



Traffic Guidelines Manual

ORIGINATOR Director, Office of Traffic		1-20-4
CHAPTER 1	General	
SECTION 20	Special Topics	
SUBJECT 4	Indemnification	

Standard indemnification provisions occur mostly in two areas in the Division of Highway's policies. One is in section 107 of the Standard Specifications covering construction activities. The basic premise there is that the contractor insures us while the construction activity is occurring. It also covers actions resulting from faulty materials or construction. The second indemnification in use is the standard provision for utility-type facilities administered by the Maintenance Office. This provision is part of every utility permit and is referenced therein to policy 96.03 of the Utility Accommodation Policy. This indemnification is tailored to cover the liability occurring while an object, most commonly a utility pole, is being installed, and also to cover liability during the time the object remains on the ROW.

The Office of Traffic has found on several occasions that Regional offices have attached the above indemnification to various traffic related permits issued by the Regions. These permits include closure of highway, banners, snowmobile crossings, and highway lighting. The Office of Traffic does not endorse the use of indemnification provisions. The perceived need for and use of provisions is left up to the Region. The following advisory comments about the usage *may* be helpful, however.

The Maintenance indemnification is tailored to cover utility-type situations. The provision first covers the period of installation, with the implication that the applicant *may* damage someone else's utility, and secondly, the period while the object is in place, which of course would be many years. The primary concern during that time could be inferred to be mainly crashes with the poles. The Maintenance indemnification applies to situations very similar to that covered by lighting permits, permits for flashing beacons and banners over highways, where new poles or supports are set. From that standpoint the Regions *may*, if they so choose, make use of or make reference to the Maintenance indemnification, using the full name.

On the other hand the Maintenance policy does not appear to fit the situations involved in highway closures, snowmobile crossings or routes, or painting crosswalks, etc. In these cases the anticipated major problem would likely be vehicle crashes resulting from alleged inadequate signing, marking or barricading; in other words, something which can be described as a traffic control device misuse or inadequacy. While this

guideline makes no recommendation as to the need for indemnification statements in permits issued by the Regions related to traffic operations activities, caution is urged that unless the indemnification is tailored to the nature of the activity or situation the indemnification *may* have little or no substance.

In the case of small communities especially, the inclusion of a indemnification requirement *may* cause their insurance carrier to re-assess their coverage situation.

Indemnification related to work performed for us by others which is not being done under contract administered by the Construction Office *may* be referenced to section 107 of the Standard Specifications. Again, this is not a recommendation that the activity be covered, but simply an appropriate and approved indemnification clause that can be used if the Region so chooses.