U.S. Department of Transportation
Federal Highway Administration

Memorandum

Subject: **INFORMATION: FHWA Official Interpretation** – Manual on Uniform Traffic Control Devices

Date: OCT - 1 2010

From: Jeffrey A. Lindley
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In Reply Refer To: HOTO-1

To: Chief Counsel
Directors of Field Services
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The Federal Highway Administration (FHWA) is issuing this official interpretation in response to numerous letters of concern received from AASHTO, as well as a number of State departments of transportation, regarding the addition of a sentence to the definition of Standard in Section 1A.13 and the removal of certain Guidance information in Section 1A.09 of the Manual on Uniform Traffic Control Devices (MUTCD).

As a part of the 2009 MUTCD Final Rule, a statement, "Standard statements shall not be modified or compromised based on engineering judgment or engineering study" was added in the Section 1A.13 to the definition of Standards and the following text was deleted from the Section 1A.09:

> "The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment. Engineering judgment should be exercised in the selection and application of traffic control devices…"

The AASHTO Board of Directors and the National Committee on Uniform Traffic Control Devices (NCUTCD) passed resolutions on this matter. These resolutions and letters requested that the changes in the 2009 MUTCD language described above be reverted back to the 2003 MUTCD language.

Because the MUTCD is approved and incorporated by reference in a Federal regulation, it can only be revised through the formal Federal rulemaking process. However, we believe

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that AASHTO's and NCUTCD's concerns may be addressed through the issuance of an official interpretation of the 2009 MUTCD that clarifies the meaning of the subject language until such time as revised language is proposed and adopted through the rulemaking process.

The MUTCD recognizes that the use of engineering judgment and studies is a fundamental tenet of the application of traffic control devices. It is for this reason that, in most cases, the selection of a particular device is not required by a Standard but is determined by engineering study or judgment. Additionally, many Standards in the MUTCD specifically require, by explicit language in the individual Standards or by implication, the application of engineering judgment or studies in applying those Standards. The deletion of the Guidance language from Section 1A.09 of the 2009 MUTCD did not change that. Further, the added sentence of the definition of Standard in Section 1A.13 was intended as a clarification and was not intended to change the meaning of Standard or remove the application of engineering judgment or studies in applying Standards where the language of a particular Standard explicitly or implicitly requires it.

Accordingly, it is our Official Interpretation of Sections 1A.09 and 1A.13 that:

• Site-specific conditions may lead agencies to determine that it is impossible or impractical to comply with a Standard and that they must deviate from the requirement of a particular Standard at that location or others with the same condition. In such limited specific cases, the deviation is allowed, provided that the agency or official having jurisdiction fully documents the engineering reasons for the deviation.

• FHWA can also be requested to review the site-specific condition and the proposed deviation and, if appropriate, issue an Official Interpretation to clarify the application of the Standard to that condition.

• The addition of a sentence to the definition of Standard in Section 1A.13 and the removal of certain Guidance information in Section 1A.09 were not intended to change the previously existing meaning of Standard or the appropriate application of engineering judgment and studies. Therefore, State MUTCDs and State Supplements may maintain or adopt language in conformance with the 2003 MUTCD definition of Standard and the related Section 1A.09 Guidance statements without jeopardizing their substantial conformance with the 2009 Edition of the MUTCD.

• Agencies are permitted to adopt policies or practices that exceed the requirements of a Standard, and to use engineering judgment or studies that lead to decisions to exceed the requirements of a Standard based on conditions at any given location.

• The MUTCD allows exceptions to Standards in two ways. The first is by Option statements that modify a Standard and the second is by language within the Standard itself such as "except where otherwise provided in this Manual."

• The added sentence in the definition of Standard in Section 1A.13 and deletion of the language in 1A.09 does not disallow application of engineering judgment or studies in applying those Standards where the language of a particular Standard explicitly or implicitly requires it.

For recordkeeping purposes, we have assigned the following official interpretation number and title: "1(09)-1 (I) – Definition of Standard Statement." Please refer to this number in any future correspondence regarding this topic.

I trust this will clarify the intent and eliminate any confusion that has developed as a result of the wording of the added sentence in the definition of Standard and the elimination of certain Guidance in Section 1A.09 of the 2009 MUTCD. Please contact Mr. Hari Kalla at hari.kalla@dot.gov if you have any further questions concerning this matter. We also encourage individual agencies to bring to our attention any specific Standards that might need further clarification.