

Lights for this application, stating that there has not been enough research regarding the effectiveness of In-Roadway Lights. The FHWA agrees and withdraws this paragraph in this final rule.

380. In Section 10D.02 Flashing Light Signals (numbered Section 10D.04 in the 2000 MUTCD), the FHWA moves this entire section to follow Section 10D.01 Introduction so that content contained in Sections 10D.01 and 10D.02 appears in the same order as it appears in Part 8. The FHWA received one comment from the City of Tucson, Arizona, in support of this change and adopts this change.

381. In Section 10D.03 Automatic Gates, the FHWA changes the last SUPPORT statement to an OPTION statement to be consistent with the same language contained in Section 8D.04 Automatic Gates, on how the effectiveness of gates may be enhanced by the use of channelizing devices or raised median islands to discourage driving around lowered automatic gates. The FHWA received one comment from the City of Tucson, Arizona, in support of this change and adopts this change.

382. In Section 10D.04 Four-Quadrant Gate Systems (numbered Section 10D.02 in the 2000 MUTCD), the FHWA moves this entire section to follow Section 10D.03 LOOK Sign (R15-8) so that content contained in this section appears in the same order as it appears in Section 8D.05 Four-Quadrant Gate Systems.

The FHWA revises and adds to the GUIDANCE statement information to describe the various operating modes of exit gates and how they should be used to be consistent with changes as discussed in Section 8D.05 Four-Quadrant Gate Systems.

The same NCUTCD Committee also suggested deleting the GUIDANCE statement regarding placement of exit gates to provide a safe zone because this practice is seldom used. Because Four-Quadrant Gates are a relatively new concept to grade crossings, the FHWA believes that if space is available, the exit gates should be set back at least one design vehicle length from the nearest rail in order to reduce the chances of a vehicle becoming trapped on the tracks. The FHWA adopts the changes as proposed in the NPA.

Additionally, the FHWA revises the third paragraph of the STANDARD statement to accommodate constant warning time or other advanced systems to be consistent with changes as discussed in Section 8D.05 Four-Quadrant Gate Systems.

Based on a comment received from a railroad company regarding identical

text in Section 8D.05, the FHWA revises the third and fourth paragraphs of the GUIDANCE statement to include coordination with the affected transit agency when determining the operating mode of exit gates and the Exit Gate Clearance Time.

383. In Section 10D.08 Pedestrian and Bicycle Signals and Crossings, the FHWA changes the first OPTION statement (in the 2000 MUTCD) to a GUIDANCE statement to emphasize that if an engineering study shows that flashing-light signals alone would not provide sufficient notice of an approaching light rail transit vehicle, the LOOK (R15-8) sign and/or pedestrian gates should be considered. The FHWA received several comments from members of the NCUTCD Railroad and Light Rail Transit Committee recommending that the FHWA keep this paragraph an OPTION because pedestrian gates are too easily circumvented and their effectiveness has never been adequately demonstrated. The FHWA changes the text to a GUIDANCE in this final rule because if an engineering study has determined that flashing-light signals are not enough, then the additional measures should be recommended for consideration, not just permitted.

#### *Discussion of Adopted Amendments to Appendix A1—Congressional Legislation*

384. In Appendix A1 Congressional Legislation, the FHWA adds Section 306 Motorist Call Boxes to the listing of pertinent sections of Public Law 104-59—Nov. 28, 1995 (National Highway System Designation Act of 1995). This section discusses the uses of motorist call boxes along the National Highway System. No comments were received on this addition and the FHWA adopts it as proposed in the NPA.

#### **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. The economic impact of this rulemaking will be minimal. Most of the changes in this final rule provide additional guidance, clarification, and optional applications for traffic control devices. The FHWA believes that the uniform application of traffic control devices will greatly improve the traffic operations efficiency and roadway

safety. The standards, guidance, and support are also used to create uniformity and to enhance safety and mobility at little additional expense to public agencies or the motoring public. Therefore, a full regulatory evaluation is not required.

##### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) the FHWA has evaluated the effects of this action on small entities. This final rule adds some alternative traffic control devices and only a very limited number of new or changed requirements. Most of the changes are expanded guidance and clarification information. The FHWA hereby 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 rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). The revisions directed by this action can be phased in by the States over specified time periods in order to minimize hardship. The changes made to traffic control devices that would require an expenditure of funds all have future effective dates sufficiently long to allow normal maintenance funds to replace the devices at the end of the material life-cycle. To the extent the revisions require expenditures by the State and local governments on Federal-aid projects, they are reimbursable. This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

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

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action does not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policymaking discretion of the States and local governments. Nothing in the MUTCD directly preempts any State law or regulation.

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