

HCR

34

REQUEST: FISCAL NOTE

Revision Date:
Title: House Concurrent Resolution No. 34

Agency Affected: DOT&PF
BRU: Engineering & Operations Standards

Sponsor: Larson, Menard, Ellis, Brown, Gruenberg and Donley
Requestor: Cato

Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	24.0	24.0	24.0	24.0
TRAVEL	0	12.0	0	0	0	0
CONTRACTUAL	0	7.0	0	0	0	0
SUPPLIES	0	2.0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	6.0	0	0	0	0
TOTAL OPERATING	0	27.0	24.0	24.0	24.0	24.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	24.0	24.0	24.0	24.0
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FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	27.0*	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	24.0	24.0	24.0	24.0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0.5	0.5	0.5	0.5
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

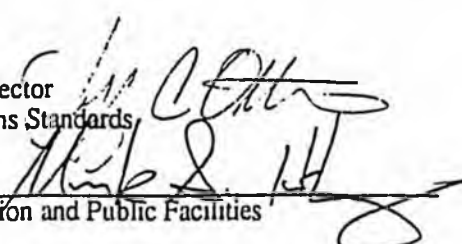
ANALYSIS: (Attach a separate page if necessary)

* The department has prepared a detailed position paper which identifies a number of policy options and sub-options. In brief, this fiscal note identifies an initial cost of \$49.0 to establish the TODS signing program of which \$27.0 can not be covered by existing budgets. The \$22.0 not shown above is covered by existing budgeted staff (personal services).

Continued on page 2.

Prepared by: Jeffery C. Ottesen, Director
Division: Engineering and Operations Standards

Phone: 465-2951
Date: February 5, 1988

Approved by Commissioner: 
Agency: Department of Transportation and Public Facilities

Date: 2/5/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Fiscal Note on:
HCR034A
February 5, 1988
Department of Transportation and Public Facilities
Page 2 of 2

continued from page 1:

Thereafter, the fiscal impact to the state would reflect the policy option selected. Depicted in this fiscal note is the minimum state investment option wherein the cost of establishing the program would be borne by the state but businesses interested in having signs erected would bear all direct and indirect costs of the program. At minimum, this would be a 1/2 time position to monitor and keep records on the program which is reflected in the above analysis.

Higher fiscal impacts and staffing may be required if other policy options are adopted. For example, if the department were to perform all sign erection, removal and maintenance, staffing additions and associated costs would raise the fiscal impact. In principal, we envision a program that utilizes the private sector to the greatest extent possible, and that policy alternative is reflected in this fiscal note.

For additional detail, pp. 9-13 of the department's position paper is attached which describes the fiscal implications of three policy alternatives.

Phase II - Start Up and Continuation (Indefinite)

This phase involves the physical placement of sign standards and business informational signs following the process and methods selected in the regulations and from legislative intent. It is likely that minor adjustments to the program would be pursued based upon the feedback of field experience. The cost to the state during this phase would vary according the policy option selected regarding the degree to which business enterprises should pay for the program. Following is a range of policy options that better define the possible cost ramifications of various policy options.

State Investment Policy
Minimum

Description

State develops program; businesses pay all other costs including staff support for application processing, sign manufacturing, installation, liability insurance, repairs, replacement and removal, as necessary. This approach would require both an application fee and annual administrative fee to support state costs.

Shared

State develops program; businesses pay application cost, and pay for sign manufacturing, installation and on-going maintenance. State covers personal services cost associated with program administration.

Maximum

State develops program; state supplies signs, sign supports, and pays for installation, repair, replacement and removal, as necessary. Businesses pay a portion of these costs through fixed application and annual maintenance fees. (Estimated at \$500 for installation and \$250 for annual M&O and administrative costs).

The total cost of this phase will be affected by the number of participating businesses. The number of participating businesses, will, in part, be determined by the cost burden they must assume. It is likely that with greater state participation in program costs the more businesses that will participate.

Sign Cost

The signs will cost about \$150 to \$200 per panel, plus \$150 to \$200 for breakaway bases and supports (installed). There can be 1 or 2 sign panels per location for an average cost of \$350 per location if one panel is installed and \$525 per location if two sign panels are installed (\$262 per business). In a typical application each business would have two signs installed, one facing each traffic direction prior to the intersection leading to the business establishment.

We have assumed that the number of one-sign panel and two-sign panel installations will be about equal, thus the average cost per business will be:

$$\frac{(\$350 + \$525)}{2} * 2 \text{ signs per business} = \$875 \text{ per business average}$$

Number of Businesses

For the purpose of an estimate the following assumptions have been made concerning the number of participating businesses: 1) The number of businesses which elect to participate will vary with the degree of state investment. 2) The ultimate number will not be realized in the first 1 or 2 years, but will gradually increase over a 5 year period; thereafter growth will generally follow state economic trends.

Table 1 indicates the estimated number of participating businesses over a 5 year period, for each of the three policy options previously described.

M&O Cost for Signs

Upkeep, repair, replacement and insurance are estimated to cost 25% of the signs installed value annually. While this may appear as a high figure considering that the signs should have a life of 10 to 12 years from the effects of weathering, it is anticipated they will actually experience a much shorter life due to accidents and vandalism (average life of 4 to 6 years is estimated). Some form of insurance coverage is considered a probable requirement.

DOT&PF Administrative Costs

The department will be required to maintain an inventory and status of the business signing program. While this workload will in fact vary in part with the overall size of the program, for the purposes of this estimate it is considered a fixed cost. It is estimated it will require a 1/2 time position to coordinate the program, serve as center for statewide data collection, and remain current with the progress of the program so that policy adjustments, if necessary, may be pursued.

The administrative staff position would require funding in the range of \$24,000 per year (6 mo. @\$4,000). Funding for this cost is covered by participating businesses in the *minimum* policy option; it is covered by the state in the other policy options.

This position is over and above the staff support required to process individual applications for signs at the regional level. The regional utility staffs are considered adequate to undertake this role (with necessary coordination with traffic safety staff), though a fee is proposed, as these staffs are funded entirely from program receipts. A \$200 application fee is contemplated under all of the policy options. This is the cost for evaluating each sign request and processing it through decision (approve or deny) and is estimated to be \$200 (8 hours @ \$25/hr.).

State and Business Costs

From the above data it is possible to derive some general estimates of what costs would be incurred to either the state or an individual business relative to the three policy options.

The *minimum* state investment policy option results in the fewest number of businesses participating with the highest cost per business served. An average initial sign installation cost is estimated at \$1,075, with an annual cost of \$819 in FY 90 (M&O and administrative fee) and a general lowering of the annual cost to \$379 in FY 94 as the total number of businesses increases providing a larger base of firms to share the fixed administrative cost. This option results in a one-time expense to the

state of \$49,000 for program start-up with all other costs borne by participating businesses.

The *shared* state investment policy option would again cost each business the \$1,075 for sign installation. The annual M&O cost to each business is estimated at \$219 with the state assuming the fixed administrative cost. This would result in an on-going expense to the state of \$24,000 annually, with a total state investment of \$169,000.

The *maximum* state investment policy option results in the greatest number of participating businesses as the cost to each is the lowest. Each business is assumed to pay a \$500 initial installation fee which partially covers the cost of the sign and application processing. Thereafter, there would be an annual fee of \$250 covering administration and sign M&O costs. This option results in a very large investment by the state over the 6 year projection; estimated at \$322,000.

Tables 2 - 6 depict the costs for the three policy options and are broken down for the 6 year horizon - FY 89 through FY 94. To reiterate key assumptions used in the analysis they are repeated below:

Number of Businesses per Year:	Varies by option and year, estimated in Table 1
Sign Installation Cost:	\$875 average - 2 signs per business
Application Cost:	\$200
Annual Sign M&O Cost	\$219 average (25% of sign cost)
DOT&PF Administration Cost	\$24,000 annually
Business fees under Maximum Policy	\$500 for sign installation, and \$250 for annual renewal

It is acknowledged that the estimates described herein are just that -- estimates. They are only as good as the assumptions they are built on. The estimates assist in understanding the implications of various policy options and they provide approximate representations of state and private costs that would be associated with the program. The number of participating businesses and the annual sign M&O cost are probably the weakest "links" in the estimates as there are few data upon which to base them. The M&O cost is an average and, unless "pooled" in some fashion, could cost individual businesses much more than this if their signs are vandalized repeatedly. Likewise installation costs may vary greatly by distance from service centers. In summary, while these estimates are quite useful at this stage of investigation, they must be used with caution given the many judgments incorporated into them.

Private Sector Participation

Though mentioned earlier in this paper, the means by which the private sector could assist in program implementation has not been described during the previous discussion on costs. It has been intentionally omitted because there are myriad methods by which the private sector could be involved, and analysis of each, given the many variables already involved, would make the estimates far more complex.

Sign Cost Calculation

Table 1 - Estimated Number of Businesses Participating							Total Business	
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Years Served	
Minimum	0	40	100	125	140	150	555	
Shared	0	60	120	150	175	200	705	
Maximum	0	75	150	225	300	325	1075	

Table 2 - Estimated State Startup and M&O Costs							Aggregate	
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State	
Minimum	\$49,000	\$0	\$0	\$0	\$0	\$0	\$49,000	
Shared	\$49,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$169,000	
Maximum	\$49,000	\$21,675	\$19,350	\$17,025	\$14,700	\$13,925	\$135,675	

Table 3 - Estimated Cost To Business for Annual M&O						
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Minimum	\$0	\$819	\$459	\$411	\$390	\$379
Shared	\$0	\$219	\$219	\$219	\$219	\$219
Maximum	\$0	\$250	\$250	\$250	\$250	\$250

Table 4 - Estimated Cost to State for Sign Installation							Aggregate	
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State	
Minimum	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Shared	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Maximum	\$0	\$43,125	\$43,125	\$43,125	\$43,125	\$14,375	\$196,875	

Table 5 - Estimated State Funding Requirements - Annual M&O and Sign Installation							Aggregate	
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State	Cost per Business/ Year Served
Minimum	\$49,000	\$0	\$0	\$0	\$0	\$0	\$49,000	\$88
Shared	\$49,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$169,000	\$240
Maximum	\$49,000	\$64,800	\$62,475	\$60,150	\$57,825	\$28,300	\$322,550	\$300

Table 6 - Estimated Cost To Business for Sign Pair Installed in FY 90							Aggregate Cost	
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	To Business	Average Cost per Year
Minimum	\$0	\$1,894	\$459	\$411	\$390	\$379	\$3,533	\$707
Shared	\$0	\$1,294	\$219	\$219	\$219	\$219	\$2,170	\$434
Maximum	\$0	\$750	\$250	\$250	\$250	\$250	\$1,750	\$350

This should not suggest the department is disinterested in this approach. Three general options are presented below for consideration. Detailed evaluation is suggested for the task force in analyzing the merits of each option and better defining a course of action.

1. Franchise - Under this concept the program would be almost entirely run by a private firm or firms in franchise fashion. Final decision concerning sign installation and program policies would remain in departmental hands; otherwise individual businesses would make application to the firm(s). The firms would be sanctioned by the department to perform this service and would be responsible for all steps including application processing, sign manufacturing, installation, maintenance, and inventory and status reporting.

2. Installation and M&O Only - Under this concept the state would process each application through decision. The business applicant would have the signs manufactured, installed and maintained to state standards by a firm of their choice.

3. Manufacturing Only - Similar to Option #2, except state highway maintenance crews would install and maintain the signs after they were manufactured for the business and delivered to the appropriate maintenance station. This option allows for greater control of exactly how and where the signs are installed within the ROW and may be less costly to the business when the signs are installed in remote locations.

Technical Issues to be Resolved:

As part of the developmental phase (and with an adjustment period as experience is gained) some technical issues will need to be resolved in more detail than is possible here. Some of these are:

- | | |
|---|--|
| User fee structure | - subsidy from state, equal to cost, or revenue generating. |
| Insurance requirements or liability potential | - individual policy or pooled coverage. |
| Conditions of eligibility | - types of businesses, minimum services necessary to qualify, minimum hours of operation, distance from highway. |
| Allowable number and locations | - sight distance, spacing, etc. |
| Physical specifications | - size, shape, materials, colors, logos, supports, locations, etc. |
| Prioritization where demand exceeds available space | - first come, first served?
- lottery on a periodic basis?
- public necessity? |

Alaska State Legislature



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Representative Ronald L. Larson
District 16B

November 2, 1987

Mark Hickey, Commissioner
Department of Transportation
and Public Facilities
P.O. Box Z
Juneau, Alaska 99811

Dear Commissioner Hickey:

Last week I conducted a meeting on increased visitor signage. Members of your staff attended this meeting in Palmer either by teleconference hook-up from Juneau or in person. I would like to extend my thanks for their participation.

Jeff Ottesen specifically contributed greatly during this teleconference and meeting. I found it refreshing to conduct a meeting with agency professionals who were ready and willing to discuss all the issues in a very calm and informative manner. Jeff, along with all others, were not reluctant to discuss creative approaches to old and frustrating problems.

The results from the meeting are heartening. Mr. Ottesen will be preparing a work plan to address many of the problems we discussed. I am more than willing to sponsor necessary legislation and I will be contacting Representative Cato for her committee's help in this matter. In addition, if the Tourist Oriented Directional Signing system (TODS) approach seems to suit both the urban and rural needs, I will be pleased to offer my help to acquire the necessary state funding for this program.

Once again, I extend my thanks to you and your staff. I look forward to more positive communication on this subject in the near future.

Sincerely,

Handwritten signature of Ronald L. Larson.
Ronald Larson

cc. Jeff Ottesen
Representative Cato

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX Z
JUNEAU, ALASKA 99811-2500
PHONE: (907) 465-3900

January 15, 1988

The Honorable Ron Larson
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Larson:

Enclosed is a draft policy paper concerning options for providing for signing of commercial interests within state rights-of-way (R-O-W). In brief, this proposal advocates adoption of a new option that we believe will soon be allowed by the Federal Highway Administration. This new option, termed TODS, provides for tourist-oriented directional signs within the ROW.

The TODS option, while beneficial to many categories of businesses, does not open the door to advertising of all forms within state rights-of-way. The signs are relatively small, allow little more than business name identification, and would not be available to businesses not generally used by tourists. Hopefully, this limitation will negate any concern from those interested in preserving scenic resources. In fact, like most good solutions, TODS is a compromise. It would address the need for provision of information to visitors about various businesses not readily visible from the roadside. We believe it would go a long way toward assisting a large number of businesses that rely upon tourists in whole or in part at a cost acceptable to state government.

In the October teleconference, Jeff Ottesen mentioned a budget of \$15 to \$20 thousand to prepare the regulations associated with a program of this sort. Our current proposal is for more than this (\$27,000), and I believe it deserves clarification. Upon review, I felt it desirable to use a "task force" to establish the rules by which the TODS program would be governed and to increase the number of public hearing locations (see p. 7 of the position paper). We could lower this cost by \$10,000 by eliminating the task force approach and reducing the number of public hearing locations from 5 to 3. However, I think that because of the many complicated questions posed by the adoption of a TODS program for Alaska, and the need for businesses and the public throughout the state to participate in the drafting of the related regulations, the additional money is an appropriate expenditure.

The Honorable Ron Larson
Page Two
January 15, 1988

Your patience in awaiting this draft policy is appreciated. We are circulating this policy within the department concurrent with your review. If you would like more information or clarification please let me know.

Sincerely,



Mark S. Hickey
Commissioner

enclosure

cc: Susan Fleischhauer, Legislative Liaison
Barry F. Morehead, Division Administrator, FHWA
Jeff Ottesen, Director, E&OS
Ray Price, Jr., Special Staff Assistant, Office of the Governor

DRAFT

POSITION PAPER:
INFORMATIONAL AND DIRECTIONAL SIGNING
FOR
COMMERCIAL ESTABLISHMENTS

Introduction

The Highway Beautification Act of 1965 severely restricted advertising signs apart from on-premises signs. Many States were even more restrictive to protect the aesthetics of their roadways. In 1969, to provide directional information to motorists on limited-access roadways (Interstates and similar), a system of Specific Service Signs ("Logos") in the right-of-way (ROW) at interchanges was allowed for food, gas, lodging and camping when such enterprises were not visible from the limited-access routes. This program was extended in late 1986 to be eligible on conventional roads¹ with federal approval.

However, the Logo sign program leaves many desirable if not necessary businesses with little or no means to inform motorists of their service and location.

Most states have resisted efforts to institute other signing programs because the demonstrated need from the motorist standpoint was not equal to the costs and public safety consequences. (It is generally held that proliferation of roadside signs causes motorists to tend to ignore them, including necessary traffic control devices, dilutes their attention from the vital driving task, and presents another series of roadside obstacles in collisions.)

However, with the rise in tourism and a lagging economy in some areas, the need for better directional signing for business enterprises was perceived. The Federal Highway Administration is proposing to add a section to the federal Manual on Uniform Traffic Control Devices (MUTCD) to provide for an official system of Tourist Oriented Directional Signs ("TODS") to meet this need. (Attachment 1)

There has been a growing demand for such directional signing in Alaska. During a recent teleconference including representatives from the Federal Highway Administration (FHWA), the Department of Transportation and Public Facilities (DOT&PF), the Legislature, other State departments, local agencies and the public, it was agreed that Alaska needs to systematically and cooperatively address this growing need.

Purpose:

The purpose of this discussion is to provide information on pertinent aspects of programs to enhance motorist directional signing such as the various public policy issues involved (business enhancement, public safety, cost to public agencies, and

¹ Including all federally funded highways, not just controlled-access expressways and freeways.

roadside beautification), and to recommend a course of action meeting the cooperative needs of all concerned within the limits of our resources.

While aspects related to advertising outside the right-of-way are discussed, the main thrust is what the DOT&PF can do to enhance directional signing within the right-of-way of state-maintained roads, and in this manner meet the needs of more businesses and motorists.

Review of Statutes, Regulations and Policies on Signing:

FHWA has informed the Department that the "Interstate" routes in Alaska, which were so designated for funding purposes, are not considered as "Interstates" for the purposes of federal statutes and regulations on highway signing. This is of little impact because most of the restrictive federal regulations apply to both Interstate and Primary routes, and Alaska's "Interstates" are Federal Aid Primary routes.

The only areas where we have flexibility absent changes in federal statutes and regulations are outdoor advertising adjacent to state and local roads and secondary Federal Aid routes, and Traffic Control Devices on most roads.

Conventional outdoor advertising possibilities (billboards) are generally limited to locations outside the ROW on Federal Aid Secondary roads, and a proposal is being considered to liberalize the State regulations there to be no more restrictive than the federal regulations.

As explained previously, the most promising avenue for widespread private enterprise identification in the right-of-way is an experimental program (TODS), and this paper will be directed at this more feasible alternative of "official" directional and informational signing.

There are at least three relevant regulatory or statutory areas and at least six documentary authorities regarding signs:

Regulatory Areas:

1. Traffic Control Devices (TCD's)
2. Outdoor Advertising
3. Right-of-Way (ROW) Encroachments

Authority References:

- A. Code of Federal Regulations (CFR)
(backed by enabling legislation.)
- B. Alaska Statutes (AS)
- C. Alaska Administrative Code (AAC)
- D. DOT & PF Policy and Procedures (P&P)

- E. Alaska Traffic Manual (ATM)
- F. Local Laws and Ordinances (not treated here)

Attachment 2 shows which authorities pertain to various roadway classes.

1. TCD's

- A. 23CFR655-Subpart F establishes the Manual on Uniform Traffic Control Devices (MUTCD) as the standard on streets, highways, and bicycle trails open to public travel. (Attachment 3)

It allows States to have their own manual or supplements in substantial conformance to the national MUTCD and with the FHWA Regional Administrator's approval of the manual or supplements. The Alaska Traffic Manual (ATM) exercises this option by consisting of the MUTCD with a federally approved "Alaska Supplement".

- B. AS28.01.010 requires municipalities to conform as close as practicable to the DOT&PF's ATM. (Attachment 4)

AS19.10.040 requires DOT&PF to conform as far as possible to the national MUTCD. (Attachment 5)

- D. P&P 70-7000 defines the ATM as the MUTCD with an Alaska Supplement and establishes the policy that it is the official State manual. (Attachment 6)

- E. The MUTCD portion of the ATM (section 1A-3.1) requires that no TCD or its support shall bear any advertising or commercial message, or other message not necessary to traffic control. Furthermore, it requires any unofficial and non-essential signs to be removed as a public nuisance. (Attachment 7)

The ATM allows the State to establish a federally approved program of Specific Services ("Logo") Signs for food, gas, lodging and camping.

[NOTE: It is also likely that a system of Tourist Oriented Directional Signs (TODS) will soon be allowed by the national manual, and would likely be approved under the present statutes and regulations based on precedent in other States. See Attachment 8 for details.]

2. Outdoor Advertising (outside of ROW)

- A. 23CFR750 generally prohibits advertising within 660 feet of FA Interstate or Primary routes where visible from the roadway, or

beyond that and intended for visibility from the roadway, except for "on-premise" signs advertising activities on the property or advertising the property for sale. Only the 660 foot border applies in urban areas. Signs consistent with the regulations and authorized by state law which are designed to give information in the specific interest of the traveling public may be permitted in protected areas. Also, signs in bonafide "zoned and unzoned commercial areas" are permissible. (Attachment 9)

B. AS19.25.080-180 is parallel to the federal requirements except it includes the Secondary road system. It also authorizes the DOT&PF to enter into agreements with the U. S. Secretary of Transportation as provided in 23 USC relating to outdoor advertising. (Attachment 10. The original state-federal agreement is Attachment 11.)

3. ROW Encroachments

A. 23CFR1.23 prohibits encroachments or property in the ROW of FA routes except those devoted exclusively to public highway purposes. (Attachment 12)

B. AS19.25.200-250 prohibits encroachments except as permitted by DOT&PF regulations. (Attachment 13)

C. 17AAC20.010-.040 prohibits outdoor advertising signs within the ROW of any highway and forbids the permitting of such. (Attachment 14)

D. P&P 10-0020 requires that in the interest of safety, convenience and pleasure of highway users, encroachments will not be allowed except by permit. (Attachment 15)

E. ATM Section 1A-~~6~~ 1 prohibits signs in the ROW except for official TCD's. (Attachment 7)

Alternative R.O.W. Programs:

Specific Service Signs (LOGO Signs) -

As discussed in the Introduction, Logo signs for the specific categories of food, gas, lodging and camping are allowed on conventional roads under the Alaska Traffic Manual (The National MUTCD with an Alaska Supplement) provided the State develops a program acceptable to FHWA. These are described in Section 2G-5 of the MUTCD.

These signs are usually placed at interchanges, have rather restrictive applications, and the installation is relatively massive and costly.

Tourist Oriented Directional Signs (TODS) -

This program which is currently experimental in selected states excluding Alaska is expected to be included in the Federal Manual in the near future, and precedents have been set which leads us to believe it can be implemented with minimal statutory or regulatory action.

These signs extend the directional information to more types of business to be determined by the State, and allow for more widespread use.

The signs must follow a prescribed format (white letters and borders on a blue background in keeping with the nationally established system for motorist information signs) and cannot convey an advertising message or other information except the business name and/or logo and directions thereto. It does allow businesses some distance from the highway to be identified, subject to state rulemaking.

Encroachments -

This would consist of allowing certain signs meeting established criteria to be erected within the R.O.W. under a formal permit and agreement. They would require Federal approval on Federal Aid routes and would be expected to have to pass stringent tests as to devotion to "public highway purposes". For example, we are currently requesting approval of state park logo signs to use this approach for approval.

This alternative is not felt to be as satisfactory as the other alternatives, and is probably only feasible on secondary routes and local roads which are outside of DOT&PF's jurisdiction. In many of those cases outdoor advertising adjacent to the R.O.W. is permissible or possible.

Required Changes in Statutes, Regulations, and Polices:

Logo Signs - Little or no need for changes except to establish regulations for permits or fees. The State would have to develop a policy in the Alaska Traffic Manual (ATM) acceptable to the FHWA. (Absent significant state funding subsidies this would be very expensive for most businesses.)

TODS - Similarly, no changes expected except regulations establishing fee structure in the AAC and developing program policy in the ATM acceptable to the FHWA.²

Encroachments - Most encroachments of this nature would probably be difficult or impossible for business utilization on the FA Primary system. Otherwise a change

² While Federal approval of the TODS concept as a nation-wide program rather than experimental has not taken place, we have been informed by the Divisional office of FHWA that Alaska could adopt it as an official addition to the Alaska Traffic Manual.

in the State statute prohibiting outdoor advertising on secondary routes, a change in the AAC which prohibits advertising in the R.O.W., and an AAC revision establishing a fee structure would be required.

Comparison of Pertinent Features:

The following is a subjective comparison of various aspects of the three envisioned alternatives. The most desirable (or least burdensome) alternative is rated 1 with relative rankings of 2 and 3 (except for equals).

<u>Aspect</u>	<u>Alternatives</u>		
	<u>Logos</u>	<u>TODS</u>	<u>Encroachments</u>
Cost of Signs	3	1	2
Cost to Administer	2	1	1
Cost to Businesses	2	1	2
Availability to Business Types	3	2	1
Availability to Businesses remote from the Through Route	2	1	1
Allowable Roadways	2	1	3
Aesthetics	2	1	3
Impact on Safety	2	1	2
TOTALS	19	9	15

Resources Required:

If the Department's recommendations are accepted, the following phases are envisaged. (see estimate details in following section)

1. Program development phase (estimated at 12 months).
2. Start-up and continuation phase (indefinite).

The costs may be broken down into developmental costs (technical personnel, hearings, AG's assistance on regulations), physical costs (signs, supports, installation), and administrative costs (evaluating requests, issuing "permits", record keeping, maintenance activities). These costs, as a policy matter, may be absorbed completely by the State, completely by the users, or anywhere in between. Because the cost of start-up and proper signing is not low, and because Alaskan businesses will receive tangible benefits, it is suggested that the State participate by subsidizing

the setup costs of the program, while the on-going costs be borne by the benefiting businesses.

The total costs after the developmental phase will depend to a great extent on the number of requests for signs and their locations. A subjective estimate is used for planning purposes, but the cost figures for the second phase can be revised later based on the level of response by businesses to the public notices during the developmental phase.

It should be noted that start-up funds alone will not provide the necessary on-going resources in the absence of funding for personnel to conduct this program unless other services are sacrificed (e.g. traffic safety studies, M&O activities).

It is envisaged that sign installation could be done through contractors from the private sector, and this along with the fabrication of signs by Alaskan firms will be a further benefit to the economy. The form of the physical maintenance function, and removal of signs for businesses that close will need further consideration.

Phase I - Developmental (1 Year)

In this phase the Department, through a 7 member Commissioner-appointed task force, would develop proposed policies, procedures and regulations which, after appropriate public hearings, would be implemented to meet the requirements of businesses, motorists, the FHWA, and the department. The task force is proposed to provide a range of opinion, including federal, state, and business toward the job of establishing policy. Task force composition is suggested to include:

DOTPF	1	Commissioner or designee
Legislature	1	To be determined
DOT&PF Regions:	1	Director, Maintenance & Operations
	1	Director, Design & Construction
DC&ED	1	Director, Division of Tourism
AVA	1	Director, Alaska Visitors Association
Business Rep.	1	Appointed by Commissioner, from list of names submitted by State Chamber of Commerce

The task force would meet for a total of three times. Initially to recommend general policy guidelines and help guide draft regulation language. Following the public hearing phase on the regulations the task force would meet again to assist in policy formulation on the final regulation language. Key staff members from the E&OS division would serve as a resource to this task force. A broad brush outline of the task force's involvement in the process is shown as follows:

1. E&OS Staff prepare initial information package and discussion on range of policy options.
2. Commissioner's Task Force Meeting #1: Start-up meeting to assess policy options; output of meeting is a selection of a limited number of policy options to evaluate in more detail.
3. E&OS Staff prepare second information package and discussion of selected policy options.

4. Commissioner's Task Force Meeting #2: Policy definition session. Commissioner's Task Force would be asked to make recommendation to Commissioner on preferred method of providing for outdoor advertising within and along ROW, including basic ground rules, responsibility assignments and means of implementation.
5. E&OS Staff prepare draft regulations from guidance of Commissioner and Task force. Public Notice provided in accordance with AAC requirements.
6. Public Hearings held in five locations: Juneau, Kenai Peninsula Borough, Anchorage, Mat-Su Borough, and Fairbanks.
7. Commissioner's Task Force Meeting #3: Final meeting to evaluate the public hearing testimony and make policy adjustment recommendations.
8. Finalize regulations and publish.
9. Prepare and publish a handbook describing the program and method of securing off-premise advertising along state maintained roads.

Developmental Expenses

<u>Expenses Item</u>	<u>Units</u>	<u>Cost</u>	<u>Funding Needs</u>	<u>Funding Available</u>
E&OS Staff				
Professional Staff	4 mo.	\$5,000		\$20,000
Clerical Staff	1 mo.	\$2,000		\$2,000
Legal Staff	60 hrs.	\$100	\$6,000	
Task Force Travel	16	\$100	\$8,000	
Public Hear. Travel	All	\$4,000	\$4,000	
Public Hear. Transcrip.	5	\$600	\$3,000	
Advertising, Commun.	All	\$2,000	\$2,000	
Graphics & Printing	All	\$4,000	<u>\$4,000</u>	
Totals			<u>\$27,000*</u>	\$22,000
Total Program Development Cost			\$49,000	

(* Note: Only \$27,000 would require legislative appropriation. The personal services required for this effort would be provided for from existing budgets.)

Timing

The time necessary to accomplish program preparation is estimated at one year. This reflects, in part, a desire to schedule the public hearing phase in the winter months in order to avoid conflicts with the very "public" being served by the proposed program -- tourist oriented businesses.

Phase II - Start Up and Continuation (Indefinite)

This phase involves the physical placement of sign standards and business informational signs following the process and methods selected in the regulations and from legislative intent. It is likely that minor adjustments to the program would be pursued based upon the feedback of field experience. The cost to the state during this phase would vary according the policy option selected regarding the degree to which business enterprises should pay for the program. Following is a range of policy options that better define the possible cost ramifications of various policy options.

State Investment Policy

Description

Minimum

State develops program; businesses pay all other costs including staff support for application processing, sign manufacturing, installation, liability insurance, repairs, replacement and removal, as necessary. This approach would require both an application fee and annual administrative fee to support state costs.

Shared

State develops program; businesses pay application cost, and pay for sign manufacturing, installation and on-going maintenance. State covers personal services cost associated with program administration.

Maximum

State develops program; state supplies signs, sign supports, and pays for installation, repair, replacement and removal, as necessary. Businesses pay a portion of these costs through fixed application and annual maintenance fees. (Estimated at \$500 for installation and \$250 for annual M&O and administrative costs).

The total cost of this phase will be affected by the number of participating businesses. The number of participating businesses, will, in part, be determined by the cost burden they must assume. It is likely that with greater state participation in program costs the more businesses that will participate.

Sign Cost

The signs will cost about \$150 to \$200 per panel, plus \$150 to \$200 for breakaway bases and supports (installed). There can be 1 or 2 sign panels per location for an average cost of \$350 per location if one panel is installed and \$525 per location if two sign panels are installed (\$262 per business). In a typical application each business would have two signs installed, one facing each traffic direction prior to the intersection leading to the business establishment.

We have assumed that the number of one-sign panel and two-sign panel installations will be about equal, thus the average cost per business will be:

$$\frac{(\$350 + \$525)}{2} * 2 \text{ signs per business} = \$875 \text{ per business average}$$

Number of Businesses

For the purpose of an estimate the following assumptions have been made concerning the number of participating businesses: 1) The number of businesses which elect to participate will vary with the degree of state investment. 2) The ultimate number will not be realized in the first 1 or 2 years, but will gradually increase over a 5 year period; thereafter growth will generally follow state economic trends.

Table 1 indicates the estimated number of participating businesses over a 6 year period, for each of the three policy options previously described.

M&O Cost for Signs

Upkeep, repair, replacement and insurance are estimated to cost 25% of the signs installed value annually. While this may appear as a high figure considering that the signs should have a life of 10 to 12 years from the effects of weathering, it is anticipated they will actually experience a much shorter life due to accidents and vandalism (average life of 4 to 6 years is estimated). Some form of insurance coverage is considered a probable requirement.

DOT&PF Administrative Costs

The department will be required to maintain an inventory and status of the business signing program. While this workload will in fact vary in part with the overall size of the program, for the purposes of this estimate it is considered a fixed cost. It is estimated it will require a 1/2 time position to coordinate the program, serve as center for statewide data collection, and remain current with the progress of the program so that policy adjustments, if necessary, may be pursued.

The administrative staff position would require funding in the range of \$24,000 per year (6 mo. @\$4,000). Funding for this cost is covered by participating businesses in the *minimum* policy option; it is covered by the state in the other policy options.

This position is over and above the staff support required to process individual applications for signs at the regional level. The regional utility staffs are considered adequate to undertake this role (with necessary coordination with traffic safety staff), though a fee is proposed, as these staffs are funded entirely from program receipts. A \$200 application fee is contemplated under all of the policy options. This is the cost for evaluating each sign request and processing it through decision (approve or deny) and is estimated to be \$200 (8 hours @ \$25/hr.).

State and Business Costs

From the above data it is possible to derive some general estimates of what costs would be incurred to either the state or an individual business relative to the three policy options.

The *minimum* state investment policy option results in the fewest number of businesses participating with the highest cost per business served. An average initial sign installation cost is estimated at \$1,075, with an annual cost of \$819 in FY 90 (M&O and administrative fee) and a general lowering of the annual cost to \$379 in FY 94 as the total number of businesses increases providing a larger base of firms to share the fixed administrative cost. This option results in a one-time expense to the

state of \$49,000 for program start-up with all other costs borne by participating businesses.

The *shareo* state investment policy option would again cost each business the \$1,075 for sign installation. The annual M&O cost to each business is estimated at \$219 with the state assuming the fixed administrative cost. This would result in an on-going expense to the state of \$24,000 annually, with a total state investment of \$169,000.

The *maximum* state investment policy option results in the greatest number of participating businesses as the cost to each is the lowest. Each business is assumed to pay a \$500 initial installation fee which partially covers the cost of the sign and application processing. Thereafter, there would be an annual fee of \$250 covering administration and sign M&O costs. This option results in a very large investment by the state over the 6 year projection; estimated at \$322,000.

Tables 2 - 6 depict the costs for the three policy options and are broken down for the 6 year horizon - FY 89 through FY 94. To reiterate key assumptions used in the analysis they are repeated below:

Number of Businesses per Year:	Varies by option and year, estimated in Table 1
Sign Installation Cost:	\$875 average - 2 signs per business
Application Cost:	\$200
Annual Sign M&O Cost	\$219 average (25% of sign cost)
DOT&PF Administration Cost	\$24,000 annually
Business fees under Maximum Policy	\$500 for sign installation, and \$250 for annual renewal

It is acknowledged that the estimates described herein are just that -- estimates. They are only as good as the assumptions they are built on. The estimates assist in understanding the implications of various policy options and they provide approximate representations of state and private costs that would be associated with the program. The number of participating businesses and the annual sign M&O cost are probably the weakest "links" in the estimates as there are few data upon which to base them. The M&O cost is an average and, unless "pooled" in some fashion, could cost individual businesses much more than this if their signs are vandalized repeatedly. Likewise installation costs may vary greatly by distance from service centers. In summary, while these estimates are quite useful at this stage of investigation, they must be used with caution given the many judgements incorporated into them.

Private Sector Participation

Though mentioned earlier in this paper, the means by which the private sector could assist in program implementation has not been described during the previous discussion on costs. It has been intentionally omitted because there are myriad methods by which the private sector could be involved, and analysis of each, given the many variables already involved, would make the estimates far more complex.

Sign Cost Calculation

Table 1 - Estimated Number of Businesses Participating							Total Business
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Years Served
Minimum	0	40	100	125	140	150	555
Shared	0	60	120	150	175	200	705
Maximum	0	75	150	225	300	325	1075

Table 2 - Estimated State Startup and M&O Costs							Aggregate
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State
Minimum	\$49,000	\$0	\$0	\$0	\$0	\$0	\$49,000
Shared	\$49,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$169,000
Maximum	\$49,000	\$21,675	\$19,350	\$17,025	\$14,700	\$13,925	\$135,675

Table 3 - Estimated Cost To Business for Annual M&O						
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Minimum	\$0	\$819	\$459	\$411	\$390	\$379
Shared	\$0	\$219	\$219	\$219	\$219	\$219
Maximum	\$0	\$250	\$250	\$250	\$250	\$250

Table 4 - Estimated Cost to State for Sign Installation							Aggregate
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State
Minimum	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Shared	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Maximum	\$0	\$43,125	\$43,125	\$43,125	\$43,125	\$14,375	\$186,875

Table 5 - Estimated State Funding Requirements - Annual M&O and Sign Installation							Aggregate	Cost per Business/
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	Cost To State	Year Served
Minimum	\$49,000	\$0	\$0	\$0	\$0	\$0	\$49,000	\$88
Shared	\$49,000	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	\$169,000	\$240
Maximum	\$49,000	\$64,800	\$62,475	\$60,150	\$57,825	\$28,300	\$322,550	\$300

Table 6 - Estimated Cost To Business for Sign Pair Installed in FY 90							Aggregate Cost	Average
Policy Option	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	To Business	Cost per Year
Minimum	\$0	\$1,894	\$459	\$411	\$390	\$379	\$3,533	\$707
Shared	\$0	\$1,294	\$219	\$219	\$219	\$219	\$2,170	\$434
Maximum	\$0	\$750	\$250	\$250	\$250	\$250	\$1,750	\$350

This should not suggest the department is disinterested in this approach. Three general options are presented below for consideration. Detailed evaluation is suggested for the task force in analyzing the merits of each option and better defining a course of action.

1. Franchise - Under this concept the program would be almost entirely run by a private firm or firms in franchise fashion. Final decision concerning sign installation and program policies would remain in departmental hands; otherwise individual businesses would make application to the firm(s). The firms would be sanctioned by the department to perform this service and would be responsible for all steps including application processing, sign manufacturing, installation, maintenance, and inventory and status reporting.

2. Installation and M&O Only - Under this concept the state would process each application through decision. The business applicant would have the signs manufactured, installed and maintained to state standards by a firm of their choice.

3. Manufacturing Only - Similar to Option #2, except state highway maintenance crews would install and maintain the signs after they were manufactured for the business and delivered to the appropriate maintenance station. This option allows for greater control of exactly how and where the signs are installed within the ROW and may be less costly to the business when the signs are installed in remote locations.

Technical Issues to be Resolved:

As part of the developmental phase (and with an adjustment period as experience is gained) some technical issues will need to be resolved in more detail than is possible here. Some of these are:

- | | |
|---|--|
| User fee structure | - subsidy from state, equal to cost, or revenue generating. |
| Insurance requirements or liability potential | - individual policy or pooled coverage. |
| Conditions of eligibility | - types of businesses, minimum services necessary to qualify, minimum hours of operation, distance from highway. |
| Allowable number and locations | - sight distance, spacing, etc. |
| Physical specifications | - size, shape, materials, colors, logos, supports, locations, etc. |
| Prioritization where demand exceeds available space | - first come, first served?
- lottery on a periodic basis?
- public necessity? |

Maintenance requirements

- seasonal removal and installation if business costs during part of year.
- cost of vandalism and accident repair
- whom is responsible?
- removal if business becomes ineligible or closes.

Recommendations:

A signing system based on the Tourist Oriented Directional Signing program is recommended for Alaska to meet the identified needs of motorists and businesses catering to motorists for the following reasons:

1. Little or no need for changes to existing Federal and State statutes and regulations is created, and Federal acceptance seems likely for all roadway classes.
2. A broad range of businesses (such as gift shops, gold panning, lodges, guide services, etc.) can be accommodated which cannot with other programs of official highway signing.
3. Costs would be no greater, and sometimes less, than other feasible alternatives.
4. Motorists nationwide expect blue signs with white lettering to contain information in their interest, such signs convey an image of "official signing", and a neat and orderly appearance of our roadside signing can be maintained.
5. The integrity of sound traffic engineering principles can be maintained and the required relationship of the Alaska Traffic Manual to the Federal Manual on Uniform Traffic Control Devices can remain intact.
6. A wealth of solid experience has been gained in other States that we can learn from in developing a program to suit our own particular needs.

It is recommended that signs of other State agencies that seem to be in the best interests of the State (but which do not meet the engineering technical requirements of traffic control devices, and which only extend or replace devices already in official manuals) be accepted on a case by case basis as encroachments in the public interest.³

³The divisional FHWA office has recently informed us of their intent to disallow the Eagle logo sign now being used by the State Division of Parks on some routes. Their decision will require further thought as to how best provide for the special signage requirements of the Alaska Division of Parks.

Conclusion:

The Department believes that the needs of motorist-oriented businesses can be met through a cooperative program of Tourist Oriented Directional Signing complying with Federal standards for use on all roadways which preserves the integrity of sound traffic engineering principles and has minimal impact on Alaska's renowned roadside aesthetics.

ATTACHMENTS

1. FHWA TOD Proposal
2. Laws and Regs. on Signing
3. 23 CFR655-F
4. AS 28.01.010
5. AS 19.10.040
6. P&P 70-7000
7. MUTCD Section 1A-3.1
8. TODS Report (Iowa)
9. 23CFR750
10. AS19.25.080-.180
11. State-federal agreement on control of outdoor advertising
12. 23CFR 1.23
13. AS19.25.200-.250
14. 17AAC20.010-.040
15. P&P 10-0020

ASSOCIATION OF STATE HIGHWAY
TRANSPORTATION OFFICIALS



FRANCIS B. FRANCOIS
Executive Director

PC-87-33
May 20, 1987

To the Chief Administrative Officers
of the Member Departments of the
American Association of State
Highway and Transportation Officials

BALLOT ENCLOSED
REPLY REQUESTED BY
JUNE 12, 1987

Dear Members:

Enclosed are recommendations made by the several technical committees of the National Committee on Uniform Traffic Control Devices on thirteen requested changes to the Manual. Also enclosed is a ballot on which it is requested that you indicate your position on each recommendation.

We are unfortunately a little late with this ballot this time and the due date of June 12 allows somewhat less time than usual for your response. The deadline is fixed by the date of the meeting of the National Committee later in June, and your efforts to adhere to the June 12 deadline will be especially appreciated.

Note that one of the options for each recommendation is "concur in part." In such a case, it is requested that you attach a brief explanation as to which of the elements of the recommendation you find acceptable and with which you are not in agreement.

The results of this ballot will be forwarded directly to the National Committee and will also be provided to the AASHTO delegation to that Committee for their guidance in the voting which will take place at their meeting this January.

Very truly yours,

Francis B. Francois
Executive Director

RECEIVED
MAY 26 1987

DOT & PF
Plans, Programs and Budget

FBF:DJH:ah

Enclosure

RECEIVED
MAY 27 1987
ENGINEERING & OPERATIONS
STANDARDS DIRECTOR'S OFFICE

DRAFT

This recommendation has not been approved by the full National Committee.

TECHNICAL COMMITTEE RECOMMENDATION

TECHNICAL COMMITTEE: Signs
DATE OF ACTION: January 8, 1987
REQUEST NUMBER: II-110 (Chng)
TOPIC: Tourist Oriented Directional Signs (TODS)
ORIGIN OF REQUEST: FHWA

DISCUSSION:

This item was published in the Federal Register (50FR51405) on December 17, 1985 as a Notice of Proposed Rulemaking. The Highway Beautification Act of 1965 severely restricted advertising signs limiting the capability of business activities to provide directional signs to activities not visible from the highway system. Signing for such activities on the Interstate System have been accommodated with the Specific Services "Logo" Program.

The Federal Register Notice solicited comments on this signing concept including several questions on types of business activities and signing alternatives that should be considered. The Sign Subcommittee recommended response to the four questions are attached.

The FHWA is proposing this system of TODS signing for the remaining highway system as an alternative to Specific Services Logo Signs on the primary system. This type of signing is presently being used in Vermont Washington, Maine, New York, Oregon and Idaho. The signing would be optional for the States subject to adoption of a State policy meeting the minimum requirements covered in the MUTCD and addressing other criteria for administration of the TODS signing program in that State. The recommended Section 2I MUTCD wording and figures are attached.

COMMITTEE ACTION:

It is recommended that the attached response to the Federal Register and Section 2I Manual additions be approved.

VOTE: For - 19
Opposed - 1
Abstentions - 1

REFERENCE TO AFFECTED
PAGE NUMBERS IN MUTCD: . New Section 2I

Task Force Report On
Tourist Oriented Directional Signs (TOOS)
II-110(Chng) NCUTCD

Task Force members are Jim Pline, Andy Ramisch, Gerald Holmberg, Art Dinitz, Wayne Gruen and Dick Oliver, Chairman.

We recommend the following response to FHWA Docket No. 85-27, in which the FHWA proposed to add a new section 2I to the MUTCD to incorporate standards for tourist oriented directional signs.

We recognize that motorists in rural areas, on highways other than freeways and expressways, may have a need for additional business directional information when the facilities are not visible from the highway and if the installations are voluntary. If a state elects to use TOD signs, the cost should be paid by the business on a permit basis.

The FHWA, in its publication of this request in the Federal Register, solicited answers to four questions.

1. What types of business, service, and activity should be considered or eligible for signing with Tourist Oriented Directional Signs?

2. Should businesses producing or offering certain products be prohibited from eligibility for Tourist Oriented Directional Signs? An example might be those businesses whose principal product is producing, promoting, or

selling alcoholic beverages which appears contradictory to State and National concerns about alcohol and driving.

3. Should businesses, services, and activities be open to the general public a minimum number of hours a day, and a minimum number of days per week, to qualify for Tourist Oriented Directional Signs?

4. Should Specific Services Information (LOGO) Signing and Tourist Oriented Directional Signs be allowed to be installed at the same intersection? If yes, what is the number of sign panels, and the number of businesses, services, and activities allowed on each panel on a specific intersection approach?

The FHWA's questions are answered as follows:

1. The types of business, service and activity which should be considered eligible for TOD signing, are those whose major portion of income or visitors are derived during the normal business season from motorists not residing in the immediate area of the business or activity.
2. Three categories of business activity should be excluded as eligible from TOD signing.
 - a. Those which are illegal under federal, state or local law.
 - b. Those which qualify for and have specific services information (logo) signing installed.
 - c. Those which are retail or service outlets for goods and services commonly available at a number of locations (as contrasted with goods and/or services targeted to tourists).
3. Facilities should be open a minimum of eight hours per day and six days per week including Saturday and/or Sunday. The facilities shall be open to the general public.
4. Specific services (LOGO) signing and tourist oriented directional signs (TOOS) should not be installed at the same intersection. The state should select one type of signing (LOGO or TOOS) for a particular highway or system.

The Task Force proposes adding a new section 2I to the MUTCD which reads:

I. Tourist Oriented Directional Signs

2I-1 Purpose and Application

Tourist oriented directional signs (TODS) provide the business identification and directional information for tourist related businesses, services, and activities, the major portion of whose income or visitors are derived during the normal business season from motorists not residing in the immediate area of the business or activity. A TOD sign gives the name, direction and distance to the tourist business. A TOD sign panel is made up of one or more TOD signs.

They are intended for use on rural conventional roads where the facilities are not visible from the highway and shall not be used at interchanges on expressways or freeways. They may be used in conjunction with motorist service signs. A state should select one type of signing (LOGO or TODS) for a particular highway or system.

Each State that elects to use tourist oriented directional signs should have a State policy for use as indicated in Section 2I-7, State Policy.

2I-2 Design

Tourist oriented directional signs shall be rectangular in shape and shall have a white legend and border on a blue background. Standard General Motorist Service signs of Section 2G-6 of the MUTCD and Recreational and Cultural Interest Area signs of Section 2H of the

MUTCD may be used to indicate a general class of business, service, or activity. Logos for specific businesses, services, and activities may also be used. When used, symbols and logos shall be reduced to an appropriate size. Logos resembling official traffic control devices shall not be permitted.

Each sign should have not more than two lines of legend including not more than one symbol or logo, a separate directional arrow, and the distance to the facility shown beneath the arrow. The content of the legend shall be limited to the identification of the business, service, or activity, and the directional information (fig.1). Under special conditions, the hours of operation may be added. Legends shall not include promotional advertising.

Legends, arrows, borders, symbols, and logos shall be reflected. Arrows should be as provided in Section 2D-8 of the MUTCD and as provided in the detailed drawings in the "Standard Highway Signs" book.^{2/} Arrows pointing to the right should be at the extreme right of the sign and arrows pointing to the left should be at the extreme left of the sign. Symbols, when used, should be to the left of the word legend or logo.

^{2/} Available from GPO, see page 11.

The panel on which these signs are mounted may have the legend TOURIST ACTIVITIES.

2I-3 Style and Size of Lettering

The standard lettering for tourist oriented directional signs should be uppercase letters of the type provided in the "Standard Alphabets for Highway Signs and Pavement Markings" book.^{3/} The legend on signs used on major routes in rural districts should be in letters and numerals at least 6 inches in height. On less important rural roads the legend should be in letters and numerals at least 4 inches high.

2I-4 Arrangement and Size of Intersection Signs

Signs for right turns and left turns should be arranged vertically on separate sign panels located so that the right turn signs are closer to the intersection. A maximum of four businesses may be signed per intersection approach. When not more than three signs are to be installed on an approach to an intersection, the signs may be combined on the same panel with the left turn signs above the right turn signs. Not more than three signs should be installed on any sign panel and not more than two sign panels (one for left, and one for right) should be installed on an intersection approach. (Fig.2)

The signs should not exceed the size necessary to accommodate two lines of legend without crowding. Symbols and logos should not exceed the height of two lines of word legends. All signs on the same

^{3/} Available from the Federal Highway Administration,
(HTO-20) Washington, D.C. 20590

sign panel should be the same width which should not exceed 6 feet.

2I-5 Advance Signing

Advance signing may be installed in special circumstances if permitted by State policy. However, it should be limited to those situations where sight distance, intersection vehicle maneuvers or other vehicle operating characteristics require advance notification of the service to reduce vehicle conflicts and improve highway safety.

The arrangement of the tourist oriented directional signs on the advance sign panel should be identical to the arrangement on the intersection approach sign panel with a maximum of two sign panels; however, the directional arrows and distances should be omitted. The appropriate legend NEXT RIGHT or NEXT LEFT in letters of the same height as the sign legends, should be placed on the panels above the signs. The legend RIGHT 1/2 MILE or LEFT 1/2 MILE may be used when there are intervening minor streets.

2I-6 Sign Locations

The intersection approach sign panels should be located at least 200 feet from the intersection; and shall not obstruct the driver's critical viewing of other traffic control devices. The sign panels may be located laterally outside the normal longitudinal alignment of other traffic control signs, but within the right-of-way. The location of other traffic control devices shall at all times take precedence over

the location of tourist oriented directional signs. Sign panels should be spaced at least 200 feet apart and at least 200 feet from other traffic control devices.

When used, Advance Sign panels should be located approximately 1/2 mile from the intersection with 800 feet between the panels. In the direction of traffic, the order of advance signing should be for facilities to the left and then the right.

Position, height, and lateral clearance of panels should be governed by Section 2A and 2D of the MUTCD except as permitted above.

2I-7 State Policy

Each State that elects to use tourist oriented directional signs should adopt a policy that complies with the provision contained above. The policy should include:

1. A definition of tourist oriented businesses, services, and activities. (The inclusion of the wording - the major portion of whose income or visitors are derived during the normal business season from motorists not residing in the immediate area of the activity - is recommended.)
2. Criteria for eligibility for signing.
3. Provision for covering signs during off-seasons for businesses, services, and activities operated on a seasonal basis.

4. Provisions for trailblazing to facilities that are not on the crossroad if the State elects to sign for such facilities.
5. Maximum distances to eligible facilities (A maximum distance of five miles is recommended).
6. Provision for information centers (plazas) when the number of eligible sign applicants exceeds the maximum permissible number of sign panel installations.
7. Provision for limiting the number of signs when there are more applicants than maximum number of signs permitted.
8. Provision for controlling or excluding those businesses which have conforming or non-conforming illegal signs as defined by the Highway Beautification Act of 1965 (23 U.S.C. 131).
9. Provision for states to charge fees to cover the cost of signing through a permit system.
10. A definition of the conditions under which the time of operation is shown.
11. Provisions for determining if advance signing will be permitted.

TYPICAL TOURIST ORIENTED DIRECTIONAL SIGNS

FIGURE 1

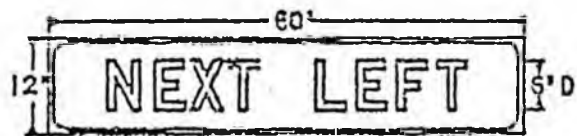
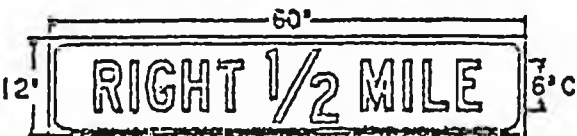
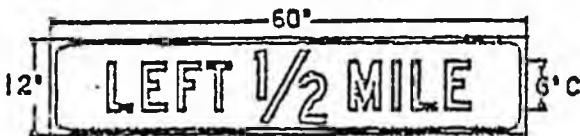
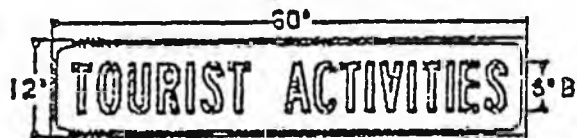


ADVANCE SIGN PANEL



INTERSECTION SIGN PANEL

⚡ SERIES OF LETTERING DEPENDS UPON LENGTH OF LEGEND. (MAXIMUM LENGTH OF BUSINESS NAME PER LINE IS 54"). REFLECTORIZED WHITE LEGEND ON REFLECTORIZED BLUE BACKGROUND.



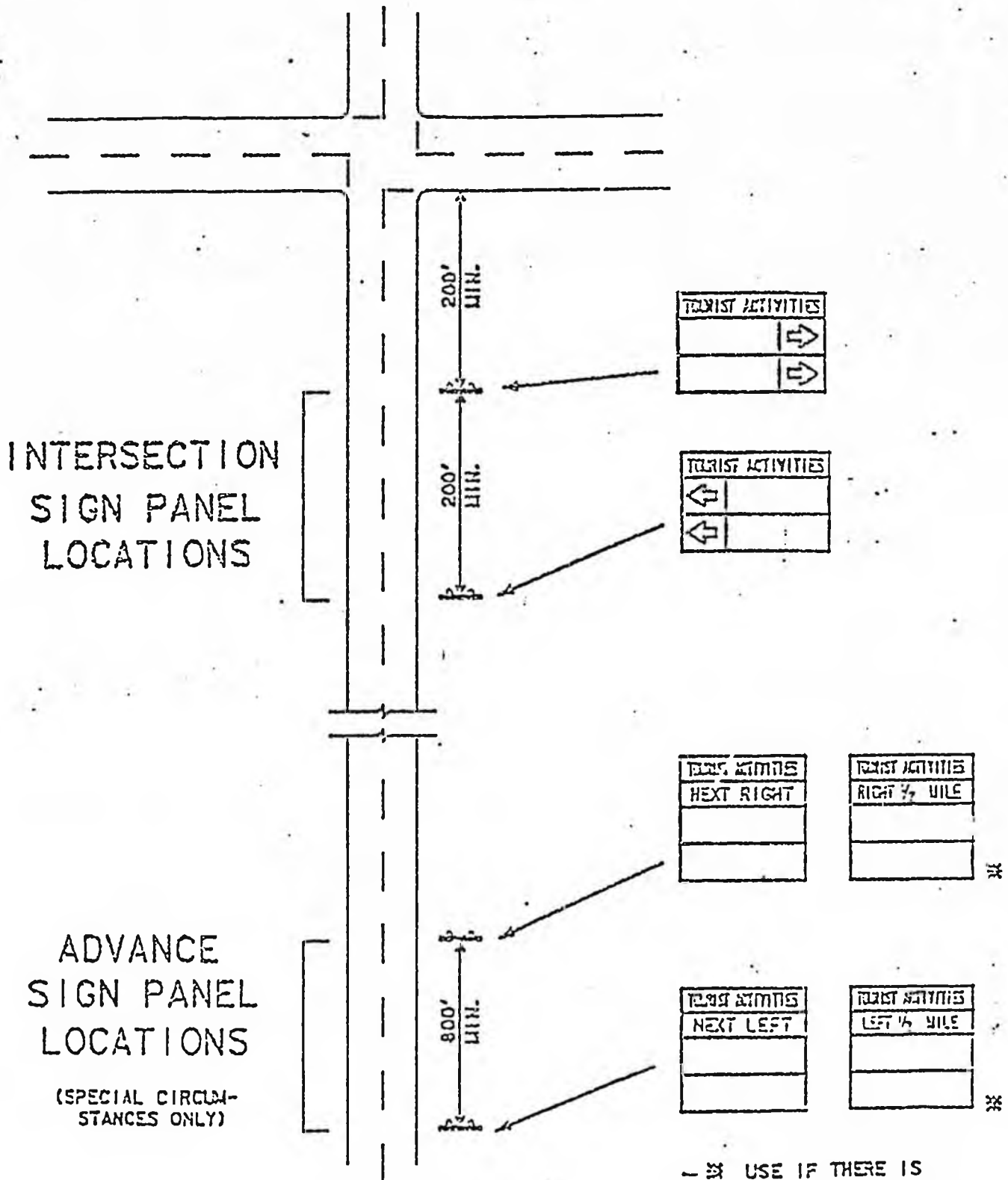
ALTERNATE SIGNS FOR ADVANCE SIGN PANELS



COMBINED SIGN PANEL

TYPICAL SIGNING FOR TOURIST ORIENTED SERVICES

FIGURE 2



* USE IF THERE IS AN INTERVENING STREET.

COMMENT BY EXECUTIVE BOARD MEMBER FRED RANCK

Concur with request. Strongly suggest that Figure 1 be revised to incorporate a "logo" into one of the typicals shown for a Tourist Oriented sign panel as logos are cited on pages 3 and 4, as well as the word version TOD's shown.

COMMENT BY EXECUTIVE BOARD MEMBER PAUL FOWLER

My present reaction is in opposition to this proposal as both unnecessary and undesirable on primary and secondary highways. In addition, as a general comment, I am increasingly concerned over the amount of detail and space in the MUTCD being devoted to very low priority issues.

ABBREVIATIONS

Authorities

CFR = Code of Federal Regulations
(backed by federal statutes)

A.S. = Alaska Statutes

AAC = Alaska Administrative Code

P&P = Policy & Procedures (DOT&PF)

ATM = Alaska Traffic Manual

	CFR	A.S.	AAC	P&P	ATM
FAI	X	X		X	X
FAP	X	X		X	X
FAS	X	X		X	X
FAU	X	X		X	X
STATE		X		X	X
LOCAL		X			

Traffic Control Devices In R.O.W.

Routes

F.A.I. = Federal Aid Interstate

F.A.P. = Federal Aid Primary

F.A.S. = Federal Aid Secondary

F.A.U. = Federal Aid Urban

State = State Non-F.A.

Local = Non-state, Non-F.A.

	CFR	A.S.	AAC	P&P	ATM
FAI	X				
FAP	X	X			
FAS		X			
FAU					
STATE					
LOCAL					

Outdoor Advertising Outside R.O.W.

Other

R.O.W. = Right-of-way

F.A. = Federal Aid

	CFR	A.S.	AAC	P&P	ATM
FAI	X	X	X	X	X
FAP	X	X	X	X	X
FAS	X	X	X	X	X
FAU	X	X	X	X	X
STATE		X	X	X	X
LOCAL					

Encroachments in R.O.W.

Authorities (Laws, Regulations, Policies) Pertaining to Signs
(excluding local laws and ordinances)

Chapter I—Federal Highway Administration

§ 655.603

(e) *Analysis of laws and ordinances.* Existing traffic laws, ordinances, and regulations relevant to the effective operation of the proposed system shall be reviewed to ensure compatibility.

(f) *Operations plan.* The final element in the traffic engineering analysis shall be an operations plan. It shall include needed legislation, systems design, procurement methods, construction management procedures including acceptance testing, system start-up plan, operation and maintenance plan. It shall include necessary institutional arrangements and the dedication of needed personnel and budget resources required for the proposed system.

(Approved by the Office of Management and Budget under control number 2125-0512)

§ 655.601 Project administration.

(a) Prior to authorization of Federal-aid highway funds for construction, there should be a commitment to the operations plan (see § 655.409 (f)).

(b) The plans, specifications and estimates submittal shall include a total system acceptance plan.

(c) Project approval actions are delegated to the Division Administrator. Approval actions for traffic surveillance and control system projects costing over \$1,000,000 are subject to review by the Regional Administrator prior to approval of plans, specifications, and estimates.

(d) System start-up is an integral part of a surveillance and control project. (1) Costs for system start-up, over and above those attributable to routine maintenance and operation, are eligible for Federal-aid funding.

(2) Final project acceptance should not occur until after completion of the start-up phase.

Subpart E—[Reserved]

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a), 23 CFR 1294.4, and 49 CFR 1.46(b).

SOURCE: 48 FR 46776, Oct. 14, 1983, unless otherwise noted.

§ 655.601 Purpose.

To prescribe the policies and procedures of Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).¹

§ 655.602 Definitions.

The terms used herein are defined in accordance with definitions and usages contained in the MUTCD and 23 U.S.C. 101(a).

§ 655.603 Standards.

(a) *National MUTCD.* The MUTCD approved by the Federal Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The national MUTCD is specifically approved by the FHWA for application on any highway project in which Federal highway funds participate and on projects in federally administered areas where a Federal department or agency controls the highway or supervises the traffic operations.

(b) *State or other Federal MUTCD.* (1) Where State or other Federal agency MUTCDs or supplements are required, they shall be in substantial conformance with the national MUTCD. Changes to the national MUTCD issued by the FHWA shall be adopted by the States or other Federal agencies within 2 years of issuance. The FHWA Regional Administrator has been delegated the authority to approve State MUTCDs and supplements.

(2) The Direct Federal Program Administrator has been delegated the authority to approve other Federal

¹The MUTCD, which is incorporated by reference at 23 CFR 625.3, may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 (GPO Stock No. 050-001-81001-8). It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

agency MUTCDs with the concurrence of the Office of Traffic Operations. States and other Federal agencies are encouraged to adopt the national MUTCD as their official Manual on Uniform Traffic Control Devices.

(c) *Color specifications.* Color determinations and specifications of sign and pavement marking materials shall conform to requirements of the FHWA Color Tolerance Charts.² An alternate method of determining the color of retroreflective sign material is provided in the Appendix.

(d) *Compliance—(1) Existing highways.* Each State, in cooperation with its political subdivisions, and Federal agencies shall have a program as required by Highway Safety Program Standard Number 13, Traffic Engineering Services (23 CFR 1204.4) which shall include provisions for the systematic upgrading of substandard traffic control devices and for the installation of needed devices to achieve conformity with the MUTCD.

(2) *New or reconstructed highways.* Federal-aid projects for the construction, reconstruction, resurfacing, restoration, or rehabilitation of streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either temporary or permanent, are installed and functioning properly. Both temporary and permanent devices shall conform to the MUTCD.

(3) *Construction area activities.* All traffic control devices installed in construction areas using Federal-aid funds shall conform to the MUTCD. Traffic control plans for handling traffic and pedestrians in construction zones and for protection of workers shall conform to the requirements of 23 CFR Part 630, Subpart J, Traffic Safety in Highway and Street Work Zones.

(4) *MUTCD changes.* The FHWA may establish target dates for achieving compliance with changes to specific devices in the MUTCD.

(e) *Specific information signs.* Standards for specific information signs are contained in 23 CFR Part

655, Subpart C, National Standards for Specific Information Signs.

§ 655.604 Achieving basic uniformity.

(a) *Programs.* Programs for the orderly and systematic upgrading of existing traffic control devices or the installation of needed traffic control devices on or off the Federal-aid system should be based on inventories made in accordance with 23 CFR 1204.4, Highway Safety Program Standards. These inventories provide the information necessary for programming traffic control device upgrading projects.

(b) *Inventory.* An inventory of all traffic control devices is required by Highway Safety Program Standard Number 13, Traffic Engineering Services (23 CFR 1204.4). Highway planning and research funds and highway related safety grant program funds may be used in statewide or system-wide studies or inventories. Also, metropolitan planning (PL) funds may be used in urbanized areas provided the activity is included in an approved unified work program.

§ 655.605 Project procedures.

(a) *Federal-aid highways.* Federal-aid projects involving the installation of traffic control devices shall follow procedures as established in 23 CFR Part 630, Subpart A, Federal-Aid Programs Approval and Project Authorization. Simplified and timesaving procedures are to be used to the extent permitted by existing policy.

(b) *Off-system highways.* Certain federally funded programs are available for installation of traffic control devices on streets and highways that are not on the Federal-aid system. The procedures used in these programs may vary from project to project but, essentially, the guidelines set forth herein should be used.

§ 655.606 Higher cost materials.

The use of signing, pavement marking, and signal materials (or equipment) having distinctive performance characteristics, but costing more than other materials (or equipment) commonly used may be approved by the FHWA Division Administrator when

the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) *Federal-aid highways.* (1) apportioned or allocated under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed, reconstructed, resurfaced, restored, or rehabilitated highways, or on existing highways when this work is classified as reconstruction in accordance with 23 U.S.C. 101(a). Federal-aid highway funds for eligible pavement markings and control signalization may amount to 100 percent of the construction cost. Federal-aid highway funds apportioned or allocated under other provisions of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable preconstruction regulations and directives.

(2) Traffic control devices are eligible, in keeping with paragraph (a) of this section, provided that the device is classified as construction in accordance with 23 U.S.C. 101(a) and the State or local agency has a policy acceptable to the FHWA Division Administrator for selecting traffic control devices material or equipment based on items such as cost, traffic volume, safety, and expected service life. The State's policy should provide for cost-effective selection of material which will provide for substantial service life taking into account expected and necessary routine maintenance. For these purposes, effective service life would normally be measured in terms of durability, service life and/or performance of the material. Specifications for projects including material or equipment selection shall be developed in accordance with this policy. Proposed work may be approved on a project-by-project basis when the work is clearly warranted, (ii) on a Federal-aid system, (iii) clearly identified by a project, (iv) substantial in nature, and (v) of sufficient magnitude at any given location to warrant Federal-aid participation as a construction item.

(3) The method of accomplishing the work will be in accordance with

² Available for inspection from the Office of Traffic Operations, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

the specific use proposed is considered to be in the public interest.

§ 655.607 Funding.

(a) *Federal-aid highways.* (1) Funds apportioned or allocated under 23 U.S.C. 104(b) are eligible to participate in projects to install traffic control devices in accordance with the MUTCD on newly constructed, reconstructed, resurfaced, restored, or rehabilitated highways, or on existing highways when this work is classified as construction in accordance with 23 U.S.C. 101(a). Federal-aid highway funds for eligible pavement markings and traffic control signalization may amount to 100 percent of the construction cost. Federal-aid highway funds apportioned or allocated under other sections of 23 U.S.C. are eligible for participation in improvements conforming to the MUTCD in accordance with the provisions of applicable program regulations and directives.

(2) Traffic control devices are eligible, in keeping with paragraph (a)(1) of this section, provided that the work is classified as construction in accordance with 23 U.S.C. 101(a) and the State or local agency has a policy acceptable to the FHWA Division Administrator for selecting traffic control devices material or equipment based on items such as cost, traffic volumes, safety, and expected service life. The State's policy should provide for cost-effective selection of materials which will provide for substantial service life taking into account expected and necessary routine maintenance. For these purposes, effectiveness would normally be measured in terms of durability, service life and/or performance of the material. Specific projects including material or equipment selection shall be developed in accordance with this policy. Proposed work may be approved on a project-by-project basis when the work is (i) clearly warranted, (ii) on a Federal-aid system, (iii) clearly identified by site, (iv) substantial in nature, and (v) of sufficient magnitude at any given location to warrant Federal-aid participation as a construction item.

(3) The method of accomplishing the work will be in accordance with 23

CFR Part 635 Subpart A, Contract Procedures.

(b) *Off-system highways.* Certain Federal-aid highway funds are eligible to participate in traffic control device improvement projects on off-system highways. In addition, Federal-aid highway funds apportioned or allocated in 23 U.S.C. are eligible for the installation of traffic control devices on any public road not on the Federal-aid system when the installation is directly related to a traffic improvement project on a Federal-aid system route.

Appendix—Alternate Method of Determining the Color of Retroreflective Sign Materials

1. The FHWA Color Tolerance Charts provide that conventional color measuring instruments such as spectrophotometers and tristimulus photoelectric colorimeters should not be used for measurement of retroreflective material colors and that such materials should be evaluated visually using the Color Tolerance Charts and paying strict attention to prescribed illumination and viewing conditions.

2. As an alternate to visual testing, the diffuse day color of retroreflective sign material may be determined in accordance with ASTM E 97, "Standard Method of Test for 45-Degree, 0-Degree Directional Reflectance of Opaque Specimens by Filter Photometry." Geometric characteristics must be confined to illumination incident within 10 degrees of, and centered about, a direction of 45 degrees from the perpendicular to the test surface; viewing is within 15 degrees of, and centered about, the perpendicular to the test surface. Conditions of illumination and observation must not be interchanged.

3. Standards to be used for reference are the Munsell Papers designated in Table I or Table II, attached. The papers must be recently calibrated on a spectrophotometer. Acceptable test instruments are:

- a. Gardner Multipurpose Reflectometer or Model XL 20 Color Difference Meter,
 - b. Gardner Model Ac-2a or XL 30 Color Difference Meter,
 - c. Meece Model V Colormaster,
 - d. Hunter lab D25 Color Difference Meter,
- or

e. Approved equal.

4. Average performance sheeting is identified as Types I and II sheeting and high performance sheeting is identified as Types III and IV sheeting in Standard Specifications for Construction of Roads and Bridges

Alaska Statutes

Title 28. Motor Vehicles.

Chapter

- 01. Scope and Interpretation of Title (§§ 28.01.010 — 28.01.020)
- 05. Administration (§§ 28.05.011 — 28.05.151)
- 10. Vehicle Registration and Title (§§ 28.10.011 — 28.10.661)
- 11. Abandoned Vehicles (§§ 28.11.010 — 28.11.110)
- 15. Drivers' Licenses (§§ 28.15.011 — 28.15.291)
- 17. Commercial Driver Training Schools (§§ 28.17.011 — 28.17.071)
- 20. Motor Vehicle Safety Responsibility Act (§§ 28.20.010 — 28.20.640)
- 22. Motor Vehicle Liability Insurance (§§ 28.22.010 — 28.22.600)
- 35. Miscellaneous Provisions (§§ 28.35.015 — 28.35.245)
- 40. General Provisions (§§ 28.40.050, 28.40.100, 28.40.110)

Revisor's notes. — The provisions of this title were redrafted in 1984 to remove personal pronouns pursuant to § 4, ch. 53, SLA 1982, and to make other minor word changes.

NOTES TO DECISIONS

Stated in *Buckalew v. Holloway*, Sup. Ct. Op. No. 1988 (File No. 4059), 604 P.2d 240 (1979).

Chapter 01. Scope and Interpretation of Title.

Section

- 10. Provisions uniform throughout state
- 20. Short title

Sec. 28.01.010. Provisions uniform throughout state. (a) The provisions of this title and the regulations adopted under this title are applicable within all municipalities of the state. A municipality may not enact an ordinance which is inconsistent with the provisions of this title or the regulations adopted under this title. A municipality may not incorporate into a publication of traffic ordinances a provision of this title or the regulations adopted under this title without specifically identifying the provision or regulation as a state statute or regulation.

(b) A municipality may adopt by reference all or a part of this title and regulations adopted under this title, and may request and shall

receive from the Departments of Public Safety and Community and Regional Affairs assistance in the drafting of model ordinances for adoption by reference. Notwithstanding (a) of this section, a municipality may enact necessary ordinances to meet specific local requirements.

(c) A copy of all traffic ordinances enacted by a municipality shall be forwarded to the commissioner and specific notice of any inconsistent ordinances shall be given by the municipality when the copy of the ordinances is forwarded. So far as practicable, the section number identifying a particular municipal traffic ordinance shall be the same as the section number identifying a corresponding provision of this title or regulations adopted under this title.

(d) A municipality shall erect necessary official traffic control devices on streets and highways within its jurisdiction which as far as practicable conform to the current edition of the Alaska Traffic Manual prepared by the Department of Transportation and Public Facilities.

(e) Copies of all traffic ordinances enacted by a municipality shall be incorporated in a manual and made available to the general public.

(f) Regulations adopted pertaining to a matter partially or wholly governed by this title shall be mutually consistent and compatible, and shall complement each other, as far as practicable. For the purpose of uniformity, the department shall offer and receive reasonable assistance in the coordination and adoption of these regulations.

(g) Regulations adopted under this title shall, as far as practicable, conform to the recommendations of the current edition of the Uniform Vehicle Code adopted by the National Committee on Uniform Traffic Laws and Ordinances. (§ 1 ch 91 SLA 1974; am §§ 1, 2 ch 241 SLA 1975; am §§ 1 -- 5 ch 178 SLA 1978)

Revisor's notes. — Pursuant to E.O. No. 39, sec. 11, a reference to Department of Transportation and Public Facilities

was substituted for Department of Highways in (d) of this section in 1977.

NOTES TO DECISIONS

A city ordinance, to the extent it is in conflict with the state traffic regulations, constitutes an exercise of home-rule power expressly prohibited by the legislature. Adkins v. Lester, Sup. Ct. Op. No. 1107 (File No. 2078), 530 P.2d 11 (1974).

The word "inconsistent" describes that which reveals lack of uniformity in over-all purpose or design. Cremer v. Anchorage, Sup. Ct. Op. No. 1579 (File No. 3597), 575 P.2d 306 (1978).

Similarity to Uniform Vehicle Code. — Subsection (a) is similar in substance and purpose to the provisions of § 15-101 of the Uniform Vehicle Code Annotated

adopted by the National Committee on Uniform Traffic Laws and Ordinances in 1962. Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5289), 635 P.2d 1197 (1981).

Under the express terms of subsection (a) it is clear that inconsistency is the standard that governs the validity of a local ordinance regulating the operation of a motor vehicle. Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Nature of inconsistency. — When the question of inconsistency between a local ordinance and state law under subsection

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§ 19.10.020

HIGHWAYS AND FERRIES

§ 19.10.050

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ways and all other duties and powers of the Department of Highways, and specifically including powers and duties formerly held by the Department of Highways under AS 19, AS 23.01, AS 28.05, and AS 44.57 [repealed]."

Quoted in Stat. Op. No. 1102 (File 1974).

Chapter 10. State Highway System.

Article

1. Designation, Marking and Use (§§ 19.10.020 — 19.10.100)

Sec. 19.10.0

Article 1. Designation, Marking and Use.

Section

20. Designation of state highway system
30. Responsibility for system
40. Uniform system of marking and posting
50. Traffic control signals
52. [Renumbered]
60. Regulation of weight and load of vehicles and use of highways during certain seasons

Section

70. Determination of safe speed limits
80. Designation of through highways
85. Naming of a highway
90. Erection and maintenance of guard rails
100. Closing highways

Sec. 19.10.0
use of highway
respect to highway
(1) establish
(2) [Repealed]
(3) prohibit
highways during
SLA 1957; amend
ch 77 SLA 195

Sec. 19.10.020. Designation of state highway system. The department may designate, locate, create, and determine what highways constitute the state highway system. In designating, locating, creating and determining the several routes of the state highway system, the department shall strive to attain the purposes and objectives set out in AS 19.05.125. (§ 1 art III title II ch 152 SLA 1957)

Revisor's note
No. 21, issued June
authority and due
vehicle weighing
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mented by ch. 55,
Cross reference
Department of
Development to
and enforce weight
based upon direct
of Transportation
see AS 44.33.020
Effect of amend

Sec. 19.10.030. Responsibility for system. The department is responsible for the construction and maintenance of the state highway system. (§ 2 art III title II ch 152 SLA 1957)

Sec. 19.10.040. Uniform system of marking and posting. The department shall classify, designate and mark highways under its jurisdiction and shall provide a uniform system of marking and posting these highways. The system of marking and posting shall correlate with and shall, as far as possible, conform to the recommendations of the Manual on Traffic Control Devices as adopted by the American Association of State Highway Officials. (§ 3 art III title II ch 152 SLA 1957)

Sec. 19.10.0
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Sec. 19.10.050. Traffic control signals. The department shall prescribe types of traffic control signals to regulate traffic on highways. These signals shall correlate with and, as far as possible, conform to the recommendations of the Manual on Uniform Traffic Control Devices as adopted by the American Association of State Highway Officials. The department shall prescribe uniform rules for the placing and installation of traffic control signals. (§ 4 art III title II ch 152 SLA 1957)

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STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No. 70-7000	1 OF 2
		Effective Date March 1, 1982	
SUBJECT TRAFFIC CONTROL DEVICES		Supervisor P & P No. 70-7000	Dated 1/24/80
		APPROVED BY <i>John W. Ward</i>	
DIVISION Standards and Technical Services	SECTION Traffic & Safety	CHAPTER TITLE Alaska Traffic Manual	

PURPOSE:

To establish policy and procedures for the installation of all traffic control devices on State highways and procedures for the addition, deletion, or clarification of that policy.

POLICY:

It shall be the policy of the Department to implement Sec. 19.10.040 (Uniform System of Marking & Posting) and Sec. 19.10.050 (Traffic Control Signals) of Alaska Statutes by issuing the Alaska Traffic Manual which will include the Manual of Uniform Traffic Control Devices and an Alaska Supplement and this shall be the State policy concerning all traffic control devices. This policy shall be applied uniformly statewide as required in Sec. 28.01.010 (d) Alaska Statute. It shall include such procedures as may be necessary to issue the deliberate and warranted posting of official traffic control devices, description of the proper installation of these devices. All affected employees of the Department shall adhere to the policy and assist in providing a uniform system of marking and posting.

DISTRIBUTION:

All holders of the Administrative, Construction and Design and Maintenance and Operations Manuals and Traffic And Safety personnel.

PROCEDURE:

The State Traffic and Safety Engineer shall be delegated the responsibility to maintain a standard of traffic control devices for Alaska which shall conform as closely as possible with the Manual on Uniform Traffic Control Devices adopted by the American Association of State Highway and Transportation Officials. It shall include a description and policy for the use of service, recreational, and directional signs and such other devices which are specifically reserved for establishment by state policy and clarification or specification of other sections as he may require. This standard shall be the Alaska Traffic Manual and shall incorporate by reference a complete description of all official traffic control devices such as those illustrated in the Alaska Sign Design Specification.

All traffic control devices installed or maintained in Alaska shall conform with this standard. Suitable time will be allowed for the orderly removal and disposal of out-of-date devices and the effective implementation of the standards.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No. 70-7000	Page 2 OF 2
		Effective Date March 1, 1982	
SUBJECT TRAFFIC CONTROL DEVICES		Supersedes P & P No. 70-7000	Dated 1/24/80
		APPROVED BY <i>Robert W. Ward</i>	
DIVISION Standards and Technical Services	SECTION Traffic & Safety	CHAPTER TITLE Alaska Traffic Manual	

Periodically, the State Traffic and Safety Engineer or his staff will inspect the State highway system for conformance with the system. He may request that the Regional Design and Construction Engineer, in the case of current construction projects, or the Maintenance and Operations Manager to make those changes that may be necessary to obtain conformance with this standard. If they cannot make the required modifications within a reasonable time, they shall indicate what progress has been made, where the remaining problems lie, and what is their proposed schedule for implementation. If either party does not judge the action of the other to be appropriate, he shall refer the matter through the Division Director to the respective Deputy Commissioner for resolution of the problem.

The State Traffic and Safety Engineer will consider and respond to all requests for additions, deletions, and modification to the standards. He shall hold an annual traffic control device conference to entertain suggestions for development of the standard, to instruct in the appropriate application of traffic control devices, and to confer with the various city, borough, state and federal officials concerning these standards. He shall establish an agenda for such a conference, chair the proceedings, and keep adequate records of the discussions.

The Regional Maintenance and Operation's staff shall assist the State Traffic and Safety Engineer in maintaining a current inventory of traffic control devices. The inventory shall include the location, description and legends of all traffic control devices. Copies of this inventory shall be available at all times.

Simply stated, uniformity means treating similar situations in the same way. The use of uniform traffic control devices does not, in itself, constitute uniformity. A standard device used where it is not appropriate is as objectionable as a nonstandard device; in fact, this may be worse, in that such misuse may result in disrespect at those locations where the device is needed.

1A-3 Responsibility for Traffic Control Devices

The responsibility for traffic control devices rests with a multitude of governmental jurisdictions. In virtually all States, traffic control devices placed and maintained by State and local officials are required by statute to conform to a State Manual which shall be in substantial conformance with this Manual. Many Federal agencies have regulations requiring standards in conformance with this Manual for their control device applications.

The Uniform Vehicle Code has the following provision in Section 15-104 for the adoption of a uniform manual:

"The (State Highway Agency) shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this act for use upon highways within this State. Such uniform system shall correlate with and so far as possible conform to the system set forth in the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, and other standards issued or endorsed by the Federal Highway Administrator."

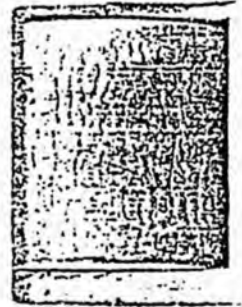
Under authority granted by Congress in 1966, the Secretary of Transportation has decreed that traffic control devices on all streets and highways in each State shall be in substantial conformance with standards issued or endorsed by the Federal Highway Administrator.

1A-3.1 Placement Authority

Traffic control devices shall be placed only by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic. No traffic control device or its support shall bear any advertising or commercial message, or any other message that is not essential to traffic control.

Any unauthorized sign placed on the highway right-of-way by a private organization or individual constitutes a public nuisance. All unofficial and nonessential signs should be removed.

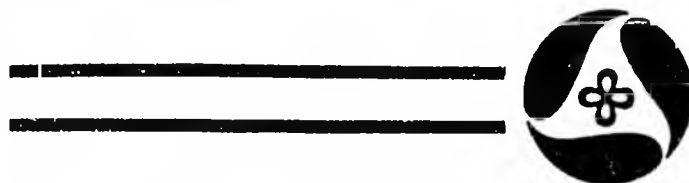
With proper authority being given, construction contractors and public utility companies are permitted to erect construction and maintenance signs at work sites to protect the public, equipment, and workmen, provided that such signs conform to the standards of this Manual.



Tourist Oriented Directional Signing (TODS)

**By
Dwight L. Stevens
State Traffic Engineer
Iowa DOT**

**Presented at the Annual Meeting
AASHTO Subcommittee on Traffic Engineering
Charleston, South Carolina
June 22-24, 1987**



**Iowa Department
of Transportation**

TABLE OF CONTENTS

	Page
Introduction.....	1
FHWA Action.....	1
Action by National Committee on Uniform Traffic Control Devices (NCUTCD).....	2
Results of TODS Questionnaire Survey.....	3
TODS in Iowa.....	11

List of Tables

Table

1	TODS Questionnaire Summary.....	4
2	Details of TODS Program.....	5-8

List of Figures

Figure

1	TODS Individual Sign Panel (Left).....	21
2	TODS Individual Sign Panel (Right).....	22
3	TODS Individual Sign Panel (Combination).....	23

TOURIST ORIENTED DIRECTIONAL SIGNS (TODS).

Introduction

Following passage of the Highway Beautification Act of 1965, many outdoor advertising billboards adjacent to State Primary Highways were removed. As a result, the traditional system for providing motorists with business identification and directional information on goods and services of interest to the traveling public was severely restricted. To resolve this problem, the FHWA proposed adding to the MUTCD, provisions for a system of Tourist Oriented Directional Signing (TODS). This paper summarizes action taken by FHWA, outlines the results of a questionnaire survey of the states on TODS and describes the TODS Program being developed in the State of Iowa.

FHWA Action

In the late 70s and early 80s, authorization was given by FHWA for six states to experiment with Tourist Oriented Directional Signing. They were Maine, New York, New Hampshire, Oregon, Vermont and Washington. Approximately 3000 TODS have been installed in these states and evaluated for a minimum of two years. Evaluation reports from these experimental projects were generally favorable and formed the basis for the FHWA proposal.

The FHWA proposal was published as a Notice of Proposed Amendments to the MUTCD (FHWA Docket 85-27) in the December 17, 1985 issue of the Federal Register. It specified that comments be received by July 19, 1986.

Subsequently, this date has been extended to July 24, 1987 to allow more time for interested parties to respond.

Details on the FHWA proposal can be obtained by referring to Docket 85-27 along with the actual text to be included as Section 2I of the MUTCD. Basically, it provides for three panels (left, right and straight ahead) on each intersection approach. Each panel can have up to four tourist oriented signs. Also, a similar number and arrangement of advance signs is allowed. Arrows and mileages are to be shown on each sign. Colors are blue background with white legend. A state policy is encouraged listing definitions, criteria, provisions and limitations of the program.

Response to the FHWA proposal to date has been mixed. Those states who now use TODS are very supportive of the concept; those who do not are strongly opposed to putting TODS in the MUTCD. Similarly, commercial businesses have spoken in favor of the proposal, while those in the outdoor advertising business oppose TODS. Input is yet to be received from the National Committee on Uniform Traffic Control Devices (NCUTCD), a major contributor. After the Docket closes, FHWA will make changes which reflect comments received and expects to proceed to a Final Rule in late 1987.

Action by the National Committee on Uniform Traffic Control Devices

The FHWA proposal had been considered by the Signs Technical Committee of the NCUTCD. A Task Force has drafted a modified version of the FHWA proposal. Their recommendations are more restrictive allowing only two panels (left and right) on each approach. Each panel can have two TODS. Sign fabrication details remain essentially as proposed by the FHWA. The Signs Technical Committee proposal will be voted on by the National Committee at their June 1987 meeting and the results forwarded to FHWA.

Results of TODS Questionnaire Survey

A nationwide survey was conducted to determine how many states have implemented a TODS program in some form or other. A questionnaire containing several items on criteria and details on TODS was distributed. Forty-eight of the 50 states (96%) responded. Of the 48 questionnaires returned, 17 states have or are in the final stages of implementing a TODS program. Another three states are developing plans to adopt TODS. Ten states may consider TODS at some time in the future and 18 states have no plans to use TODS.

All states were asked if they favor placing standards for use and application of Tourist Oriented Directional Signing in the MUTCD. Of the 48 returned questionnaires, 24 answered yes, 17 answered no, four gave no opinion and three states did not answer the question. These results show that a slight majority favor standards in the Manual. A summary on the above information is provided in Table 1.

A more detailed summary of information from the 17 states who have or will shortly implement a TODS Program was developed. This information is shown in Table 2 which was prepared in such a way to make it easy to compare programs between states.

All states had a policy with criteria, requirements and details on their program. Historical sites, recreation areas and cultural/scientific facilities were listed by most states. Motorist services were eligible in 12 of the 17 states. Of less interest were agricultural related businesses (6 of 17) and commercial businesses (9 of 17). Other miscellaneous facilities

TODS QUESTIONNAIRE SUMMARY
Table 1

- Do you have a program for installing TODS?
 A. Yes, signs are in place
 B. Plans are being developed
 C. May consider in future
 D. No plans to use TODS
 E. No reply received

Favor standards for
TODS in MUTCO?

State						Favor standards for TODS in MUTCO?	
	A*	B	C	D	E	Yes	No
Alabama	X					X	
Alaska			X				X
Arizona				X			X
Arkansas					X		
California				X		N/A**	
Colorado			X			X	
Connecticut				X		X	
Delaware	X					X	
Florida			X			X	
Georgia				X			X
Hawaii		X				X	
Idaho	X					X	
Illinois				X			X
Indiana			X			X	
Iowa	X					X	
Kansas				X			X
Kentucky				X		No opinion	
Louisiana				X		X	
Maine	X					X	
Maryland	X						X
Massachusetts	X					X	
Michigan		X				X	
Minnesota	X					X	
Mississippi	X						X
Missouri			X			X	
Montana				X			X
Nebraska			X				X
Nevada			X			X	
New Hampshire	X						X
New Jersey				X			X
New Mexico				X			X
New York	X					X	
North Carolina				X			X
North Dakota			X			X	
Ohio	X					X	
Oklahoma	X						X
Oregon	X					X	
Pennsylvania	X					No opinion	
Rhode Island					X		X
South Carolina				X		X	
South Dakota				X			X
Tennessee				X		N/A**	
Texas			X			X	
Utah				X		N/A**	
Vermont	X						X
Virginia				X		No opinion	
Washington	X					X	
West Virginia			X			X	
Wisconsin		X					X
Wyoming				X		No opinion	

* For details of TODS Program, see Table 2 page 5 .

** No answer.

Table 2 - Details of TODS Program

1. If TODS are used or planned do you have a policy, instruction or specification on their use?
 - (a) Yes
 - (b) No
2. What types of facilities are eligible for TODS?

(a) Motorist Services (Gas, Food, Lodging, Camping)	(e) Educational Facilities
(b) Historical Sites or Buildings	(f) Agricultural Related Business
(c) Recreational Areas	(g) Commercial Business
(d) Cultural/Scientific Facilities	(h) Other
3. What are the minimum hours/day, days/week and months/year of operation for the above facilities?

(a) hours/day	(b) days/week	(c) months/year
---------------	---------------	-----------------

State	Policy		Facilities eligible:								Minimum hours for Facilities:								
	Yes	No	(2a)	(2b)	(2c)	(2d)	(2e)	(2f)	(2g)	(2h)	(3a)	(3b)	(3c)	(3a)	(3b)	(3c)	(3a)	(3b)	(3c)
Alabama	X	-	X	X	X	X	X	-	-	-	16	-	-	-	-	-	-	-	-
											7	-	-	-	-	-	-	-	-
											12	-	-	-	-	-	-	-	-
Delaware	X	-	-	X	X	X	X	-	-	-	(No minimum hours required)								
Idaho	X	-	X	-	X	-	-	-	X	-	16	-	8	-	-	-	-	-	-
											7	-	6	-	-	-	-	-	-
											12	-	3	-	-	-	-	-	-
Iowa	X	-	X	X	X	X	X	X	X	-	8	4	4	4	4	8	8	-	-
											6	5	5	5	5	6	5	-	-
											12	8	8	8	8	12	12	-	-
Maine	X	-	X	-	-	-	-	X	X	-	(No minimum hours required)								
Maryland	X	-	-	X	X	X	X	-	-	-	-	(Normal hours)							
Massachusetts	X	-	X	X	X	X	-	X	X	-	(No minimum hours required)								
Minnesota	X	-	X	X	X	X	X	-	-	-	(V	a	r	i)	-	-	-	-	-
											7	5	7	5	-	-	-	-	-
											(V	a	r	i)	-	-	-	-	-
Mississippi	X	-	X	X	X	X	X	X	X	-	-	-	-	-	-	-	-	-	-
											-	6	6	-	-	-	-	-	-
											-	12	3	-	-	-	-	-	-
New Hampshire	X	-	X	X	X	X	X	-	-	X	10	-	-	-	-	-	-	-	8
											6	-	-	-	-	-	-	-	5
											3	3	3	3	3	-	-	-	3
New York	X	-	X	X	X	X	X	X	X	-	(No minimum hours required)								
Ohio	X	-	X	X	X	X	X	-	-	X	(V	a	r	i)	-	-	-	-	-
Oklahoma	X	-	-	X	X	X	X	-	-	-	-	(Normal hrs.)							
Oregon	X	-	-	X	X	X	X	-	X	-	-	6	6	6	6	-	6	-	-
											-	6	6	6	6	-	6	-	-
											-	-	-	-	-	-	-	-	-
Pennsylvania	X	-	X	X	X	X	X	-	-	-	(8-24)	8	8	8	8	-	-	-	-
											7	6	6	6	5	-	-	-	-
											(6-12)	3	3	3	3	-	-	-	-
Vermont	X	-	X	X	X	X	X	X	X	X	(No minimum hours required)								
Washington	X	-	-	X	X	X	X	-	X	-	-	8	8	8	8	-	8	-	-
											-	5	5	5	5	-	5	-	-
											-	(V	a	r	i)	-	-	-	-

Table 2 (con't) - Details of TODS Program

7. The maximum distance an attraction can be located from the highway and still be eligible for TODS is:
- (a) Motorist Services
 - (b) Historical Sites
 - (c) Recreational Areas
 - (d) Cultural/Scientific
 - (e) Educational
 - (f) Agricultural
 - (g) Commercial
 - (h) Other
8. The following are installation details for TODS:
- (a) Maximum number of destination panels per sign is _____.
 - (b) The maximum number of signs per approach to an intersection is _____.
 - (c) The longitudinal spacing of signs on an approach is _____ feet.
9. Are advance signs provided where there are sight distance or operational problems?
- (a) Yes
 - (b) No

State	Maximum distance from highway							Installation			Yes	No	(10a)	
	(7a)	(7b)	(7c)	(7d)	(7e)	(7f)	(7g)	(7h)	(8a)	(8b)	(8c)	(9a)		(9b)
Alabama	(5 mi. urban, 2 mi. rural)								2	1	800	X	-	vari x 36
Delaware	(No distance requirements)								(as per MUTCD)			X	-	(N o s t a
Idaho	5	-	5	-	-	-	5	-	3	2	(vari)	-	X	60 x (12-24)
Iowa	3	5	5	5	5	10	5	-	3	2	200	X	-	72 x 18
Maine	10	-	-	-	-	10	10	-	3	-	200	-	X	(48-84) x (12-20)
Maryland	-	10	10	10	5	-	-	-	3	1	300	-	X	96 x 16
Massachusetts	10	10	10	10	-	10	10	-	3	2	300	-	X	60 x 15
Minnesota	2	10	10	10	10	-	-	-	2	1	800	X	-	(vari)
Mississippi	15	10	10	10	10	10	10	-	2	2	MUTCD	X	-	(v a r
New Hampshire	5	10	10	10	10	-	-	5	3	3	300	X	-	(36-96) x (9-20)
New York	5	5	5	5	5	5	5	-	4	3	200	X	-	24 x 15
Ohio	-	-	-	-	5	-	-	-	(as per MUTCD)			X	-	(a l l
Oklahoma	-	5	5	5	-	-	-	-	-	4	-	-	-	48 x 36
Oregon	-	15	15	15	15	-	15	-	1	4	300	X	-	69 x 18
Pennsylvania	(1-5)	(variable)		-	-	-	-	-	3	2	200	-	X	(48-72) x (8-24)
Vermont	(No distance requirements)								3	1	200	X	-	72 x 16
Washington	-	15	15	15	15	-	15	-	4	1	(vari)	-	X	(36-48) x 18

10. The following are specific design details for TODS:
- (a) The size of a sign panel for each destination is _____ (w" x h").
 - (b) The number of lines of copy used on each panel is _____.
 - (c) The copy size is _____ inches in height.
 - (d) The copy type is all caps (AC) or upper/lower case (UL).
 - (e) The color of the sign panel is: (background, copy).
11. Is mileage to the destination specified?
 (a) Yes (b) No
12. Are Logos permitted on destination panels?
 (a) Yes (b) No
13. Is reflectorization of TODS panels required?
 (a) Yes (b) No
14. The cost of material, installation and maintenance of TODS is paid for by which of the following?
 (a) Applicant (b) State Highway Agency (c) Others

TODS design details:				Mileage		Logos		Reflect.		Who pays?			State
(10b)	(10c)	(10d)	(10e)	Yes	No	Yes	No	Yes	No	(14a)	(14b)	(14c)	
2	8	AC	brown,white	X	-	X	-	X	-	-	X	-	Alabama
n d a r d)	AC	vari		-	X	X	-	X	-	X	X	-	Delaware
1-2	4-6	AC	bl. or br.,white	X	-	X	-	X	-	X	-	-	Idaho
2	6	AC	blue,white	X	-	-	X	X	-	X	X	-	Iowa
2	6/4.5	UL	blue,white	X	-	X	-	-	X	X	-	-	Maine
3	8/6	UL	brown,white	-	X	-	X	X	-	-	X	-	Maryland
2	5	AC	blue,white	X	-	-	X	X	-	X	X	-	Massachusetts
3	(vari)	UL	gr. or br.,white	X	-	X	-	X	-	X	-	-	Minnesota
1)	4 min.	AC	brown,white	-	X	-	X	X	-	-	X	-	Mississippi
2	6/4.5	UL	black,white	X	-	X	-	X	-	X	-	-	New Hampshire
2	4	AC	blue,white	X	-	X	-	X	-	X	-	-	New York
v a r i)			brown,white	X	-	-	X	X	-	-	X	-	Ohio
-	6	AC	brown,white	X	-	-	X	X	-	X	-	-	Oklahoma
2	5	AC	blue,white	X	-	-	X	X	-	-	X	-	Oregon
2	4-6	AC	green,white	-	X	-	X	X	-	X	-	-	Pennsylvania
2	5	UL	black,white	X	-	X	-	X	-	X	-	-	Vermont
2	6	ACorUL	variable	X	-	X	-	X	-	X	-	-	Washington

included small animal veterinary clinics, transportation facilities and military installations.

Regarding minimum hours of operation, five states had no minimum requirements. Three other states require "normal" or "variable" hours. The remaining nine states listed minimum hours and/or days of operation. As would be expected, motorist services require the longest hours. Other facilities require less hours of operation to qualify.

To qualify for TODS, facilities and attractions in many cases are required to have an established minimum number of visitors per year. The minimum attendance numbers ranged from 100,000 tourists annually at historic sites, recreation areas or cultural/scientific facilities in the State of Ohio to a minimum student enrollment of 400 at an educational facility in a rural area in the State of Minnesota. Other attractions ranged in an area from 15,000 to 50,000. Nine states had no minimum attendance figures at all.

All 17 states indicated that TODS could be installed in rural areas. Fifteen states allowed TODS to be installed in urban areas. Of these, two had population requirements of 1500 or less and 5000 or less. They were Iowa and Pennsylvania respectively.

Seven states indicated that signs could be installed when the facility is within view of the highway being traveled on. The remaining 10 states said no, signs could not be installed when the facility or attraction was in view.

The maximum distance a facility could be located from the highway and qualify

for TODS ranged from a minimum of one mile to a maximum of 15 miles. The majority fell in the 5-10 mile range. Two states, Delaware and Vermont, had no distance requirements.

The installation and design details varied greatly from state to state. Generally no more than three TODS are permitted in one assembly with one to four assemblies permitted on an intersection approach. Sign spacing was 200-300 ft. or in accordance with the MUTCD.

In some cases, advance signs may be desirable to avoid sight distance or operational problems. When asked if they would provide this signing, 10 states said they would and six said they would not. One state did not reply to the question.

Sign size, copy specifications and colors were extremely variable. Please refer to Item 10 in Table 2 for more details on sign construction.

Thirteen states indicated that mileage to the destination is specified on TODS. The remaining four states do not specify mileage.

Nine states allow the use of Logos on their TODS. The remaining eight states responded no to the use of Logos.

Sixteen of the 17 states responded that reflectorization is required on TODS. One state, Maine, allows some smaller nonreflectorized signs, but most of the larger more important signs are reflectorized. States were more unanimous on this question than any other.

The final question of the survey deals with the cost of materials, installation and maintenance of TODS. Nine states responded that the applicant pays these costs, while five states said the state highway agency pays for the signing costs. Three states marked both the applicant and the state highway agency. In one case, the state has the applicant pay for the design, materials and fabrication while the state pays for maintenance of the signs. In another case, the applicant pays for the signing if it is a for-profit activity or site while the state pays for signing directing to nonprofit facilities or attractions.

TODS in Iowa

In the early to mid 1980s, a mild recession at the national level combined with a downturn in agricultural prices had a profound effect on the economy of Iowa. Sagging land prices caused serious problems with the finance of farm operations. As a result, many farmers were forced out of business. The downturn in agricultural related businesses affected the entire economy of the State appreciably reducing commercial incomes. To compensate for this loss, it was thought by many that promoting tourism would help restore the economy. While Iowa is not perceived to be a tourist state, there are many sites, facilities and activities that could be of interest to travelers from other parts of the country. To identify tourist attractions, the Iowa TODS Program was initiated.

The 1986 Legislature added a section to the Iowa Code providing the basis for a tourism promotion program. It reads as follows:

The Department of Transportation shall in cooperation with the Department of Economic Development establish criteria for guiding traffic to eligible tourist attractions along Interstate and Primary highways. The Department shall annually review the list of attractions for which signing is in place. All tourist attraction signing shall conform to the Manual on Uniform Traffic Control Devices. Except as otherwise provided, tourist attraction signing shall be purchased, installed and maintained by the Department of Transportation.

Prior to passage of this section of the Code, the DOT administered a LOGO Program on the Interstate System and provided signing for selected "tourist attractions of regional or national significance" on all Primary and Interstate routes. Criteria was moderately restrictive requiring attractions to be within 15 miles of the route and have at least 50,000 visitors annually. The new tourist promotion program was much more liberal allowing attractions to be as much as 30 miles from the route and have only 15,000 visitors annually. Also, the scope of the program was expanded beyond the traditional tourist attractions in the historic, cultural, scientific, religious, educational and natural categories to motorist services, seasonal agricultural sales and other commercial businesses.

To implement this section of the Code, an Administrative Rule was developed. It is now in the review process and will become effective on July 8, 1987 unless problems develop making revisions necessary. Following the effective date of the rule, applications will begin to be processed for adding TODS to the system. FHWA approval has been given to go ahead with a two year experimental program on this new category of signs. At the end of the two

years, an evaluation will be made to determine the future disposition of this program. To provide more detail, the entire rule is included herein and is as follows:

TOURIST ORIENTED SIGNING

761---119.1(321) Definitions.

"Primary highway", for the purpose of this chapter, does not include an interstate highway or a freeway primary highway as defined in Iowa Code section 306C.10, subsections 2 and 5.

"Tourist oriented signing" is official signing that is located within the right of way of a primary highway and that gives specific information regarding activities or sites of significant interest to the traveling public. However, official signing for campgrounds and ski area facilities is not included in this definition. This signing is addressed elsewhere.

761--119.2(321) Activities or sites of significant interest. The activity or site must be of significant interest to the traveling public to qualify for tourist oriented signing. Any one of the following may qualify the activity or site.

119.2(1) Motorist service. It offers a motorist service, such as gas, food, lodging, or motor vehicle service or repair.

119.2(2) Tourist attraction. It is of reasonable interest to tourists

as a historic, cultural, scientific, educational or religious site, or as a site of natural scenic beauty or naturally suited for outdoor recreation.

119.2(3) Commercial interest. It is of reasonable commercial interest to the traveling public.

761--119.3(321) General requirements. An individual activity or site of significant interest must meet the following general requirements to qualify for tourist oriented signing.

119.3(1) The activity or site shall be open to the general public during regular and reasonable hours and not by appointment or reservation only.

119.3(2) The activity shall be conducted in an appropriate building or area. It shall not be conducted in a building principally used as a residence unless there is a convenient, separate and well-marked entrance.

119.3(3) The activity or site shall be located:

a. In a rural area or inside the corporate limits of a city with a population of less than one thousand five hundred (1,500).

b. Outside the corporate limits of a city with a population between one thousand five hundred (1,500) and five thousand (5,000).

c. Outside the urban area of a city with a population of five thousand (5,000) or greater.

119.3(4) Neither the activity or site nor any on premise sign advertising the activity or site shall be located adjacent to or visible from the primary highway.

119.3(5) An activity or site will not qualify for a tourist oriented sign if the activity or site is identified by an off right of way directional sign, as authorized in 761--chapter 120, that is within one mile, is on the same route, and is facing the same direction as the proposed tourist oriented sign.

119.3(6) The activity or site shall comply with all applicable laws concerning public accommodations without regard to race, religion, color, age, sex, or national origin.

761--119.4(321) Special requirements. In addition to rule 119.3(321), an individual activity or site of significant interest must meet the following requirements to qualify for tourist oriented signing.

119.4(1) Motorist service. An activity or a site providing a motorist service, as described in subrule 119.2(1), must:

a. Be open a minimum of eight hours a day, six days a week, and twelve months a year.

b. Be located within three miles of the primary highway.

119.4(2) Tourist attraction. A tourist attraction, as described in

subrule 119.2(2), must:

- a. Have a minimum of two thousand five hundred visitors annually.
- b. Be open a minimum of four hours a day, five days a week, and eight months a year.
- c. Be located within five miles of the primary highway.

119.4(3) Agricultural business activity. An agricultural business activity must:

- a. Be open a minimum of eight hours a day, six days a week, and twelve months a year. However, seasonal activities may qualify if they are open eight hours a day and six days a week during the normal seasonal period.
- b. Be located within ten miles of the primary highway.

119.4(4) Other commercial activity. A commercial activity not covered by subrule 119.4(3) must:

- a. Be open a minimum of eight hours a day, five days a week, and twelve months a year.
- b. Be located within five miles of the primary highway.

761--119.5(321) Procedures.

119.5(1) Requests for tourist oriented signing shall be submitted to: Office of Right of Way, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

119.5(2) The department of transportation shall forward requests to the department of economic development.

119.5(3) The department of economic development, in cooperation with representatives from the department of transportation, the department of agriculture and land stewardship, and the tourism council, will approve or deny requests.

119.5(4) If a request is approved, the department of transportation shall:

a. Design the tourist oriented sign and furnish a scaled drawing of it to the applicant.

b. Collect from the applicant the cost of sign fabrication, installation and maintenance if the sign identifies a for-pro. it activity or site.

c. Secure and install the sign and provide normal maintenance.

761--119.6(321) Conditions.

119.6(1) A tourist oriented sign shall not be erected until the activity

or site has been approved in accordance with this chapter and the department of transportation has received prepayment of the cost of sign fabrication and installation for a sign identifying a for-profit activity or site.

119.6(2) A tourist oriented sign shall be removed if the activity or site no longer qualifies for tourist oriented signing.

119.6(3) The department of transportation shall remove or mask a tourist oriented sign for a seasonal activity when the activity is closed during the off-season period.

119.6(4) If needed, adequate trailblazing signs shall be provided on local roads and streets to guide motorists from the primary route to the activity or site. Trailblazing shall conform to requirements in the "Manual on Uniform Traffic Control Devices for Streets and Highways", as adopted in rule 761--130.1(321). The department of transportation shall not pay for trailblazing signs. Tourist oriented signs shall not be installed until necessary trailblazing signs are in place.

This rule is intended to implement Iowa Code section 321.252.

-----End of Rule-----

The provisions in this rule are rather liberal and could result in a multitude of new signs to be installed. It will be up to the committee mentioned in Section 119.5(3) to use some discretion on what is approved to avoid signing for questionable attractions. Unjustified signing would erode the credibility

of the program which would diminish the objective of promoting tourism. It may be necessary to adjust the approval criteria after some experience is gained in the early stages of the program.

Tourist Oriented Directional Signs are to be rectangular in shape and have white legend and border on a blue background. Each sign is to have no more than two lines of legend and is to have a directional arrow with the distance to the facility shown below the arrow. The content of the legend is to be limited to identification of the business, service or activity and directional information. Legends are not to include promotional advertising. The applicant may choose the name of the business or activity, but it must be appropriate and approved by the Department of Transportation. Legends, arrows and borders are to be reflectorized.

Each Tourist Oriented Directional Sign is to be 72" wide and 18" in height. Copy is to be upper case letters of the type provided in the Standard Alphabets for Highway Signs and Pavement Markings book. All letters and numbers are to be 6" in height. Arrows are to conform with provisions in the MUTCD and detailed drawings in the Standard Highway Signs book.

Not more than three TODS signs are to be installed to make up a sign panel. Not more than two sign panels are to be installed on an approach to an intersection. If three or fewer attractions or sites are to be signed, a combination panel is to be used. If four to six attractions are to be signed, individual left and right panels with a maximum of three TODS each are to be used. The sign for attractions to the left is to precede the sign for attractions to the right. No signing will be provided for facilities in the

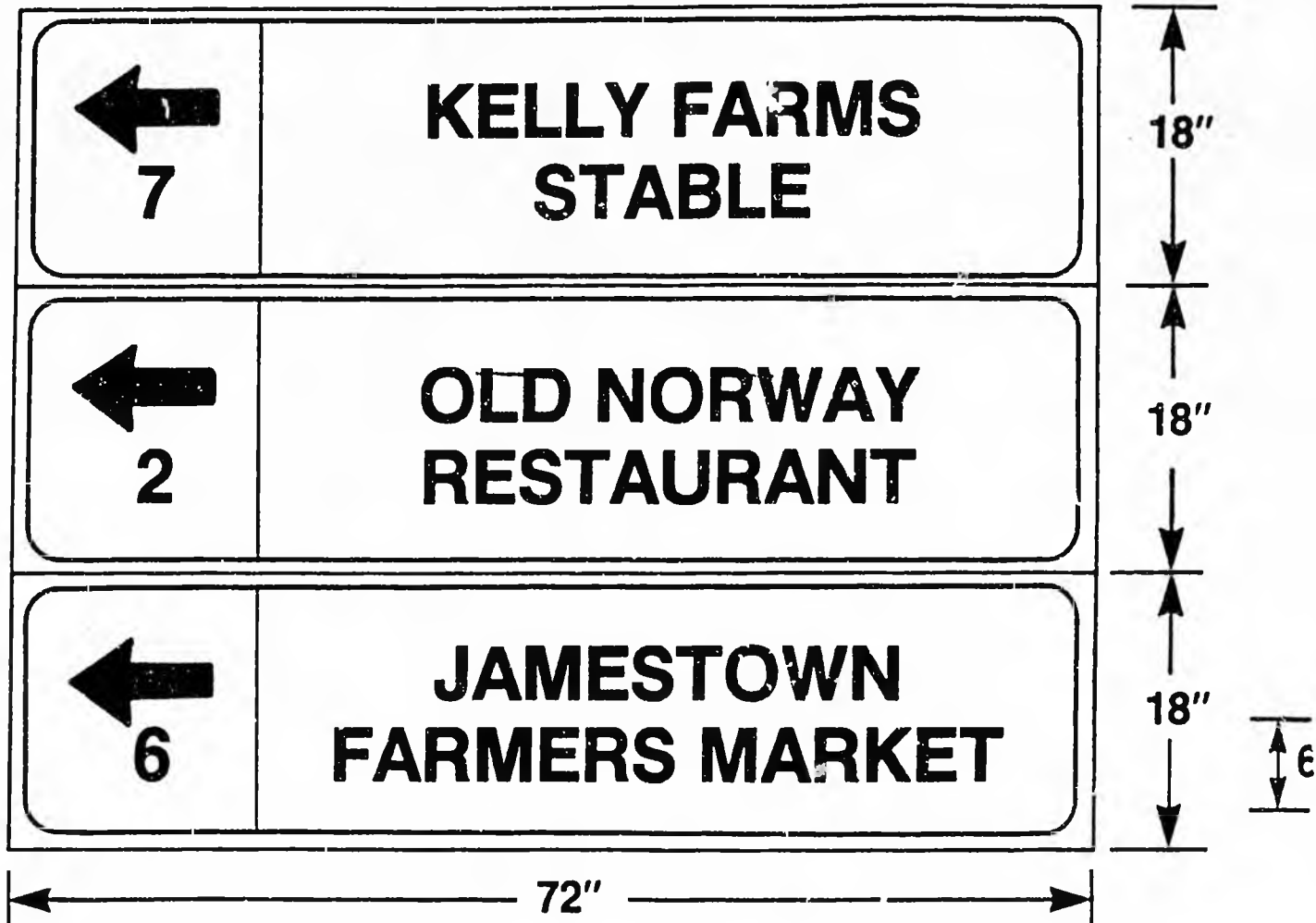
straight ahead direction. Illustrations of the sign panel assemblies are shown in Figures 1, 2 and 3.

Advance panels will not be used except to avoid potential unsafe lane changes or erratic maneuvers. Sign panels are to be located at least 200 ft. from the intersection and spaced 200 ft. from additional sign panels or other traffic control devices. The location of other essential traffic control devices shall at all times take precedence over the location of tourist oriented signing.

The estimated cost of a panel composed of three TODS is approximately \$400. Attractions or facilities which operate for profit will be required to pay their proportionate share of the panel cost. For nonprofit attractions, the Department of Transportation will pay for the signs as specified in the Code.

Applications for TODS will be received and handled by the Department of Transportation Outdoor Advertising Section which is part of the Office of Right of Way. Personnel assigned to this office will review the application and perform a field check to verify information provided and collect additional data on existing site conditions. The file will then be forwarded to the Department of Economic Development for committee action. If approved, the applicant will then be asked to submit the installation fee if signing is for a profit making facility. TODS will then be designed by the Traffic Engineering Section and fabricated in the State Sign Shop. The Resident Engineer will then check for necessary trailblazing signs off the Primary system. If they are in place and in satisfactory condition, the TODS will be installed. If the facility or business fails to meet qualifications or ceases

Tourist Oriented Directional Signing

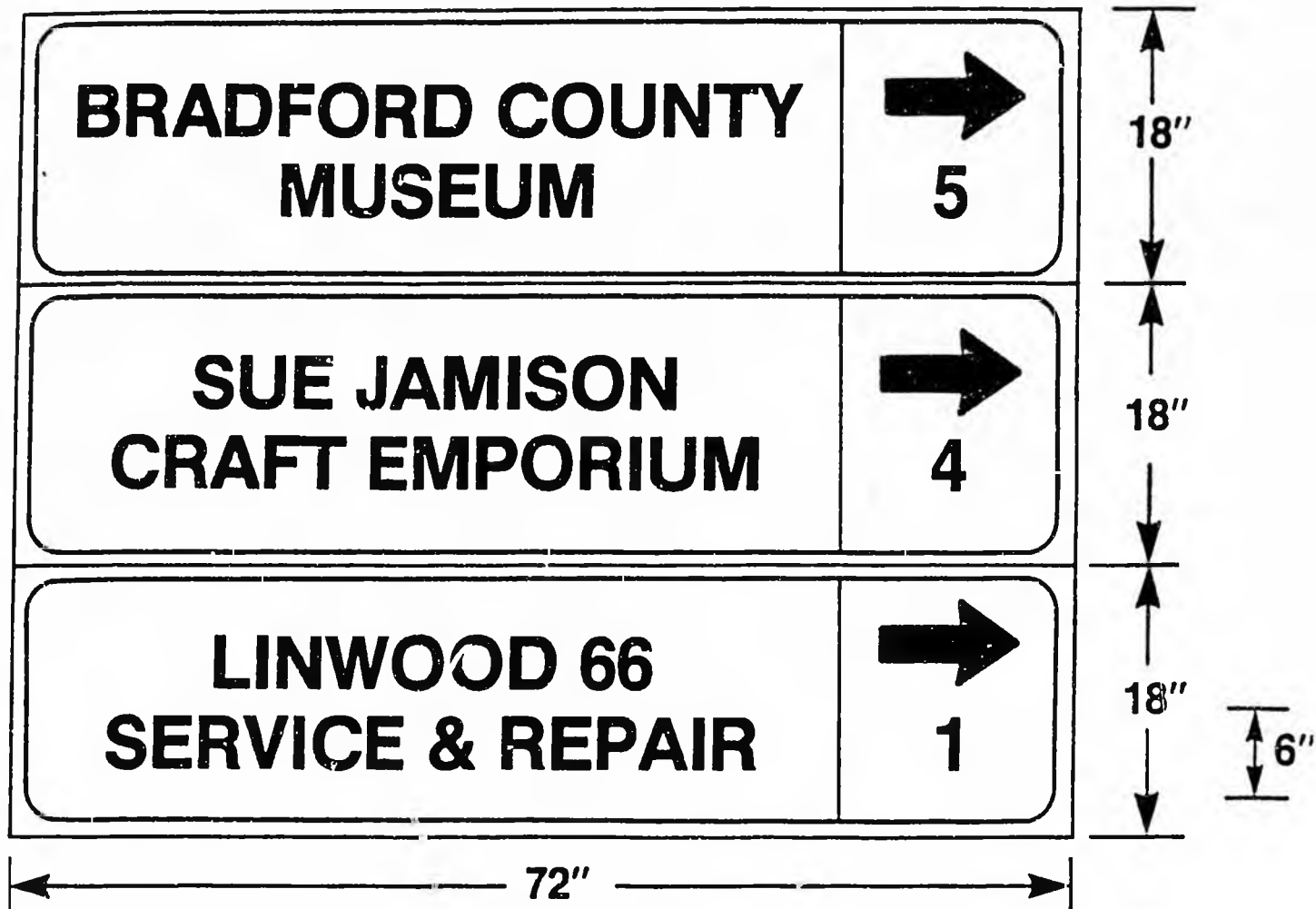


Reflectorized Panels & Legend
Colors Blue Background
White Legend

INDIVIDUAL SIGN PANEL (LEFT)

Figure No. 1

Tourist Oriented Directional Signing

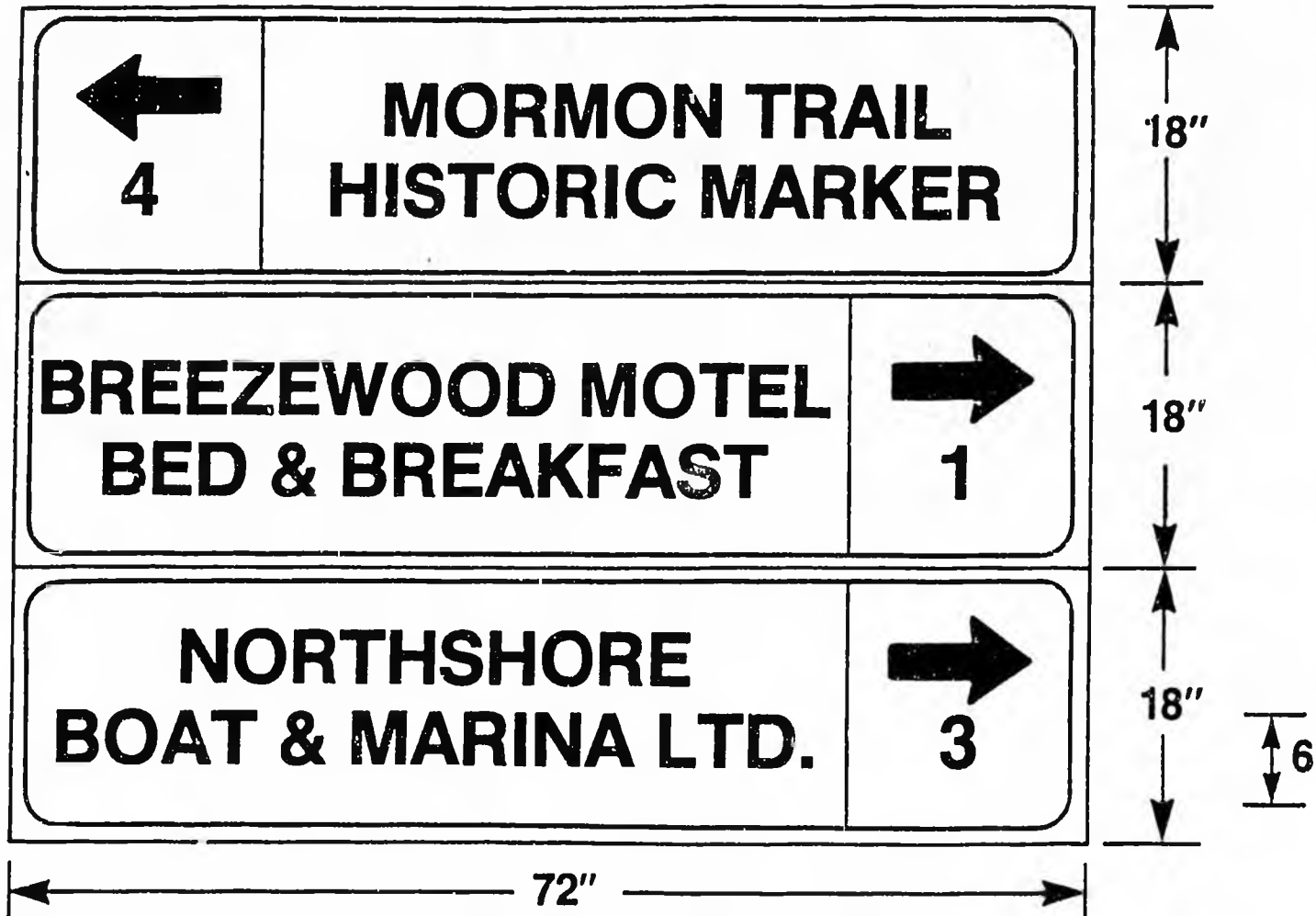


Reflectorized Panels & Legend
Colors Blue Background
White Legend

INDIVIDUAL SIGN PANEL (RIGHT)

Figure No. 2

Tourist Oriented Directional Signing



Reflectorized Panels & Legend
Colors Blue Background
White Legend

COMBINATION SIGN PANEL

Figure No. 3

to exist, their signs will be removed. The Resident Engineer will also have the responsibility to mask or remove tourist oriented signs for seasonal activities.

Part 750

funds may participate in the costs of such project activity.

(d) *Land acquired in connection with other Federal or Federally-assisted programs*—(1) *Land acquired and displacements made prior to location of highway.* Where land is acquired and all displacements made for a program or projects, other than one in which Federal funds administered by the FHWA are or will be utilized, prior to receipt of written advice from the State highway agency concerning the location of a proposed highway or project or a request for reservation or conveyance for such purposes,

(i) The provisions of this part will not apply, and

(ii) There shall be no FHWA participation in relocation costs.

(2) *Land acquired and/or displacements made subsequent to location of highway.* Where land is acquired and/or displacements are made subsequent to written advice from the State highway agency giving the location of a proposed highway or other project in which Federal funds administered by the FHWA will be utilized or a request is made for reservation or conveyance for such purposes,

(i) The applicable provisions of this part will apply, and

(ii) The costs to the State highway agency of the relocation payments and services required by 49 CFR Part 25 will be eligible for the FHWA participation in the same manner and to the same extent as other project costs.

(A) The State highway agency and the displacing agency shall enter into an agreement or memorandum of understanding setting forth the responsibilities of each in the relocations involved and the basis for the sharing of costs. Such agreements should be executed during the early stages of project development and will not jeopardize future Federal participation in costs to the State highway agency of the relocation payments and services if the agreement does not constitute a binding obligation for payment of such costs on specified lands.

(B) The agreement should be in effect when a request for authorization to acquire is submitted to the FHWA and should be coordinated

with any agreement to be executed under the provisions of § 710.304(o).

(e) *Surveillance.* The State highway agency shall monitor relocation assistance activities conducted by any State agency, individual, firm, association, or corporation to the extent necessary.

[41 FR 48882, Nov. 4, 1978. Redesignated and amended at 50 FR 34093, Aug. 23, 1985]

PART 750—HIGHWAY BEAUTIFICATION

Subpart A—National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec.

- 750.101 Purpose.
- 750.102 Definitions.
- 750.103 Measurements of distance.
- 750.104 Signs that may not be permitted in protected areas.
- 750.105 Signs that may be permitted in protected areas.
- 750.106 Class 3 and 4 signs within informational sites.
- 750.107 Class 3 and 4 signs outside informational sites.
- 750.108 General provisions.
- 750.109 Exclusions.
- 750.110 State regulations.

Subpart B—National Standards for Directional and Official Signs

- 750.151 Purpose.
- 750.152 Application.
- 750.153 Definitions.
- 750.154 Standards for directional signs.
- 750.155 State standards.

Subpart C—[Reserved]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

- 750.301 Purpose.
- 750.302 Policy.
- 750.303 Definitions.
- 750.304 State policies and procedures.
- 750.305 Federal participation.
- 750.306 Documentation for Federal participation.
- 750.307 FHWA project approval.
- 750.308 Reports.

Subpart E—Signs Exempt From Removal in Defined Areas

- 750.501 Purpose.
- 750.502 Applicability.

Federal Highway Administration

Sec.

- 750.503 Exemptions.

Subpart F—[Reserved]

Subpart G—Outdoor Advertising

- 750.701 Purpose.
- 750.702 Applicability.
- 750.703 Definitions.
- 750.704 Statutory requirement.
- 750.705 Effective control.
- 750.706 Sign control in zoned commercial and industrial areas.
- 750.707 Nonconforming signs.
- 750.708 Acceptance of state zoning.
- 750.709 On-property or on-premises signs.
- 750.710 Landmark signs.
- 750.711 Structures which have played advertising material.
- 750.712 Reclassification of signs.
- 750.713 Bonus provisions.

Source: 38 FR 18044, June 20, 1973, otherwise noted.

Subpart A—National Standards for Regulation by States of Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Authority: Sec. 12, Pub. L. 85-552, Stat. 95, as amended; 23 U.S.C. 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 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2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 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2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2933, 2934, 2935, 2936, 2937, 2938, 2939, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2958, 2959, 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967, 2968, 2969, 2970, 2971, 2972, 2973, 2974, 2975, 2976, 2977, 2978, 2979, 2980, 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017,

Sec.

750.503 Exemptions.

Subpart F—[Reserved]

Subpart G—Outdoor Advertising Control

- 750.701 Purpose.
- 750.702 Applicability.
- 750.703 Definitions.
- 750.704 Statutory requirements.
- 750.705 Effective control.
- 750.706 Sign control in zoned and unzoned commercial and industrial areas.
- 750.707 Nonconforming signs.
- 750.708 Acceptance of state zoning.
- 750.709 On-property or on-premise advertising.
- 750.710 Landmark signs.
- 750.711 Structures which have never displayed advertising material.
- 750.712 Reclassification of signs.
- 750.713 Bonus provisions.

Source: 38 FR 16044, June 20, 1973, unless otherwise noted.

Subpart A—National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Authority: Sec. 12, Pub. L. 85-381, 72 Stat. 95, as amended; 23 U.S.C. 131; delegation of authority in 49 CFR 1.48(b).

§ 750.101 Purpose.

(a) In section 12 of the Federal-Aid Highway Act of 1958, Pub. L. 85-381, 72 Stat. 95, hereinafter called the "act," the Congress declared that:

(1) To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, hereinafter called the "Interstate System," it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such systems by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

(2) It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of

the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1958, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Transportation.

(b) The standards in this part are hereby promulgated as provided in the act.

[38 FR 16044, June 20, 1973, as amended at 39 FR 29029, Aug. 9, 1974]

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1958 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1958);

(2) Lies within a State, the highway department of which has entered into an agreement with the Secretary of Transportation as provided in the act; and

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secre-

SEC. 4 (G)

Department of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

(d) Entrance roadway means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate Highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Exit roadway means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate Highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) Informational site means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) Legible means capable of being read without visual aid by a person of normal visual acuity.

(i) Maintain means to allow to exist.

(j) Main-traveled way means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) Protected areas means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.

(l) Scenic area means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) State means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) State law means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) Trade name shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 750.101 Measurements of distance

(a) Distance from the right-of-way shall be measured horizontally along a line normal to the centerline of the highway.

(b) All distances under (a)(2) and (b) shall be measured from the centerline of the highway to two vertical planes which are perpendicular to and intersect the centerline of the highway, a pass through the termini of the measured distance.

[38 FR 16044, June 20, 1973, as amended 41 FR 9321, Mar. 4, 1976]

§ 750.104 Signs that may not be erected in protected areas

Erection or maintenance of following signs may not be permitted in protected areas:

(a) Signs advertising activities are illegal under State or Federal regulations in effect at the time of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clear and need good repair.

(d) Signs that are not securely fastened to a substantial structure.

(e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be erected in protected areas

Erection or maintenance of following signs may be permitted in protected areas:

Class 1—Official signs. Direct, official signs or notices are maintained by public officers or pursuant to and in accordance with the provisions of Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On-premise signs. Signs are permitted by State law which are consistent with the applicable provisions of this part and § 750.103 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in any one direction on any one Interstate Highway.

§ 750.103 Measurements of distance.

(a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under § 750.107 (a)(2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

(38 FR 16044, June 20, 1973, as amended at 41 FR 9321, Mar. 4, 1976)

§ 750.104 Signs that may not be permitted in protected areas.

Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clean and in good repair.

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be permitted in protected areas.

(a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1—Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State or Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On-premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and § 750.108 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

Class 3—Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which advertise activities being conducted within 12 air miles of such signs.

Class 4—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which are designed to give information in the specific interest of the traveling public.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

SEC. 4 (5)

§ 750.106

§ 750.106 Class 3 and 4 signs within informational sites.

(a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with § 1.35 of this chapter. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

erwise interfere with any driver's operation of a motor vehicle.

(23 FR 8793, Nov. 13, 1958, as amended at 35 FR 18719, Dec. 10, 1970; 41 FR 9321, Mar. 4, 1976)

§ 750.107 Class 3 and 4 signs outside informational sites.

(a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:

(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.

(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either paragraph (a)(1) or (2) of this section.

(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:

(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection	Number of signs
0-2 miles.....	0.
2-5 miles.....	6.
More than 5 miles.....	Average of one sign per mile.

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be in protected areas adjacent to Interstate highway right-of-way or any part of the width of way constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is a main-traveled way or has passed an entrance or exit roadway may not be permitted in protected areas for 1,000 feet beyond the nearest point of the intersection of the traveled way of such roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted by a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to Interstate highway traffic moving in any one direction on the Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 750.108 General provisions.

No Class 3 or 4 signs may be erected or maintained in accordance with § 750.107, and no Class 3 or 4 signs may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted to be erected or maintained in any manner which attempts or appears to attempt to direct the movement of traffic in any way which interferes with, imitates, or resembles any official traffic sign or device.

(b) No sign may be permitted to be erected or maintained which prevents the driver of a vehicle from having a clear and unobstructed view of any official signs and approaching traffic.

(c) No sign may be permitted to be erected or maintained which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 750.103 General provisions.

No Class 3 or 4 signs may be permitted to be erected or maintained pursuant to § 750.107, and no Class 2 sign may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low in-

tensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(e) No sign may be permitted which moves or has any animated or moving parts.

(f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

§ 750.109 Exclusions.

The standards in this part shall not apply to markers, signs and plaques in appreciation of sites of historical significance for the erection of which provisions are made in an agreement between a State and the Secretary of Transportation, as provided in the Act, unless such agreement expressly makes all or any part of the standards applicable.

§ 750.110 State regulations.

A State may elect to prohibit signs permissible under the standards in this part without forfeiting its rights to any benefits provided for in the act.

Subpart 2—National Standards for Directional and Official Signs

Authority: 23 U.S.C. 131, 315, 49 U.S.C. 1651; 49 CFR 1.48(b).

§ 750.151 Purpose.

(a) In section 131 of title 23, United States Code, Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and

SEC. 4 (5)

recreational value of public travel, and to preserve natural beauty.

(2) Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in Section 131 of title 23, United States Code.

[23 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

§ 750.152 Application.

The following standards apply to directional and official signs and notices located within six hundred and sixty (660) feet of the right-of-way of the Interstate and Federal-aid primary systems and to those located beyond six hundred and sixty (660) feet of the right-of-way of such systems, outside of urban areas, visible from the main traveled way of such systems and erected with the purpose of their message being read from such main traveled way. These standards do not apply to directional and official signs erected on the highway right-of-way.

[40 FR 21934, May 20, 1975]

§ 750.153 Definitions.

For the purpose of this part:

(a) Sign means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.

(b) Main traveled way means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.

(c) Interstate System means the National System of Interstate and De-

fence Highways described in Section 103(d) of title 23, United States Code.

(d) Primary system means the Federal-aid highway system described in Section 103(b) of title 23, United States Code.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Maintain means to allow to exist.

(g) Scenic area means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(h) Parkland means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(i) Federal or State law means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.

(j) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(k) Freeway means a divided arterial highway for through traffic with full control of access.

(l) Rest area means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

(m) Directional and official signs and notices includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(n) Official signs and notices means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or re-

Federal Highway Administration

sponsibility. Historical monuments authorized by State law and State or local government; nonprofit historical societies considered official signs.

(o) Public utility signs means signs, informational signs or markers which are erected and maintained by privately owned public utilities essential to their operations.

(p) Service club and religious signs and notices, which are authorized by law, regulations, meetings of nonprofit service charitable associations, or services, which signs do not exceed 32 square feet in area.

(q) Public service signs means signs located on school bus stop which signs:

(1) Identify the donor, sponsor or contributor of said shelters;

(2) Contain public service messages which shall occupy not less than 50 percent of the area of the sign;

(3) Contain no other messages;

(4) Are located on school bus stop which are authorized or approved by city, county, or State law, regulation or ordinance, and at places controlled by the city, county, or State controlling the highway involved;

(5) May not exceed 32 square feet in area. Not more than one sign shall face in any one direction.

(r) Directional signs means signs containing directional information about public places owned or controlled by Federal, State, or local governments or their agencies; privately owned natural phenomena; historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or natural resources for outdoor recreation, deemed to be in the interest of the traveling public.

(s) State means any one of the States, the District of Columbia, or Puerto Rico.

(t) Urban area means an urban area or, in the case of an urban area encompassing more than one State, that part of the urbanized area in each such State, or an urban area as designated by the Bureau of Economic Analysis having a population of 50,000 or more and not within an urbanized area, within bound-

sponsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

(o) Public utility signs means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) Service club and religious notices means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) Public service signs means signs located on school bus stop shelters, which signs:

(1) Identify the donor, sponsor, or contributor of said shelters;

(2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;

(3) Contain no other message;

(4) Are located on schoolbus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and

(5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) Directional signs means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) State means any one of the 50 States, the District of Columbia, or Puerto Rico.

(t) Urban area means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to

be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

[32 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

§ 750.154 Standards for directional signs.

The following apply only to directional signs:

(a) *General.* The following signs are prohibited:

(1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated or moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

(b) *Size.* (1) No sign shall exceed the following limits:

(i) Maximum area—150 square feet.

(ii) Maximum height—20 feet.

(iii) Maximum length—20 feet.

(2) All dimensions include border and trim, but exclude supports.

(c) *Lighting.* Signs may be illuminated, subject to the following:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor

SEC. 4 (f)

§ 750.155

vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) *Spacing.* (1) Each location of a directional sign must be approved by the State highway department.

(2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

(4)(i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

(ii) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

(iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

(iv) Signs located adjacent to the primary system shall be within 50 air miles of the activity.

(c) *Message content.* The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(1) *Selection method and criteria.* (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

(2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

(3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23, United States Code, and this part.

§ 750.155 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and official signs and notices along the Federal-aid highway systems than these national standards.

[33 FR 18044, June 20, 1973, as amended at 40 FR 21934, May 20, 1975]

Subpart C—[Reserved]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

AUTHORITY: 23 U.S.C. 131 and 315; 23 CFR 1.32 and 1.48(b).

SOURCE: 39 FR 27438, July 29, 1974, unless otherwise noted.

§ 750.301 Purpose.

To prescribe the Federal Highway Administration (FHWA) policies relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices on the Federal-aid Primary and Interstate Systems, including toll sections on such systems, regardless of whether Federal funds participated in the construction thereof. This regulation should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

§ 750.302 Policy.

(a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which

Federal Highway Administration

are lawfully existing under State in conformance with the term U.S.C. 131.

(b)(1) Federal reimbursement made on the basis of 75 percent acquisition, removal and in costs legally incurred or oblig the State.

(2) Federal funds will partic 100 percent of the costs of removal those signs which were removed to January 4, 1975, by relocation pursuant to the provisions of 2 § 750.305(a)(2), and which are r to be removed as a result amendments made to 23 U.S.C. the Federal-Aid Highway Act of 1974, P.L. 93-643, sect January 4, 1975. Such signs mu have been legally maintained si relocation, and must not hav substantially changed, as def the State maintenance sta issued pursuant to 23 § 750.707(b).

(c) Title III of the Uniform tion Assistance and Real Prop acquisition Policies Act of 19 U.S.C. 4651, et seq.) applie where complete conformity defeat the purposes set forth U.S.C. 4651, would impede the tious implementation the s removal program or woul incre ministrative costs out of propor the cost of the interests be. quired or extinguished.

(d) Projects for the removal door advertising signs includin ship acquisitions should be pro and authorized in accordanc normal program procedures for of-way projects.

[39 FR 27438, July 29, 1974; 39 FR Aug. 22, 1974, as amended at 41 FR July 27, 1976]

§ 750.303 Definitions.

(a) *Sign.* An outdoor sign, lig play, device, figure, painting, d message, placard, poster, billbo other thing which is designed, ed of the advertising or infor contents of which is visible fr place on the main-traveled way Interstate or Primary Systems, er the same be permanent or p installation.

are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.

(b)(1) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.

(2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR § 750.305(a)(2), and which are required to be removed as a result of the amendments made to 23 U.S.C. 131 by the Federal-Aid Highway Amendments of 1974, P.L. 93-543, section 109, January 4, 1975. Such signs must have been relocated to a legal site, must have been legally maintained since the relocation, and must not have been substantially changed, as defined by the State maintenance standards, issued pursuant to 23 CFR § 750.707(b).

(c) Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651, et seq.) applies except where complete conformity would defeat the purposes set forth in 42 U.S.C. 4651, would impede the expeditious implementation of the sign removal program or would increase administrative costs out of proportion to the cost of the interests being acquired or extinguished.

(d) Projects for the removal of outdoor advertising signs including hardship acquisitions should be programed and authorized in accordance with normal program procedures for right-of-way projects.

[39 FR 27438, July 29, 1974; 39 FR 30349, Aug. 22, 1974, as amended at 41 FR 31193, July 27, 1976]

§ 750.303 Definitions.

(1) *Sign.* An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(b) *Lease (license, permit, agreement, contract or easement).* An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

(c) *Leasehold value.* The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.

(d) *Illegal sign.* One which was erected and/or maintained in violation of State law.

(e) *Nonconforming sign.* One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(f) *1966 inventory.* The record of the survey of advertising signs and junkyards compiled by the State highway department.

(g) *Abandoned sign.* One in which no one has an interest, or as defined by State law.

§ 750.304 State policies and procedures.

The State's written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval within 90 days of the date of this regulation. This statement should be supported by the State's regulations implementing its program. Revisions to the State's policies and procedures shall be submitted to the FHWA for approval. The statement should contain provisions for the review of its policies and procedure to meet changing conditions, adoption of improved procedures, and for internal review to assure compliance. The statement shall include as a minimum the following:

(a) *Project priorities.* The following order of priorities is recommended.

(1) Illegal and abandoned signs.

SEC. 4 (f)

- (2) Hardship situations.
- (3) Nominal value signs.
- (4) Signs in areas which have been designated as scenic under authority of State law.

- (5) Product advertising on:
 - (i) Rural interstate highway.
 - (ii) Rural primary highway.
 - (iii) Urban areas.
- (6) Nontourist-oriented directional advertising.
- (7) Tourist-oriented directional advertising.

(b) *Programming.* (1) A sign removal project may consist of any group of proposed sign removals. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.

(2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-0003(), continuing the numbering sequence which began with the sign inventory project in 1963.

(3) Where it would not interfere with the State's operations, the State should program sign removal projects to minimize disruption of business.

(c) *Valuation and review methods—*
 (1) *Schedules—formulas.* Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.

(2) *Appraisals.* Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.

(3) *Leaseholds.* When outdoor advertising signs and sign sites involve a

leasehold value, the State's procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessee.

(4) *Severance damages.* The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.304(h), and the law of the State before Federal participation will be allowed. Generally, Federal participation will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company's signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:

- (i) One copy of each appraisal in which this was analyzed. One copy of the State's review appraisal analysis and determination of market value.
- (ii) A plan or map showing the location of each sign.

(iii) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other

authorities supporting the position.

(5) *Review of value estimates.* Estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to negotiation of negotiations. All estimates shall be reviewed before an agreement becomes final.

(d) *Nominal value plan.* A plan may provide for the costs of eligible nominal value signs and for payments up to \$250 for each nonconforming sign.

(2) The State's procedures shall provide for negotiations for sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements by the sign and/or site owner shall include the identification of statement of ownership, price paid, interest acquired, and rights.

(4) It is not expected that the value will be a consideration in acquisitions; however, the State's procedures may provide that the signs be turned over to the sign owner, contractor, or individual or a part of the consideration for removal, without any project cost.

(5) *Programming and authorization.* The plan will be in accord with § 750.304 regulation. A detailed estimate of value of each individual sign shall be necessary. The project may be programmed and authorized as one project.

(e) *Sign removal.* The State shall submit a statement should include the following:

- (1) Owner retention.
- (2) Salvage value.
- (3) State removal.

139 FR 27438, July 29, 1974; 42 FR 11717, June 17, 1977, as amended at 50 FR 11717, Aug. 23, 1985

§ 750.305 Federal participation.

(a) Federal funds may participate in the following:
 (1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, leasehold value in a sign site, and to the sign owner for his right and interest in a sign site, which is his right to e

authorities supporting the State's position.

(5) *Review of value estimates.* All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) *Nominal value plan.* (1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to \$250 for each nonconforming sign, and up to \$100 for each nonconforming sign site.

(2) The State's procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.

(4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State's procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.

(5) Programming and authorizations will be in accord with § 750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programmed and authorized as one project.

(e) *Sign removal.* The State's procedural statement should include provision for:

- (1) Owner retention.
- (2) Salvage value.
- (3) State removal.

39 FR 27435, July 29, 1974; 42 FR 30835, June 17, 1977, as amended at 50 FR 34093, Aug. 23, 1985

§ 750.305 Federal participation.

(a) Federal funds may participate in:

(1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and

maintain the existing nonconforming sign on such site.

(2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.

(3) A duplicate payment for the site owner's interest of \$2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.

(4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State's normal force account and contractual reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under § 750.308 of this regulation.

(5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and reerecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

(6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State's policy and procedures.

(7) In the event a sign was omitted in the 1968 inventory, and the State

SEC. 4 (C)

supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.

(b) Federal funds may not participate in:

(1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is \$2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations by State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining evidence of title should be set forth in the State's policy and procedure submission.

(2) Payments to a sign owner where the sign was erected without permission of the property owner unless the sign owner can establish his legal right to erect and maintain the sign. However, such signs may be removed by State personnel on a force account basis or by contract with Federal participation except where the sign owner reimburses the State for removal.

(3) Acquisition costs paid for abandoned or illegal signs, potential sign sites, or signs which were built during a period of time which makes them ineligible for compensation under 23 U.S.C. 131, or for rights in sites on which signs have been abandoned or illegally erected by a sign owner.

(4) The acquisition cost of supporting poles or partially completed sign structures in nonconforming areas which do not have advertising or informative content thereon unless the owner can show to the State's satisfaction he has not abandoned the structure. When the State has determined the sign structure has not been abandoned, Federal funds will participate in the acquisition of the structure, provided the cost are incurred in accordance with State law.

§ 750.306 Documentation for Federal participation.

The following information concerning each sign must be available in the State's files to be eligible for Federal participation.

(a) *Payment to sign owner.* (1) A photograph of the sign in place. Exceptions may be made in cases where in one transaction the State has acquired a number of a company's nominal value signs similar in size, condition and shape. In such cases, only a sample of representative photographs need be provided to document the type and condition of the signs.

(2) Evidence showing the sign was nonconforming as of the date of taking.

(3) Value documentation and proof of obligation of funds.

(4) Satisfactory indication of ownership of the sign and compensable interest therein (e.g., lease or other agreement with the property owner, or an affidavit, certification, or other such evidence of ownership).

(5) Evidence that the sign falls within one of the three categories shown in § 750.302 of this regulation. The specific category should be identified.

(6) Evidence that the right, title, or interest pertaining to the sign has passed to the State, or that the sign has been removed.

(b) *Payment to the site owner.* (1) Evidence that an agreement has been reached between the State and owner.

(2) Value documentation and proof of obligation of funds.

(3) Satisfactory indication of ownership or compensable interest.

(c) In those cases where Federal funds participate in 100 percent of the cost of removal, the State file shall contain the records of the relocation made prior to January 4, 1975.

[39 FR 27438, July 29, 1974, as amended at 41 FR 31198, July 27, 1976]

§ 750.307 FHWA project approval

Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following:

Federal Highway Administration

(a) A general description of the project.

(b) The total number of signs acquired.

(c) The total estimated cost sign removal project, including breakdown of incidental, acquisition and removal costs.

§ 750.308 Reports.

Periodic reports on site acquisition and actual sign removals shall be submitted on FHWA Form 1424 prescribed.¹

[39 FR 27438, July 29, 1974, as amended at 41 FR 9321, Mar. 4, 1976]

Subpart E—Signs Exempt From Removal in Defined Areas

Authority: 23 U.S.C. 131 and 315, 1.48, 23 CFR 1.32.

Source: 41 FR 45827, Oct. 18, 1976, otherwise noted.

§ 750.501 Purpose.

This subpart sets forth the procedures pursuant to which a State, if it desires, seek an exemption from the acquisition requirements of U.S.C. 131 for signs giving direct information about goods and services in the interest of the traveling public in defined areas which would cause substantial economic hardship if signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

§ 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the Interstate primary systems which are required to be controlled under 23 U.S.C. 131.

§ 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131, by showing that removal would cause substantial economic hardship.

¹ Forms are available at FHWA District Offices located in each State.

(a) A general description of the project.

(b) The total number of signs to be acquired.

(c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

§ 750.502 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1423 and as prescribed.¹

[39 FR 27439, July 29, 1974], as amended at 41 FR 9321, Mar. 4, 1976]

Subpart E—Signs Exempt from Removal in Defined Areas

Authority: 23 U.S.C. 131 and 315, 49 CFR 1.19, 23 CFR 1.132.

Source: 41 FR 45927, Oct. 18, 1976, unless otherwise noted.

§ 750.501 Purpose.

This subpart sets forth the procedures pursuant to which a State may, if it desires, seek an exemption from the acquisition requirements of 23 U.S.C. 131 for signs giving directional information about goods and services in the interest of the traveling public in defined areas which would suffer substantial economic hardship if such signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

§ 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the interstate and primary systems which are required to be controlled under 23 U.S.C. 131.

§ 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State's request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship

throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:

(1) Have been lawfully erected prior to May 5, 1978, and must continue to be lawfully maintained.

(2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1978. Repair and maintenance of these signs shall conform with the State's approved maintenance standards as required by Subpart G of this part.

(b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:

(1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.

(2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.

(c) In support of its request for exemption, the State shall submit to the FHWA:

(1) Its requirements and method (see § 750.503(b)).

(2) The limits of the defined area(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1978.

(3) The application of the requirements and method to the defined areas, demonstrating that the signs provide directional information to goods and services of interest to the traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).

(4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.

(5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to deter-

SEC. 4 (F)

¹ Forms are available at FHWA Division Offices located in each State.

mine if an exemption is still warranted.

(d) The FHWA, upon receipt of a State's request for exemption, shall prior to approval:

(1) Review the State's requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.

(2) Review the State's request and the proposed exempted area for compliance with State requirements and methods.

(e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.

(f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.

Subpart F—[Reserved]

Subpart G—Outdoor Advertising Control

AUTHORITY: 23 U.S.C. 131 and 315; 49 CFR 148.

SOURCE: 40 FR 42844, Sept. 16, 1975, unless otherwise noted.

§ 750.701 Purpose.

This subpart prescribes the Federal Highway Administration (FHWA) policies and requirements relating to the effective control of outdoor advertising under 23 U.S.C. 131. The purpose of these policies and requirements is to assure that there is effective State control of outdoor advertising in areas adjacent to Interstate and Federal-aid primary highways. Nothing in this subpart shall be construed to prevent a State from establishing more stringent outdoor advertising control requirements along Interstate and Primary Systems than provided herein.

§ 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 800 feet of the nearest edge of the right-of-way. These provisions apply regard-

less of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

§ 750.703 Definitions.

The terms as used in this subpart are defined as follows:

(a) Commercial and industrial zones are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.

(b) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(c) Federal-aid Primary Highway means any highway on the system designated pursuant to 23 U.S.C. 103(b).

(d) Interstate Highway means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).

(e) Illegal sign means one which was erected or maintained in violation of State law or local law or ordinance.

(f) Lease means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a specified purpose, and which is a valid contract under the laws of a State.

(g) Maintain means to allow to exist.

(h) Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(i) Sign, display or device, hereinafter referred to as "sign," means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any

part of the advertising or in contents of which is visible place on the main-traveled w Interstate or Primary System er the same be permanent or installation.

(j) State law means a State tional provision or statute, or nance, rule or regulation, en adopted by a State.

(k) Unzoned area means where there is no zoning in does not include areas which rural zoning classification or l established by zoning variance cial exceptions.

(l) Unzoned commercial or li areas are unzoned areas actu for commercial or industrial ; as defined in the agreements r tween the Secretary, U.S. Dep of Transportation (Secretar each State pursuant to 23 131(d).

(m) Urban area is as define U.S.C. 101(a).

(n) Visible means capable c seen, whether or not readable, visual aid by a person of norma acuity.

§ 750.704 Statutory requirements.

(a) 23 U.S.C. 131 provides th adjacent to the Interstate and al-aid Primary Systems which r ble from the main-traveled w within 660 feet of the nearest t the right-of-way, and those ad signs beyond 660 feet outside of areas which are visible from the traveled way and erected with t) pose of their message being rea such main-traveled way, shall b ed to the following:

(1) Directional and official sig notice which shall conform to n standards promulgated by the tary in Subpart B, Part 750, Cha 23 CFR, National Standards for tional and Official Signs;

(2) Signs advertising the sale o of property upon which they are ed;

(3) Signs advertising activitie ducted on the property on whic are located;

(4) Signs within 660 feet of the t edge of the right-of-way areas adjacent to the Interstat

part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(j) State law means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.

(k) Unzoned area means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.

(l) Unzoned commercial or industrial areas are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).

(m) Urban area is as defined in 23 U.S.C. 101(a).

(n) Visible means capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

§ 750.704 Statutory requirements.

(a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:

(1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in Subpart E, Part 750, Chapter I, 23 CFR, National Standards for Directional and Official Signs;

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

(4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and

Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;

(5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and

(6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.

(b) 23 U.S.C. 131(d) provides that signs in § 750.704(a) (4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.

(c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.

(d) 23 U.S.C. 131 provides that signs not permitted under § 750.704 of this regulation must be removed by the State.

§ 750.705 Effective control.

In order to provide effective control of outdoor advertising, the State must:

(a) Prohibit the erection of new signs other than those which fall under § 750.704(a)(1) through (8);

(b) Assure that signs erected under § 750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;

(c) Assure that signs erected under § 750.704(a)(1) comply with the national standards contained in Subpart E, Part 750, Chapter I, 23 CFR;

(d) Remove illegal signs expeditiously;

(e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (Subpart D, Part 750, Chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);

(f) Assure that signs erected under § 750.704(a)(6) comply with § 750.710,

Landmark Signs, if landmark signs are allowed;

(g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;

(h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;

(i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and

(j) Submit regulations and enforcement procedures to FHWA for approval.

[49 FR 42344, Sept. 19, 1975; 40 FR 49777, Oct. 24, 1975]

§ 750.705 Sign control in zoned and unzoned commercial and industrial areas.

The following requirements apply to signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way adjacent to the Interstate and Federal-aid primary highways.

(a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.

(b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to

signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or "V" type signs.

(c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:

(1) The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.

(2) The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.

(3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

(4) The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.

(5) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.

§ 750.707 Nonconforming signs.

(a) *General.* The provisions of § 750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest

edge of the right-of-way which under the so-called grandfather contained in State-Federal agreements. These provisions do not to conforming signs regardl when or where they are erected.

(b) *Nonconforming signs.* A nonconforming sign is a sign which was fully erected but does not comply with the provisions of State law or regulations passed at a later date later fails to comply with State State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which later date become noncommercial signs lawfully erected on a secondary highway later classified as a primary highway.

(c) *Grandfather clause.* An option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not conform with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location the duration of its normal life span to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with agreement criteria have the status of nonconforming signs.

(d) *Maintenance and continuation.* In order to maintain and continue a nonconforming sign, the following conditions apply:

(1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:

(i) Where a permit or similar State governmental action was required for the construction of a sign to the effective date of the State law or regulations and the sign

edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.

(b) *Nonconforming signs.* A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.

(c) *Grandfather clause.* At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.

(d) *Maintenance and continuance.* In order to maintain and continue a nonconforming sign, the following conditions apply:

(1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:

(i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner

acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.

(ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.

(2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.

(3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.

(4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.

(5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

(6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.

(i) Each state shall develop criteria to define destruction, abandonment and discontinuance. These criteria may provide that a sign which for a

SEC. 4 (C)

§ 750.709

designated period of time has obsolete advertising matter or is without advertising matter or is in need of substantial repair may constitute abandonment or discontinuance. Similarly, a sign damaged in excess of a certain percentage of its replacement cost may be considered destroyed.

(ii) Where an existing nonconforming sign ceases to display advertising matter, a reasonable period of time to replace advertising content must be established by each State. Where new content is not put on a structure within the established period, the use of the structure as a nonconforming outdoor advertising sign is terminated and shall constitute an abandonment or discontinuance. Where a State establishes a period of more than one (1) year as a reasonable period for change of message, it shall justify that period as a customary enforcement practice within the State. This established period may be waived for an involuntary discontinuance such as the closing of a highway for repair in front of the sign.

(c) *Just compensation.* The States are required to pay just compensation for the removal of nonconforming lawfully existing signs in accordance with the terms of 23 U.S.C. 131 and the provisions of Subpart D, Part 750, Chapter I, 23 CFR. The conditions which establish a right to maintain a nonconforming sign and therefore the right to compensation must pertain at the time it is acquired or removed.

§ 750.703 Acceptance of state zoning.

(a) 23 U.S.C. 131(d) provide that signs "may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law." Section 131(d) further provides, "The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act."

(b) State and local zoning actions must be taken pursuant to the State's zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part

of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

(c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

§ 750.709 On-property or on-premise advertising.

(a) A sign which consists solely of the name of the establishment or which identifies the establishment's principal or accessory products or services offered on the property is an on-property sign.

(b) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.

(c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.

(d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (Subpart A, Part 750, Chapter I, 23 CFR) in those States which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:

(1) A property test for determining whether a sign is located on the same

Federal Highway Administration

property as the activity or product advertised; and

(2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity conducted on the property or its products, services, or the sale or lease of property on which the sign is located.

(3) The criteria must be sufficiently specific to curb attempts to imply "qualified" signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

(a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs including signs on farm structures, natural surfaces, of historic or archaeological significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.

(b) States electing to permit landmark signs under 23 U.S.C. 131 shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1965 inventory. In the event a sign was not listed in the 1965 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.

(c) Reasonable maintenance, repair and restoration of a landmark sign is permitted. Substantial change in lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content is added or affixed. When that is done, an "outdoor advertising sign" has then been erected which must comply with the State law in effect on that date.

property as the activity or property advertised; and

(2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.

(3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as "on-property" signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

(a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.

(b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.

(c) Seasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an "outdoor advertising sign" has then been erected which must comply with the State law in effect on that date.

§ 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

§ 750.713 Bonus provisions.

23 U.S.C. 131(j) specifically provides that any State which had entered into a bonus agreement before June 30, 1965, will be entitled to remain eligible to receive bonus payments provided it continues to carry out its bonus agreement. Bonus States are not exempt from the other provisions of 23 U.S.C. 131. If a State elects to comply with both programs, it must extend controls to the Primary System, and continue to carry out its bonus agreement along the Interstate System except where 23 U.S.C. 131, as amended, imposes more stringent requirements.

PART 751—JUNKYARD CONTROL AND ACQUISITION

Sec.

- 751.1 Purpose.
- 751.3 Applicability.
- 751.3 Policy.
- 751.7 Definitions.
- 751.9 Effective control.
- 751.11 Nonconforming junkyards
- 751.13 Control measures.
- 751.15 Just compensation.
- 751.17 Federal participation.
- 751.19 Documentation for Federal participation.
- 751.21 Relocation assistance.
- 751.23 Concurrent junkyard or right-of-way projects.
- 751.25 Programming and author

Authority: 23 U.S.C. 138 and 315, 42 U.S.C. 4321-4347 and 4601-4655, 23 CFR 1.33, 49 CFR 1.43, unless otherwise noted.

Source: 40 FR 2551, Feb. 23, 1975, unless otherwise noted.

§ 751.1 Purpose.

Pursuant to 23 U.S.C. 138, this part prescribes Federal Highway Administration (FHWA) policies and procedures relating to the exercise of effective

SEC. 4 (5)

Article 3. Outdoor Advertising.

Section	Section
80. Purpose	140. Compensation for removal of advertising
90. Outdoor advertising prohibited	150. Unlawful advertising
100. [Repealed]	160. Definitions
105. Limitations of outdoor advertising signs, displays and devices	170. Agreements with the United States; regulations
110. [Obsolete]	180. Interpretation
120. [Obsolete]	
130. Penalty for violation	

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 — 19.25.180 are

(1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays and devices along the highways controlled;

(2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations, and to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists;

(3) to regulate outdoor advertising signs, displays and devices in areas adjacent to the rights-of-way of the interstate, primary and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter;

(4) to provide that outdoor advertising signs, displays and devices which are not in conformity with the requirements of this chapter are a public nuisance;

(5) to provide a statutory basis for regulation of outdoor advertising signs, displays and devices consistent with the public policy relating to areas adjacent to a highway of the interstate or primary systems declared by Congress in Title 23, United States Code, "Highways." (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970)

Legislative history reports. — For report on ch. 233, SLA 1968 (HCSCSSB 1944 am FCC), see 1968 House Journal, p. 815.

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 273-336.

40 C.J.S., Highways, §§ 217, 232. Billboards and other outdoor advertising signs as civil nuisance. 38 ALR3d 647.

Sec. 19.25.090. Outdoor advertising prohibited. Except as provided in AS 19.25.105, all outdoor advertising is prohibited. (§ 3 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 155 SLA 1970)

Sec. 19.25.100. Rural signs.

Repealed by § 14 ch 155 SLA 1970.

Editor's notes. — The repealed section derived from § 4, ch. 59, SLA 1949; § 1. ch. 86, SLA 1953; § 9, art. VII, title II, ch. 152, SLA 1957.

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) No outdoor advertising may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools.

(b) Repealed by § 21 ch 94 SLA 1980.

(c) No outdoor advertising may be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays or devices allowed under (a) of this section. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980)

Effect of amendments. — The first 1930 amendment added paragraph (4) of subsection (a). The second 1990 amendment repealed subsection (b).

Sec. 19.25.110. Removal of nonconforming advertising.

Obsolete.

Revisor's notes. — This section is obsolete. It reads as follows: "A sign, display or device which is lawfully in existence along the interstate system or the primary system on August 6, 1968 and which is not in conformity with AS 19.25.080 — 19.25.180 may not be required to be removed until July 1, 1970. A sign, display or device which is lawfully in existence along the secondary system on July 1, 1970 and

which is not in conformity with AS 19.25.080 — 19.25.180 shall be removed by July 1, 1971."

Editor's notes. — The obsolete section derived from § 5, ch. 59, SLA 1949; § 1, ch. 86, SLA 1953; § 1, ch. 112, SLA 1955; § 3, ch. 233, SLA 1968; § 44, ch. 69, SLA 1970; § 4, ch. 155, SLA 1970; § 3, ch. 195, SLA 1975.

Sec. 19.25.120. Neglect or refusal to obey removal order.

Obsolete.

Revisor's notes. — This section is obsolete. It reads as follows: "A person who fails to obey an order issued under AS 19.25.110 is subject to the penalty provided in AS 19.25.130. Each day the per-

son neglects or refuses to obey the order is a separate offense."

Editor's notes. — The obsolete section derived from § 6, ch. 59, SLA 1949; § 1, ch. 86, SLA 1953; § 2, ch. 112, SLA 1955.

Sec. 19.25.130. Penalty for violation. A person who violates AS 19.25.080 — 19.25.180, or a regulation adopted under them, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$1,000. (§ 7 ch 59 SLA 1949; added by § 1 ch 86 SLA 1953; am § 4 ch 233 SLA 1968)

Sec. 19.25.140. Compensation for removal of advertising.

(a) The department is authorized to acquire by purchase, gift or condemnation, all advertising devices and any property rights pertaining to them, when the advertising devices are required to be removed under AS 19.25.150.

(b) Damages resulting from a taking in eminent domain shall be ascertained in the manner provided by law. (§ 5 ch 233 SLA 1968; am § 45 ch 69 SLA 1970)

Legislative history reports. — For 1970 House Journal Supplement No. 2, p. report on ch. 69, SLA 1970 (HB 554), see 7.

Sec. 19.25.150. Unlawful advertising. An advertising sign, display or device which violates the provisions of this chapter is a public nuisance. The department shall give 30 days notice, by certified mail, to the owner of the land on which the advertising sign, display or device is located, ordering its removal if it is prohibited by this chapter or ordering the owner to cause it to conform to regulations if it is authorized by this chapter. If the owner of the property fails to comply within 30 days as required in the notice, the department shall remove

the outdoor advertising sign, display or device at the expense of the owner of the land or the person who erected it. (§ 5 ch 233 SLA 1968)

Sec. 19.25.160. Definitions. In AS 19.25.080 — 19.25.180

(1) "outdoor advertising" includes any outdoor sign, display or device used to advertise, attract attention or inform and which is visible to a person on the main-traveled way of a highway of the interstate, primary, or secondary systems in this state, whether by printing, writing, painting, picture, light, drawing, or whether by the use of figures or objects, or a combination of these, or any other thing designed, intended or used to advertise, inform or attract attention;

(2) "interstate system" means that portion of the National System of Interstate and Defense Highways located in this state, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways";

(3) "primary system" or "secondary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways";

(4) "department" means the Department of Transportation and Public Facilities. (§ 5 ch 233 SLA 1968; am §§ 46, 47 ch 69 SLA 1970; am §§ 5, 6 ch 155 SLA 1970; am Executive Order No. 39, § 11 (1977))

Revisor's notes. — Pursuant to AS 01.05.031, the revisor of statutes has deleted "of transportation and public facilities" following "commissioner" in paragraphs (2) and (3).

Effect of amendments. — The 1977 amendment substituted references to the commissioner of transportation and public facilities for references to the commis-

sioner of highways in paragraphs (2) and (3) and a reference to the Department of Transportation and Public Facilities for a reference to the Department of Highways in paragraph (4).

Legislative history reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Sec. 19.25.170. Agreements with the United States; regulations. The department is authorized to enter into agreements in conformity with the provisions of this title with the United States Secretary of Transportation as provided by Title 23, United States Code, relating to the control of outdoor advertising signs, displays and devices in areas adjacent to interstate and primary systems and to take action in the name of the state to comply with the terms of the agreements, and to promulgate required regulations. (§ 5 ch 233 SLA 1968)

Sec. 19.25.180. Interpretation. Nothing in AS 19.25.080 — 19.25.180 shall be construed to abrogate or affect any law, ordinance, regulation or resolution which is more restrictive than the provisions of AS 19.25.080 — 19.25.180. (§ 5 ch 233 SLA 1968)

Article 4. Encroachments In Highways.

<p>Section 200. Encroachment permits 210. Relocation or removal of encroachment 220. Unauthorized encroachments</p>	<p>Section 230. Notice of removal 240. Summary removal 250. Removal after noncompliance; removal expense</p>
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Sec. 19.25.200. Encroachment permits. An encroachment may be constructed, placed, changed or maintained across or along a highway but only in accordance with regulations adopted by the department. No encroachment may be constructed, placed, maintained or changed until it is duly authorized by a written permit issued by the department. (§ 2 ch 64 SLA 1971)

Collateral references.—3 Am. Jur. 2d, Highways, Streets and Bridges, § 238.
 Advertising, §§ 5, 13, 14. 40 Am. Jur. 2d, 40 C.J.S., Highways, §§ 217-231.

Sec. 19.25.210. Relocation or removal of encroachment. If incidental to the construction or maintenance of a state highway, the department determines and orders that an encroachment previously authorized by written permit must be changed, relocated, or removed, the owner of the encroachment shall change, relocate or remove it at no expense to the state (except as provided in AS 19.25.020), within a reasonable time set by the department. If the owner does not change, relocate or remove an encroachment within the time set by the department, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of AS 19.25.220 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.220. Unauthorized encroachments. If an unauthorized encroachment exists in, on, under or over a state highway, the department may require the removal of the encroachment in the manner provided in AS 19.25.230 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.230. Notice of removal. Except as otherwise provided in AS 19.25.200, 19.25.210 and 19.25.240, notice shall be given the owner, occupant or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice shall describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail. (§ 2 ch 64 SLA 1971)

AGREEMENT

Attachment 11

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE FEDERAL-AID PRIMARY SYSTEM.

Highway Dept. AS 193
100
233

THIS AGREEMENT made and entered into this 29th day of March 1968, by and between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the "Administrator" and the State of Alaska, represented by the Department of Highways acting by and through its Commissioner hereinafter referred to as the "State." Witnesseth:

131 sec (a)

WHEREAS, Congress has declared that Outdoor Advertising in areas adjacent to the Federal-aid Primary System should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, Section 131(d) of Title 23, United States Code authorizes the Secretary of Transportation to enter into agreements with the several States to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right of way within areas adjacent to the Federal-aid Primary System which are zoned industrial or commercial under authority of State law or in unzoned commercial or industrial areas, also to be determined by agreement; and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the National policy to protect the public investment in the Federal-aid primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, Title 19 of the Alaska State Statutes authorizes the Commissioner of Highways to perform and do such other and further acts not specifically provided in Title 19 of the Alaska Statutes as may be necessary to comply with the Federal-aid Highway Acts and the rules and regulations promulgated thereunder; and

WHEREAS, Section 131(b) of Title 23, United States Code provides that Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the primary system of outdoor advertising signs, displays and devices which are within six hundred and sixty feet of the nearest edge of the right of way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such state under Section 104 of Title 23, United States Code until such time as such State shall provide for such effective control; and

WHEREAS, the State of Alaska desires to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the National policy in order to remain eligible to receive the full amount of all Federal-aid highway funds to be apportioned to such state on or after January 1, 1968, under Section 104 of Title 23, United States Code;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

A. The term "Act" means Section 131 of Title 23, United States Code (1965) commonly referred to as Title I of the Highway Beautification Act of 1965.

B. Commercial or industrial activities for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agriculture, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Activities normally or regularly in operation less than three months of the year.
4. Transient or temporary activities.
5. Activities not visible from the main traveled way.
6. Activities more than 300 feet from the nearest edge of the right of way.
7. Activities conducted in a building principally used as a residence
8. Railroad tracks and minor sidings.

C. Zoned commercial or industrial areas mean those areas which are reserved for business, commerce, or trade pursuant to a comprehensive State or local zoning ordinance or regulation.

D. Unzoned commercial or industrial areas mean those areas on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 500 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition.

All measurements shall be from the outer edges of the regularly used building parking lots, storage or processing areas of the commercial or industrial activity not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

E. Federal-aid primary highway means any highway within that portion of the State Highway System as designated, or as many hereafter be so designated by the State, which has been approved by the Secretary of Transportation pursuant to subsection (b) of Section 103 of Title 23, United States Code.

F. Traveled way means the portion of a roadway for the movement of vehicles exclusive of shoulders.

G. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

H. Sign means any outdoor sign, display, device, figure, painting, drawing message, placard, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any highway.

I. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

J. Safety rest area means an area or site established and maintained with or adjacent to the highway right of way by or under public supervision or control for the convenience of the travelling public.

K. Information center means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the State and providing such other information as the State may consider desirable.

II. Scope of Agreement

This agreement shall apply to the following area.

All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right of way of all portions of the Federal-aid primary system within the State of Alaska in which outdoor advertising signs, displays, and devices may be visible from the main traveled way of said system.

III. State Control

The State hereby agrees that, in all areas within the scope of this agreement, the State shall effectively control, or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this agreement other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following criteria:

A. In all zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply.

SIZE OF SIGNS

1. The maximum area for any one sign shall be 650 square feet with a maximum height of 20 feet and maximum length of 50 feet, inclusive of any border and trim but excluding ornamental base or apron support and other structural members.
2. The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.
3. A sign structure may contain one or two signs per facing and may be placed double-faced, back to back or V-Type, but the total area of any facing may not exceed 650 square feet.
4. Signs which exceed 325 square feet in area may not be double faced (abutting and facing the same direction).

SPACING OF SIGNS

1. Federal-aid Primary Highways
 - a. Signs may not be located in such a manner as to obscure, or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or interfere with the driver's view of approaching, merging, or intersection traffic.

2. Controlled Access Highways on the Federal-aid Primary System
 - a. No two structures shall be spaced less than 500 feet apart.
 - b. No structure may be located within 2000 feet of an interchange, or intersection at grade, safety rest area or information center (measured along the freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.)
3. Non-Controlled Access Federal-aid Primary Highways
 - a. Outside of Villages and Cities - no two structures shall be spaced less than 300 feet apart.
 - b. Within Villages and Cities - no two structures shall be spaced less than 100 feet apart.
4. Explanatory Notes
 - a. Official and "on premise" signs, as defined in Section 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
 - b. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

LIGHTING

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
 2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the Federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
 3. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
 4. All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the State.
- B. The State and local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes and the action of the State and local political subdivisions in this regard will be accepted for the purposes of this agreement.

IV. Interpretation

The provisions contained herein shall constitute the minimum acceptable standards for effective control of signs, displays, and devices within the scope of this agreement.

Nothing contained herein shall be construed to abrogate or prohibit the State from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive in controlling outdoor advertising than the provisions of this agreement if so authorized by the State Legislature.

In controlling outdoor advertising adjacent to Federal-aid primary highways pursuant to the Highway Beautification Act of 1965 and this agreement, the State shall not be required to remove or cause to be removed any sign advertising any natural wonders or scenic or historical attractions until a reasonable length of time subsequent to the promulgation of national standards for such signs pursuant to Section 131(c) of Title 23, United States Code.

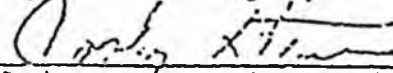
In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, the parties reserve the right to re-negotiate this agreement or to modify it to conform with any amendment.

V. Effective Date

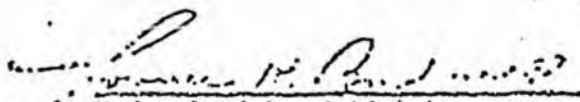
This Agreement shall have an effective date of March 29, 1968, and shall become binding on both parties hereto when the Agreement has been ratified by an appropriate Act of the Alaska State Legislature at the Legislative Session of 1968
IN WITNESS WHEREOF the parties hereto have executed this Agreement as of

March 29, 1968

STATE OF ALASKA
Department of Highways


Cosby Steen, Acting Commissioner

UNITED STATES OF AMERICA


Federal Highway Administrator

§ 1.23

ganizations of the affected railroad companies for railway highway crossing projects and of the affected utility companies for projects involving utility installations.

(d) *Private engineering organizations.* Private engineering organizations may be utilized on projects in accordance with requirements prescribed by the Administrator.

(e) *Responsibility of the State highway department.* The State highway department is not relieved of its responsibilities under Federal law and the regulations in this part in the event it utilizes the services of any engineering organization under paragraphs (b), (c) or (d) of this section.

§ 1.23 Rights-of-way.

(a) *Interest to be acquired.* The State shall acquire rights-of-way of such nature and extent as are adequate for the construction, operation and maintenance of a project.

(b) *Use for highway purposes.* Except as provided under paragraph (c) of this section, all real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes. No project shall be accepted as complete until this requirement has been satisfied. The State highway department shall be responsible for preserving such right-of-way free of all public and private installations, facilities or encroachments, except (1) those approved under paragraph (c) of this section; (2) those which the Administrator approves as constituting a part of a highway or as necessary for its operation, use or maintenance for public highway purposes and (3) informational sites established and maintained in accordance with § 1.35 of the regulations in this part.

(c) *Other use or occupancy.* Subject to 23 U.S.C. 111, the temporary or permanent occupancy or use of right-of-way, including air space, for nonhighway purposes and the reservation of subsurface mineral rights within the boundaries of the rights-of-way of Federal-aid highways, may be approved by the Administrator, if he determines that such occupancy, use or reservation is in the public interest and will not impair the highway or

Title 23—Highways

interfere with the free and safe flow of traffic thereon.

§ 1.27 Maintenance.

The responsibility imposed upon the State highway department, pursuant to 23 U.S.C. 116, for the maintenance of projects shall be carried out in accordance with policies and procedures issued by the Administrator. The State highway department may provide for such maintenance by formal agreement with any adequately equipped county, municipality or other governmental instrumentality, but such an agreement shall not relieve the State highway department of its responsibility for such maintenance.

§ 1.28 Diversion of highway revenues.

(a) *Reduction in apportionment.* If the Secretary shall find that any State has diverted funds contrary to 23 U.S.C. 126, he shall take such action as he may deem necessary to comply with said provision of law by reducing the first Federal-aid apportionment of primary, secondary and urban funds made to the State after the date of such finding. In any such reduction, each of these funds shall be reduced in the same proportion.

(b) *Furnishing of information.* The Administrator may require any State to submit to him such information as he may deem necessary to assist the Secretary in carrying out the provisions of 23 U.S.C. 126 and paragraph (a) of this section.

§ 1.31 Payments.

States may submit requests for payments of Federal funds claimed to be due on account of a project. Such requests shall be in the form of vouchers as prescribed by the Administrator, and shall be certified and accompanied with such supporting data as the Administrator may require. Such vouchers may be submitted from time to time as the work progresses and shall be submitted promptly after completion of the project to which the voucher pertains.

Chapter I—Federal Highway

§ 1.32 Issuance of directives.

(a) The Administrator shall gate and require the observance of policies and procedures, and other action as he deems appropriate or necessary for carrying out the visions and purposes of Federal policies of the Federal Administration, and the regulations in this part.

(b) The Administrator or his designated representative, as appropriate, is authorized to issue the following directives:

(1) Federal Highway Administration Regulations are issued by the Administrator or his delegate, as necessary to implement and carry out the provisions of title 23, United States Code relating to the administration of Federal aid for highways, direct Federal programs and State and local safety programs; and title 49, United States Code, relating to motor vehicle safety; and other applicable Federal programs under his jurisdiction.

(2) Notices are temporary in nature, transmitting one-time or short-term instructions or information which are expected to remain in effect for a period of 90 days or for a predetermined period of time normally not to exceed one year.

(3) Orders are directives of long-term volume and contain permanent policy, instructional procedures. FHWA Orders are used primarily as internal directives.

(4) Joint Interagency Orders are used by FHWA and National Highway Traffic Safety Administration (NHTSA) to issue joint policies, procedures, and information relating to the joint administration of the State and Community Highway Safety Program. Where necessary, other joint directives may be issued with other modal administrations within the Department of Transportation.

(5) Manuals are generally developed for use in issuing permanent or long-term detailed policy and procedures. Some of the major manuals required by the FHWA Directives are as follows:

(i) The Federal-Aid Highway Program Manual has been established

§ 19.25.180

HIGHWAYS AND FERRIES

§ 19.25.230

Sec. 19.25.180. Interpretation. Nothing in AS 19.25.080 — 19.25.180 shall be construed to abrogate or affect any law, ordinance, regulation or resolution which is more restrictive than the provisions of AS 19.25.080 — 19.25.180. (§ 5 ch 233 SLA 1968)

Article 4. Encroachments In Highways.

Section	Section
200. Encroachment permits	230. Notice of removal
210. Relocation or removal of encroachment	240. Summary removal
220. Unauthorized encroachments	250. Removal after noncompliance; removal expense

Sec. 19.25.200. Encroachment permits. An encroachment may be constructed, placed, changed or maintained across or along a highway but only in accordance with regulations adopted by the department. No encroachment may be constructed, placed, maintained or changed until it is duly authorized by a written permit issued by the department. (§ 2 ch 64 SLA 1971)

Collateral references.—3 Am. Jur. 2d, Highways, Streets and Bridges, § 283.
Advertising, §§ 5, 13, 14. 40 Am. Jur. 2d, 40 C.J.S., Highways, §§ 217-231.

Sec. 19.25.210. Relocation or removal of encroachment. If, incidental to the construction or maintenance of a state highway, the department determines and orders that an encroachment previously authorized by written permit must be changed, relocated, or removed, the owner of the encroachment shall change, relocate or remove it at no expense to the state (except as provided in AS 19.25.020), within a reasonable time set by the department. If the owner does not change, relocate or remove an encroachment within the time set by the department, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of AS 19.25.220 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.220. Unauthorized encroachments. If an unauthorized encroachment exists in, on, under or over a state highway, the department may require the removal of the encroachment in the manner provided in AS 19.25.230 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.230. Notice of removal. Except as otherwise provided in AS 19.25.200, 19.25.210 and 19.25.240, notice shall be given the owner, occupant or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice shall describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail. (§ 2 ch 64 SLA 1971)

a segment of the public; "utility" also includes any corporation, company, individual, or association of individuals, or any lessee, trustee, or court-appointed receiver that owns, operates, manages, or controls any system for furnishing transportation of goods or persons by means of a railway, tramway, cableway, conveyer, flume, canal, tunnel, pipeline, or any other similar means;

(55) "utility locate service" means a service provided by a utility to locate its buried utility facilities;

(56) "utility service connection" means the cable, wire, or pipe that connects the utility distribution line to the premises served;

(57) "wet-boring" means the method or process of boring with the use of jets of water or liquid slurry. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.121
AS 19.05.040 AS 19.40.065
AS 19.30.051

CHAPTER 20. MAINTENANCE

Section

- 10. Outdoor advertising
- 20. Closure and restriction
- 30. Transfer of excess equipment
- 40. General

17 AAC 20.010. OUTDOOR ADVERTISING.

It shall be unlawful to place, erect, or maintain any outdoor advertising sign within the right-of-way of any highway or highway lands, nor shall any permit be issued for the placement or erection of the sign. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020

Historical Note: Former 14 AAC 2.391.2.

17 AAC 20.020. CLOSURE AND RESTRICTION. (a) The department may restrict the use of, or close, any highway whenever the department considers such closing or restriction of use necessary

(1) for the protection of the public; or

(2) for the protection of such highway from damage during storms, floods, thawing conditions or during construction or maintenance operations.

(b) The department will provide traffic guidance in case of restriction or provide suitable detour as soon as possible to minimize traffic delay.

(c) To notify the public that a highway is closed, or its use has been restricted, the department may

(1) erect suitable barriers or obstructions at such locations upon the highway as will best serve the purpose;

(2) post warnings or notices of the condition of any such highway;

(3) post signs for the direction of traffic upon it, or to or upon other highway or detour open to public travel;

(4) place warning devices upon such highways;

(5) assign a flagman to warn, detour or direct traffic on such highway.

(d) Nothing within the above shall be construed to create any liability upon the state or any officer, employee, agent, or contractor of the state for failure to provide any or all of the above notices; however, willful failure or neglect to provide the notice shall be the subject of disciplinary action.

(e) Except in sudden emergencies, the department shall notify the nearest state police unit before closing or restricting the use of any highway, or before diverting traffic to any other highway or detour, in the manner provided in the preceding sections; whenever possible, such notice shall be in writing.

(f) Whenever required by sudden emergency, to protect the traveling public or to prevent or mitigate damage to public property, or to prevent or mitigate damage to private property for which the department might be held responsible, the department may, acting by or through its senior officer, or employee actually at the vicinity of the emergency, enter into contracts for the leasing or renting of tools or equipment needed for such highway emergency purposes. Such contracts shall be in writing, but shall be preceded by a memorandum of intent with a brief explanation of the nature of the sudden emergency, labor and equipment required, estimate of time required and the purpose for which labor, tools and equipment are needed. (Eff. 6/25/69, Reg. 30; am 11/16/83, Reg. 88)

Authority: AS 19.05.020
AS 19.10.100

Historical Note: 1. Source of (a) is former 14 AAC 2.399. 2. Source of (c) - (d) is former 14 AAC 2.400. 3. Source of (e) - (f) is former 14 AAC 2.401 - 2.402.

17 AAC 20.030. TRANSFER OF EXCESS EQUIPMENT. (a) The department is responsible for the transfer of excess automotive and construction equipment to political subdivisions of the state for use in maintenance and construction of roads and airports.

(b) The department will circulate a list of such equipment periodically to all political subdivisions requesting to receive such lists.

(c) Political subdivisions must make requests for any desired equipment from the list within 30 days of mailing of the list.

(d) Political subdivisions must state in any request for excess equipment

(1) the need and contemplated use;

(2) ability to provide transportation; and

(3) ability to perform necessary repairs.

(e) The state maintenance engineer will evaluate all requests made for equipment from the excess list and make recommendations to the commissioner as to which items should be transferred and to which requesting political subdivision.

(f) Repealed 11/16/83.
(Eff. 6/25/69, Reg. 30; am 11/16/83, Reg. 88)
Authority: AS 19.05.020
AS 19.05.060

17 AAC 20.040. GENERAL. No road maintenance of any nature shall be performed by the state on a highway which is not part of the Alaska Highway System, except by reimbursable agreement. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020
AS 19.10.030

Historical Note: Former 14 AAC 2.390(c).

Sec. 19.25.240. Summary removal. The department may at any time remove from a state highway or road an encroachment which obstructs or prevents the use of the highway or road by the public. (§ 2 ch 64 SLA 1971)

Sec. 19.25.250. Removal after noncompliance; removal expense. After a failure of the owner of an encroachment to comply with a notice or demand of the department under the provisions of AS 19.25.200, 19.25.210 and 19.25.230, the department may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the department:

- (1) the expenses of the removal of the encroachment;
- (2) all costs and expenses paid by the state as a result of a claim or claims filed against the state by third parties for damages due to delays because the encroachment was not changed, removed, or relocated according to the order of the department; and
- (3) costs and expenses of suit. (§ 2 ch 64 SLA 1971)

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No. 10-0020	Page 1 OF 2
EFFECTIVE DATE April 1, 1984		SUPERSEDED P & P No. DATED None	
SUBJECT Encroachment Control		APPROVED BY <i>[Signature]</i>	
DIVISION Departmental	SECTION Commissioner's Office	CHAPTER TITLE Policies	

Purpose:

In the interest of safety, convenience and pleasure for highway users, all encroachments on rights of way must be effectively controlled. These procedures are established to provide guidelines for discovery and either removal or placing under agreement all of the encroachments on the right of way of the Alaska highway system.

Policy:

It is the policy of this Department to maintain highway rights of way free and clear of encroachments. Two major purposes of this policy are (1) to protect the best interest of the public when considering non-highway use of right of way, and (2) to maintain a safe driving environment for the highway user.

Distribution:

Policy and Procedure manual holders and Division and Section Supervisors.

Procedure:

For purposes of this procedure Utility Facilities are excluded.

The following procedures will be used to implement this policy:

1. **Discovery.** It is the responsibility of the Regional Director of Maintenance and Operation to maintain encroachment surveillance. During routine maintenance patrol, road and weather condition inspection, or at regular intervals deemed necessary, maintenance personnel shall inspect the right of way for encroachments. When an encroachment is found, a determination will be made as to whether the encroachment is a safety hazard due to physical or visual obstruction of the highway. If the encroachment is considered a safety hazard, it will be summarily removed. Those encroachments judged not to present an immediate safety hazard will be reported to the Regional Chief Right of Way Agent by copy of Encroachment Report Form No. 24 (Revised 6/82) with recommendations as to whether the encroachment should be permitted or removed.
2. **Removal or Permitted.** When an encroachment report is received, the Regional Chief R/W Agent will make a recommendation to the Regional Director, Design and Construction, as to whether the encroachment should be permitted or removed.
 - A. **Removal.** When it is determined by the Regional Director of Design and Construction that the encroachment should be removed, the Regional Chief R/W Agent or representative should personally contact the owner, if possible, to explain the written notice which is concurrently sent demanding the removal of the encroachment within a reasonable time. The notice shall describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail, return receipt requested, and will state that the removal will be at the owner's expense which includes (1) the expenses of removal of the encroachment plus storage, and (2) all costs and expenses paid by the State as a result of a claim or claims filed against the State by third parties for damages due to delays because the encroachment was not changed, removed or relocated, and (3) costs and expenses of suit. A schedule may be adopted to cover these expenses. Such a schedule should reflect hours of labor, storage and transportation costs incurred and should approximate them as closely as possible.

The removed encroachment may be stored in the nearest maintenance yard for thirty days and then destroyed. At any time during the thirty-day period an owner may reclaim his property by paying the amount stated in the notice.

[Handwritten signature]
- ROW
117

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES POLICY AND PROCEDURES		P & P No.	10-0020	Page	2 OF 2
		Effective Date		April 1, 1984	
SUBJECT Encroachment Control .		Supersedes P & P No.	None	Dated	
		APPROVED		<i>[Signature]</i>	
DIVISION	SECTION	CHAPTER TITLE			
Departmental	Commissioner's Office	Policies			

When the encroachment is summarily removed, the owner should be notified, if possible, where the Department has the property stored and that a redemption fee will be charged if not reclaimed within ten days. The redemption fee should reflect storage and protection costs which are separate from those of removal.

On encroachments such as major structures, where it is impractical to haul and store, other means of removal shall be worked out, taking care not to trespass on private property.

A follow up system is to be established which provides for automatic contact with the resident maintenance foreman to determine whether or not removal has been accomplished within the specified time.

- B. Permitted. When it is determined by the Regional Director of Design and Construction and the Regional Director of Maintenance and Operations that an encroachment will not interfere with the construction, maintenance, free flow of traffic or aesthetics of the highway and will not decrease the safety, convenience or pleasure of the highway user, the encroachment may be permitted with the Federal Highway Administration's concurrence, when required.

The encroachment permit will be processed according to the Right of Way Manual.

In the event the encroachment owner refuses to sign the permit, removal procedures as outlined above will be commenced.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. TRANS.

2-8-88

1:30 p.m.



Official Business

COMMITTEE:

House Transportation Committee

DATE: February 8, 1988

SIGN-IN

Subject of meeting:

- *HCR 34: Relating to tourist-oriented signs
- *HB 401: Rebates for Motor Fuel Taxes
- *HCR 35: Commending the Alaska Marine Highway

NAME Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Carl Meyer	P.O. Box 5A Juneau	465-2343	Dept. of Revenue	YES HB 401
Dale Lindsay	P.O. Box 389 Sitka	224-3190	North Enterprise	YES HB 401
DAVIN McCLUNE	2033 SIXTH AVE. #770 SEATTLE WA 98121 ?	(206) 448-7588	DEPT. OF REVENUE	NO
KEITH GERKEN	Box 2 JUNEAU	465-3900	DOT + PF	YES
Rep. Ron Larson	Box V Juneau		will be here at 1000 75 finance has a question	HJR 34 yes
Rep. Rubin	Here for 3 more mos			HCR 35

* indicates first public hearing