

Flagger & Uniformed Officer Use in NH Work Zones

- FHWA Mandate
- 23 CFR Part 630, subpart K.
- Req. Effective Date 12/05/08
- Signed 06/05/09



FHWA Rule 630.1106(c) Uniformed Law Enforcement Policy

“Each agency, in partnership with FHWA, shall develop a policy addressing the use of uniformed law enforcement on Federal-Aid highway projects.”



Features of the Policy and Guidelines

- Apply to all NHDOT projects.
- Encourage early communication between NHDOT, municipalities, and law enforcement.
- Provide consistency in cost estimating.
- Provide consistency in flagger & officer use.
- Formalize MWZA process.
- Address flagger & officer training.

Jurisdiction? Liability? Responsibility?

- NH Town Ordinances:
 - Some towns require police details for any activity that may impact traffic.
 - Pursuant to RSA 105:9???

Jurisdiction? Liability? Responsibility?

- RSA 105:9.III.a says...
 - “The chief of police shall have the authority to assign police details to attend any public meetings or function which he determines may potentially involve traffic related problems.”
 - Examples of public meetings or functions listed in 105:9 include public dance, circus, or carnival.

Jurisdiction? Liability? Responsibility?

- Who has authority within a **Construction Zone**?
- Depends on:
 - Who's managing or doing the work (state, town, private)
 - Class of road (I, II, III, IV, V, VI) – RSA 229:5

Jurisdiction? Liability? Responsibility?

- RSA 228:37 says...
 - “The [NHDOT] commissioner may close, regulate or restrict traffic over any section of **class I, II, or class III** highway or bridge thereon when the public welfare or necessity so requires, **or in order to perform work on any such highway or bridge by posting notices at each end** of such section of highway or at each end of such bridge, and may establish and mark detours, and ...

Jurisdiction? Liability? Responsibility?

- RSA 228:37 cont'd says...
 - "... **no town shall be liable** to any person for damages or injuries caused in whole or in part by the use of such highway or bridge when such notices are posted."
- Other relevant RSA's: 228:21, 236:1, 230:78

Jurisdiction? Liability? Responsibility?

If NHDOT is overseeing work on a **class IV urban compact road or a class V town road**, a separate municipal agreement delegating the town's authority to the NHDOT will need to be written and language should be included in that agreement to address traffic control authority and intentions.



Flagger & Police Use Guidelines

MWZA and Early Coordination Guidance

The Municipal Work Zone Agreement (MWZA)



MUNICIPAL WORK ZONE AGREEMENT
FOR
(CITY / TOWN)
STATE PROJECT: _____
FEDERAL PROJECT: _____

THIS AGREEMENT, executed in mp/ww, made and entered into this ____ day of (month) (2020), between the New Hampshire Department of Transportation, hereinafter called the "DEPARTMENT" and the City / Town of (City / Town), hereinafter called the "CITY / TOWN".

WITNESSETH that,

WHEREAS, the DEPARTMENT will be (description of project);

WHEREAS, The State Legislature has delegated the Commission of the DEPARTMENT with full authority to control traffic in highway/bridge construction work zones on Class I, II, and III highways, RSA 228:21, 236:1, and 228:37;

WHEREAS, The Department intends to use a combination of flaggers and/or uniformed officers, as appropriate, to control traffic and ensure public and worker safety; and

NOW, THEREFORE, in consideration of the above premises, it is mutually agreed as follows:

A. The DEPARTMENT shall construct project (project name, number and description)

B. The DEPARTMENT will be responsible for the management and operation of the highway throughout the duration of the construction of the project. This includes the authority to determine the most appropriate way to control traffic within the construction work zone limits of the project.

IN WITNESS WHEREOF, the parties here have affixed their signatures, the (City / Town) of _____ New Hampshire, on this ____ day of _____, and the Department of Transportation on this ____ day of _____.

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION CITY / TOWN OF _____

By: _____ By: _____
COMMISSIONER (Mayor / Chairman of the Selectmen)

City Councilor / Selectmen

City Councilor / Selectmen

City Councilor / Selectmen

cc: Police Chief

© 2019 Department of Transportation

Flagger & Police Use Guidelines

MWZA and Early Coordination Guidance

“A **Municipal Work Zone Agreement (MWZA)** outlining the Department of Transportation’s authority and responsibility for controlling traffic within the work zone is to be signed by each municipality as detailed in the NHDOT Flagger and Uniformed Officer Guidelines prior to construction of applicable project.”

NHDOT Flagger and Uniformed Officer Use in Work Zones Policy

Flagger & Police Use Guidelines

MWZA and Early Coordination Guidance

NHDOT shall ask police, fire, and other town officials for input:

- Accident history
- Commuter traffic patterns
- Seasonal traffic volume increase/decreases
- Special town events

Flagger & Police Use Guidelines

MWZA and Early Coordination Guidance

Near end of design phase and prior to construction, NHDOT shall meet with town officials again to communicate the NHDOT's proposed traffic control plan.

- Take into account town's earlier input.
- Spell out NHDOT's intentions regarding use of flaggers and/or uniformed officers.

Don't be afraid to request a meeting to address concerns! Pre-construction!

NHDOT Goal:

- **Improve communication with municipalities:**
 - Open work zone safety dialogue with municipality.
 - Encourage feedback.
 - Get signed copy of MWZA, include in contract documents.
 - Follow-up with town prior to bid.
 - Be upfront and clear about NHDOT expectations to use flaggers, officers, or temp. traffic control devices.

Flagger & Police Use Guidelines

A. Traffic Control Operations:

- Flaggers shall be used to the greatest extent possible for **dynamic traffic control** operations.



Flagger & Police Use Guidelines

A. Traffic Control Operations (cont'd):

- **Dynamic traffic control** = Traffic control that can be continuously adjusted to meet changing work zone needs and traffic demands (i.e. flagging operations)



Example: Alternating One-Way Traffic

Flagger & Police Use Guidelines

A. Traffic Control Operations (cont'd):

Examples of dynamic traffic control situations where officers may be used:

- Complex signalized intersections.
 - Rolling Roadblocks



Flagger & Police Use Guidelines

B. Presence:

“The use of flaggers or uniformed officers for presence should only be used when there is an added safety risk to the workers and road users due to speeding, other aggressive driving behaviors, and/or high traffic crash/incident rates attributed to other features such as poor highway geometrics.”



Flagger & Police Use Guidelines

B. Presence (cont'd.):

- **Uniformed officers** may be used:
On roads with posted speeds of 45 mph or greater **AND** an average daily traffic (ADT) volume of 15,000 vpd or greater.
- If:



Workers are unprotected and close to traffic.

Or there are increased safety risks to the road users.

Flagger & Police Use Guidelines

B. Presence (cont'd.):

- **Flaggers** may be used:

- On roads with posted speed of < 45 mph or an ADT volume < 15,000 vpd.

- To:

- Alert and slow traffic with the use of hand signals and hand-signaling devices as described in Chapter 6E of the MUTCD.



Flagger & Police Use Guidelines

B. Presence (cont'd.):

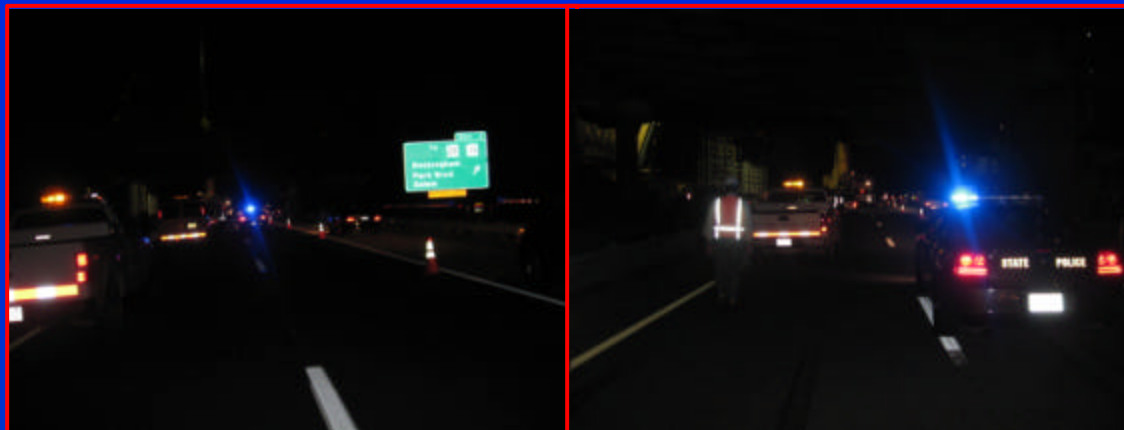
- If all work is behind barrier, neither officers nor flaggers are typically necessary.



Flagger & Police Use Guidelines

B. Presence (cont'd.):

- Police vehicles should be considered for nighttime operations – **be mindful of excessive use** – lights at night might actually detract from the positive guidance the traffic control devices provide.



Flagger & Police Use Guidelines

B. Presence (cont'd):

- Officers may be used on low speed, low volume roads if a specific safety issue needs to be addressed.
- Examples:
 - Work zone with high rate of crashes.
 - Vehicles traveling at excessive speeds.

Flagger & Police Use Guidelines

B. Presence (cont'd):

- Officer use should be considered only after other measures have been determined to be ineffective.
- Examples:
 - MUTCD required signs and delineation.
 - Centerline cones
 - Portable rumble strips
 - Automated speed signs

Flagger & Police Use Guidelines

C. Enforcement:

- Can only be done by uniformed officers.
- May be used in work zones where excessive speed and/or other aggressive driving behaviors are likely to jeopardize the safety of the workers and other road users.



Flagger & Police Use Guidelines

C. Enforcement (cont'd):

- Use on limited basis to improve effectiveness of “presence” officers.
- If arrest is necessary, detail officer shall call in and turn arrest over to on-duty officer.

Flagger & Police Use Guidelines

D. Emergency Assistance:

- Uniformed officers should provide initial assistance if on site when an emergency occurs.
- On-duty officers should be called in.



Flagger & Police Use Guidelines

NHDOL, NHDOT, & FHWA Requirement:



If Flagging:
Use STOP/SLOW paddles



Vest



No Vest

Always wear high-visibility
apparel

Flagger & Police Use Guidelines



- Never Park a Police Cruiser behind a TMA



Flagger & Police Use Guidelines

- **Uniformed Officer Training**
 - Online and classroom training being developed
 - Will be required before working on NHDOT managed projects
- **Flagger Training**
 - Currently required
 - Designated trainer training every 4 years
 - ATSSA* certification qualifies
 - Contract work to meet NHDOT specification 618
- *American Traffic Safety Services Association

BOTTOM LINE:

- Improve communication between NHDOT and municipalities.
- Be consistent with officer and flagger use.



BOTTOM LINE:

- Use officers for presence and enforcement.



- Use flaggers for flagging



BOTTOM LINE:

Consistent use of the MUTCD throughout the country is key to improved safety within our work zones



QUESTIONS??



Nickie Hunter, P.E.
District Construction Engineer
NHDOT Bureau of Construction
(603) 271-2571
nhunter@dot.state.nh.us

