

APPROVED BY NCUTCD COUNCIL ON JANUARY 18, 2007

NATIONAL COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

TECHNICAL COMMITTEE: Regulatory/Warning Signs Technical Committee

DATE OF ACTION: 10/15/05, 4/03/06, 4/29/06, 6/28/06 – approved by RWSTC to send to Sponsors for review. 12/16/2006 Revisions based on Sponsor Comments, Revisions 12/18/06 based on ITE Comments

TOPIC: Use of “Reasonably Safe or Safety”

ORIGIN OF REQUEST: NCUTCD Edit Committee

AFFECTED PORTIONS OF MUTCD: Chapters 1, 2A, 2B, 5 and 7.

DISCUSSION:

The use of the word safe in the MUTCD has caused some question in litigation where the MUTCD provisions are an issue. Engineers and field personnel can decide to install, maintain and operate traffic control devices that may or may not influence the road users. However, they can not ensure the results of the traffic control device usage. In many areas of the MUTCD, the text indicates that use of some device will create safety, make the road user safe, or result in greater safety. While, it is one of the purposes of traffic control devices and the principles of their application to promote safety, there is no guarantee that the road user will be safe or safer.

The term “safe” is defined in the dictionary as;

“Freed from harm or risk” or “Secure from danger, harm or loss”

Black’s Law Dictionary, defines safe as;

“Untouched by danger; not exposed to danger, secure from danger, harm or loss.”

It is questionable if the MUTCD provisions can satisfy these definitions.

The usage of just the word “safe” has been questioned earlier with the suggestion that supplementing with “reasonably” would resolve any definition concerns. Accordingly, the MUTCD 2003 Edition was revised by FHWA inserting the word **“reasonable”** **reasonably**.

Black's Law Dictionary defines "Reasonable" as:

Fair, proper, just, moderate, suitable under the circumstances. Fit and appropriate to the end in view. Having the faculty of reason; rational; governed by reason; under the influence of reason; agreeable to reason. Thinking, speaking, or acting according to the dictates of reason. Not immoderate or excessive, being synonymous with rational, honest, fair, equitable, moderate, tolerable.

It would appear that an interpretation of the use of making something "**reasonable** **reasonably** safe" in the MUTCD would relate to the following;

"The Road User would be freed from any harm or risk that would be suitable under the circumstances based on the dictates of reason being synonymous with rational and tolerable engineering practice"

Now that leads to the next questions:

1. What would be "the suitable engineering practice based on reason"? That is subject to the interpretation of various experts in the field.
2. What are these suitable actions that will provide the support that the installation and maintenance of specific traffic control devices under the circumstances or was the only action needed to free the road user from harm or risk?
3. What is rational and tolerable engineering practice?
4. Would it be the "standard of care" for engineering practice?
5. If it is, should the NCUTCD cover that in the definitions?

A review of the MUTCD text would indicate that the use of "reasonably safe" or "reasonable safety" is not needed in the MUTCD and in most cases can be deleted. The wording can relate to the operation of the road system that may bring safety or not depending on the activities of the road user. However, there can not be a statement or guarantee that use of a particular device for a specific situation will create safety for the road user.

RECOMMENDED WORDING:

After considerable discussion, the Regulatory and Warning Subcommittee generally agrees that it is the intent of the MUTCD to promote safety and that there is no requirement to ensure safety with the installation of a specific sign. Accordingly, while it may be reasonable to mention safety in some of the introductory paragraphs it is not necessary to reiterate that requirement under the text relating to specific signs.

It is recommended that the attached deletions and revised wording to the 2003 Edition of the MUTCD be approved to correct the above problems and possible misinterpretation of the MUTCD provisions.

MUTCD 2003 Edition
Edit Revisions for “Reasonably Safe”
Regulatory/Warning Sign Technical Committee

Section 1A.01 Purpose of Traffic Control Devices

Support:

The purpose of traffic control devices, as well as the principles for their use, is to promote highway safety and efficiency by providing for the orderly movement of all road users on streets and highways throughout the Nation.

Traffic control devices notify road users of regulations and provide warning and guidance needed for the reasonably safe, uniform, and efficient operation of all elements of the traffic stream.

Section 1A.02 Principles of Traffic Control Devices

Guidance:

The actions required of road users to obey regulatory devices should be specified by State statute, or in cases not covered by State statute, by local ordinance or resolution consistent with the “Uniform Vehicle Code.”

The proper use of traffic control devices should provide the reasonable and prudent road user with the information necessary to ~~reasonably~~ safely and lawfully use the streets, highways, pedestrian facilities, and bikeways.

Section 2A.04 Excessive Use of Signs Frequency of Sign Use

Guidance:

Regulatory and warning signs should be used conservatively because these signs, if used to excess, tend to lose their effectiveness. ~~If used,~~ Route signs and directional signs should be used frequently ~~because they promote reasonably safe and efficient operations by keeping to assist~~ road users ~~in navigation, informed of their location.~~

Section 2A.06 Design of Signs

Option:

Internet addresses or phone numbers with more than four characters may be shown on signs, supplemental plaques, sign panels, and changeable message signs that are intended for viewing only by pedestrians, bicyclists, occupants of parked vehicles, or drivers of vehicles on low-speed roadways where engineering judgment indicates that drivers can ~~reasonably safely~~ stop out of the traffic flow to read the message.

Section 2A.16 Standardization of Location

Support:

Standardization of position cannot always be attained in practice. Examples of heights and lateral locations of signs for typical installations are illustrated in Figure 2A-1, and examples of locations for some typical signs at intersections are illustrated in Figure 2A-2.

Standard:

Signs requiring **different separate** decisions by the road user shall be spaced sufficiently far apart for the **required- appropriate** decisions to be made. **reasonably safely**. One of the factors considered when determining the appropriate spacing shall be the posted or 85th-percentile speed.

Section 2B.07 Multiway Stop Applications

Option:

Other criteria that may be considered in an engineering study include:

- A. The need to control left-turn conflicts;
- B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
- C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to **reasonably safely** negotiate the intersection unless conflicting cross traffic is also required to stop; and

Section 2C.36 Advisory Exit, Ramp, and Curve Speed Signs (W13-2, W13-3, W13-5)

Standard:

Advisory Exit, Ramp, and Curve Speed signs shall be vertical rectangles. The advisory Exit Speed (W13-2), Ramp Speed (W13-3), or Curve Speed (W13-5) signs (see Figure 2C-5) shall be used where engineering judgment indicates the need to advise road users of the recommended speed on an exit, a ramp, or a curve.

Guidance:

When used, tThe Exit Speed sign should be installed along the deceleration lane.

The Exit Speed sign should be visible in time for the road user to **slow and** make **a reasonably safe slowing and** an exiting maneuver.

Section 5B.04 Traffic Movement and Prohibition Signs (R3, R4, R5, R6, R9, R10, R11, R12, R13, and R14 Series)

Option:

These signs may be useful on a low-volume road near and at the intersections or the connections with a higher class of road, and where the regulatory message is essential for **reasonably safe** transition from the low-volume road to the higher-class facility **and or** vice versa.

Section 5F.01 Introduction

Support:

The criteria for highway-rail grade crossing traffic control devices are contained in Part 8 and in other Sections of this Manual.

Traffic control for highway-rail grade crossings includes all signs, signals, markings, illumination, and other warning devices and their supports along roadways either approaching or at highway-rail grade crossings. The function of this traffic control is to **promote permit reasonably safe**ly and **the** efficient operation of both rail and road traffic at highway-rail grade crossings.

Section 5F.04 STOP and YIELD Signs (R1-1, R1-2)

Option:

STOP (R1-1) or YIELD (R1-2) signs may be used at low-volume highway-rail grade crossings, at the discretion of the responsible jurisdiction, for crossings without automatic traffic control devices, consistent with the provisions of Sections 2B.04 to 2B.10.

Standard:

A Stop Ahead (W3-1) sign or Yield Ahead (W3-2) sign shall be used in advance of a STOP or YIELD sign at a highway-rail grade crossing if the STOP or YIELD sign is not visible for a distance that enables the road user to bring the vehicle to a **reasonably safe stop at the highway-rail grade crossing.**

Section 5G.03 Channelization Devices

Standard:

Channelization devices for nighttime use shall have the same retroreflective requirements as specified for higher-volume roadways.

Option:

To alert, guide, and direct road users **reasonably safely** through temporary traffic control zones on low-volume roads, tapers may be used to move a road user out of the traffic lane and around the work space using the spacing of devices that is described in Section 6F.58.

Section 7A.01 Need for Standards

Support:

It is important to stress that regardless of the school location, **the best one** way to **promote** **achieve reasonably safe** and effective traffic control is through the uniform application of realistic policies, practices, and standards developed through engineering judgment.

Section 7A.03 School Crossing Control Criteria

Support:

~~Alternate gaps and blockades are inherent Gaps in the traffic stream sufficient for student crossing vary and are different at each crossing location. For safety, students need to wait for a gap in traffic that is of sufficient duration to permit reasonably safe crossing.~~ When the delay between the occurrences of adequate gaps becomes excessive, students might become impatient and endanger themselves by attempting to cross the street during an inadequate gap. **In these instances, the creation of sufficient gaps needs to be considered to accommodate crossing demand.**

Section 7E.05 Operating Procedures for Adult Crossing Guards

Guidance:

Adult crossing guards should not direct traffic in the usual law enforcement regulatory sense. In the control of traffic, they should pick opportune times to create **an adequate reasonably safe** gap **in the traffic flow**. At these times, they should stand in the roadway to indicate that pedestrians are about to use or are using the crosswalk, and that all vehicular traffic must stop.