



ASLA

CLARB

May 14, 2021

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Stephanie Pollack, Acting Administrator
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Re: ASLA and CLARB Comments on Notice of Proposed Amendments to the Manual on Uniform Traffic Control Devices for Streets and Highways (Docket No. FHWA-2020-0001; RIN: 2125-AF85)

Dear Secretary Buttigieg and Acting Administrator Pollack:

On behalf of the American Society of Landscape Architects (“ASLA”) and Council of Landscape Architectural Registration Boards (“CLARB”), we respectfully submit the following comments on the Notice of Proposed Amendments (“NPA”) to the *Manual on Uniform Traffic Control Devices for Streets and Highways* (“MUTCD”). Specifically, our organizations and members are concerned with proposed amendments to Section 1D.05 (existing Section 1A.09), which state that the “provisions of [the MUTCD] are intended to be interpreted and applied by engineers or those under the supervision of an engineer.” The proposed amendments imply that only engineers are capable of interpreting and applying the MUTCD. That is not the case.

Landscape architects are also competent to use, interpret, and apply the MUTCD, and frequently must do so to prepare and implement project designs while protecting the health, safety, and welfare of the public. Therefore, we respectfully request that the Federal Highway Administration (“FHWA”) strike or modify the proposed language in Section 1D.05. We prefer striking the language altogether (no similar language has existed before and there do not appear to be any issues with rogue use of the MUTCD). But, if the language is maintained, we suggest broadening the statement to be more inclusive, such as: “The provisions of this Manual are to be interpreted and applied by a qualified licensed professional according to applicable state licensure laws and its scope of practice or those under the supervision of such licensed professional.”

Such a deletion or revision would be consistent with how the MUTCD is intended to be used, recognize the scope of landscape architecture practice, and avoid unnecessary confusion or the suggestion that the MUTCD trumps the state regulation of landscape architecture.

ABOUT ASLA AND CLARB

ASLA and CLARB are national associations representing the interests of two landscape architecture constituencies.

ASLA is the professional association for landscape architects in the United States and has more than 15,000 members. ASLA's mission is to advance landscape architecture through advocacy, communication, education, and fellowship.

CLARB works to establish and promote professional licensure standards to protect the public's health, safety, and welfare related to the use and protection of the natural and built environment affected by the practice of landscape architecture. CLARB's members are the licensure boards across the United States that regulate and administer the landscape architecture licensing standards. CLARB also prepares, administers, and scores the Landscape Architect Registration Examination ("LARE"), which assesses the ability of prospective landscape architect licensees.

DISCUSSION

There are three crucial reasons why ASLA and CLARB believe it is important to make this change to the proposed revised manual. First, the proposal suggests that landscape architects are not supposed to use the manual or that it would be impermissible for landscape architects to make use of the manual consistent with their licensure. Second, and related, the practice of landscape architecture encompasses much of what is in the manual. Landscape architects are tested on the concepts in the manual as part of their licensure, and their practice involves the use of the manual as part of the protection of the public's health, safety, and welfare. Third, FHWA currently suggests a broad userbase, and any limitation in the manual would contradict current practice.

1. Landscape Architecture Involves Technical Competencies Similar to Engineering

The practice of landscape architecture is a multidisciplinary profession that involves the planning, design, management, and stewardship of the built and natural environments. Landscape architects leverage their comprehensive training in design, science, and technology to improve human and environmental health in all communities. They plan and design streetscapes, multi-modal transportation corridors, parks, campuses, trails, plazas, residences, and other projects that strengthen communities.

Landscape architects typically hold a bachelor's or master's degree in landscape architecture, covering a broad spectrum of design, science, and technical know-how. All 50 states, the District of Columbia, and several U.S. territories require landscape architects to earn a license. In addition to earning a degree, state licensure usually requires several years of work experience, passing the rigorous LARE, and taking continuing education courses.

2. The MUTCD is Imperative to the Practice of Landscape Architecture

Landscape architects are tested on and frequently required in their daily practice to use, interpret, and apply the MUTCD. As such, the proposed revisions to Section 1D.05 that suggest only engineers are competent to interpret and apply the MUTCD conflict with reality and dismiss the competence of tens of thousands of landscape architecture professionals.

A. Landscape Architects Are Competent to Interpret and Apply the MUTCD

The LARE is a four-part examination that landscape architects must pass to earn a license in every U.S. jurisdiction. The LARE is designed to determine whether applicants for landscape architect licenses possess sufficient knowledge, skills, and abilities to provide services without endangering the health, safety,

and welfare of the public. Specifically, section 4 of the LARE (Grading, Drainage, and Construction Documentation) tests a prospective licensee’s competence to practice in the built street environment while incorporating safety measures during construction within street environments. In fact, the LARE specifically tests on the MUTCD. As passage of the LARE is required for every licensed landscape architect in the United States, the District of Columbia, Puerto Rico, and the Commonwealth of the Northern Mariana Islands, all landscape architects comprehend the principles and standards addressed by the MUTCD and are competent to interpret and implement them.

B. Landscape Architects Must Use the MUTCD to Protect the Public’s Health, Safety, and Welfare

Landscape architects also use, interpret, and apply the MUTCD in their daily practice in order to protect public health, safety, and welfare.

In a recent survey, ASLA members stated that they frequently implement MUTCD principles to design certain projects like trails, street corridors, and streetscapes. Although landscape architects often work with civil engineers on these project components, landscape architects must demonstrate knowledge and familiarity with the MUTCD to effectively collaborate and lead multi-faceted projects. Landscape architects regularly reference the MUTCD in daily practice, including, but not limited to, the following sections: Part 2 (signs), Part 3 (markings; specifically, pavement and curb markings, roundabout markings, markings for preferential lanes, delineators, colored pavements, channelizing devices, islands, and rumble strip markings), Part 4 (traffic control signal features, pedestrian control features, pedestrian hybrid beacons, flashing beacons, and in-roadway lights), Part 5 (traffic control devices for low-volume roads), Part 6 (temporary traffic control), and Part 9 (traffic control for bicycle facilities).

C. Including the Proposed Language Would Thus Contradict the State Regulation of Landscape Architecture

Like engineering, state laws define the scope of practice of landscape architecture. These definitions generally encompass the principles addressed within the MUTCD and often specifically include developing roadways, pathways, and other multi-modal transportation corridors that require uniform traffic control devices. For example, refer to the definitions of landscape architecture under North Carolina, Ohio, and Oklahoma law, although there are numerous other states from which to choose.

North Carolina law defines the practice of landscape architecture to include:

[T]he preparation of plans and specifications and supervising the execution of projects involving the arranging of land and the elements set forth in this subsection used in connection with the land for public and private use and enjoyment, embracing the following, all in accordance with the accepted professional standards of public health, safety, and welfare:

...

- b. *The location, routing and design of public and private streets, residential and commercial subdivision roads, or roads in and providing access to private or public developments. . . . ; [and]*
- c. *The location, routing, and design of private and public pathways and other travelways.*¹

¹ N.C. Gen. Stat. § 89A-1(3) (emphases added).

Similarly, Ohio defines the practice of landscape architecture as:

The preparation of master, site, and comprehensive development plans, the preparation of feasibility and site selection studies, and the supervision of the execution of projects thereon, in accordance with the accepted professional standards of public health, welfare, and safety, where the dominant purpose of such service involves:

...

- (b) *The development of roadways and parkways, equestrian, bicycle, and pedestrian circulation systems, sidewalks, parking, . . . and other ancillary elements, for public and private use and enjoyment.*²

And Oklahoma law states:

“Landscape architecture” means the performance of professional services defined as teaching, consultations, investigations, reconnaissance, research, planning, design, preparation of construction drawings and specifications, construction observation and the coordination of any elements of technical submissions prepared by others in connection with the planning and arranging of land and the elements thereon for public and private use and enjoyment, *including the design and layout of roadways, . . . parking areas, walkways, steps, ramps, . . . parkways, [and] trails . . .*, in accordance with accepted professional standards.³

Thus, the proposed language would unnecessarily conflict with state laws regulating the practice of landscape architecture. Eliminating or modifying the proposed language would avoid the suggestion that landscape architecture does not include the use of the MUTCD.

3. The FHWA Acknowledges the MUTCD has a Broad Userbase

The proposed limitation in Section 1D.05 is inconsistent with the FHWA’s own current guidance. On its website, *Who Uses the MUTCD? And How?*, the FHWA acknowledges that the MUTCD userbase is broader than just engineers.⁴ For example, the website mentions state and local transportation planners, public works department employees, owners of private roads, construction and engineering contractors, law enforcement personnel, design students, and professional and safety organizations as MUTCD users. The FHWA’s website also includes a list of professional organizations that use the MUTCD in their activities.⁵ As such, the FHWA’s proposed limitation would dismiss the numerous constituencies that the FHWA has publicly recognized as frequent users and interpreters of the MUTCD.

CONCLUSION

The MUTCD is a universal manual that is applied in many applications outside of highway and roadway design, including bicycle, pedestrian, trail and other active transportation projects, by many different types of constituencies. Limiting the interpretation and application of the MUTCD, a federal guidance document, to only engineers encroaches on traditional state authority to define scopes of professional practice. As such, ASLA, CLARB, and our respective members respectfully urge the FHWA to reconsider the proposed amendments to Section 1D.05 in light of our arguments above.

² Ohio Rev. Code § 4703.30(B) (emphasis added).

³ Okla. Stat. tit. 59, § 46.3(11) (emphasis added).

⁴ See *Who Uses the MUTCD? And How?*, Fed. Highway Admin. (Mar. 5, 2021), <https://mutcd.fhwa.dot.gov/kno-users.htm>.

⁵ See *Outside MUTCD Links*, Fed. Highway Admin. (Mar. 5, 2021), <https://mutcd.fhwa.dot.gov/res-outside.htm#proforgs>.

Thank you for the opportunity to comment and for your consideration. If you would like to discuss these matters in greater detail, please contact Roxanne Blackwell at 202-898-2444 or rblackwell@asla.org or Veronica Meadows at 571-432-0332 or vmeadows@clarb.org.

Sincerely,



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