first reported to the Great Lakes Commission in the late 1990s (a *decade and a half ago!*)—how trustworthy is the rest of the information!

Lake Michigan Circle Tour Route

The route of the mainline LMCT in Michigan follows signed state trunkline routes in its entirety, although in some places the nearest state highway to the Lake Michigan may be several miles away. Along with the primary Circle Tour route, several marked "Lake Michigan Circle Tour Loops" have been posted using white-on-brown signs. These loops may follow state highways or utilize city streets and county roads running closer to the shoreline. These loop routes are detailed below the mainline route below:

- The LMCT enters Michigan from Indiana on US-12 south of New Buffalo and proceeds northerly through New Buffalo to I-94.
- The route leaves US-12 and continues northerly on I-94 from Exit 4 toward St Joseph.
- At Exit 23, the route exits I-94 and continues northerly into downtown St Joseph via BL I-94.
- In St Joseph, the LMCT continues northerly on M-63 into northern Berrien Co.
- At the northern terminus of M-63, the circle tour proceeds northerly on I-196/US-31 toward South Haven.
- The route leaves I-196/US-31 at Exit 18 and loops through South Haven using BL I-196.
- On the east side of South Haven, where BL I-196 ends at I-196/US-31 Exit 20, the route continues north into Allegan Co on I-196/US-31.
- While the LMCT remains on I-196/US-31 at Saugatuck/Douglas, a locally-designated LMCT Harbor Tour loop route is signed concurrently with A-2/Blue Star Hwy between Exits 36 and 41.
- The circle tour continues northerly on US-31/BL I-196 toward Holland at Exit 44 when I-196 splits off to the east.
- After splitting from I-196 south of Holland, the route continues northerly following US-31 past Holland and through Grand Haven and toward Norton Shores.
- At the jct of US-31 & I-96, the LMCT leaves US-31 and follows BUS US-31 through downtown Muskegon.
- Northeast of downtown Muskegon, the route continues northerly via M-120 to North Muskegon and northeasterly back to US-31.
- Back on US-31, the circle tour continues northerly toward Ludington, leaving US-31 twice: once to follow the route of BUS US-31 through the downtowns of Whitehall and Montague in northern Muskegon Co; and again to follow the route of BUS US-31 through downtown Pentwater in Oceana Co.
- At the end of the US-31 freeway near Ludington, the LMCT turns east following US-10/US-31 toward Scottville.
- At Ludington rather unique LMCT Loop Route begins, although it is currently unsigned: From US-31, the Loop route continues westerly along US-10 into downtown Ludington, then travels straight across the Lake Michigan via the S.S. *Badger* carferry!
- At Scottville, the circle tour turns northerly again to follow US-31 toward Manistee, although a locally-designated LMCT Loop Route formerly continued east on US-10 into downtown, then northerly via Old US-31 back to US-31 and the LMCT. (*NOTE: The LMCT Loop route through Scottville was removed/decommissioned some time in late 2004 or early 2005 and no longer exists.*)
- The route continues northerly from Scottville and through Manistee on US-31.
- Northeast of Manistee, the route turns northerly to follow M-22 through Onekama, Frankfort and Empire.
- Northeast of Empire, a LMCT Loop Route leaves M-22 to follow M-109 past Glen Haven, rejoining M-22 at Glen Arbor. (The mainline LMCT remains on M-22 between Empire and Glen Arbor.)
- From Glen Arbor, the circle tour continues northerly on M-22 through Leland to Northport. At Northport, M-22 and the LMCT turn nearly 180 degrees to head southerly into Traverse City.

- At Traverse City, the LMCT returns to US-31 and continues northerly via US-31 through Elk Rapids, Charlevoix and Petoskey and on toward the Mackinac Bridge.
- South of Mackinaw City, where US-31 ends, the route continues northerly on I-75 crossing the Mackinac Bridge and entering the Upper Peninsula at St Ignace. Between Mackinaw City and St Ignace, the LMCT is joined by the Lake Huron Circle Tour.
- In St Ignace, the LMCT continues westerly along US-2 for more than 140 miles through Manistique and Gladstone to Escanaba.
- At Escanaba, the circle tour continues southwestly via M-35 along the Green Bay shoreline to Menominee
- The route continues south on US-41 through Menominee and enters Wisconsin at Marinette.
- Continue on the Lake Michigan Circle Tour route into Wisconsin at the Wisconsin Highways website.

Note: The "Circle Tour Road Route" description from the GLIN website is not only vague, but incorrect! While a good alternate route, the LMCT does not use M-119 and C-66 through Harbor Springs and Cross Village, I-94 does not go to Holland, what is called "Cross Bridge" is actually "Cross Village"... and, for Pete's sake, it's the Mackinac Bridge (not "Mackinaw Bridge!"). The route included on this website has been personally researched by the website author in the field.

Lake Michigan Circle Tour Loop Routes

Lake Michigan Circle Tour - Harbor Tour (Saugatuck/Douglas)



A locally-designated loop route which helps circle tour motorists navigate into and through the off-route communities of Saugatuck and Douglas in northwestern Allegan Co. While most local loops are designated as "Loop Routes" off the mainline circle tour, this particular route is actually designated as a "Harbor Tour," although it behaves like any other Loop Route. Also, as with all Loop Routes, this route is designated with white-on-brown circle tour signs, using the same LMCT "logo." The route is 7.7 miles long:

- The LMCT Harbor Tour begins at I-196/US-31/LMCT at Exit 34 near Ganges (south of Douglas).
- The Harbor Tour route proceeds easterly from the freeway along M-89/124th Ave to A-2/Blue Star Hwy.
- The route turns northerly on A-2/Blue Star Hwy into Douglas, passing just west of the downtown area.
- The loop route then crosses into Saugatuck, still via A-2/Blue Star Hwy, passing just east of the downtown.
- The route ends when it meets back up with I-196/US-31/LMCT at Exit 41 northeast of Saugatuck.

Lake Michigan Circle Tour - Loop Route (S.S. Badger carferry)



While most Lake Michigan Circle Tour spur and loop routes simply involve an alternate highway routing diverging from the mainline route, this particular spur route is unique among them. On August 29, 1998, Lake Michigan Carferry's S.S. Badger which ferries automobiles, trucks and passengers between Manitowoc, Wisconsin and Ludington, Michigan was officially designated as a Lake Michigan Circle Tour spur route. The route traverses the following path:

- From the mainline Lake Michigan Circle Tour route at the western jct US-10 & US-31, the route heads westerly along US-10 into downtown Ludington, turning southerly via US-10/James St to the S.S. Badger carferry docks.
- The route then traverses Lake Michigan itself via the S.S. Badger carferry.
- From the carferry dock in Manitowoc, Wisconsin, the Loop route, following US-10, heads southerly via Lakeview Dr, westerly via Madison St and then northerly along 8th St (with eastbound US-10/LMCT Loop using 10th St) into downtown Manitowoc.
- The LMCT Loop Route ends at jct US-10 & US-151 in downtown Manitowoc.

Former Lake Michigan Circle Tour - Loop Route (Scottville)

When MDOT completed a western bypass of Scottville, taking the high volume of US-31 traffic out of town, a locally-designated LMCT Loop Route was signed, acting as a de-facto Business Routing for US-31. Note, however, this LMCT Loop route was removed some time in late 2004 or early 2005 and no longer exists. The former route was 1.5 miles long:



- The LMCT Loop Route began at the jct of US-10 & US-31 on the west side of Scottville.
- The route continued easterly via US-10 into downtown Scottville.
- In downtown Scottville, the loop route turned northerly and followed Old US-31 out of Scottville.

- The LMCT Loop Route ended at US-31 north of Scottville.

Lake Michigan Circle Tour - Loop Route (Glen Haven)



While the Lake Michigan Circle Tour generally follows the closest posted state trunkline to its namesake body of water, the Sleeping Bear Dunes area is one exception. Instead of diverting the mainline LMCT off M-22 for only eight miles, it continues via M-22 through to Glen Arbor and on to Leland. However, as M-109 loops off M-22 to the west (lakeside) through the Sleeping Bear Dunes area, it has been designated as a LMCT Loop Route. The route is 6.8 miles long:

- The LMCT Loop Route begins at the southern jct of M-22 & M-109 just northeast of Empire and continues northerly toward Glen Haven.
- At Glen Haven, the loop route turns east and continues on M-109 toward Glen Arbor.
- The LMCT Loop Route ends at the northern jct of M-22 & M-109 in Glen Arbor.

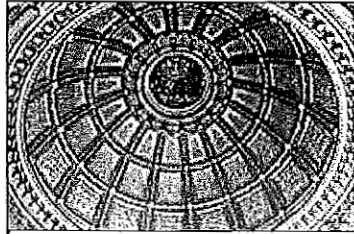
Back to: [Great Lakes Circle Tour page](#).

Additional Information

- [Great Lakes Circle Tour](#) - new website from the author of MichiganHighways.org.
- [Lake Michigan Circle Tour History](#) - from the [West Michigan Tourist Association](#) (WMTA). The WMTA helped to coordinate the first of the Great Lakes Circle Tours in the 1980s.
- [Great Lakes Circle Tour](#) - information from the [Great Lakes Commission](#). It was the GLC who originally established the Great Lakes Circle Tours and continues to provide information on many aspects of the Great Lakes region.
- [Lake Michigan Circle Tour](#) - from the Great Lakes Information Network (GLIN), which "is a partnership that provides one place online for people to find information relating to the binational Great Lakes-St. Lawrence region of North America." Please note that the "Circle Tour Road Route" description from the GLIN site is not only vague, but incorrect! (See description above.)
- [Shoreline Charms](#) (via [archive.org](#))- an article by Donna Marchetti about the Lake Michigan Circle Tour from the [Michigan Living](#) magazine published by AAA Michigan.

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EXHIBIT 11



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MICHIGAN HERITAGE ROUTES (EXCERPT) Act 69 of 1993

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247.951 Definitions.

Sec. 1.

As used in this act:


- (a) "Commission" means the state transportation commission.
- (b) "Department" means the state transportation department.
- (c) "Historic" means buildings, structures, interpreted sites, objects, or historic districts that are significant to the history, archaeology, architecture, engineering, or culture of this state.
- (d) "Pure Michigan byway" means a state highway that is designated in the manner provided in this act as a scenic, recreational, or historic route that is representative of Michigan's natural and cultural heritage.
- (e) "Recreational" means facilities normally associated with leisure-time activities, including, but not limited to, parks, public access sites, wildlife refuges, forest areas, marinas, swimming areas, hiking trails, and sightseeing areas.
- (f) "Scenic" means an area of outstanding natural beauty whose features include, but are not limited to, significant natural features such as vegetation, land form, water, and open areas with exceptional vistas and views, that singly or in combination make that area unique and distinct in character.
- (g) "State trunk line highway system" means the system described in section 1 of 1951 PA 51, MCL 247.651.

History: 1993, Act 69, Imd. Eff. June 22, 1993 ;-- Am. 2014, Act 445, Imd. Eff. Dec. 30, 2014

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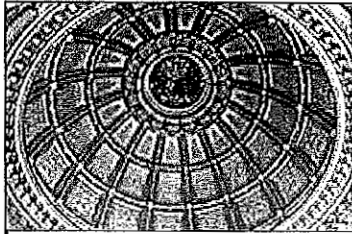
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MICHIGAN HERITAGE ROUTES (EXCERPT) Act 69 of 1993

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247.952 Intent of the legislature.

Sec. 2.

It is the intent of the legislature to establish this state's responsibility for the enhancement and enjoyment of Michigan's scenic, recreational, and historic resources along its roadside by identifying and designating certain portions of the state trunk line highway system as Pure Michigan byways. It is further the intent of the legislature in designating Pure Michigan byways to assign responsibility for the development of the byways and for the establishment and application of specific planning and design criteria and procedures appropriate to the byways. The legislature further intends to provide criteria for the location and length of Pure Michigan byways and adjacent areas requiring continuing and careful coordination of planning, design, construction, maintenance, land use, and development, by state and local agencies as appropriate, to encourage adjacent land use consistent with the intent of the designation.

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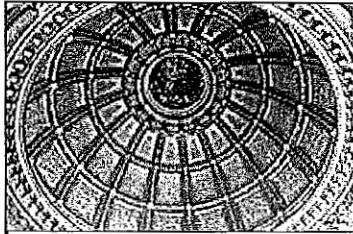
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Act 69 of 1993

Section 247.953

Section 247.953

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MICHIGAN HERITAGE ROUTES (EXCERPT) Act 69 of 1993

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247.953 Heritage routes; characteristics.

Sec. 3.

Certain portions of the state trunkline highway system are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination. Because of the immediate proximity of these features, roads may possess characteristics such as the following: pavement width of 16 to 20 feet, shoulders as narrow as 2 feet with trees immediately adjacent, curves that restrict maximum legal speeds, hills, steep side slopes, and narrow rights-of-way. The improvement philosophy for these roads is to maintain the essential elements of the road and the area immediately surrounding the road that create its unique character.

History: 1993, Act 69, Imd. Eff. June 22, 1993

Laws

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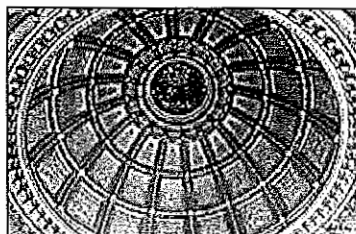
Laws 

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NAVIGATE SECTIONS

MCL Chapter Index

Chapter 247

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Section 247.957a

Section 247.957a

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MICHIGAN HERITAGE ROUTES (EXCERPT) Act 69 of 1993

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- Search - Advanced

247.957a Designation of routes as Pure Michigan byways.

Sec. 7a.

No later than 1 year after the date the amendatory act that added this section is enacted into law, the department shall designate as Pure Michigan byways all routes that are designated as Michigan heritage routes on the date the amendatory act that added this section is enacted into law, if the department obtains a trademark license from the Michigan economic development corporation for the use of the words "Pure Michigan".

History: Add. 2014, Act 445, Imd. Eff. Dec. 30, 2014

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EXHIBIT 12

TRANSPORTATION
COMMISSION
BARTON W. LaBELLE - Chairman
JACK L. GINGRASS - Vice Chairman
BETTY JEAN AWREY
TED B. WAHBY
LOWELL B. JACKSON
JOHN W. GARSIDE
LH-LAN-0 (01/01)

STATE OF MICHIGAN



JOHN ENGLER, GOVERNOR

DEPARTMENT OF TRANSPORTATION

MURRAY D. VAN WAGONER (TRANSPORTATION) BUILDING
425 WEST OTTAWA STREET - PO BOX 30050, LANSING, MICHIGAN 48909
PHONE: 517-373-2090 FAX: 517-373-0167 WEB SITE: <http://www.mdol.state.mi.us>
GREGORY J. ROSINE, DIRECTOR

May 18, 2001

Ms. Joan Woods, Chairperson
M-22 Scenic Heritage Route Committee
1996 S. Manitou Trail
Leland, Michigan 49654

Dear Ms. Woods:

It is my pleasure to inform you that the M-22 Heritage Route application and nomination process has been successfully completed and that M-22 through Leelanau County, except in Bingham Township, is now designated as a Michigan Scenic Heritage Route.

Designation as a Michigan Scenic Heritage Route signifies that those living and working within the corridor have made a commitment to conserving, enhancing and promoting their area as a unique living and working community.

The M-22 corridor in Leelanau County contains a distinctive blend of scenic, cultural and natural features that make it a worthy addition to the Michigan Scenic Heritage Route system.

As a partner in the M-22 Scenic Heritage Route, I pledge my personal support, and assure you that the Michigan Department of Transportation will continue to endorse this worthwhile accomplishment.

If you have questions or comments, please do not hesitate to call me at (517) 335-2934.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Hanses".

Pete Hanses
Heritage Route Manager



MDOT000155

EXHIBIT 13



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFF
DIRECTOR

January 4, 2005

James J. Steele, Division Administrator
Federal Highway Administration
315 West Allegan Street, Room 211
Lansing, MI 48933

Re: Michigan Manual of Uniform Traffic Control Devices (MMUTCD)

Dear Mr. Steele:

On November 20, 2003, the Federal Highway Administration (FHWA) released the 2003 Federal Manual of Uniform Traffic Control Devices (MUTCD). Both federal and state law requires the State of Michigan to have a manual in compliance with the federal version. To assist the states in the review process, federal law provides an adoption period of two years. Therefore, by November 20, 2005, the State of Michigan must be in compliance.

To make this possible, the Michigan Department of Transportation and State Police, who are responsible for the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), will adopt the 2003 federal version with a supplement. The supplement will address those items in the Michigan Vehicle Code that conflict with the Federal MUTCD, and special items unique to Michigan. Until a supplement is produced, the 1994 MMUTCD will remain the official manual for the State of Michigan.

Enclosed for your approval is the redline/strikeout version of Michigan's supplement. This will allow you and your staff to review the changes proposed by the State Advisory Committee (SAC) of the MMUTCD. The SAC meeting minutes are also enclosed for your information. David Morena, FHWA Traffic and Safety Engineer, is a member of the SAC and has advised the committee during the review process.

If you have any questions, please contact me or Mark W. Bott, Traffic Operations Engineer at 517-335-2625.

Sincerely,

A handwritten signature in black ink that reads "John C. Friend".

John C. Friend
Engineer of Delivery

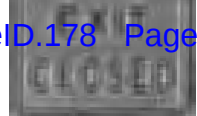
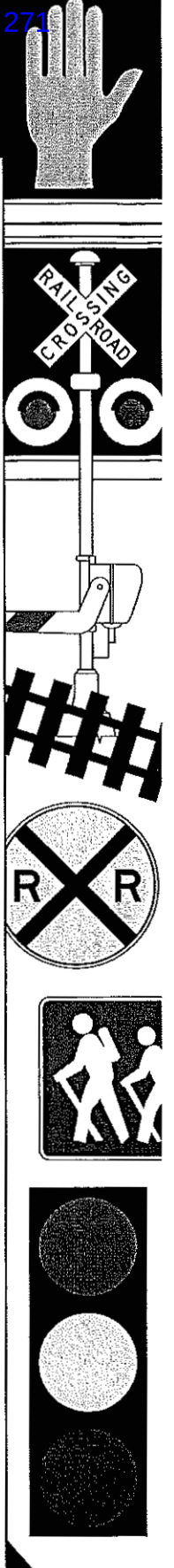
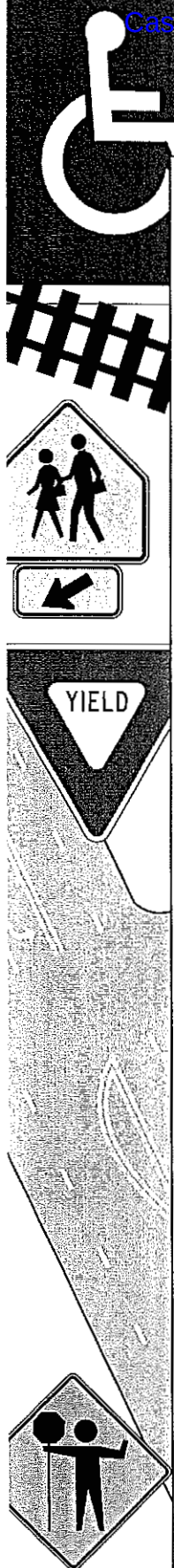
James J. Steele, Division Administrator
January 4, 2005
Page 2

Enclosures

cc: L. Tibbits
J. Culp
A. Uzcategui
P. Corlett
B. Munroe
R. Cadena

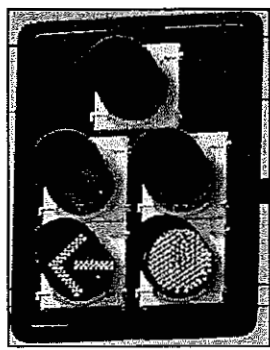
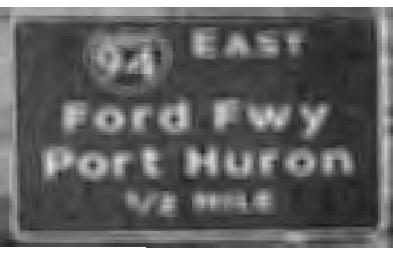
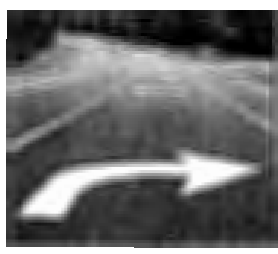
J. Grossklaus
B. Zimmerman
D. Morena, FHWA
L. Cook, MSP
SAC
TSAD

EXHIBIT 14



Manual on Uniform Traffic Control Devices for Streets and Highways

2005 Michigan MUTCD
2003 Federal Edition



SCHOOL



**Manual on Uniform Traffic Control Devices
for Streets and Highways**

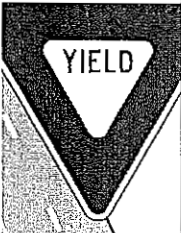
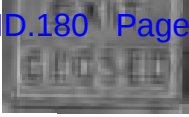
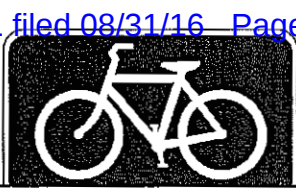


MUTCD

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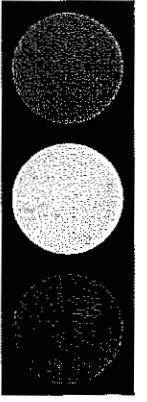
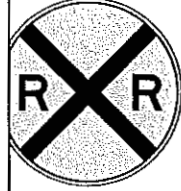
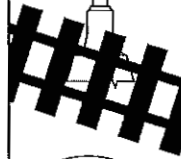
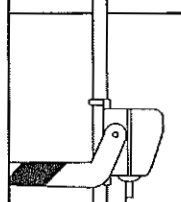
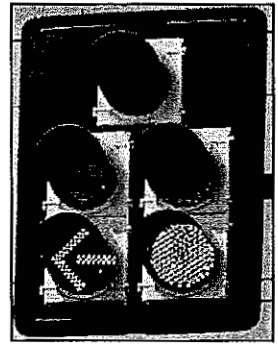
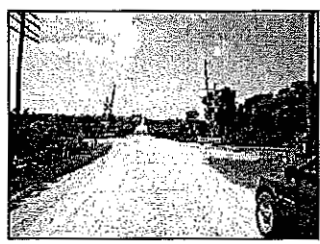
**2005 Michigan
MUTCD
2003 Federal Edition**



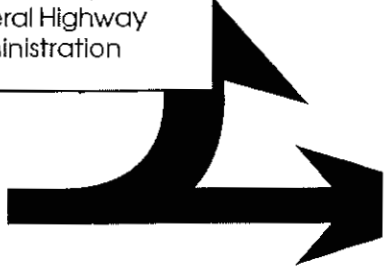



Manual on Uniform Traffic Control Devices for Streets and Highways

2005 Michigan MUTCD
2003 Federal Edition



SCHOOL





The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2). The federal MUTCD can be downloaded at <http://mutcd.fhwa.dot.gov/>

Addresses for Publications Referenced in the MUTCD

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, NW, Suite 249
Washington, DC 20001
www.transportation.org

American Railway Engineering and Maintenance-of-Way Association (AREMA)
8201 Corporate Drive, Suite 1125
Landover, MD 20785-2230
www.arena.org

Federal Highway Administration Report Center
Facsimile number: 301.577.1421
report.center@fhwa.dot.gov

Illuminating Engineering Society (IES)
120 Wall Street, Floor 17
New York, NY 10005
www.iesna.org

Institute of Makers of Explosives
1120 19th Street, NW, Suite 310
Washington, DC 20036-3605
www.ime.org

Institute of Transportation Engineers (ITE)
1099 14th Street, NW, Suite 300 West
Washington, DC 20005-3438
www.ite.org

International Organization for Standards
c/o Mr. Gerard Kuso
Austrian Standards Institute
Heinestrasse 38
Postfach 130
A-1021
Wien, Austria
www.iso.ch

ISEA - The Safety Equipment Association
1901 North Moore Street, Suite 808
Arlington, VA 22209
www.safetyequipment.org

National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)
107 South West Street, Suite 110
Alexandria, VA 22314
www.ncutlo.org

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
www.osha.gov

Transportation Research Board (TRB)
The National Academies
2101 Constitution Avenue, NW
Washington, DC 20418
www.nas.edu/trb

U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
www.access-board.gov

Acknowledgments

The Federal Highway Administration gratefully acknowledges the valuable assistance that it received from the National Committee on Uniform Traffic Control Devices and its over 200 voluntary members in the development of this Manual.




STATE OF MICHIGAN

August 15, 2005

The Federal Highway Administration has approved and issued the 2003 Edition of the *Manual on Uniform Traffic Control Devices* as the National Standard for all highways open to public travel in accordance with Title 23 U.S. Code of Federal Regulations (CFR) Sections 109(d), 114(a), 217, 315, and 402(a), and 23 CFR 655, and 49 CFR 1.48(b)(33), and 1.48(c)(2).

Pursuant to the provisions contained in Section 257.608 of the Michigan Vehicle Code (Public Act 300 of 1949), we certify we have examined this *Manual on Uniform Traffic Control Devices*. We hereby declare the Federal manual is adopted as the official manual for a uniform system of traffic control devices for the State of Michigan subject to such amendments as are set forth in the Michigan Supplement to address unique State laws and policies. Taken together, the Michigan Supplement and the National Manual become the *2005 Michigan Manual of Uniform Traffic Control Devices*. We hereby certify the provisions of the *2005 Michigan Manual on Uniform Traffic Control Devices* constitute the prescribed standards of design, construction, and application of traffic control devices for use upon highways within this State and declare these to be the standards for adoption by the State, counties, and municipalities. The provisions contained herein shall supersede the policies and standards established by all official manuals published previously.


Gloria J. Jeff, Director
Michigan Department of Transportation


Colonel Tadaral J. Sturdivant, Director
Michigan State Police



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GLORIA J. JEFF
DIRECTOR

August 8, 2005

File No. 35-47

Re: Michigan Manual of Uniform Traffic Control Devices (MMUTCD)

The Michigan Department of Transportation (MDOT) and Michigan State Police (MSP), are proud to announce the release of the 2005 Michigan Manual of Uniform Traffic Control Devices (MMUTCD). Both MDOT and MSP, per state law, are responsible for the MMUTCD. The State of Michigan has adopted the 2003 Federal Manual on Traffic Control Devices (MUTCD) with a supplement. The supplement addresses those items in the Michigan Vehicle Code that conflict with the 2003 Federal MUTCD and Special items unique to Michigan.

The effective date of the MMUTCD is August 15, 2005, for all sections except Part 6, Temporary Traffic Control. Part 6, Temporary Traffic Control, will go into effect October 1, 2005. The later date is to allow roadway agencies and contractors to adjust, as necessary, their maintaining traffic plans for projects in the design phase. Until October 1, 2005, the 1994 Edition of Part 6, Construction and Maintenance (Revised January 2001) will govern for temporary traffic control.

Unless a particular traffic control device is damaged, non-compliant devices on existing highways and bikeways shall be brought into compliance with the current edition of the MMUTCD as part of the systematic upgrading of substandard traffic control devices (and installation of new required traffic control devices) required pursuant to the Highway Safety Program, 23 U.S.C. § 402(a). In cases involving Federal-aid projects for new highway or bikeway construction or reconstruction, the traffic control devices installed (temporary or permanent) shall be in conformance with the MMUTCD before that highway is opened or re-opened to the public for unrestricted travel [23 CFR 655.603(d)(2)]. The Federal Highway Administration (FHWA) has the authority to establish other target compliance dates for implementation of particular changes to the MUTCD [23 CFR 655.603(d)(4)]. Attention is directed to Pages I-3(MI) to I-11(MI) of the Introduction for target compliance dates.

In order for maintenance personnel to understand what to do when replacing a damaged non-compliant traffic control device, agencies may establish a policy regarding whether to replace the device in kind or to replace it with a compliant device. Often it is desirable to upgrade to a compliant device at the time of this maintenance of a damaged device. However, it might be appropriate to replace the damaged non-compliant device in kind at the time of this maintenance activity if engineering judgment indicated that:

- a. One compliant device in the midst of a series of adjacent non-compliant devices could potentially be confusing to road users; and/or

August 10, 2005
Page 2

- b. The anticipated schedule for replacement of the whole series of non-compliant devices will result in achieving timely compliance with the MMUTCD.

From time to time there will be revisions to the National MUTCD and the Michigan Supplement. These revisions will be incorporated in the Supplement upon the review and approval of both MDOT and MSP.

The MMUTCD is available from two sources; the MDOT Web site (www.michigan.gov/mdot) and Michigan's Local Technical Assistance Program at Michigan Technological University. Listed below is what is available from each organization:

MDOT Web site

- 2005 MMUTCD (2003 MUTCD with 2005 Michigan Supplement and Change List)
- 2005 Michigan Supplement
- 2003 Federal MUTCD
- 2005 MMUTCD Change List
- 2005 MMUTCD Compliance Dates
- Part 6 Temporary Traffic Control

All above documents are available in Acrobat.pdf format.

Michigan's Local Technical Assistance Program

- 2005 MMUTCD (2003 MUTCD with 2005 Michigan Supplement and Change List)
- 2005 Michigan Supplement

Both items are available in a 3-ring binder version and interactive CD for a nominal cost. Please refer to www.michiganltap.org or call 906-487-2102 for further information regarding the publication.

I would appreciate it if you could pass this information on to those involved with traffic control devices within your organization. Please call me at 517-335-2625 if you have any questions,

Sincerely,

Mark W. Bott
Traffic Operations Engineer

Enclosures

cc:	L. Tibbits	R. Cadena	SAC
	J. Friend	J. Grossklaus	P. Corlett
	J. Culp	B. Zimmerman	L. Cook, MSP
	A. Uzcategui	D. Morena, FHWA	B. Munroe
	A. Clover	T. Colling, Michigan LTAP	J. Townsend



**MICHIGAN SUPPLEMENT
TO THE NATIONAL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES
INTRODUCTION TO THE SUPPLEMENT**

As noted in the preceding certification, the 2005 edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) consists of the November 2003 edition of the National Manual on Uniform Traffic Control Devices (MUTCD), including subsequent official revisions thereto, as amended by this Michigan Supplement to the MUTCD. The MMUTCD (Acrobat.pdf) is available online at www.michigan.gov/mdot and can also be obtained in a 3-ring binder version or CD from Michigan's Local Technical Assistance Program at Michigan Technological University for a nominal cost. Refer to www.michiganltap.org or call 906-487-2102 for further information regarding the publication.

The part, section and paragraph numbers used in this supplement match the like numbers used in the MUTCD. Pages from this supplement are identified with a (MI) next to the page number. Sections modified from the MUTCD are identified with a (MI) next to the section title. Where no reference is made to a part, section or paragraph of the MUTCD, said part, section or paragraph has not been amended. Unless specifically noted, none of the provisions of the MUTCD are omitted. Where a section number appears in this supplement with the letters MI added before the paragraph number followed by (Michigan), such as 2C.MI59 (Michigan), such paragraph has no direct counterpart in the MUTCD. All modifications in the supplement are identified by a State of Michigan symbol in the page margin. New language added to the supplement which differs from the MUTCD is highlighted.

The meanings of the text headings of "Standard," "Guidance", "Option," and "Support" have the same meanings in this supplement as they do in the MUTCD. Attention is directed to Pages I-1 to I-3 of the Introduction to the MUTCD. Direct references from Michigan Statute are shown in italics and are current at this Supplement's publication date. All references to the Standard Highway Signs book will pertain to the Michigan version.

Unless a particular traffic control device is damaged, non-compliant devices on existing highways and bikeways shall be brought into compliance with the current edition of the MMUTCD as part of the systematic upgrading of substandard traffic control devices (and installation of new required traffic control devices) required pursuant to the Highway Safety Program, 23 U.S.C. § 402(a). In cases involving Federal-aid projects for new highway or bikeway construction or reconstruction, the traffic control devices installed (temporary or permanent) shall be in conformance with the MMUTCD before that highway is opened or re-opened to the public for unrestricted travel [23 CFR 655.603(d)(2)]. The Federal Highway Administration (FHWA) has the authority to establish other target compliance dates for implementation of particular changes to the MUTCD [23 CFR 655.603(d)(4)]. Attention is directed to Pages I-3 to I-6 of the Introduction for target compliance dates.

In order for maintenance personnel to understand what to do when replacing a damaged non-compliant traffic control device, agencies may establish a policy regarding whether to replace the device in kind or to replace it with a compliant device. Often it is a desirable to upgrade to a compliant device at the time of this maintenance of a damaged device. However, it might be appropriate to replace the damaged non-compliant device in kind at the time of this maintenance activity if engineering judgment indicates that:

- a. One compliant device in the midst of a series of adjacent non-compliant devices could potentially be confusing to road users; and/or
- b. The anticipated schedule for replacement of the whole series of non-compliant devices will result in achieving timely compliance with the MMUTCD.

From time to time there will be revisions to the National MUTCD and the Michigan Supplement. These revisions will be incorporated in the Supplement upon the review and approval of both the Michigan Department of Transportation and the State Police.

The MUTCD makes reference to the Uniform Vehicle Code (UVC). However, the Michigan Vehicle Code (Public Act 300 of 1949) (MVC) shall govern over the UVC. Section 257.608 of the Michigan Vehicle Code contains the authority for the MMUTCD. Sections 257.609 and 257.610 establish the responsibility for the erection and maintenance of traffic control devices on state highways and on county and local roads. Various other sections of the Michigan Vehicle Code, particularly in Chapter 257, deal with specific traffic regulations and control devices. All references from Michigan Statute, as shown in this Supplement, may not be current; therefore, Michigan Statute takes precedence.

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

INTRODUCTION

Standard:

Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bikeway by authority of a public agency having jurisdiction.

The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.

Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any other items owned by FHWA.

Support:

The need for uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO), now known as the American Association of State Highway and Transportation Officials (AASHTO), published a manual for rural highways in 1927, and the National Conference on Street and Highway Safety (NCSHS) published a manual for urban streets in 1930. In the early years, the necessity for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of AASHO and NCSHS developed and published the original edition of this Manual on Uniform Traffic Control Devices (MUTCD) in 1935. That committee, now called the National Committee on Uniform Traffic Control Devices (NCUTCD), though changed from time to time in name, organization, and personnel, has been in continuous existence and has contributed to periodic revisions of this Manual. The FHWA has administered the MUTCD since the 1971 edition. The FHWA and its predecessor organizations have participated in the development and publishing of the previous editions. There were eight previous editions of the MUTCD, and several of those editions were revised one or more times. Table I-1 traces the evolution of the MUTCD, including the two manuals developed by AASHO and NCSHS.

Standard:

The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the FHWA.

Support:

23 CFR 655.603 adopts the MUTCD as the national standard for any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The "Uniform Vehicle Code (UVC)" is one of the publications referenced in the MUTCD. The UVC contains a model set of motor vehicle codes and traffic laws for use throughout the United States. The States are encouraged to adopt Section 15-116 of the UVC, which states that, "No person shall install or maintain in any area of private property used by the public any sign, signal, marking, or other device intended to regulate, warn, or guide traffic unless it conforms with the State manual and specifications adopted under Section 15-104."

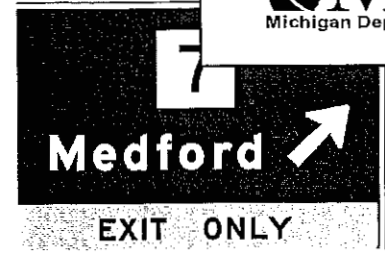
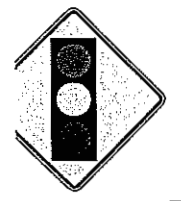
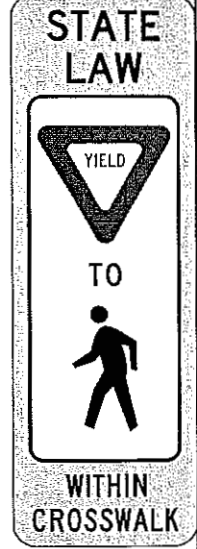
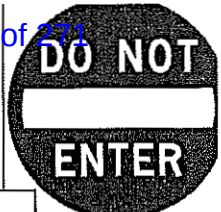
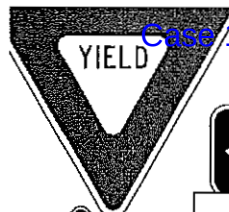
The Standard, Guidance, Option, and Support material described in this edition of the MUTCD provide the transportation professional with the information needed to make appropriate decisions regarding the use of traffic control devices on streets and highways. The material in this edition is organized to better differentiate between Standards that must be satisfied for the particular circumstances of a situation, Guidances that should be followed for the particular circumstances of a situation, and Options that may be applicable for the particular circumstances of a situation.

Throughout this Manual the headings Standard, Guidance, Option, and Support are used to classify the nature of the text that follows. Figures, tables, and illustrations supplement the text and might constitute a Standard, Guidance, Option, or Support. The user needs to refer to the appropriate text to classify the nature of the figure, table, or illustration.

Standard:

When used in this Manual, the text headings shall be defined as follows:

1. **Standard**—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All standards are labeled, and the text appears in bold type. The verb shall is typically used. Standards are sometimes modified by Options.



Manual on Uniform Traffic Control Devices for Streets and Highways



2005 Michigan MUTCD 2003 Federal Edition

Part 2 Signs

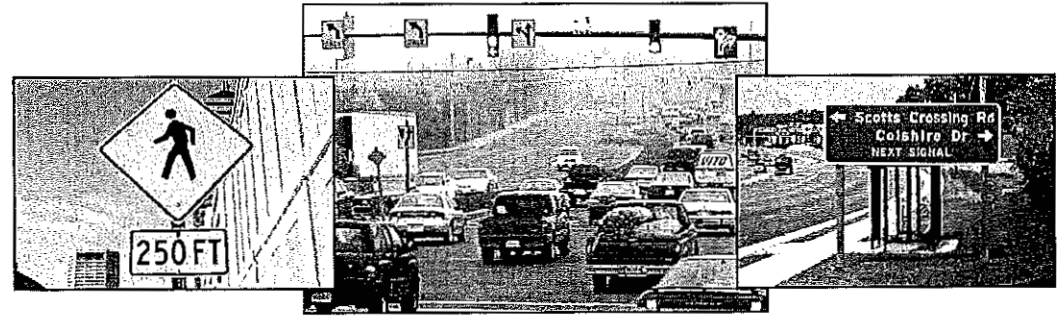




Figure 2D-3. Route Signs (MI)

Interstate Route Sign
M1-1Off-Interstate Business Route Sign
M1-2 (Loop)
M1-3 (Spur)U.S. Route Sign
M1-4County Route Sign
M1-5Michigan Route Sign
M1-6Forest Route Sign
M1-7**Option:**

Interstate Route signs may contain the State name in white upper-case letters on a blue background.

Standard:

Off-Interstate Business Route signs (see Figure 2D-3) shall consist of a cutout shield carrying the number of the connecting Interstate route and the words **BUSINESS** and either **LOOP** or **SPUR** in capital letters. The legend and border shall be white on a green background, and the shield shall be the same shape and dimensions as the Interstate Route sign. In no instance shall the word **INTERSTATE** appear on the Off-Interstate Business Route sign.

Option:

The Off-Interstate Business Route sign may be used on a major highway that is not a part of the Interstate system, but one that serves the business area of a City from an interchange on the system. When used on a green guide sign, a white square or rectangle may be placed behind the shield to improve contrast.

Standard:

U.S. Route signs (see Figure 2D-3) shall consist of black numerals on a white shield surrounded by a black background without a border. This sign shall be used on all U.S. routes and in connection with route sign assemblies on intersecting highways.

A 600 x 600 mm (24 x 24 in) minimum sign size shall be used for U.S. route numbers with one or two digits, and a 750 x 600 mm (30 x 24 in) minimum sign size shall be used for U.S. route numbers having three digits.



The Michigan State Route signs shall be the M1-6 (see Figure 2D-3).

Guidance:

State Route signs (see Figure 2D-3) should be rectangular and should be approximately the same size as the U.S. Route sign. State Route signs should also be similar to the U.S. Route sign by containing approximately the same size black numerals on a white area surrounded by a black background without a border. The shape of the white area should be circular in the absence of any determination to the contrary by the individual State concerned.

Standard:

If County road authorities elect to establish and identify a special system of important County roads, a statewide policy for such signing shall be established that includes a uniform numbering system to uniquely identify each route. The County Route (M1-5) sign (see Figure 2D-3) shall consist of a pentagon shape with a yellow County name and route number and border on a blue background. County Route signs displaying two digits or the equivalent (letter and numeral, or two letters) shall be a minimum size of 450 x 450 mm (18 x 18 in); those carrying three digits or the equivalent shall be a minimum size of 600 x 600 mm (24 x 24 in).

EXHIBIT 15



U.S. Department
of Transportation
**Federal Highway
Administration**

RECEIVED

JAN 11 2005

Michigan Division

315 West Allegan Street, Room 201
Lansing, Michigan 48933

January 7, 2005

Jim

Mr. John C. Friend
Engineer of Delivery – B 235
Michigan Department of Transportation
P.O. Box 30050
Lansing, MI 48909

Dear Mr. Friend:

Thank you for your January 4, 2001 submittal of the redline/strikeout version of the proposed Michigan supplement to the 2003 national Manual on Uniform Traffic Control Devices (MUTCD). Thank you also for including our personnel in the committee deliberations that led to the proposed supplement.

We approve this supplement for use in Michigan, to be used in conjunction with the 2003 national MUTCD. The modifications contained in the supplement fall within the range of individual State authority and maintain substantial compliance with the base (2003) document. Please proceed to publish and distribute the Michigan supplement.

Sincerely,

David A. Morena

David A. Morena
Safety & Traffic Operations Engineer

For: James J. Steele
Division Administrator



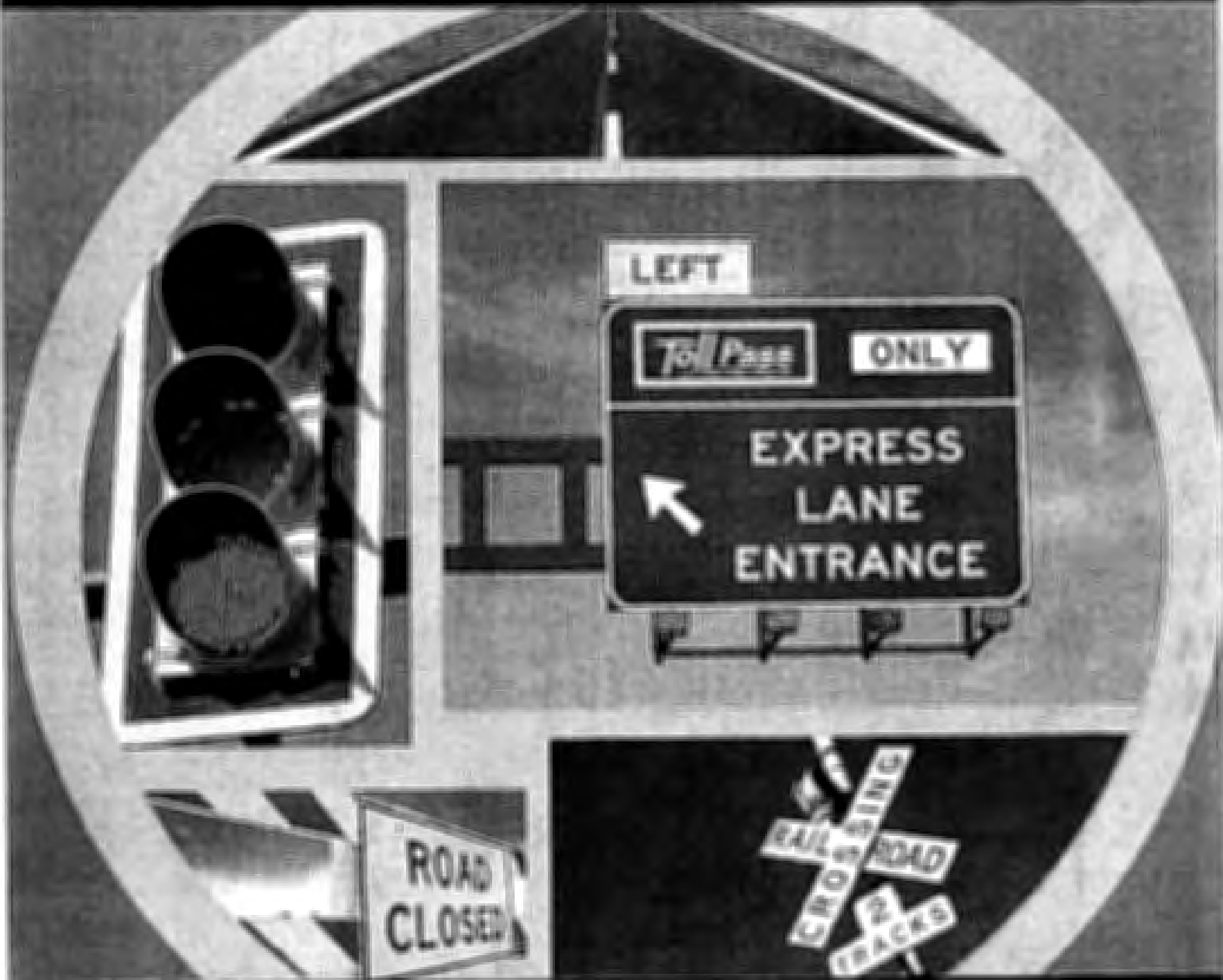
EXHIBIT 16

Manual on Uniform Traffic Control Devices

for Streets and Highways

2009 Edition

Including Revision 1 dated May 2012
and Revision 2 dated May 2012





Manual on Uniform Traffic Control Devices

2009
Edition

The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

Addresses for Publications Referenced in the MUTCD

American Automobile Association (AAA)
1000 AAA Drive
Heathrow, FL 32746
www.aaa.com
800-222-4357

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, NW, Suite 249
Washington, DC 20001
www.transportation.org
202-624-5800

American National Standards Institute (ANSI)
1819 L Street, NW, 6th Floor
Washington, DC 20036
www.ansi.org
202-293-8020

American Railway Engineering and Maintenance-of-Way Association (AREMA)
10003 Derekwood Lane, Suite 210
Lanham, MD 20706
www.arema.org
301-459-3200

Federal Highway Administration Report Center
Facsimile number: 814-239-2156
report.center@fhwa.dot.gov

Illuminating Engineering Society (IES)
120 Wall Street, Floor 17
New York, NY 10005
www.iesna.org
212-248-5000

Institute of Makers of Explosives
1120 19th Street, NW, Suite 310
Washington, DC 20036-3605
www.ime.org
202-429-9280

Institute of Transportation Engineers (ITE)
1099 14th Street, NW, Suite 300 West
Washington, DC 20005-3438
www.ite.org
202-289-0222

International Organization for Standardization
1, ch. de la Voie-Creuse
Case Postale 56
CH-1211
Geneva 20, Switzerland
www.iso.ch
011-41-22-749-0111

International Safety Equipment Association (ISEA)
1901 North Moore Street, Suite 808
Arlington, VA 22209
www.safetysystem.org
703-525-1695

National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)
107 South West Street, Suite 110
Alexandria, VA 22314
www.ncutlo.org
800-807-5290

National Electrical Manufacturers Association (NEMA)
1300 North 17th Street, Suite 1752
Rosslyn, VA 22209
www.nema.org
703-841-3200

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
www.osha.gov
800-321-6742

Transportation Research Board (TRB)
The National Academies
500 Fifth Street, NW
Washington, DC 20001
www.nas.edu/trb
202-334-3072

U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
www.access-board.gov
202-272-0080

Acknowledgments

The Federal Highway Administration gratefully acknowledges the valuable assistance that it received from the National Committee on Uniform Traffic Control Devices and its more than 250 voluntary members in the development of this Manual.

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MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

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MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES INTRODUCTION

Standard:

01 **Traffic control devices shall be defined as all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, bikeway, or private road open to public travel (see definition in Section 1A.13) by authority of a public agency or official having jurisdiction, or, in the case of a private road, by authority of the private owner or private official having jurisdiction.**

02 **The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel (see definition in Section 1A.13) in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.**

03 **In accordance with 23 CFR 655.603(a), for the purposes of applicability of the MUTCD:**

- A. **Toll roads under the jurisdiction of public agencies or authorities or public-private partnerships shall be considered to be public highways;**
- B. **Private roads open to public travel shall be as defined in Section 1A.13; and**
- C. **Parking areas, including the driving aisles within those parking areas, that are either publicly or privately owned shall not be considered to be "open to public travel" for purposes of MUTCD applicability.**

04 **Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any items owned by FHWA.**

Support:

05 Pictographs, as defined in Section 1A.13, are embedded in traffic control devices but the pictographs themselves are not considered traffic control devices for the purposes of Paragraph 4.

06 The need for uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO), now known as the American Association of State Highway and Transportation Officials (AASHTO), published a manual for rural highways in 1927, and the National Conference on Street and Highway Safety (NCSHS) published a manual for urban streets in 1930. In the early years, the necessity for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of AASHO and NCSHS developed and published the original edition of this Manual on Uniform Traffic Control Devices (MUTCD) in 1935. That committee, now called the National Committee on Uniform Traffic Control Devices (NCUTCD), though changed from time to time in name, organization, and personnel, has been in continuous existence and has contributed to periodic revisions of this Manual. The FHWA has administered the MUTCD since the 1971 edition. The FHWA and its predecessor organizations have participated in the development and publishing of the previous editions. There were nine previous editions of the MUTCD, and several of those editions were revised one or more times. Table I-1 traces the evolution of the MUTCD, including the two manuals developed by AASHO and NCSHS.

Standard:

07 **The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the FHWA.**

Support:

08 The "Uniform Vehicle Code (UVC)" is one of the publications referenced in the MUTCD. The UVC contains a model set of motor vehicle codes and traffic laws for use throughout the United States.

Guidance:

09 *The States should adopt Section 15-116 of the UVC, which states that, "No person shall install or maintain in any area of private property used by the public any sign, signal, marking, or other device intended to regulate, warn, or guide traffic unless it conforms with the State manual and specifications adopted under Section 15-104."*

Table I-1. Evolution of the MUTCD

Year	Name	Month / Year Revised
1927	Manual and Specifications for the Manufacture, Display, and Erection of U.S. Standard Road Markers and Signs (for rural roads)	4/29, 12/31
1930	Manual on Street Traffic Signs, Signals, and Markings (for urban streets)	No revisions
1935	Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)	2/39
1942	Manual on Uniform Traffic Control Devices for Streets and Highways — War Emergency Edition	No revisions
1948	Manual on Uniform Traffic Control Devices for Streets and Highways	9/54
1961	Manual on Uniform Traffic Control Devices for Streets and Highways	No revisions
1971	Manual on Uniform Traffic Control Devices for Streets and Highways	11/71, 4/72, 3/73, 10/73, 6/74, 6/75, 9/76, 12/77
1978	Manual on Uniform Traffic Control Devices for Streets and Highways	12/79, 12/83, 9/84, 3/86
1988	Manual on Uniform Traffic Control Devices for Streets and Highways	1/90, 3/92, 9/93, 11/94, 12/96, 6/98, 1/00
2000	Manual on Uniform Traffic Control Devices for Streets and Highways — Millennium Edition	7/02
2003	Manual on Uniform Traffic Control Devices for Streets and Highways	11/04, 12/07
2009	Manual on Uniform Traffic Control Devices for Streets and Highways	

Support:

10 The Standard, Guidance, Option, and Support material described in this edition of the MUTCD provide the transportation professional with the information needed to make appropriate decisions regarding the use of traffic control devices on streets, highways, bikeways, and private roads open to public travel (see definition in Section 1A.13).

11 Throughout this Manual the headings Standard, Guidance, Option, and Support are used to classify the nature of the text that follows. Figures and tables, including the notes contained therein, supplement the text and might constitute a Standard, Guidance, Option, or Support. The user needs to refer to the appropriate text to classify the nature of the figure, table, or note contained therein.

Standard:

12 **When used in this Manual, the text headings of Standard, Guidance, Option, and Support shall be as defined in Paragraph 1 of Section 1A.13.**

Support:

13 Throughout this Manual all dimensions and distances are provided in English units. Appendix A2 contains tables for converting each of the English unit numerical values that are used in this Manual to the equivalent Metric (International System of Units) values.

Guidance:

14 *If Metric units are to be used in laying out distances or determining sizes of devices, such units should be specified on plan drawings and made known to those responsible for designing, installing, or maintaining traffic control devices.*

15 *Except when a specific numeral is required or recommended by the text of a Section of this Manual, numerals displayed on the images of devices in the figures that specify quantities such as times, distances, speed limits, and weights should be regarded as examples only. When installing any of these devices, the numerals should be appropriately altered to fit the specific situation.*

Support:

16 The following information will be useful when reference is being made to a specific portion of text in this Manual.

17 There are nine Parts in this Manual and each Part is comprised of one or more Chapters. Each Chapter is comprised of one or more Sections. Parts are given a numerical identification, such as Part 2 – Signs. Chapters are identified by the Part number and a letter, such as Chapter 2B – Regulatory Signs, Barricades, and Gates. Sections are identified by the Chapter number and letter followed by a decimal point and a number, such as Section 2B.03 – Size of Regulatory Signs.

39. "Guidelines for Accessible Pedestrian Signals (NCHRP Web-Only Document 117B)," 2008 Edition (TRB)
40. "Highway Capacity Manual," 2000 Edition (TRB)
41. "Recommended Procedures for the Safety Performance Evaluation of Highway Features," (NCHRP Report 350), 1993 Edition (TRB)
42. "The Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)," July 1998 Edition (The U.S. Access Board)

Section 1A.12 Color Code

Support:

- 01 The following color code establishes general meanings for 11 colors of a total of 13 colors that have been identified as being appropriate for use in conveying traffic control information. tolerance limits for each color are contained in 23 CFR Part 655, Appendix to Subpart F and are available at the Federal Highway Administration's MUTCD website at <http://mutcd.fhwa.dot.gov> or by writing to the FHWA, Office of Safety Research and Development (HRD-T-301), 6300 Georgetown Pike, McLean, VA 22101.
- 02 The two colors for which general meanings have not yet been assigned are being reserved for future applications that will be determined only by FHWA after consultation with the States, the engineering community, and the general public. The meanings described in this Section are of a general nature. More specific assignments of colors are given in the individual Parts of this Manual relating to each class of devices.

Standard:

- 03 **The general meaning of the 13 colors shall be as follows:**
 - A. **Black—regulation**
 - B. **Blue—road user services guidance, tourist information, and evacuation route**
 - C. **Brown—recreational and cultural interest area guidance**
 - D. **Coral—unassigned**
 - E. **Fluorescent Pink—incident management**
 - F. **Fluorescent Yellow-Green—pedestrian warning, bicycle warning, playground warning, school bus and school warning**
 - G. **Green—indicated movements permitted, direction guidance**
 - H. **Light Blue—unassigned**
 - I. **Orange—temporary traffic control**
 - J. **Purple—lanes restricted to use only by vehicles with registered electronic toll collection (ETC) accounts**
 - K. **Red—stop or prohibition**
 - L. **White—regulation**
 - M. **Yellow—warning**

Section 1A.13 Definitions of Headings, Words, and Phrases in this Manual

Standard:

- 01 When used in this Manual, the text headings of Standard, Guidance, Option, and Support shall be defined as follows:
 - A. **Standard**—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb "shall" is typically used. The verbs "should" and "may" are not used in Standard statements. Standard statements are sometimes modified by Options.
 - B. **Guidance**—a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements are labeled, and the text appears in unbold type. The verb "should" is typically used. The verbs "shall" and "may" are not used in Guidance statements. Guidance statements are sometimes modified by Options.
 - C. **Option**—a statement of practice that is a permissive condition and carries no requirement or recommendation. Option statements sometime contain allowable modifications to a Standard or Guidance statement. All Option statements are labeled, and the text appears in unbold type. The verb "may" is typically used. The verbs "shall" and "should" are not used in Option statements.
 - D. **Support**—an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements are labeled, and the text appears in unbold type. The verbs "shall," "should," and "may" are not used in Support statements.

Rev. 1

EXHIBIT 17

Manual on **Uniform Traffic Control Devices**

*2011 Michigan MUTCD
2009 Federal Edition*



U.S. Department of Transportation
**Federal Highway
Administration**

Revised September 2013

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The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2). The Federal MUTCD can be downloaded at <http://mutcd.fhwa.dot.gov/>.

Addresses for Publications Referenced in the MUTCD

American Automobile Association (AAA)
1000 AAA Drive
Heathrow, FL 32746
www.aaa.com
800-222-4357

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, NW, Suite 249
Washington, DC 20001
www.transportation.org
202-624-5800

American National Standards Institute (ANSI)
1819 L Street, NW, 6th Floor
Washington, DC 20036
www.ansi.org
202-293-8020

American Railway Engineering and Maintenance-of-Way Association (AREMA)
10003 Derekwood Lane, Suite 210
Lanham, MD 20706
www.arema.org
301-459-3200

Federal Highway Administration Report Center
Facsimile number: 814-239-2156
report.center@fhwa.dot.gov

Illuminating Engineering Society (IES)
120 Wall Street, Floor 17
New York, NY 10005
www.iesna.org
212-248-5000

Institute of Makers of Explosives
1120 19th Street, NW, Suite 310
Washington, DC 20036-3605
www.ime.org
202-429-9280

Institute of Transportation Engineers (ITE)
1099 14th Street, NW, Suite 300 West
Washington, DC 20005-3438
www.ite.org
202-289-0222

International Organization for Standardization
1, ch. de la Voie-Creuse
Case Postale 56
CH-1211
Geneva 20, Switzerland
www.iso.ch
011-41-22-749-0111

International Safety Equipment Association (ISEA)
1901 North Moore Street, Suite 808
Arlington, VA 22209
www.safetyequipment.org
703-525-1695

National Committee on Uniform Traffic Laws and Ordinances (NCUTLO)
107 South West Street, Suite 110
Alexandria, VA 22314
www.ncutlo.org
800-807-5290

National Electrical Manufacturers Association (NEMA)
1300 North 17th Street, Suite 1752
Rosslyn, VA 22209
www.nema.org
703-841-3200

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210
www.osha.gov
800-321-6742

Transportation Research Board (TRB)
The National Academies
500 Fifth Street, NW
Washington, DC 20001
www.nas.edu/trb
202-334-3072

U.S. Architectural and Transportation Barriers Compliance Board (The U.S. Access Board)
1331 F Street, NW, Suite 1000
Washington, DC 20004-1111
www.access-board.gov
202-272-0080


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MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

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STATE OF MICHIGAN

December 1, 2011

The Federal Highway Administration has approved and issued the 2009 Edition of the Manual on Uniform Traffic Control Devices as the National Standard for all highways open to public travel in accordance with Title 23 U.S. Code of Federal Regulations (CFR) Sections 109(d), 114(a), 217, 315, and 402(a), and 23 CFR 655, and 49 CFR 1.48(b)(33) and 1.48(c)(2).

Pursuant to the provisions contained in Section 257.608 of the Michigan Vehicle Code (Public Act 300 of 1949), we certify we have examined this Manual on Uniform Traffic Control Devices. We hereby declare the Federal manual is adopted as the official manual for a uniform system of traffic control devices for the State of Michigan subject to such amendments as are set forth in Michigan to address unique State laws and policies. Taken together, the Michigan Amendments and the Federal Manual become the 2011 Michigan Manual on Uniform Traffic Control Devices. We hereby certify the provisions of the 2011 Michigan Manual on Uniform Traffic Control Devices constitute the prescribed standards of design, construction, and application of traffic control devices for use upon roadways and public parking areas within this State and declare these to be the standards for adoption by the State, counties, and municipalities. The provisions contained herein shall supersede the policies and standards established by all official manuals published previously.

Handwritten signature of Kirk T. Steudle in black ink.

Kirk T. Steudle, Director
Michigan Department of Transportation

Handwritten signature of Colonel Kriste Kibbey Etue in black ink.

Colonel Kriste Kibbey Etue, Director
Michigan State Police



MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES
INTRODUCTION TO MICHIGAN EDITION

As noted in the preceding certification, the 2011 edition of the *Michigan Manual on Uniform Traffic Control Devices* (MMUTCD) consists of the 2009 edition of the *Federal Manual on Uniform Traffic Control Devices* (MUTCD), including subsequent official revisions thereto, as amended by this Michigan Edition.

The part, section, and paragraph numbers used in this state specific edition match the like numbers used in the MUTCD. Pages with revisions are identified with a (MI) next to the page number. Where no reference is made to a part, section, or paragraph of the MUTCD, said part, section, or paragraph has not been amended. Unless specifically noted, none of the provisions of the MUTCD are omitted. Where a section number appears in this supplement with the letters MI added before the paragraph number followed by (Michigan), such as 2C.MI67 (Michigan), such paragraph has no direct counterpart in the MUTCD. All modifications in the MMUTCD are identified by a State of Michigan Symbol in the page margin. New language added which differs from the MUTCD is highlighted.

The meanings of the text headings of “Standard,” “Guidance,” “Option,” and “Support” have the same meanings in this state specific edition as they do in the MUTCD. Direct references from Michigan Statute are current at publication date. All references to the Standard Highway Signs book will pertain to the Michigan version.

From time to time, there will be revisions to the Federal MUTCD and the MMUTCD. These revisions will be incorporated in the manual upon review and approval of both the Michigan Department of Transportation and the Michigan State Police. The MUTCD makes reference to the Uniform Vehicle Code (UVC). However, the Michigan Vehicle Code (Public Act 300 of 1949) (MVC) shall govern over the UVC. Section 257.608 of the MVC contains the authority for the MMUTCD. Sections 257.609 and 257.610 establish the responsibility for the erection and maintenance of traffic control devices on state highways and on county and local roads. Various other sections of the MVC, particularly in Chapter 257, deal with specific traffic regulations and control devices. All references from Michigan Statute, as shown in the manual, may not be current; therefore, Michigan Statute takes precedence.

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES INTRODUCTION

Standard:

- 01 Traffic control devices shall be defined as all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic as per Section 257.70 of the "Michigan Vehicle Code".
- 01A A peace officer may enter upon a private road that is open to the general public to enforce provisions of this act if signs meeting the requirements of the manual are posted on the private road per Section 257.601a(2) of the "Michigan Vehicle Code".
- 01B A sign or other traffic control device required in a parking area shall conform to the requirements of the manual per Michigan State Statute 257.942b.
- 02 The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 Code of Federal Regulations (CFR), Part 655, Subpart F and shall be recognized as the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel (see definition in Section 1A.13) in accordance with 23 U.S.C. 109(d) and 402(a). The policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices shall be as described in 23 CFR 655, Subpart F.
- 03 In accordance with 23 CFR 655.603(a), and Michigan State Statute for the purposes of applicability of the MUTCD:
- A. Toll roads under the jurisdiction of public agencies or authorities or public-private partnerships shall be considered to be public highways;
 - B. Private roads open to public travel shall be as defined in Section 1A.13; and
 - C. Per Michigan State Statute 257.941, parking area means an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution, or similar building or location. Shopping center means a minimum area of 3 acres of land on which there is located 1 or more stores or business establishments, and where there is provided a parking area.
- 04 Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any items owned by FHWA.

Support:

- 05 Pictographs, as defined in Section 1A.13, are embedded in traffic control devices but the pictographs themselves are not considered traffic control devices for the purposes of Paragraph 4.
- 06 The need for uniform standards was recognized long ago. The American Association of State Highway Officials (AASHO), now known as the American Association of State Highway and Transportation Officials (AASHTO), published a manual for rural highways in 1927, and the National Conference on Street and Highway Safety (NCSHS) published a manual for urban streets in 1930. In the early years, the necessity for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of AASHO and NCSHS developed and published the original edition of this Manual on Uniform Traffic Control Devices (MUTCD) in 1935. That committee, now called the National Committee on Uniform Traffic Control Devices (NCUTCD), though changed from time to time in name, organization, and personnel, has been in continuous existence and has contributed to periodic revisions of this Manual. The FHWA has administered the MUTCD since the 1971 edition. The FHWA and its predecessor organizations have participated in the development and publishing of the previous editions. There were nine previous editions of the MUTCD, and several of those editions were revised one or more times. Table I-1 traces the evolution of the MUTCD, including the two manuals developed by AASHO and NCSHS. Table I-1a shows the history of the Michigan Manual.

Standard:

- 07 The U.S. Secretary of Transportation, under authority granted by the Highway Safety Act of 1966, decreed that traffic control devices on all streets and highways open to public travel in accordance with 23 U.S.C. 109(d) and 402(a) in each State shall be in substantial conformance with the Standards issued or endorsed by the FHWA.

Support:

- 08 The "Uniform Vehicle Code (UVC)" is one of the publications referenced in the MUTCD. The UVC contains a model set of motor vehicle codes and traffic laws for use throughout the United States. In Michigan, the "Michigan Vehicle Code" (MVC) contains motor vehicle codes and traffic laws for use in Michigan. The MVC takes precedent over the UVC. Where appropriate, sections from Michigan State Statute including the MVC have been added to this manual. All references from the MVC may not be current; therefore, current Michigan Statute takes precedence.

PART 2

SIGNS

CHAPTER 2A. GENERAL

Section 2A.01 Function and Purpose of Signs

Support:

- 01 This Manual contains Standards, Guidance, and Options for the signing of all types of highways, and private roads open to public travel. The functions of signs are to provide regulations, warnings, and guidance information for road users. Words, symbols, and arrows are used to convey the messages. Signs are not typically used to confirm rules of the road.
- 02 Detailed sign requirements are located in the following Chapters of Part 2:
- Chapter 2B — Regulatory Signs, Barricades, and Gates
 - Chapter 2C — Warning Signs and Object Markers
 - Chapter 2D — Guide Signs for Conventional Roads
 - Chapter 2E — Guide Signs for Freeways and Expressways
 - Chapter 2F — Toll Road Signs
 - Chapter 2G — Preferential and Managed Lane Signs
 - Chapter 2H — General Information Signs
 - Chapter 2I — General Service Signs
 - Chapter 2J — Specific Service (Logo) Signs
 - Chapter 2K — Tourist-Oriented Directional Signs
 - Chapter 2L — Changeable Message Signs
 - Chapter 2M — Recreational and Cultural Interest Area Signs
 - Chapter 2N — Emergency Management Signs

Standard:

- 03 **Because the requirements and standards for signs depend on the particular type of highway upon which they are to be used, the definitions for freeway, expressway, conventional road, and special purpose road given in Section 1A.13 shall apply in Part 2.**

Section 2A.02 Definitions

Support:

- 01 Definitions and acronyms that are applicable to signs are given in Sections 1A.13 and 1A.14.

Section 2A.03 Standardization of Application

Support:

- 01 It is recognized that urban traffic conditions differ from those in rural environments, and in many instances signs are applied and located differently. Where pertinent and practical, this Manual sets forth separate recommendations for urban and rural conditions.

Guidance:

- 02 *Signs should be used only where justified by engineering judgment or studies, as provided in Section 1A.09.*
- 03 *Results from traffic engineering studies of physical and traffic factors should indicate the locations where signs are deemed necessary or desirable.*
- 04 *Roadway geometric design and sign application should be coordinated so that signing can be effectively placed to give the road user any necessary regulatory, warning, guidance, and other information.*

Standard:

- 05 **Each standard sign shall be displayed only for the specific purpose as prescribed in this Manual. Determination of the particular signs to be applied to a specific condition shall be made in accordance with the provisions set forth in Part 2. Before any new highway, private road open to public travel (see definition in Section 1A.13), detour, or temporary route is opened to public travel, all necessary signs shall be in place. Signs required by road conditions or restrictions shall be removed when those conditions cease to exist or the restrictions are withdrawn.**

Section 2A.04 Excessive Use of Signs

Guidance:

- 01 *Regulatory and warning signs should be used conservatively because these signs, if used to excess, tend to lose their effectiveness. If used, route signs and directional guide signs should be used frequently because their use promotes efficient operations by keeping road users informed of their location.*

Section 2D.11 Design of Route Signs**Standard:**

01 The “Standard Highway Signs and Markings” book (see Section 1A.11) shall be used for designing route signs. Other route sign designs shall be established by the authority having jurisdiction.

02 Interstate Route signs (see Figure 2D-3) shall consist of a cutout shield, with the route number in white letters on a blue background, the word INTERSTATE in white upper-case letters on a red background, and a white border. This sign shall be used on all Interstate routes and in connection with route sign assemblies on intersecting highways.

03 A 24 x 24-inch minimum sign size shall be used for Interstate route numbers with one or two digits, and a 30 x 24-inch minimum sign size shall be used for Interstate route numbers having three digits.

Option:

04 Interstate Route signs may contain the State name in white upper-case letters on a blue background.

Standard:

05 Off-Interstate Business Route signs (see Figure 2D-3) shall consist of a cutout shield carrying the number of the connecting Interstate route and the words BUSINESS and either LOOP or SPUR in upper-case letters. The legend and border shall be white on a green background, and the shield shall be the same shape and dimensions as the Interstate Route sign. In no instance shall the word INTERSTATE appear on the Off-Interstate Business Route sign.

Option:

06 The Off-Interstate Business Route sign may be used on a major highway that is not a part of the Interstate system, but one that serves the business area of a city from an interchange on the system.

07 When used on a green guide sign, a white square or rectangle may be placed behind the shield to improve contrast.

Standard:

08 U.S. Route signs (see Figure 2D-3) shall consist of black numerals on a white shield surrounded by a rectangular black background without a border. This sign shall be used on all U.S. routes and in connection with route sign assemblies on intersecting highways.

09 A 24 x 24-inch minimum sign size shall be used for U.S. route numbers with one or two digits, and a 30 x 24-inch minimum sign size shall be used for U.S. route numbers having three digits.

10 The Michigan State Route signs shall be the M1-6 (see Figure 2D-3).

Guidance:

11 State Route signs (see Figure 2D-3) should be rectangular and should be approximately the same size as the U.S. Route sign. State Route signs should also be similar to the U.S. Route sign by containing approximately the same size black numerals on a white area surrounded by a rectangular black background without a border. The shape of the white area should be circular in the absence of any determination to the contrary by the individual State concerned.

12 Where U.S. or State Route signs are used as components of guide signs, only the distinctive shape of the shield itself and the route numerals within should be used. The rectangular background upon which the distinctive shape of the shield is mounted, such as the black area around the outside of the shields on the M1-4 and standard M1-6 signs, should not be included on the guide sign. Where U.S. or State Route signs are used as components of other signs of non-contrasting background colors, the rectangular background should be used to so that recognition of the distinctive shape of the shield can be maintained.

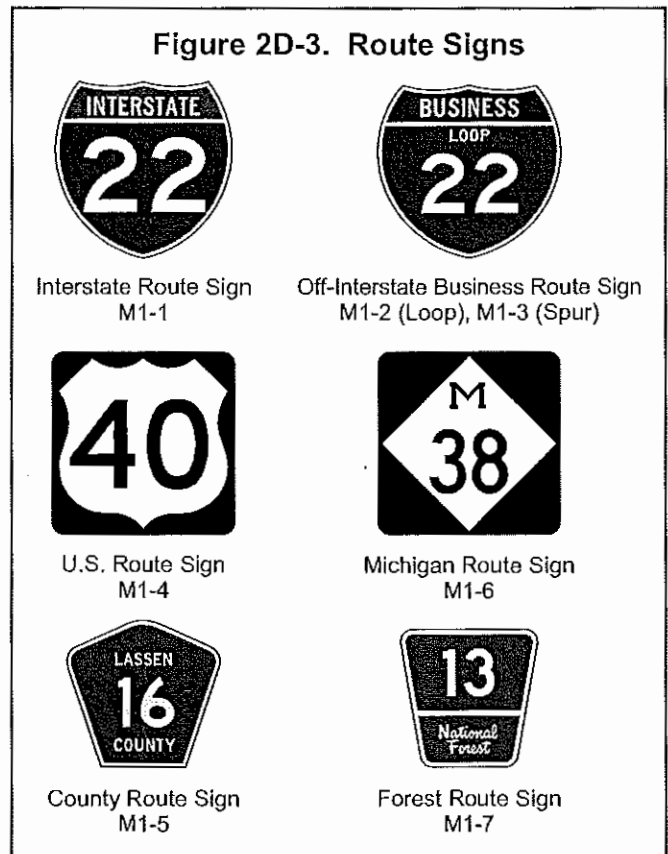


EXHIBIT 18



U.S. Department
of Transportation
Federal Highway
Administration

Michigan Division

October 19, 2011

315 W. Allegan Street, Room 201
Lansing, MI 48933
517-377-1844 (office)
517-377-1804 (fax)
Michigan.FHWA@dot.gov

In Reply Refer To:
HDA-MI

Mr. Mark A. Van Port Fleet, P.E.
Director, Bureau of Highway Development
Michigan Department of Transportation
Lansing, MI

Dear Mr. Van Port Fleet:

Thank you for your September 28, 2011 submittal of the draft version of the proposed 2011 Michigan Manual on Uniform Traffic Control Devices (MUTCD). Thank you also for including our personnel in the committee deliberations that led to the development of the proposed manual.

We approve this manual for use in Michigan. The modifications contained in this draft fall within the range of individual State authority and maintain substantial compliance with the most current (2009) national MUTCD. Please proceed to publish and distribute the 2011 Michigan MUTCD.

Sincerely,

A handwritten signature in cursive script that reads "David Morena".

David A. Morena
Safety & Traffic Operations Engineer

For: Russell L. Jorgenson
Division Administrator

lmk

By e-mail

cc: Mark Bott, BottM@michigan.gov, MDOT, T&S Division

DMS: FHWA Approval- 2011 Mich MUTCD .

File Directory: J:\GroupWiseFiles

File Name: DAM_FHWA Approval- 2011 Mich MUTCD_OCT192011.docx



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

RICK SNYDER
GOVERNOR

KIRK T. STEUDLE
DIRECTOR

September 28, 2011

Mr. Russell L. Jorgenson
Michigan Division Administrator
Federal Highway Administration
315 West Allegan Street, Room 211
Lansing, Michigan 48933

Dear Mr. Jorgenson:

Subject: *Michigan Manual on Uniform Traffic Control Devices (MMUTCD)*

Enclosed for your approval is the draft 2011 MMUTCD, along with a list of the proposed changes from the MMUTCD State Advisory Committee (SAC). David Morena, FHWA Traffic and Safety Engineer, is a member of the SAC and advised the committee during the review process.

On December 16, 2009, the Federal Highway Administration (FHWA) released the 2009 Federal *Manual on Uniform Traffic Control Devices (MUTCD)*. Federal and state law requires the State of Michigan to be in compliance with the federal version. Federal law provides an adoption period of two years to allow states adequate time to adjust to changes in the manual. Therefore, the State of Michigan must be in compliance by December 16, 2011.

The Michigan Departments of Transportation and State Police will adopt a state manual based on the 2009 federal version. The MMUTCD will address items in the Michigan Vehicle Code that conflict with the federal MUTCD, and special items unique to Michigan. The 2005 MMUTCD remains the official manual for the State of Michigan until the 2011 MMUTCD is published.

If you have any questions, please contact me or Mark W. Bott, Traffic Operations Manager, at 517-335-2625.

Sincerely,

Mark A. Van Port Fleet, Director
Bureau of Highway Development

Enclosures

BOHD:DD:MB:nw

cc: G. Johnson	B. Wiefelich
T. Frake	P. Corlett
A. Uzcategui	R. Cadena
A. Kremer	D. Morena, FHWA
SAC	TSAD

EXHIBIT 19

Honorable Frank D. Foster, 2012 Mich. OAG No. 7265 (2012)

2012 Mich. OAG No. 7265 (Mich.A.G.), 2012 WL 1980356

Office of the Attorney General
State of Michigan
Opinion No. 7265
May 29, 2012

TRADEMARKS

***1 Michigan highway route marker design as a trademark**

No entity can lawfully claim exclusive control over use of the State's highway route marker design because the design is in the public domain and is otherwise not subject to protection under trademark law.

Honorable Frank D. Foster
State Representative
The Capitol
Lansing, MI 48909

You ask whether a private entity can legally claim exclusive control over a state highway route marker design for use on novelty merchandise and other items.

Information supplied with your request indicates that at least two **Michigan** corporations claim to have exclusive control over the use of a **Michigan** highway route marker design. (Attachment 1.) The first corporation claims to have exclusive control over the use of the plain characters "M 22" as well as the M-22 highway route marker design, to promote various goods and services. State Highway M-22 is a picturesque and well-traveled 116-mile drive along Lake **Michigan** through Manistee, Benzie, and Leelanau Counties.¹ The first corporation obtained registrations for a trademark and service mark² with the United States Patent and Trademark Office (USPTO) for the standard character mark "M22" (Attachment 2) with no particular claim to color, style, or design. The corporation also obtained a separate registration for a design identical to the M-22 highway route marker. (Attachment 3.)

The second corporation claims exclusive control over the use of the plain characters "M 119" when used to promote goods and services. State Highway M-119 is known as the "Tunnel of Trees," and is a 20-mile, scenic drive stretching between the Petoskey area and Cross Village in Emmet County.³ The second corporation obtained a USPTO registration for the plain character mark of "M 119" (Attachment 4) with no particular claim to color, style, or design.⁴ The second corporation applied for a trademark on the design of the M-119 highway route marker, but failed to obtain one because the USPTO deemed it too similar to the M-22 registered trademark. Nevertheless, the second corporation claims exclusive control over use of the M-119 highway route marker design to promote goods and services.

Both corporations have demanded that other businesses stop using the **Michigan** highway route marker designs for M-22 and M-119 to promote their own goods and services.

You ask whether these entities or others may claim exclusive control over **Michigan's** highway route marker design through trademark law or by other means.

Trademarks are governed under federal law by the Lanham Act, 15 USC 1051 *et seq.*, and under state law by the **Michigan** Trademark and Service Mark Act (MTSMA), 1969 PA 242, MCL 429.31 *et seq.*, and common law. Definitions under each body of law are distinct, but a trademark may generally be understood to mean "any visible sign or device used by a business enterprise to identify its goods and distinguish them from those made or carried by others."⁵

^{*2} Federal trademark law represents an exercise of Congress' authority under the Commerce Clause. *Dawn Donut Co v Hart's Food Stores, Inc*, 267 F2d 358, 365 (CA 2, 1959). The purpose of the Lanham Act is to prevent consumer confusion in the marketplace by providing an assurance to a consumer about the origin of the goods or services the consumer purchases. Foley, Kathryn M., *Protecting Fictional Characters: Defining the Elusive Trademark-Copyright Divide*, 41 Conn L Rev 921,

Honorable Frank D. Foster, 2012 Mich. OAG No. 7265 (2012)

939 (February 2009). When a consumer purchases a good or service with a registered trademark, the consumer has some certainty about the origin of the good or service and can make an informed decision on whether to complete the purchase. See *Shakespeare Co v Lippman's Tool Shop Sporting Goods Co*, 334 Mich 109, 113-114; 54 NW2d 268 (1952) (observing that “[t]he function of a trade-mark is simply to designate the goods as the product of a particular manufacturer or trader and to protect his good will against the sale of another’s product as his”).

Trademarks are similar to but distinct from copyrights. Copyrights protect creative works and are created under authority of the Copyright Clause of the United States Constitution, which states that Congress can create laws “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” US Const art 1, § 8, cl 8; *Trade-Mark Cases*, 100 US 82; 25 L Ed 550 (1879). The purpose of copyright law is to enrich the public domain of creative works by rewarding creativity with the opportunity to have a limited monopoly over a creative work. *Sony Corp of America v Universal City Studios, Inc*, 464 US 417, 477; 104 S Ct 774; 78 L Ed 2d 574 (1984) (citations omitted).

But once a copyright in a creative work expires, the former rights-holder may not enforce his or her exclusive control over the intellectual property. *Kellogg Co v Nat'l Biscuit Co*, 305 US 111, 120-122; 59 S Ct 109; 83 L Ed 73 (1938); *Singer Mfg Co v June Mfg Co*, 163 US 169, 185; 16 S Ct 1002; 41 L Ed 118 (1896). The creative work becomes public property. *Singer Mfg Co*, 163 US at 185. “The prevailing view of the public domain is that of a commons, where material is free for anyone to take and use without restriction.” Heymann, Laura A., *The Trademark/Copyright Divide*, 60 SMU L Rev 55, 85 (Winter 2007). Thus, items in the public domain generally are not subject to copyright protection. See *Golan v Gonzales*, 501 F3d 1179, 1189 (CA 10, 2007) (“[T]he principle [is] that no individual may copyright a work in the public domain, [[in] that ordinarily works in the public domain stay there”) (citations omitted).

Unlike copyrights, the term of a trademark is indefinite. “[F]ederal trademark law provides the grant of rights to the trademark owner for an indefinite period, the duration of which depends on public recognition that the trademark identifies the user’s goods and distinguishes them from the goods of others.” *Time Mechanisms, Inc v Qonaar Corp*, 422 F Supp 905, 910 (DNJ 1976) (citation omitted). It is thus possible for a trademark owner to maintain rights in a registered mark in perpetuity, so long as the registration with the USPTO is renewed every ten years. 15 USC 1058-1059.

*3 With these general legal principles in mind, the question is whether Michigan’s state highway route marker design is in the public domain and thus not subject to trademark or other similar protections.

Both federal and state law provide for a uniform system of traffic control devices. In 1971, the United States Department of Transportation, Federal Highway Administration issued regulations designed to bring uniformity to the roadways of the United States pursuant to the Highway Safety Act of 1966. These regulations are set forth in the federal Manual on Uniform Traffic Control Devices (MUTCD). The federal MUTCD is promulgated by the Department of Transportation and sets “the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel,” 23 CFR 655.603(a); 23 CFR Part 655, Subpart F, “in accordance with” 23 USC 109(d) and 23 USC 402(a).⁶ See 23 CFR 655.603. In order to remain eligible for federal highway and highway safety program funds, a state must adopt the federal MUTCD as a state regulation, adopt a state MUTCD that is approved by the Secretary of Transportation as being in “substantial conformance” with the federal MUTCD, or adopt the federal MUTCD in conjunction with a state supplement. See 23 USC 109(d), 23 USC 402(c); 23 CFR 655.603(b)(3).

Consistent with these federal provisions, the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 *et seq.*, requires the Michigan Department of Transportation (MDOT) and the Michigan State Police to adopt and maintain a uniform system of “traffic control devices,” which includes all signs,⁷ that conforms with the federal MUTCD. See MCL 257.608.⁸ In compliance with the Michigan Vehicle Code, MDOT has adopted versions of the Michigan MUTCD that are consistent with the federal manual regarding guidelines on how to create and utilize Michigan traffic control devices.⁹ The federal manual suggests a default design for state highway route markers with a white circle imposed on a black square featuring the respective highway number in black. (Attachment 5, Page 2). But it allows states the option to create a unique design, and Michigan chose to maintain its historic design using a white diamond rather than a circle, and a block “M” over the black number. (Attachment 5, Page 4).¹⁰

With respect to traffic control device designs — like Michigan’s highway route marker design — both the federal and the

Honorable Frank D. Foster, 2012 Mich. OAG No. 7265 (2012)

Michigan MUTCD provide that such designs are in the public domain:

*Any traffic control device design or application provision contained in this Manual shall be considered to be in the public domain. Traffic control devices contained in this Manual shall not be protected by a patent, trademark, or copyright, except for the Interstate Shield and any items owned by [the Federal Highway Safety Administration]. [Emphasis added; Attachment 5.]*¹¹

*4 The MUTCD is consistent with caselaw establishing that materials or works in the public domain are not subject to trademark protection. See *In re Chippendales USA, Inc*, 622 F3d 1346, 1352; 96 USPQ2d 1681 (Fed Cir, 2010) (“If the mark is not inherently distinctive, it is unfair to others in the industry to allow what is in essence in the public domain to be registered and appropriated, absent a showing of secondary meaning”). Even work that was previously subject to copyright protection cannot be protected under trademark law if the work has passed into the public domain. *Dastar Corp v Twentieth Century Fox Film Corp*, 539 US 23, 34; 123 S Ct 2041; 156 L Ed 2d 18 (2003). See also *Comedy III Productions, Inc v New Line Cinema*, 200 F3d 593, 595; 53 USPQ2d 1443 (CA 9, 2000) (“[T]he Lanham Act cannot be used to circumvent copyright law. If material covered by copyright law has passed into the public domain, it cannot then be protected by the Lanham Act without rendering the Copyright Act a nullity”). Accordingly, Michigan’s highway route marker design cannot — indeed “shall not” — be subject to trademark protection as provided for in the MUTCD.

The State of Michigan created the highway route marker design and could claim ownership of the copyright if it had not expressly abandoned those rights by proclaiming in the MUTCD that the designs are in the public domain. See 17 USC 201(a)-(b). “Rights gained under the Copyright Law may be abandoned. Abandonment of such rights, however, must be manifested by some overt act indicative of a purpose to surrender the rights and allow the public to copy.” *Hampton v Paramount Pictures Corp*, 279 F2d 100, 104; 125 USPQ 623 (CA 9, 1960) (citations omitted). By publishing the designs to the public with the statement that the designs are to remain in the public domain, the State of Michigan took an overt act to surrender its copyright in the design.

Because the State of Michigan, the creator of the design, placed the Michigan highway route marker design in the public domain, no entity can lawfully obtain intellectual property protection of the design under trademark or copyright law. The two corporations at issue could not gain copyright protection over the Michigan highway route marker design because neither created the design. See 17 USC 201(a)-(b). And under the Supreme Court’s decision in *Dastar*, they cannot use trademark law to perpetually protect a design that they did not create and is in the public domain. The fact that they have appropriated the design from the public domain and affixed it to merchandise offered for sale does not create a legitimate basis for trademark protection. To do so would create a “mutant copyright” over works in the public domain that the Supreme Court has specifically sought to avoid. *Dastar*, 539 US at 34.

The corporations may continue to utilize the Michigan highway route marker design alone or incorporate it within another design. But they must “disclaim” any right or interest in intellectual property that does not belong to them. 15 USC 1056(a) (“The Director may require the applicant to disclaim an unregistrable component of a mark otherwise registrable. An applicant may voluntarily disclaim a component of a mark sought to be registered”).¹² Any other individual or company is also free to use the design to promote commercial goods and services.¹³ In other words, the corporations may not exclude other persons and businesses from using the Michigan highway route marker design on the basis of trademark law because a design in the public domain generally cannot be made the subject of a trademark or other protection.

*5 Despite these legal principles and facts, the first corporation registered a trademark for the M-22 highway route marker design. In addition to the route marker design being in the public domain, there are at least two other reasons why this design does not qualify for trademark protection under the Lanham Act. Each is based on section 2 of the Lanham Act, 15 USC 1052, which provides that certain marks are not permitted in the federal register, and provides a process whereby a party may challenge a registration.¹⁴

First, use of the Michigan route marker design as a trademark falsely suggests a connection with the State of Michigan. Registration for marks that “falsely suggest a connection with persons, living or dead, [or] institutions” is precluded. 15 USC 1052(a). The State of Michigan and MDOT qualify as both persons¹⁵ and institutions¹⁶ as defined in the Lanham Act, and the route marker design has been used since the early 1900’s in such a way that the State and MDOT’s reputations are directly associated with the respective roads on which it appears. The corporations’ use of the Michigan route marker design and

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enforcement suggests that the State of Michigan approved or somehow licensed that use, which is not the case.

Second, use of the Michigan route marker design on the corporations' goods, is an improper trademark because it is primarily geographically descriptive, contrary to Section 2(e)(2) of the Lanham Act, 15 USC 1052(e)(2). See, e.g., *Baglin v Cusenier Co*, 221 US 580, 591; 31 S Ct 669; 55 L Ed 863 (1911) (“[N]ames which are merely geographical cannot be the subject of exclusive appropriation as trade-marks”).¹⁷ The Trademark Trial and Appeal Board has stated, “[T]he purpose of Section 2(e)(2) of the [Lanham] Act is not to punish a particular business for using a geographic name, but rather to leave geographic names free for all businesses operating in the same area to inform customers where their goods or services originate.” *In re Spirits of New Merced, LLC*, 85 USPQ2d 1614 (TTAB 2007), slip op. at 19, 23 (finding “YOSEMITE” for beer from California brewery to be primarily geographically descriptive).

Michigan trademark law requires the same. The MTMSA is a model statute based on the Lanham Act. Specifically, it mirrors section 2(e)(2) of the Lanham Act provision in order to similarly prevent geographically descriptive marks from entering the Michigan trademark register. See MCL 429.32(e).¹⁸ At common law, the Michigan Supreme Court came to the same conclusion as the Trademark Trial and Appeal Board in *Merced*, stating, “[T]he general rule is that geographic and place names may be used by all for indicating the location of a business, subject to the proviso that any such use which occasions actual or probable confusion, or misleading of the public, constitutes unfair competition and may be enjoined.” *Belvidere Land Co v Owen Park Plaza, Inc*, 362 Mich 107, 113; 106 NW2d 380 (1960) (citations omitted).

^{*6} All of the facts presented in conjunction with your request involve placing the M-22 and M-119 Michigan highway route marker designs on apparel, novelty items, and to advertise events that all originate near the respective Michigan highways in a geographically descriptive manner. People who travel along M-22 and M-119 associate the signs with the Northwestern Lower Michigan region and everything contained within it. That association is not specific to the corporations or any other business. Instead, it encompasses the natural beauties, distinctive shopping and tourism experiences, local foods, and other attractive qualities of the geographic region. One person or company cannot claim to have produced all of the good will associated with the particular highway route marker design that represents the region. The good will does not just belong to these corporations who have used the Michigan route marker design as a trademark for the past few years. The good will belongs to the State of Michigan and its citizens who built or improved the roads and the communities that surround them.

Both federal and Michigan law support the conclusion that no entity may lawfully commandeer the Michigan route marker design as its exclusive trademark because the design is in the public domain. Other businesses in Michigan may use the M-22 route marker to promote the region as a whole, just as businesses near the “Tunnel of Trees” may use the M-119 route marker design. Indeed, the Lanham Act was not meant to deprive commercial speakers of the ordinary utility of descriptive words. “If any confusion results, that is a risk the plaintiff accepted when it decided to identify its product with a mark that uses a well known descriptive phrase.” *Cosmetically Sealed Industries, Inc v Chesebrough-Pond's USA Co*, 125 F3d 28, 30 (CA 2, 1997). See also *Park 'N Fly, Inc v Dollar Park & Fly, Inc*, 469 US 189, 201; 105 S Ct 658; 83 L Ed 2d 582 (1985) (noting safeguards in Lanham Act to prevent commercial monopolization of language).

It is my opinion, therefore, that no entity can lawfully claim exclusive control over use of the State's highway route marker design because the design is in the public domain and is otherwise not subject to protection under trademark law.

Bill Schuette
Attorney General

Footnotes

¹ A 64 mile segment of M-22 in Leelanau County has been designated a Michigan Scenic Heritage Route under 1993 PA 69, MCL 247.951 *et seq.* See < http://www.michigan.gov/som/0,4669,7-192-29938_30240-220123--,00.html > (accessed May 8, 2012). The “heritage route” designation may be applied to “[c]ertain portions of the state trunkline highway system [that] are so uniquely endowed by natural aesthetic, ecological, environmental, and cultural amenities immediately adjacent to the roadside that their use by a larger percentage of the motoring public, particularly during the recreational season, is for the experience of traveling the road rather than as a route to a destination.” MCL 247.953.

² Trademarks and service marks are regulated under the same standards. See 15 USC 1053. The term trademark is used to refer to

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both for convenience.

- 3 A 13 mile segment of M-119 has also been designated a **Michigan** Scenic Heritage Route. See
<http://www.michigan.gov/som/0,4669,7-192-29938_30240-220123--,00.html> (accessed May 8, 2012).
- 4 This **opinion** does not address either corporation's use of the character marks "M22" and "M 119." (Attachment 2 and Attachment
4.)
- 5 "Trademark." *Encyclopedia Britannica. Encyclopedia Britannica Online.* Encyclopedia Britannica Inc., 2012. Web. 28 Mar. 2012.
<<http://www.britannica.com/EBchecked/topic/601724/trademark>> (accessed May 8, 2012).
- 6 23 USC 109(d) gives the Secretary of Transportation the authority to approve the "location, form and character of informational,
regulatory and warning signs, curb and pavement or other markings, and traffic signals" on any highway project involving the use
of federal funds. 23 USC 402(a) mandates that each state create "a highway safety program ... designed to reduce traffic accidents
and deaths, injuries, and property damage resulting therefrom" and requires that each state program be "in accordance with
uniform guidelines promulgated by the Secretary."
- 7 The term "traffic control devices" "means *all signs*, signals, markings, and devices not inconsistent with this act placed or erected
by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic." MCL 257.70
(emphasis added).
- 8 The federal MUTCD is available at <http://mutcd.fhwa.dot.gov/kno_2009.htm>(accessed May 8, 2012).
- 9 MDOT's version of the MUTCD is available at <<http://mdotwas1.mdot.state.mi.us/public/tands/plans.cfm>> (accessed May 8,
2012).
- 10 **Michigan** organized its highway system by number in 1919, using the design of a white diamond containing a black letter "M" at
the top with the assigned highway number below. For additional in-depth historical analysis, see **Michigan** Highways: The Great
Routes of the Great Lakes State <<http://www.michiganhighways.org>> (accessed May 8, 2012).
- 11 This provision has been part of the **Michigan** MUTCD since 2005, two years before the first corporation's first use in commerce of
the M-22 route marker design. (Attachment 3.)
- 12 For example, the "M-22 Challenge" trademark (Attachment 6) is a completely original design that incorporates the M-22 highway
route marker design, as is the stylized mark incorporating the M-119 road sign. (Attachment 7.) Both companies could maintain a
registered trademark and disclaim any exclusive rights over the route marker design.
- 13 Such use remains subject to any other applicable laws. For example, the State of **Michigan** may have a cause of action under
section 43(a) of the Lanham Act to bar the commercial use of an image to avoid confusion, mistake, or prevent a business from
deceiving someone to believe that the images were affiliated with the State of **Michigan** or the **Michigan** Department of
Transportation. 15 USC 1125(a).
- 14 A party may challenge an erroneously issued federal registration, as provided by section 15 of the Lanham Act, 15 USC 1065. A
challenge must be brought within five years of the period during which the mark holder has made continuous use of the trademark
after its registration.
- 15 "The term 'person' also includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality
of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the
provisions of this Act in the same manner and to the same extent as any nongovernmental entity." 15 USCS 1127.
- 16 The term "institution" is defined broadly. See *In re Shinnecock Smoke Shop*, 571 F3d 1171, 1173; 91 USPQ2d 1218 (Fed Cir,
2009) ("[O]rdinary meaning of 'institution' suggests the term is broad enough to include a self-governing Indian nation").
- 17 An applicant for a federal trademark that is refused under section 2(e) for being primarily geographically descriptive may apply for
registration under section 2(f) by showing that the mark has gained "secondary meaning." 15 USC 1052(f).
- 18 MCL 429.32(e) states: "A mark by which the goods or services of an applicant for registration may be distinguished from the
goods or services of others shall not be registered if the mark ... [c]onsists of a mark which, when applied to the goods or services
of the applicant ... is primarily geographically descriptive or deceptively misdescriptive of them."

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