

# RSAs, Regulations, and Signing

## *Simplifying the quagmire around signing in New Hampshire*

A recent meeting designed to clear up some of the ambiguities surrounding a new RSA seemed to raise more questions than answers. Hopefully the following information will help to better define what town officials' and employees' responsibilities are under New Hampshire law. But maybe more importantly (yes there are more important things in this world than the minimum letter of the law -- there is also the good intent which so often is less focused) the following information suggests that towns follow good safe engineering practices. Practices that are designed to secure the safety of you, your crew, and the public. Remember, town highway personnel and officials are in a service profession serving the public. It is sometimes hard to appreciate this when looking at liability issues.

The recent confusion was brought about as interpretations were provided concerning RSA 231:90-93 which became effective on January 1, 1992. This is the RSA that addresses the potential liability of municipalities for "insufficient" municipal roadways and sidewalks. The area that seemed to cause most of the confusion was traffic control devices. This includes all of your signing and pavement markings.

Signing and markings is an area of concern that can probably be cleared up without too much difficulty. The bottom line is that you **MUST** follow the MUTCD (Manual on Uniform Traffic Control Devices).

A State of New Hampshire Department of Transportation regulation made on October 19, 1989 states: "In accordance with the authority in RSA 236:1, RSA 265.22, RSA 41.11 and RSA 47.17, the 1988 U.S. Department of Transportation Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highways as modified by the Department of Transportation publication, 'Traffic Control Standards, Statutes and Policies' and/or current amendments is hereby adopted as establishing the standards for traffic control devices upon all highways in New Hampshire."

There are three things worth noting in this regulation. First, the definition of "highways" includes ALL roads in our state. Second, the "Traffic Control Standards, Statutes and Policies" manual no longer exists so that the MUTCD is the only manual to be used in our state. Third, RSA

47.17 speaks to this issue even more directly.

On July 12, 1991 an Amendment to RSA 47:17 went into effect. This Amendment (Chapter 75; VIII. Traffic Devices and Signals) reads as follows: "(a) To make special regulation as to the use of vehicles upon particular highways, except as to speed, and to exclude such vehicles altogether from certain ways; to regulate the use of class IV highways within the compact limits and class V highways by establishing stop intersections, by erecting stop signs, yield right of way signs, traffic signals and all other traffic control devices on those highways over which the city council has jurisdiction. The erection, removal and maintenance of all such devices shall conform to applicable state statutes and the latest edition of the Manual on Uniform Traffic Control Devices.

(B) The commissioner of transportation shall only approve the installation and modification of traffic signals as to type, size, installation, and method of operation."

Two very important points are made in this Amendment. First is that the state is no longer responsible for approving stop and yield right of way signs. This responsibility has been placed back on the towns. Second is that the RSA specifically states, "The erection, removal and maintenance of all such devices shall conform to applicable state statutes and the latest edition of the Manual on Uniform Traffic Control Devices."

So what does all of this mean? It means that you will have to become very familiar with the MUTCD. In particular pay attention to the words Shall, Should, and May. These words are explained in detail in the manual under 1A-5. However, they can be roughly interpreted as follows:

**Shall** - you must do it, it is mandatory

**Should** - you better have a darn good reason (preferably in writing) for going against the MUTCD recommendations, it is an advisory condition

**May** - you can do it if you want

Note that RSA 47.17 also states that not just erection of traffic control devices but the maintenance of traffic control devices SHALL conform to the MUTCD. With regard to maintenance the manual states under section 2A-30 Maintenance, "All traffic signs should be kept in proper position, clean and legible at all times. Damaged signs should be replaced without undue delay.

To assure adequate maintenance, a suitable schedule for inspection, cleaning and replacement of signs should be established. Employees of street and highway organizations, police and other governmental employees whose duties require that they

travel on the highways should be encouraged to report any damaged or obscured signs at the first opportunity.

Special attention and necessary action should be taken to see that weeds, trees, shrubbery and construction materials do not obscure the face of any sign.

A regular schedule of replacement of lighting elements for illuminated signs should be maintained."

This is not unlike parts of RSA 231:90-93 where it states that you are required to **IMMEDIATELY** respond to an insufficiency in your roadway or sidewalk by erecting proper ("proper" means MUTCD standards) danger signals to warn persons "by day or night" of such insufficiency. Also, **WITHIN 72 HOURS AFTER RECEIPT OF NOTICE** you must develop a **PLAN** for repairing the area in question (my interpretation is that 72 hours means 72 hours -- how do you see it?).

There is also a section on maintenance in the manual under 1A-2 Requirements of Traffic Control Devices. We suggest that you read this section along with other applicable sections of the MUTCD.

What this all means to you is that you can't just act like an ostrich with your head in the sand ignoring problems on the road. You should be actively using a sign management program that is designed to maintain a continuous planning process, allows you to record and track potential insufficiencies, and will record maintenance activities as they occur. It also means that you **MUST** follow the MUTCD. Please, no black and white square stop signs!

At a minimum you should follow the guidelines set out by the NHMA PLIT's loss prevention coordinators:

- Develop procedures for regularly identifying and correcting hazards;
- Document reported defects and hazards on a standard form;
- Document inspections and actions on a standard form;
- Insist that all employees know and understand their responsibility to report hazards;
- Insist that all employees and work crews follow the laws and guidelines for reporting hazards and follow traffic laws during maintenance and construction of roads, sidewalks, and bridges;

Of course, one more thing should be added to the list: **BUY A MUTCD AND USE IT!** So, where do you get a MUTCD? Chances are your town already has one. Check with the town office. Should you run into a dead end or if you have any questions at all please give us a call toll free at 800-423-0060. ■