STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE COMMISSIONER

DECLARATORY RULING NO. 2016-01

APPROVAL AND REGULATION OF OHRV TRAIL CROSSINGS WITHIN THE STATE HIGHWAY RIGHT-OF-WAYS

I, Victoria F. Sheehan, Commissioner of the Department of Transportation, do hereby issue this document as a Declaratory Ruling in order to provide procedures and requirements for the applicability and implementation of RSA 215-A:9 governing OHRV trail crossings within class I, II, and III highway rights-of-way.

This Ruling shall be used by the Department in determining the permitting, location, construction, maintenance, and any other aspect of approving and regulating OHRV crossings pursuant to RSA 215-A:9.

Dated: MAY 5TH, 2016

Victoria F. Sheehan
Commissioner, NHDOT

STATE OF NEW HAMPSHIRE

DEPARTMENT OF TRANSPORTATION
BUREAU OF HIGHWAY MAINTENANCE

Policy for the Permitting of Crossings on State Highways by Off-Highway Recreational Vehicles (OHRVs)

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1. PURPOSE

The purpose of this policy is to outline departmental procedures and requirements relative to utilizing the public highway systems for road crossings by Off-Highway Recreational Vehicles (OHRVs) in accordance with the following principles:

a. To provide maximum safety and protection to highway traffic through the orderly control of OHRV movements onto, across and off of the highway systems of the State;

b. To provide a uniform procedure throughout the State whereby OHRVs may be permitted to cross the State's highway systems at permitted locations;

c. To monitor the location, design and construction of crossings built within the State's right-of-way;

d. To provide a standard guidance on sign installation intended to warn highway traffic that an approved OHRV crossing is ahead, and

e. To provide a uniform design standard that protects the physical structure of the State highway system.

2. INTENT

a. The review of OHRV crossing permit applications is the responsibility of the Commissioner of the Department of Transportation. This operational responsibility is

delegated to the Division of Operations - Bureau of Highway Maintenance and its district offices. The District Engineer or the Assistant District Engineer shall issue all permits.

b. This policy shall apply to all proposed trail crossings. A revised permit will be required where a physical change to an existing permitted crossing is proposed.

c. Compliance with this policy shall not relieve the applicant from the responsibility to comply with other Federal, State or local ordinances, rules or regulations.

d. This policy does not include provisions for on-highway use of OHRVs as a trail. The Department has a separate policy / guidelines for the permitting of OHRVs to utilize the traveled portion of the highway as a trail connector.

e. The Department reserves the right to make changes, additions, repairs, and relocations to the State highway system in the location of any trail crossing. These changes may include relocation, reconstruction, widening, and maintaining the highway, which may necessitate modifications to the existing trail crossing to be completed by the permittee. The Department shall advise the permittee prior to undertaking such changes.

f. Every attempt should be made to locate OHRV crossings at existing snowmobile crossings wherever practicable.

g. Proposed trail crossings should be proposed to connect major trail systems.

3. REFERENCES

The following statutes and policies are the basis for the policies developed herein:

a. Bureau Responsibilities, RSA 215-A:3;

b. Operation of All OHRVs, RSA 215-A:6; RSA 215-A:8

c. Limitations of OHRV Operation on Class I, II, and III Highways, RSA 215-A:9;

d. Limitations of OHRV Operation on Class I, II, III and III-a Highways, RSA 215-A:10;

e. ATV and Trail Bike Trails, RSA 215-A:42;

f. Evaluation Process, RSA 215-A:43;

g. Prohibition of Certain Vehicles Within Highway Rights-of-Way, RSA 236:56, and

h. State of New Hampshire, Department of Public Works and Highways, Crossing of Highways by Off-Highway Recreational Vehicles (OHRVs), Policy Procedure No. 8.

4. DEFINITIONS

a. "Clear Zone" means the unobstructed, traversable area provided beyond the edge of the traveled way for the recovery of errant vehicles. Clear zone is calculated by using the American Association of State Highway and Transportation Officials (AASHTO), "Roadside Design Guide".

b. "Department" means the Department of Transportation of the State of New Hampshire.

c. "Off Highway Recreational Vehicle" (OHRV) means any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, tracks, or cushion of

air. More specifically OHRVs may include; All Terrain Vehicles (ATVs), Motorcycles, Trail Bikes, and Utility Terrain Vehicles (UTVs). For the purposes of this policy snowmobiles are not considered OHRVs.

d. "On-highway use of OHRVs" means the commingling of vehicular and OHRV traffic within the traveled portion of the State highway system.

e. "Permittee" means the NH Department of Resources and Economic Development – Bureau of Trails.

f. "Right-of-Way" (ROW) means State owned property, easements, or other interests therein, dedicated for the construction, operation, and maintenance of the State highway.

g. "Sight Distance" means a line that encounters no visual obstruction between 2 points, each at a height of 3 feet 9 inches above the pavement, allowing for a 2 foot 6 inch clearance to accommodate grass or brush. The line represents the line of sight between the operator of an OHRV using the trail (point 1) and the operator of a vehicle approaching from either direction on the highway (point 2).

h. "State Owned Lands" means any parcel that is owned wholly or in part by the State or where the State has management responsibilities or exclusive rights to the property.

i. "Trail Connector" means that specific portion of an OHRV trail that may be authorized within the State highway right-of-way.

j. "Trail Crossing" means that specific portion of an OHRV trail that may be authorized for direct crossing of the State highway right-of-way.

k. "Traveled Portion of the Highway" means all areas of a public highway between the outer limits of the paved or gravel shoulders.

l. "Traveled Way" means that portion of a public highway designated for the use of vehicular traffic excluding the paved or gravel shoulders, sidewalks, or parking spaces.

m. "Use and Occupancy Agreement" (U&O) means a document by which the Department approves the use and occupancy of limited access and/or controlled access rights-of-way by alternative facilities.

n. "Water Bar" means an earthen berm or excavated swale, traversable by OHRVs that is angled across a trail to divert runoff water off the trail. Manufactured rubber flow deflectors may be used in place of water bars with approval by the district engineer. The allowable spacing for rubber flow deflectors shall be 50 feet.

5. POLICY PRINCIPLES

a. Limited Access Highways (Interstate, Divided Highways, and Toll Roads)

(1) No direct crossing of interstate highways, divided highways, or toll roads shall be permitted.

(2) Indirect crossings by passing under or over the highway may be authorized by the Department where bridge structures exist and there are adequate accommodations available for the safe passage of such vehicles.

(3) If a trail crossing is permitted within a Limited Access highway, a U&O agreement must be executed between the Department and the permittee.

b. Controlled Access Highways

(1) Indirect crossings as prescribed under Limited Access Highways shall be utilized wherever practicable in place of direct crossing.

(2) Crossings for established trail systems may be permitted on a permit basis only where authorized access points exist approximately opposite each other (at or near 90 degrees to the roadway).

(3) Special exceptions to section 5.b.(2) may be granted at the discretion of the district engineer when extreme hardship exists or if following the policy causes a significant safety hazard to the traveling public. No exception shall be granted to locations where sight distance is less than 400 feet.

(4) If a trail crossing is permitted within a Controlled Access highway, a U&O agreement must be executed between the Department and the permittee.

c. Other State Highways

(1) Attempts should be made to locate trail crossings where existing authorized access points exist approximately opposite each other to the greatest extent feasible.

(2) No permit shall be issued to locations where sight distance is less than 400 feet.

(3) The operation of OHRVs may be allowed on sidewalks adjacent to urban highways upon written request of a town or city after consultation with the permittee and approval of the Department. Applications for use of sidewalks shall generally be treated as on-highway connector trails but may follow a simplified process if no physical alterations to the existing sidewalk are needed.

6. PERMITTING PROCEDURE

a. General

(1) All permit applications shall be submitted by the permittee to the District Engineer who oversees highway maintenance operations at the proposed crossing location. Appendix I contains a map depicting the separate highway maintenance district limits and contact information.

(2) Separate permits are required at each location where a crossing is proposed.

(3) The permit application will be reviewed by the respective district offices for conformance with this policy and other applicable laws, regulations, and policies.

(4) The district office is responsible to request additional information needed to complete or support the application.

(5) After reviewing the complete application, the district office shall either issue or deny the permit. Permits will be issued directly to the Bureau of Trails. The permittee will be notified in writing if the permit is denied.

(6) No trail crossing shall be authorized where sight distance is less than 400 feet. Sight distance is defined under Section 4.

(7) Trail crossings should be located a minimum of 100 feet from any existing intersection or driveway.

(8) Where new access points are needed for the trail crossing, they shall be constructed by the permittee in conformance with this policy.

(9) The permittee shall obtain written permission from the property owner(s) adjacent to the proposed crossing location. The written permission should specifically authorize the use of their property (including any special requirements/restrictions) for the trail system requiring the crossing, and release the State from all liability in connection with the creation, use, or operation of the trail crossing before any permit is issued. If the property owner(s) wish to rescind their authorization of the trail, the permit will be revoked.

(10) The parking of motor vehicles, trailers, or other equipment used to transport OHRVs to the trails shall not be permitted within the highway right-of-way, except within designated parking areas approved by the Department.

(11) Permits shall include any provisions necessary to promote safety, maintain the existing highway drainage, and/or to provide additional visibility or other safety features deemed advisable by the District Engineer. Such provisions may include limiting crossing use to specific times of day or times of year.

(12) Signing on trails intended to warn trail users of the highway crossing or inform them of other special requirements shall be provided, erected, and maintained by the permittee. Required trail signing shall at a minimum consist of a stop sign and at least one advance warning sign for each approach to the highway. No permanent signing will be allowed in the State right of way and all signing shall be crashworthy and meet current standards, as determined by the permittee.

(13) The permittee is responsible for recommending the need, location, size, and message of all other signs where appropriate based on sight distance or other considerations.

(14) The Department is responsible for erecting and maintaining the approved highway signs within the State right of way intended to warn passing motorists of the trail crossing.

7. CONSTRUCTION REQUIREMENTS

a. General

(1) No construction within the highway right-of-way shall commence until a permit is executed by the Department.

(2) The permittee is responsible for ensuring construction is in accordance with the permit, Department policy, and design plans.

(3) The permittee is responsible for all costs in connection with construction and maintenance of the trail crossing.

(4) The permittee is responsible for providing appropriate traffic control and maintaining all highway traffic patterns during construction of the crossing.

(5) In no case shall a trail crossing cause water to stand (pond) on the pavement, shoulders, or within the limits of the right-of-way.

(6) Unless construction begins within one year from the date of issue, the permit shall expire.

(7) If the size and complexity of the trail crossing requires a Department representative to monitor and inspect the project. In certain circumstances the cost of such inspection and monitoring shall be invoiced to and paid for by the permittee.

(8) The permittee shall prohibit the use of the trail crossing by unauthorized vehicles.

(9) The crossing approach shall be a minimum of 15 feet in width within the state ROW.

(10) There shall be a minimum 20 foot long paved apron installed adjacent to the highway approach.

(11) The trail beyond the 20 foot paved apron shall be constructed of a durable gravel base and crushed gravel surface to the limit of the highway right-of-way.

(12) The trail shall cross the highway and right-of-way at a 90-degree angle and no turns in the trail within the right-of-way shall be permitted unless they are paved.

(13) The paved apron approach grade located on the roadway fill slope shall be -6% with the grade beyond not to exceed 15%.

(14) For construction within roadway cut-sections, the crossing approach shall slope away from the highway to a low point, in-line with the existing ditch line or a minimum of 8 feet from the shoulder and 6 inches below the shoulder. The grade beyond shall not exceed 15%.

(15) Culverts shall be installed where the trail is proposed to cross an existing ditch line. The culvert shall be properly sized to accommodate the flow in the ditch line during the 25-year recurrence interval storm event. In no case shall the culvert be less than 15 inches in diameter and no closer to the shoulder than 8 feet. Flared end sections are required and no headwalls or wingwalls shall be allowed.

(16) Where trails are constructed to drain toward the highway with a grade of 6% or greater, water bars diverting runoff to a stabilized outlet are required. Water bars shall be spaced no greater than 100 feet apart and shall be located so minimal runoff enters the highway right-of-way by flowing down the trail.

8. MAINTENANCE RESPONSIBILITY

a. Maintenance of the crossings, approaches, or any damage caused by the trail with State ROW will be the responsibility of the permittee. The Department of Transportation will not participate in the maintenance of these facilities.

b. Ongoing permittee maintenance responsibilities will include:

   (1) Maintenance of the trail crossing from the edge of the highway pavement or paved shoulder;

   (2) Maintenance of all approved and/or required upstream and downstream drainage alterations including but not limited to; pipe extensions, culverts, open ditches, and swales.

   (3) Maintenance of all trail signage.

   (4) Maintenance of trees, bushes, or shrubs that obstruct sight distance in the location of the trail.

   (5) Repairing any damage to public or private property within the right-of-way caused by the crossing or approaches.

c. Maintenance of on-highway signage installed by the Department, intended to warn traveling motorists of the trail crossing is the Department's responsibility.

d. The permittee is responsible for maintaining records of all OHRV trail crossings within the State highway right-of-way throughout the State. Once a year, the permittee shall provide to the Department a map and list of all trail crossings and certify that all abutting private landowners' permissions are still in effect.

9. PERMIT REVOCATION OR SUSPENSION

a. Upon receiving notice from the permittee or adjacent landowners rescinding their permission for the trail to access their property, the Department shall revoke the permit and the crossing be closed.

b. If the district engineer or bureau administrator is notified that use of a crossing constitutes a danger to the public health, safety or welfare, the permit shall be suspended and the crossing closed until an investigation is completed. The Department shall investigate the allegations and determine if the permit should be revoked and the crossing closed permanently.

c. If repeated damage to highway infrastructure is caused by use of the crossing, the permit will be suspended until an investigation to determine what improvements are needed to ensure the damage is mitigated. The cost of any repairs or improvements will be the responsibility of the permittee.

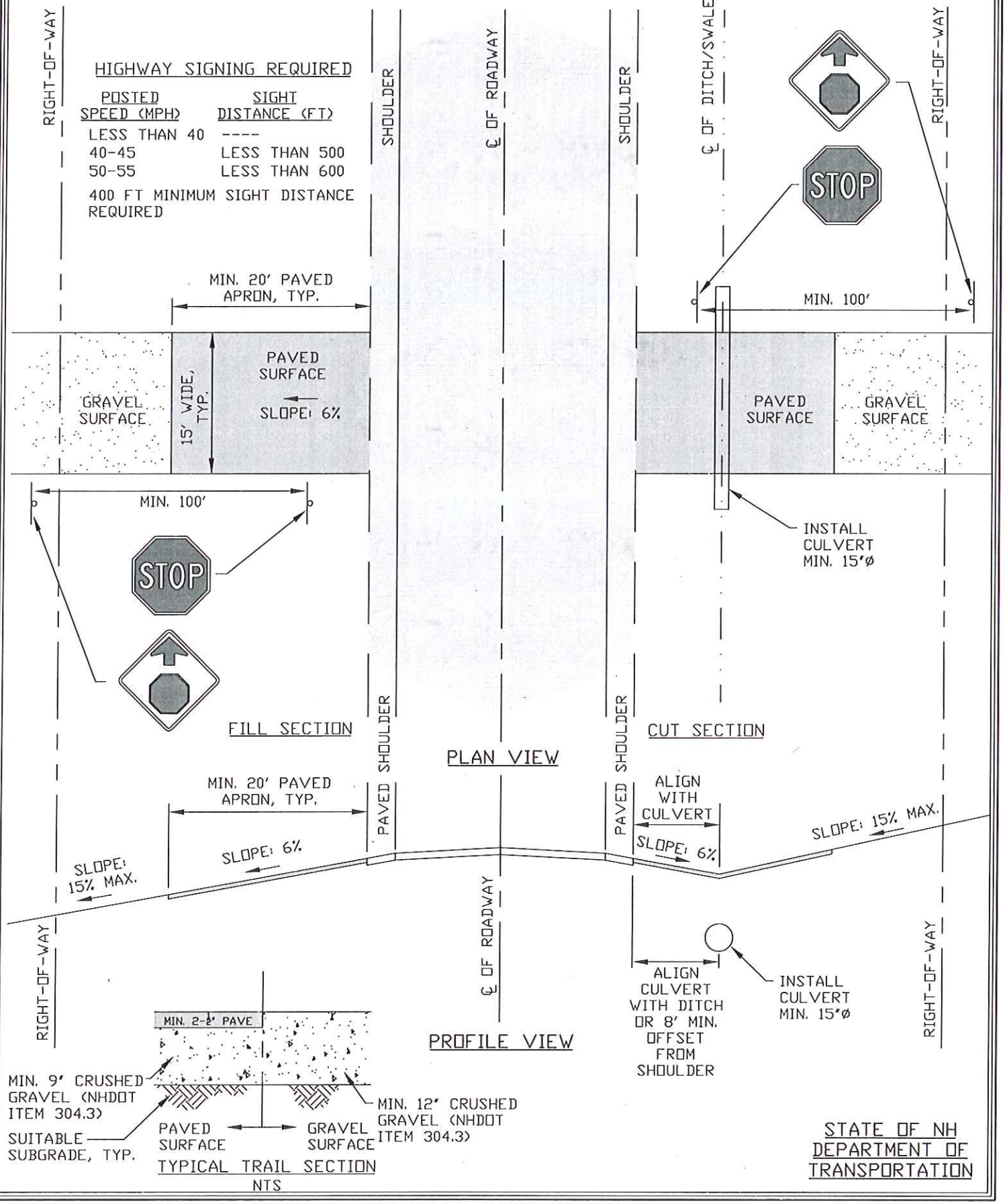
d. Immediately following revocation of any permit the crossing approaches shall be completely removed and the area restored by the permittee to the satisfaction of the Department.

e. Existing crossings that remain inactive or unmaintained for more than 3 consecutive years shall be considered abandoned and shall be removed and the area restored by the permittee to the satisfaction of the Department.

REV#1 9/23/15
REV#2 10/13/15

OFF HIGHWAY RECREATIONAL VEHICLE
TYPICAL HIGHWAY TRAIL CROSSING DETAIL

NTS



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