U.S. Department of Transportation
Federal Highway Administration

Memorandum

Subject: **INFORMATION:** MUTCD – Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11) —TERMINATION

Date: DEC 21 2017

From: Martin C. Knopp
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In Reply Refer To: HOP-1

To: Federal Lands Highway Division Directors
Division Administrators

Purpose: Through this memorandum, the Federal Highway Administration (FHWA) officially rescinds the subject Interim Approval (IA) issued on July 16, 2008.

Background: Federal regulation, through the *Manual on Uniform Traffic Control Devices for Streets and Highways* (MUTCD), [1] prohibits the use of patented devices under an IA,[2] or official experimentation[3] with patented devices. The MUTCD is incorporated by reference at 23 CFR, Part 655, Subpart F, and is recognized as the national standard for all traffic control devices in accordance with 23 U.S.C. 109(d) and 402(a).[4]

Action: The MUTCD prohibits patented devices from experimentation, IA, or inclusion in the MUTCD.[5] The FHWA has learned of the existence of four issued U.S. patents, and at least one pending patent application, covering aspects of the Rectangular Rapid Flashing Beacons (RRFB) device originally approved under IA-11 of July 16, 2008.

For the aforementioned reasons, FHWA hereby rescinds IA-11 for all new installations of RRFB devices. Installed RRFBs may remain in service until the end of useful life of those devices and need not be removed.

Nothing in this memorandum should be interpreted as expressing an opinion as to the applicability, scope, or validity of any patent or pending patent application with regard to

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[1] MUTCD 2009 Ed., Intro. ¶ 4 at I-1
[2] *Id.*; § 1A.10.
[3] *Id.*
[4] *See id.* at ¶ 02 at I-1.
[5] *Id.* at ¶ 04.

the installation or use of RRFBs, generally, or for those currently in use. The FHWA, the U.S. Department of Transportation, and the U.S. express no opinion on the merits, and take no position on the outcome, of any litigation relating to the RRFB.

cc:
Associate Administrators
Chief Counsel
Chief Financial Officer
Directors of Field Services
Director of Technical Services