ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672
7885 HOUSE JUDICIARY

HB

362

Re: HB362 - Child Support Obstructionist Bill

Attached is a letter referencing a current child support situation in which the mother (Debbie) isn't paying her support payments and her new husband (Mark) is helping her avoid this responsiblity..

The ex-husband (John) has custody of the three girls. Per the letter to John, "working for an employer would not be wise" because of the threat of garnishment of wages, so instead, Debbie is freelancing as an independent contractor. **Mark (the author of this letter) is the "obstructionist". He is helping Debbie evade her responsibilities from paying the child support.** Our bill, HB362 is aimed this type of obligatory evasion.

It appears as if both parties are suffering from this divorce, which thereby creates further unresolved issues. However, Debbie is legally obligated to pay child support for her three girls. By passing HB362, Mark could face legal consequences for his actions.

(9)

Date Referred: January 11, 1994 FURTHER REFERRALS: Judiciary

Date of Committee Action: 3/25/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 362

HOUSE BILL NO. 362 AIDING NONPAYMENT OF CHILD SUPPORT

"An Act establishing the crime of aiding the nonpayment of child support."

RECOMMENDATIONS:
be replaced with CS HB 362 (HESS) [ ] the same title [X] a new title

[ ] have attached amendments(s)
[X] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[X] zero fiscal note Revenue

APPROVES PREVIOUS: (Dept/Date)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Bunde	Y	Kott			Y sec.
Toohey	Y	Vezey			Y
B. Davis	X	G. Davis		Y	
Brice	X	Olberg		Y	
		Nichols		Y	
	(4)			(3)	(2)

Bunde
CHAIRMAN'S SIGNATURE

CO

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 28, 1994 FURTHER REFERRALS:

Date of Committee Action: _____

The JUDICIARY Committee considered: HB 362

HOUSE BILL NO. 362 AIDING NONPAYMENT OF CHILD SUPPORT

"An Act establishing the crime of aiding the nonpayment of child support."

RECOMMENDATIONS: [✓] the same title
be replaced with CSHB 362 (HES) [ ] a new title
[ ] have attached amendments(s)
[ ] do pass
[ ] do not pass
[ ] no recommendations
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[ ] zero fiscal note _____

APPROVES PREVIOUS: (Dept/Date)
[ ] fiscal note(s) _____
[✓] zero fiscal note(s) Revenue

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*DNP*	*NR*	*AM*
Brian D. Curtis	✓			✓	
Jim Dyer	✓				X
		Jeannette James	✓		

Brian D. Curtis

M E M O R A N D U M

TO: Rep. Brian Porter, Chairman
Judiciary Committee

FROM: Rep. Terry Martin

SUBJECT: HB362 Child Support Obstructionist Bill

DATE: March 30, 1994

This is a request for the Judiciary Committee to hear HB362 - a bill that would make it a crime for people who **intentionally** help a person avoid his/her obligation in financially supporting his/her children.

The Child Support Enforcement Division (CSED) have seen numerous, creative ways people use to avoid their responsibility. Currently, some girlfriends/boyfriends, parents and friends work with the obligor to help him/her show little or no income or assets. This is making it very difficult for the CSED to collect from these people. Assets are transferred to friends and relatives and employment is often paid in cash so there is no paper trail. The people that help the obligor avoid supporting his/her children, through ways mentioned in this bill, need to have some consequences if they do so **intentionally** - with full knowledge of what they are doing. (Intent is defined in statute according to Legal Services.)

CSED believes that HB362 will act as a "deterrent" to this kind of activity. If friends and relatives of the obligor understand the consequences of their actions, it is believed that the penalties will deter most from ever becoming involved.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM January 14, 1994

SUBJECT: Sectional Summary of HB 362, a Bill Establishing the Crime of Aiding the Nonpayment of Child Support (Work Order No. 8-LS1459\E)

TO: Representative Terry Martin
ATTN: Nancy

FROM: Terri Lauterbach
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances please advise.

Section 1.
Establishes a new crime for persons who, by withholding information about a child support obligor, or by entering into business transactions with a child support obligor, intentionally assist the obligor in avoiding the payment of child support.

TML:gc
94-033.glc

Dog 7

PO Box 4114
San Diego, CA 92164

March 17, 1994

John Van Santford
1025 Lathrop Street
Fairbanks, AK 99701

Dear John:

I am writing this letter to hopefully clear up some issues that have arisen between Debbie and yourself. The two of you do not appear to be communicating well at the present time. Hopefully this letter will help fill in some gaps made by your mutual inability to clear up issues that have prevailed for many months.

Forfeiture of Parental Rights

Several months ago you sent Debbie legal documents that in effect had her signing away her legal interest in her own children. We believe this was the most destructive and abusive action a parent could take towards undermining a child's right to establish a relationship with the non-custodial parent (please see attached "Rights for Children of Divorce"). Debbie just wants to re-iterate that she will not now nor in the future sign away her legal right to have an interest in raising her children. She cares very deeply for them and will do everything in her power to help them grow up to be emotionally healthy and happy adults.

Just to set the record straight about my situation with own children . . . I didn't just sign my parental rights away by agreeing to an adoption. I was asked by my children's stepfather if I would mind if they took on his name. I am still very much a part of my children's lives. I just cannot fill the role of parent. I would rather be a friend to my children and not have to be the disciplinarian. My ex and her husband did not do this to intentionally cut me out of the kids' lives. Unfortunately in your case, you have admitted that this IS your intent. You want Debbie to bow out of their lives permanently.

We have asked ourselves many times why would a parent want to do such a thing? Could it be that there is some kind of abuse going on in the home? As far as we know, if this is true, the children themselves can take their own legal action against you when they reach the age of 18.

Child Support

This issue has seemed to be a perpetual reason on your part to create a barrier that makes it impossible to see over and move on to other issues. Every time the both of you talk on the phone, this issue is put as a first priority by yourself instead of the children's welfare.

After hearing about your lifestyle from yourself and people who have visited you over the months, we believe that you are not in any kind of dire straits with your financial situation. We believe that paying the additional $250 or so that Debbie has been ordered to pay directly to you would not be in the best interest of the children. There are several

3 of 9

reasons why we believe this. One being that you seem to be able to afford many amenities such as a new full sized truck. According to Debbie's TRW report, you are paying almost $500 per month to keep it in your driveway. You also say that you are sending the children to a private school. We consider these expenses extravagant; too extravagant for someone who is committed to providing for his children.

We both agree that the arrears owed should be caught up and I have come up with a plan to do just that. We have talked to our CPA and have been advised that the most advantageous use of the money would be to set up a custodial account in each child's name as a fund for their college tuition. The money will earn between 15% and 20% and will be available to them when they reach the age of 18. We have already initiated this plan and Debbie deposits $250 into this fund monthly. We will gladly send you a quarterly statement as soon as it's available as proof that this money is being put aside for the children.

If you don't like this arrangement, I say, do something about it instead of throwing threats at Debbie. Hire yourself a California lawyer and we'll battle it out here in family court.

Threats and Garnishments

Oftentimes on the phone you have made threats of garnishing wages. Some greedy lawyer has given you the impression that you get what you want when you file these papers. Not so, especially here in California. When I left Washington I was ordered to pay a little over $650 per month. When my case finally came to court here a year after the papers were filed in Washington, I was only ordered to pay $350 per month.

By the way, after all the threats you've made over the months we decided that working for an "employer" would not be wise. Debbie now works a private contractor. We have worked together as a team to secure a few clients Debbie does medical transcription for at home that pays for her basic living expenses. Debbie loves the flexible hours and not having to go into the office. It's like a dream come true!

So you see, an attempt at garnishing wages would be a waste of good money that could be used for the benefit of the children. My ex-wife spent hundreds, maybe thousands of dollars to trying to get money from me and she may have if I would have found a civil service job here, but I didn't. Her lawyer promised her everything and ended up getting nothing. Of course the lawyer was happy because she got what she wanted.

Visitation

Of all the issues to be discussed this is the most important one in our opinion. For months now, we believe that you have been purposely and intentionally interfering with Debbie's visitation with her children. This must stop! I personally will do anything in my power to turn this situation around whether it be through legal or political means.

Having a relationship with your parent is a very basic right for a child that we don't believe <u>anyone</u> should interfere with. No court in this country would deny that. Unfortunately in your case, the children have gotten stuck in the middle between your own personal hatred and insecurity over me being married to Debbie and her emotional pain over not having equal access to her children.

4 of 9

Visitation over the phone is a very important for Debbie because of the great distance involved. She must use this as a vital way of communicating and being a part of her children's lives.

Here are a list of circumstances surrounding phone visitation that we believe have been created on your part:

1) You have established a separate phone line for your normal calls so that anyone you don't want talking directly to the children, especially Debbie and her parents, will be discouraged of doing so.

   Here's how you appear to play the phone game: Debbie calls. You tell her that the children are not home and that she should call back in an hour knowing full well you have no intention of answering the phone. Oftentimes you simply unplug the phone so that it never answers.

2) You have not provided an open pathway for the children to keep in contact with Debbie even though we have provided you with a toll free number they can use to call Debbie day or night. Nor do you encourage them to call their mother when they feel the need. On the contrary, you discourage them and say hurtful things like "Your mother doesn't love you anymore, that's why she left."

3) On the rare occasion Debbie is permitted to talk with the children, you stand over them and monitor everything they say. You do not let them have their privacy when interacting with their mother. You are so afraid that they might tell her something that you don't want her to hear that you have gone so far as to mislead school administrators into thinking that you have some legal document like a restraining order in place to bar Debbie from speaking to her children out of your home where you can't have control over their words.

4) Often times during phone conversations you will jerk the phone away from the children and start personal attacks on Debbie. How is this beneficial for the children? If you continue this, I feel they will form a deep resentment for you and will eventually want to get as far away from you as possible.

Last summer, June of 1993, you refused to grant the children visitation during the agreed time. You deliberately put the children in a school for the summer, so you say, so that you could use that as a valid reason for denying them visitation. Our guess is that the children were never <u>really</u> in school or were only in school for part of the summer.

As far as summer visitations go, all Debbie asks is that you put one or more of the children on a plane in Fairbanks. We checked with Alaska Air about the youngest child flying alone. We were told that it was fine but we'd have to pay extra. All the children should be able to travel alone whenever they choose as long as it doesn't interfere with their regular school year. The "regular school year" does not include special schools you choose to put them in for the summer. If you attempt this tactic again, we will consider it a intentional obstruction of the children's visitation rights.

This coming summer, Debbie is demanding that Diana visit her for at least one month starting shortly after summer school break begins. She is also demanding that her parents in Bremerton have time with her. Debbie is not requiring you help her with the

5 of 9

cost of travel as agreed to previously. If this visitation works out then she will request that the other two children come to see her at another time during the summer.

Debbie will send you Diana's itinerary a few months before her flight, then send her round trip ticket on Alaska Airlines a week or so before her flight date via Federal Express. Because of the distance involved, it makes it almost impossible for Debbie to personally supervise and escort Diana on her flight. That is why we will be going to great lengths to make sure that Diana is personally escorted by the flight attendants before and during the flight. I have had my children travel alone on Alaska Air and it has been a very present experience for them. I'm sure it will be the same for Diana.

Bill of Rights for Children of Divorce

Even though you will not find them in any law book, we believe that all children of divorced parents have rights. We have requested help to deal with Debbie's visitation problems from a group that calls itself "Mothers Without Custody" (MWOC). They have come up with a list of rights for children of divorced parents that we are in total agreement with. Please, John, read this list over and honestly ask yourself if you have supported these rights in your dealings with Debbie and your children.

If you ask us what our intentions will be when seeking legal action and eventually making changes in your current visitation agreement, here is what we will strive to make happen for the children:

1) The Right to know that the parent's decision to divorce is solely their decision, and that the child need not feel any responsibility for this decision.

2) The Right to have a relaxed, secure relationship with both parents without feeling a need to manipulate one parent against the other.

3) The Right to have the issue of custody truly and honestly decided without sexual prejudice or bias (permitting a continued parent-child relationship through joint custody, equal to that prior to divorce) with the best interest of the child and BOTH parents as the only consideration.

4) The Right to continuing care, guidance and support from both parents, and the freedom to receive and express love for both without guilt.

5) The Right to honest answers to questions about the changing family relationships and living conditions.

6) The Right to be free from physical and mental abuse and pressure from both parents and from judicial abuse by the State.

7) The Right to know that expression of love from one parent in no way will detract from the love for the other parent, and the Right to express love and affection for each parent without having to suppress that love because of fear of disapproval by the other parent.

8) The Right to a secure relationship during scheduled times with the non-custodial parent, and to know in advance when these specified times are to be canceled by either parent for any reason.

6 of 7

9) The Right to know, and be able to visit grandparents, aunts, uncles, cousins and other relatives on both sides of the family so that a heritage may be conveyed.

10) The Right to be free from any new social class forced upon the child by the State Courts which order and decree single parent custody, denying one parent an equal legal and personal relationship with the child and producing a family model which has not been proven to be either psychologically healthier or constitutionally sound.

11) The Right to privacy and protection, justice and fairness in both the custodial and non-custodial homes.

12) The Right to know and appreciate what is good in each parent without one parent degrading the other.

13) The Right to request an increase in the time specified for interaction with the non-custodial parent.

14) The Right to express a preference to live with either of the parents most of the time.

15) The Right to mature to adulthood, secure in the love and respect of both parents and with confidence in the ability to establish love and nurture a stable family.

Old Debt

In the last couple of months we have been made aware of a debt that was made when you were married to Debbie. We were contacted by a collection agency in Tacoma, Washington that called itself "Equifax Collection Services".

I talked to a woman called named "Karen Hirst". She also told us that you had already started making payments on the debt. I told her, as I will tell you, under no circumstances will we deal with a collection agency. I have done my homework on this subject and have familiarized myself with their tactics. I have already exercised my legal right as a consumer by sending them a legal notice, and have stopped them from ever calling us again, as I have done with many other agencies. If you want to learn how to do this yourself, purchase a book called "Stop It" by Bud Hibbs, published by Equitable Media Services, Fort Worth, Texas. If you like I will gladly send you a prepared legal document customized to this particular account so that you can sign it and send it certified mail.

I have advised Debbie not to claim any responsibility for this debt until you get the collection agency out of the picture by sending the legal notice I talked about above. After that, we can negotiate down the added fees that were added after the debt went into collection with Kitsap Federal Credit Union. Keep in mind that when a debt goes into collection, the original creditor has written it off as a "bad debt" and then simply lists it on their profit and loss statement. Most creditors hope to get only half the original amount of the debt because of the tremendous mark-up by the collection agency when they "buy" the bad debt from the creditor. All of this is explained in the book I mentioned.

-7

The next step in this matter is yours. If you just want to continue paying what you have and take the responsibility for the debt, that's up to you. I'm offering you a way to re-negotiate the added fees and not have any negative items put on your credit report.

Speaking of credit reports, I don't see why Debbie should have records of your auto loans listed on her credit report, do you? You have the truck and whatever other possessions you bought with the money. Could you please contact Ford Motor Credit and ask them to remove your loan information from Debbie's TRW credit listing? We don't need to know about your personal finances.

We have taken the time and energy to write this letter in the interest of making this whole divorce process less painful on the children. Now it's your turn. If we don't see a response in 30 days from the date of this letter, we will assume that your response to all our requests is no and that you agree with everything we allegated in this letter.

Yours truly,

Mark J Taylor

Mark J. Taylor

VIA CERTIFIED MAIL, ARTICLE # P141-269-782

8 of 9

Representative Con Bunde
State Capitol
Juneau, AK 99801-1182

March 31, 1994

Dear Representative Bunde,

RE: HOUSE BILL 422

There are many State Statutes, Regulations and Court Rules that protect the rights of the NON custodial parents rights to visitation. On the other hand nothing that protects the custodial parents in this area. We are expected to send our children; (In my case three little girls ages 7, 9, and 11 to the San Diego area of which I have only a BLIND PO BOX NUMBER) for NON custodial visitation and Pray we get them back. Much less than, in time to take care of Dental work, Eye exams, New glasses, shopping for school clothes, etc.

THIS FEAR OF THE NON CUSTODIAL PARENTS FAILURE TO RETURN THE CHILDREN TO THE CUSTODIAL PARENT IS THE WORST KIND OF NIGHTMARE.

When the NON custodial parent openly and blatantly fails to comply with the Court Order to pay child support, this fear becomes very real.

Yes there are regulations and statues in place to collect child support; such as, attempts to garnish wages, seizure of property, notifying the credit bureau with negative report, threats of arrest, etc. Even though they have evaded the system for years, the courts will side with the NON custodial parent is in contempt of a court order issued by the same Judge that is hearing the case against the custodial parent for withholding visitation.

This condition must be corrected. TO PROTECT ALASKA'S MOST PRECIOUS RESOURCES, "OUR CHILDREN", MUST BE A PRIORITY.

9/9

I respectfully request that you amend your HOUSE BILL 422 to include the following provision's.

1. VISITATION OF NON CUSTODIAL PARENT WHO RESIDES OUTSIDE THE STATE OF ALASKA.

   a. Visitation rights are here by suspended until all back child support is paid up to date.
   b. Supervised visitation will be allowed in the local area of children's residence at the NON custodial parents expense if they do not comply with Par: a.
   c. If there is sufficient reason to believe that the NON custodial parent might abduct the children: towit past record of failure or evasion of child support payments to date, they be required to post a PERFORMANCE BOND of no less than FIFTY THOUSAND DOLLARS ($50000.00). To be paid to the custodial parent within 72 hours of the failure to return the children at the agreed time (time notification to be in written form). Bond funds to be used for the recovery of the abducted children and remaining balance to be placed in a account for child support or college.
   d. All court cost are the responsibility of the NON custodial parent pertaining to the above Par: a, b, c.

Sincerely,

John B. Van Santford
1025 Lathrop Street
Fairbanks, AK 99701
PH. 907-451-6502
FX. 907-452-7749

cc Governor Hickel
LT Governor Coghill
Sen. Steve Frank
Bert Sharp
Mike Miller
Spe. Ramona Barnes

cc Rep. Jeannette James
Brian Porter
Jerry Sanders
Joe Sitton
Gene Therriault
Al Vezey

FISCAL NOTE

STATE OF ALASKA
'994 LEGISLATIVE SESSION

BILL NO. HB 362

Revision Date:
Title: An Act establishing the crime of aiding the nonpayment of child support .
Sponsor: Representative Martin
Requestor: (H)HES

Dept. Affected: Revenue
BRU: Child Support Enforcement Division
Component: Child Support Enforcement Division
COMPONENT SERIAL NO. 111

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0					
REVENUE FUND SOURCE:	0.0					

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

Estimate of current year (FY94) impact: $ 0.0

ANALYSIS: (Attach a separate page if necessary.)
NONE

Prepared by: Marv Gay, Director
Division: Child Support Enforcement Division
Approved by Commissioner: Darrel J. Rexwinkel
Agency: Department of Revenue

Phone: 263-6270
Date: 1-20-94
Date: 1/21/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

SPONSOR SUMMARY

HB 362

HB 362 is an anti-obstructionist bill with the intent of helping a child-support obligor from evading his obligation through the deferment of his salary or through compensation via another channel.

This law makes it a crime for any person who intentionally withholds information, fails to disclose financial information, or aids the obligor in any away to evade his/her responsibility for paying child support.

An example of how this happens: Joe owes $500 a month in child support and doesn't feel that amount is fair, so he looks for ways not to have to pay it. He enlists the help of an employer, friend, or relative and they work out an agreement whereby Joe will work for wages under the table. Joe gets paid in cash or in a barter arrangement, so there is no way to trace an income and the employer, friend or relative is uncooperative if the Child Support Enforcement Agency (CSED) is trying to garnish the wages of Joe.

In this case, the bill would make it a crime for the employer, friend or relative to aid Joe in avoiding his responsibility. Because they knowingly and intentionally help Joe bypass this responsibility, the State would like to go after these people, and could do so with this bill. The more money owed, then the more severe the penalty.

118 Holdinghausen Dr.
Crystal City, MO 63019
February 17, 1994

Representative Terry Martin
House of Representative
State Capitol
Juneau, AK 99801-1182

Dear Representative Martin,

For the last six years I have not received child support in any regular fashion from my ex-husband for the support of my four children. Most money has come from the seizure of dividend checks. He is presently $28,729.54 behind in back child support.

While we were married my ex-husband supported the family by working as a contractor. Primarily the income came from the sell of custom built homes, rental property, and the sell of undeveloped lots. He would also do jobs requiring heavy equipment. After the divorce he filed for bankruptcy and the business ended. Through various means he has been supporting his life style. He talked at different times of a home he was building in the Delta Junction area. He has a vehicle, a boat, and a snowmobile. He took a business trip to Seattle one year for training in insulation spraying. One summer he could afford a trip to Missouri, but left town the same day he went to court for harassment and nonpayment of child support. There is presently a warrant for his arrest for failure to appear at the next scheduled court date.

The divorce awarded assets to both of us. The monthly payments on the sell of undeveloped lots was part of the assets he received. One person who was making payments paid off the debt with a boat. The others, I am presuming, made the payments. These would be cashed rather than deposited. After having an account seized no other accounts in his name have been located in the state that I have been made aware of.

Evasion of payments for child support through parents claiming no or little income when in fact there is appears to be a common practice. My ex-husband has stated numerous times that he is untraceable by any government agency and will not pay child support. Thus far he has succeeded through the aid of others who are willing to assist him.

One tactic used by my ex-husband has been to transfer real estate property to a family member's name. This was done prior

to his filing for bankruptcy so he could retain the lake front property. Another tactic was putting vehicles he owned in someone else's name. Another way of trying to be untraceable was by not obtaining a current driver's license.

I am also aware of him approaching others to assist him in his deception by asking to operate a business under their contractor's license. More specifically, he approached Weidner Construction, out of Delta Junction, asking to operate under their contractor's license. For whatever reasons Weidner Construction declined.

He has also purchased equipment from U.C.S.C. in Fairbanks to run a business. He paid four thousand dollars in cash for this equipment. The business that he had in mind was apparently to do insulation work while traveling the rivers to Nome where he could make money that would be untraceable.

Through the process of bartering he has been able to perform jobs and be paid in cash or receive ivory that he can sell later for untraceable cash. He has talked of other jobs that he has done to make money. One being cutting trees in the Delta Junction area, another working on a fishing boat, I believe near Nome, and trapping.

Family member have played a large role in my ex-husband's evasion of responsibility to his children through knowingly assisting him as mentioned already. The other is people willing to pay in cash or trade for services he performed.

The past six years after my divorce have been very difficult. At one point I was working three jobs along with attending college to obtain a bachelor's degree. I also sold everything I could live without to pay for my educational costs and to support the children. I applied for student loans, was awarded grants and received scholarships to be able to afford the costs.

During this time my children have gone without basic human needs to the point that some might call it neglect. Dental care was postponed till I could afford it. Eye glasses were not purchased as needed. Food was bought as the money was available. Of course there is aid to dependent children and medical assistance available through the government, but I chose to do it myself. If put into thesame situation today - recently divorce, no job skills, and four children - I'm not for certain which route I'd take.

I am presently working full-time as a special education teacher, am attending graduate school, with a caseload of nine hours per semester, and teach summer school while raising four children ages nine to fifteen. It has been very stressful and quite frankly I'm exhausted.

These experiences while being exhausting in themselves have also been exasperating especially given that numerous contacts have been made in the past six years to the Child Support Enforcement Agency urging them to please help me in obtaining this support. Only recently has any real action bugun on this case. At this time information is being compiled to take to the attorney general to see if charges will be filed.

The laws as they are presently written are not a great enough deterrent for nonpaying parents and those who conspire to assist them in this criminal act of nonsupport. Parents who do not support their children by evading this responsibility are committing a heinous crime. Persons who enable this behavior by aiding the nonsupport paying parent are also guilty of a heinous crime against children. Until the laws are changed and aiders are forced to accept the consequences of their actions the cycle will not change.

I actively support the passage of House Bill 362. This letter may be forwarded to other individuals concerned with the passage of House Bill 362.

Sincerely,

Beth Bach

Mary "Beth" Bach

HB

367

ALASKA STATE LEGISLATURE

Delta Junction Office:
P.O. Box 1189
Delta Junction, AK 99737-1189
907-895-4236

While in Juneau:
State Capitol, Room 110
Juneau, AK 99801
907-465-4859

Representative Harley Olberg

INDEX FOR HB 367

Residence: P.O. Box 1068 • Delta Junction, AK 99737 • 907-895-4305

ALASKA STATE LEGISLATURE

Delta Junction Office:
P.O. Box 1189
Delta Junction, AK 99737-1189
907-895-4236

While in Juneau:
State Capitol, Room 110
Juneau, AK 99801
907-465-3659

Representative Harley Olberg

SPONSOR STATEMENT FOR CSHB 367 (TRA)

House Bill 367 would allow certain restricted exceptions to the State's limitations on outdoor advertising, thereby addressing the need for improved directional signage to accommodate the State's traveling public.

These changes would facilitate efforts by roadside businesses to direct motorist to available services and products. In response to suggestions made by members of committees of both bodies last session, I would like you to consider CSHB 367(TRA), today.

CS for HB 367 allows one new exception to the State limitation on outdoor advertising signs, display and devices; directional signs could be placed in zoned/unzoned commercial or industrial areas along a State highway, subject to stringent restrictions. The draft bill would also codify two existing DOT/PF programs in statute: the airspace leasing program and TODS (Tourist Oriented Directional Signing) program.

CS HB 367(TRA) would help many small business owners while not negatively impacting the scenery visible from Alaska's highway. I strongly encourage you support for this bill.

Residence: P.O. Box 1068 • Delta Junction, AK 99737 • 907-895-4305

ALASKA STATE LEGISLATURE

Delta Junction Office
P.O. Box 1189
Delta Junction, AK 99737-1189
907-895-4236

While in Juneau
State Capitol, Room 110
Juneau, AK 99801
907-465-4859

Representative Harley Olberg

Sectional Summary of CSHB 367 (TRA)

In conformity with federal law as found in 23 U.S.C. 131, Section 1 of the Bill amends AS 19.25.105 (a) to allow one additional exception to the State prohibition on outdoor advertising with 660 feet of a highway right-of-way. This exception would allow directional signage to be placed in zoned/unzoned industrial or commercial areas along a State highway if it meets the following criteria:

* It must be for an individual business entity that is of significant interest to the traveling public as evidenced by documentation that at least 75 percent of the entity's gross business receipts are from motorists residing more than 20 miles from the business;

* Each business is limited to four or fewer off-premises signs;
* Each sign must be located on private property;
* Each sign must provide directional information;
* Each sign must indicate the specific business entity:
* Each sign must be located within 50 miles of the physical location of the business entity; and
* Each sign must not exceed 8 feet by 12 feet in size. (1)pg 2

Section 2 of the Bill amends AS 19.25.105(d) to allow additional exceptions to the State prohibition on outdoor advertising WITHIN THE RIGHT-WAY of a State highway. Both of these new exceptions codify existing DOT/PF programs. The language added in Paragraph (2) establishes a statutory basis for the department's airspace leasing program. The language added in paragraph (3) establishes a statutory basis for the federally designed TODS (Tourist Oriented Directional Signing) Program.

SECTIONAL SUMMARY OF CSHB 367 (TRA)

Section 3 of the Bill amends AS 19.25.130 Penalty For Violation. Changes penalty from a Misdemeanor to violation and raises minium fine to $250 with maxium of $2,500.

SECTION 4 of the Bill repeals and reenacts AS 19.25.180 to provide for the right of a municipality to enact more restrictive ordinance to control outdoor advertising, notwithstanding AS 19.25.091-19.25.180, except that a municipality may not further restrict directional signage allowed in zoned/ unzoned commercial or industrial areas.

SECTION 5 of the Bill amends AS 19.45.002 to exempt unlawful advertising from the penalty provisions pertaining to AS 19.05-19.25.

SECTION 6 of the Bill annuls 17AAC 20.010 to allow for the operation of both the airspace leasing program and the TODS program.

---

(1) By way of comparison, the maximum size allowed under the Federal-State Outdoor Advertising Agreement is a total area of 650 square feet with a maximum height of 20 feet and maximum length of 50 feet.

LIMITATIONS ON OUTDOOR ADVERTISING: ALLOWABLE SIGNS

CURRENT LAW	HOUSE BILL 367 SENATE BILL 157	CS FOR HOUSE BILL 367 CS FOR SENATE BILL 157
Within highway right-of-way:	**Within highway right-of-way:**	**Within highway right-of-way:**
1. Bus bench/shelter advertising.	1. Bus bench/shelter advertising.	1. Bus bench/shelter advertising.
2. Official TODS signs.	2. Official TODS signs.	2. Official TODS signs.
3. Airspace lease program signs.	3. Airspace lease program signs.	3. Airspace lease program signs.
Within 660' of edge of right-of-way and visible from highway:	**Within 660' of edge of right-of-way and visible from highway:**	**Within 660' of edge of right-of-way and visible from highway:**
1. Directional & other official signs.	1. Directional & other official signs.	1. Directional & other official signs.
2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.	2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.	2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.
3. Landmark signs.	3. Landmark signs.	3. Landmark signs.
4. Signs pertaining to schools.	4. Signs pertaining to schools.	4. Signs pertaining to schools.
5. Bus bench/shelter advertising.	5. Bus bench/shelter advertising.	5. Bus bench/shelter advertising.
	*6. Signs advertising free coffee.	*6. Signs in zoned/unzoned commercial or industrial areas with restrictions for the purpose of directional signage.
	*7. Signs in zoned/unzoned commercial or industrial areas; no restrictions.	
Beyond 660' from edge of right-of-way and visible from highway:	**Beyond 660' from edge of right-of-way and visible from highway:**	**Beyond 660' from edge of right-of-way and visible from highway:**
1. Directional & other official signs.	1. Directional & other official signs.	1. Directional & other official signs.
2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.	2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.	2. On-premise signs advertising sale or lease of premises, or activities conducted on premises.
3. Landmark signs.	3. Landmark signs.	3. Landmark signs.
4. Signs pertaining to schools.	4. Signs pertaining to schools.	4. Signs pertaining to schools.
5. Bus bench/shelter advertising.	5. Bus bench/shelter advertising.	5. Bus bench/shelter advertising.
	*6. Signs advertising free coffee.	*6. Signs in zoned/unzoned commercial or industrial areas with restrictions for the purpose of directional signage.
	*7. Signs in zoned/unzoned commercial or industrial areas; no restrictions.	
	*8. Signs in urbanized areas.	

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL No.: HB 367

FISCAL NOTE

Revision Date:
Title: Prohibited Highway Advertising

Department Affected: DOT&PF
BRU:

Sponsor: Olberg
Requestor:

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	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	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: $0

ANALYSIS: (Attach a separate page if necessary)

Neutral; the predicted added costs in enforcement will be offset by reductions of current enforcement efforts.

Prepared by: Jeffrey C. Ottesen — Phone: 465-6954

Division: Engineering & Operations Standards — Date: March 2, 1994

Approved by Commissioner: for B.A. Campbell — Phone: 465-3901

Agency: Department of Transportation and Public Facilities — Date: March 2, 1994

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

Department of Transportation and Public Facilities

POSITION PAPER

BILL NO: HB 367

TITLE: Prohibited Highway Advertising

APPROVED:

DATE: March 2, 1994

This bill modifies the general prohibitions on outdoor advertising, to a standard comparable to federal law. Alaska's current wholesale prohibition on off-premises, outdoor advertising would change in two ways:

- Off-premise advertising signs would be permitted in commercial and industrial areas, subject to tight restrictions on size, number and purpose.
- TODS signs and the right-of-way leasing for on-premise signs, two existing programs, would be given statutory authority.

A sectional summary of the bill:

- Section 1. Establishes a new exception to the general prohibition on outdoor advertising. Directional signs for highway businesses meeting numeric, size, content, location and eligibility requirements are authorized.
- Section 2. Provides statutory foundation for two existing sign programs (e.g., TODS and airspace leasing).
- Section 3. Repeals and reenacts the section pertaining to a municipality's right to enact more restrictive control of outdoor advertising. The directional signs authorized in Section 1 would not be subject to municipal restrictions.
- Section 4. Fixes a general penalty clause to exclude it's applicability to outdoor advertising matters, so that there is no conflict with penalty clause in AS 19.25.130.
- Section 5. Annuls regulation so that there is no conflict with the two existing signage programs which take place in state rights-of-way.

The department supports the proposed legislation as it would reduce to pressure to place illegal advertising related to businesses who serve highway travelers. Patrolling and regulating these type of sign installations, which are now illegal, routinely taxes limited department resources.

For Further Information contact J.K. Ginger Johnson at 465-3904.

BILL NO: HB 367

TITLE: Prohibited Highway Avertising

DATE: March 2, 1994

At the same time, the bill is far from a wholesale approval of billboards. The relaxation of current law, in order to permit highway-related businesses to place off-premises advertising is the most significant change. In order to qualify, such signs must conform to a number of requirements:

- Located in zoned or unzoned commercial and industrial areas. Unzoned areas will be based on an agreement with the U.S. Department of Transportation.
- Documention that business is of significant interest to the traveling public (as evidenced by 75% of the business receipts being from motorist's who reside greater than 20 miles from the place of business).
- Consist of four or fewer off-premises signs
- Located on private property
- Provide directional information
- Indicate specific business entity
- Located within 50 miles of business entity
- Size not to exceed 8 feet by 12 feet.

We do however, have one suggested modification to the language in Section 2. Permitting signs within leased right-of-way can only fulfill federal requirements if the land being leased comprises a portion of the business premises. Accordingly, the new paragraph, 19.25.105 (d) (2) should be modified to state:

"signs, displays, and devices located on righ[illegible]rty leased from the state that advertise activities conducted on or abutti[illegible]sed property may be erected and maintained; "

FEDERAL HIGHWAY ADMINISTRATION
400 SEVENTH ST., SW
ROOM 4223, HCC-10
WASHINGTON, D.C. 20590

TITLE 23 -- UNITED STATES CODE

HIGHWAYS

Originally Compiled from GPO tapes by HNG-12 in Nov. 1987
with updates through 1988
Maintenance transferred to Office of the Chief Counsel
in January 1990
Please notify HCC-10 (202)366-1388, Sherie Abbasi
if errors are encountered in text

[text in WordPerfect 5.1]
[electronic file available on FEBBS for FHWA Staff]

UPDATED: 5/10/91: Pub. L. 101-427 (10/15/90).
Secs. 333 and 336 of Pub. L. 101-516 (11/5/90).
1/8/92: Pub. L. 102-143 (10/28/91), Sec. 333.
Pub. L. 102-240 (ISTEA of 1991, 12/18/91).

TITLE 23-UNITED STATES CODE
HIGHWAYS
CHAPTER 1.-FEDERAL-AID HIGHWAYS

Sec.

147. Priority primary routes.
148. Development of a national scenic and recreational highway.
149. Congestion mitigation and air quality improvement program.
150. Allocation of urban system funds.
151. National Bridge Inspection program.
152. Hazard elimination program.
153. Use of safety belts and motorcycle helmets.
154. National maximum speed limit.
155. Access highways to public recreation areas on certain lakes.
156. Income from airspace rights-of-way.
157. Minimum allocation.
158. Minimum drinking age.
159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses.
160. Reimbursement for segments of the Interstate System constructed without Federal assistance.

Sec. 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise-

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, elimination of roadside obstacles, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "Federal lands highways" means forest highways, public

and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) Survey and Schedule of Projects.- Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(e) Special Rules.-

(1) Funds for Protective Devices.- At least 1/2 of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings.

(2) Set Aside for Public Information Programs.- $250,000 of the amounts available for expenditure under this section in each fiscal year shall be expended for a public information program-

(A) which the Secretary determines will be effective in educating the public as to the hazards posed at

railway-highway crossings and the importance of heeding warning signals at such crossings; and

(B) which the Secretary determines will provide information necessary to diminish railway-highway crossing accidents.

(3) Procedures.- Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(f) Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.

(g) Annual Report.- Each State shall report to the Secretary of Transportation not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the house of Representatives not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d), and include recommendation for future implementation of the railroad highway crossings program.

(h) Use of Funds for Matching.- Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railway-highway crossings.

Sec. 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that 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 the safety and recreational value of public travel, and to preserve natural beauty.

(b) 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 Interstate System and 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, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, 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 this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) 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, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) 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, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. 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. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such

compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: Provided, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards impcsing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this

section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the state may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United states. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation

to be paid upon removal of such sign, display, or device is not available to make such payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and aesthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) REMOVAL OF ILLEGAL SIGNS.--

(1) BY OWNERS.--Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.--If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs

of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.--If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

(t) PRIMARY SYSTEM DEFINED.--For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

Sec. 132. Payments on Federal-aid projects undertaken by a Federal agency

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

Sec. 133. Surface transportation program

(a) ESTABLISHMENT.--The Secretary shall establish a surface transportation program in accordance with this section.

(b) ELIGIBLE PROJECTS.--A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction

Engineering and Operations Standards
Alaska Department of Transportation
and Public Facilities

Addressed to:

Nancy Hemenway
Rep. Menard's Office
465-2864

From:

Jeffery C. Ottesen, Chief, ROW & Environment
Voice (907) 465-6954
FAX (907) 465-2460
Headquarters
3132 Channel Drive
Juneau, AK 99801-7898

Total number of pages (including this sheet): 2

If there are problems with transmission, please call Nancy Black at (907) 465-2951

Comments: I reviewed the 1968 agreement with FHWA on sign size, spacing, etc. It is amendable, but it's quite a structured process, so relaxing it would not be a pro forma exercise. However, we can go stricter without getting into an amendment if so authorized by the Legislature (see p. 7 of agreement).

In unzoned commercial/industrial activity, a single business enterprize creates an area eligible for off-premises outdoor advertising. The area for signing is 500 feet from either side of the business activity measured from the area occupied by the business (e.g. building, parking lot, storage areas), not the property lines. It does not include land on opposite side of highway unless there is a commercial/industrial business there too.

Size--maximum area for one sign is 650 square feet with maximum height of 20 feet and maximum length of 50 feet. Signs may be two-faced in a back-to-back or V-arrangement.

On controlled access highways minimum sign spacing is 500 feet: and none within 2,000 feet of interchange or intersection.

On two lane highways outside towns and cities, minimum spacing is 300 feet. In cities and towns minimum spacing is 100 feet. On-premise signs do not count toward these spacing requirements.

Given that the state must enforce these provisions or lose federal-aid, I'm beginning to realize we need to enact regulations which could require a review of the placement of signs, or at least formally adopt the size, spacing standards so that the public is aware of them. Otherwise we'll have signs erected contrary to these federal rules and be forced to have them removed--the process coming full circle to the same problem we have now.

12950

Form FHWA 121 (Rev. 5-73)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE: APR 8 1980

In reply refer to: HRW-14

SUBJECT: Outdoor Advertising Program - Process For Amendment of State/Federal Agreements

FROM: Chief, Real Property Acquisition Division
Washington, D.C.

TO: Regional Federal Highway Administrators
Regions 1-10

There have been several recent requests to amend the State/Federal Agreements for the outdoor advertising program. We believe that it is imperative that justification for such changes must be evaluated and every opportunity should be provided to allow the public to be aware of such changes and be afforded appropriate opportunity to comment.

A standardized policy for processing agreement modifications is attached (see Attachment). The methodology should be followed to ensure a fair and objective evaluation of all proposed agreement changes. If a State proposes an amendment to the negotiated agreements, your review should ensure that the methodology was followed as a means of expediting a recommended revision to the agreement.

For G. B. Saunders

Attachment

impact, are included in the submission.

3. Upon receipt, the FHWA will publish the proposed agreement amendment, proposed impact, and State justification in the Federal Register for comment.

4. Comments received will be evaluated along with the State's proposal and background submitted.

5. The decision on the proposal will be announced by the FHWA to the State and through the Federal Register simultaneously. If approved, the executed agreement will be forwarded to the State.

2950.

Form FHWA 121 (Rev. 5-73)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE: APR 8 1980

In reply refer to: HRW-14

SUBJECT: Outdoor Advertising Program - Process For Amendment of State/Federal Agreements

FROM: Chief, Real Property Acquisition Division
Washington, D.C.

TO: Regional Federal Highway Administrators
Regions 1-10

There have been several recent requests to amend the State/Federal Agreements for the outdoor advertising program. We believe that it is imperative that justification for such changes must be evaluated and every opportunity should be provided to allow the public to be aware of such changes and be afforded appropriate opportunity to comment.

A standardized policy for processing agreement modifications is attached (see Attachment). The methodology should be followed to ensure a fair and objective evaluation of all proposed agreement changes. If a State proposes an amendment to the negotiated agreements, your review should ensure that the methodology was followed as a means of expediting a recommended revision to the agreement.

for G. B. Saunders

Attachment

impact, are included in the submission.

3. Upon receipt, the FHWA will publish the proposed agreement amendment, proposed impact, and State justification in the Federal Register for comment.

4. Comments received will be evaluated along with the State's proposal and background submitted.

5. The decision on the proposal will be announced by the FHWA to the State and through the Federal Register simultaneously. If approved, the executed agreement will be forwarded to the State.

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:

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 within 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:

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.

Revisor's notes. — Reorganized in 1988 to alphabetize the defined terms.

Chapter 25. Protection and Use of State Highways and Roads.

Article 1. Utilities in Highways.

Sec. 19.25.010. Use of rights-of-way for utilities. A utility facility may be constructed, placed, or maintained across, along, over, under, or within a state right-of-way only in accordance with regulations adopted by the department and if authorized by a written permit issued by the department. (§ 8 art VII title II ch 152 SLA 1957; am § 3 ch 106 SLA 1977)

NOTES TO DECISIONS

A utility may construct a powerline on an unused section line easement reserved for highway purposes under AS 19.10.010. Fisher v. Golden Valley Elec. Ass'n, Sup. Ct. Op. No. 2606 (File No. 5902), 658 P.2d 127 (1983).

This section places Alaska among those states which permit powerline construction by a utility as an incidental and subordinate use of a highway easement. Fisher v. Golden Valley Elec. Ass'n, Sup. Ct. Op. No. 2606 (File No. 5902), 658 P.2d 127 (1983).

Maintenance. — Maintenance as defined in paragraph (9) of AS 19.45.001 refers to some type of active work undertaken to preserve the utility facility. Johnson v. State, Sup. Ct. Op. No. 2434 (File Nos. 4866, 4871, 4894), 636 P.2d 47 (1981).

Collateral references. — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 218-234.

40 C.J.S., Highways, §§ 232, 233.

Placement, maintenance, or design of standing utility pole as affecting private utility's liability for personal injury resulting from vehicle's collision with pole within or beside highway. 51 ALR4th 602.

Sec. 19.25.020. Relocation of utilities incident to highway projects. (a) If, incident to the construction of a highway project, the department determines and orders that a utility facility located across, along, over, under, or within a state right-of-way must be changed, relocated, or removed, the utility owning or maintaining the facility shall change, relocate, or remove it in accordance with the order. The order must provide a reasonable time period for compliance.

(b) If the utility facility is not changed, relocated, or removed in accordance with the order, the facility becomes an unauthorized encroachment and may be disposed of in accordance with AS 19.25.240 — 19.25.250. In addition, the owner of the facility shall indemnify the state for any amount for which the state may be liable to a contractor by reason of the encroachment.

(c) The cost of change, relocation, or removal necessitated by highway construction is a cost of highway construction to be paid in accordance with AS 19.45.001(4) as follows:

(1) by the department as a cost of highway construction, if the utility facility is installed or authorized under a utility permit or a regulation after June 11, 1986, and is installed in the location specified in the permit;

(2) by the department as a cost of highway construction, if the facility was installed before June 11, 1986, under a utility permit issued on or after July 1, 1960, and is in the location specified in the permit;

(3) by the department as a cost of highway construction, if the utility facility was installed before July 1, 1960, or before the road became part of the state highway system;

(4) by the department as a cost of highway construction, if the utility permit that requires the utility to pay the relocation cost was issued more than five years before the contract for the highway construction project was first advertised;

(5) by the utility in all other cases, unless the commissioner finds it is in the public interest for the cost to be paid by the department.

(d) If requested by a municipality, the department shall implement this chapter by requiring to the maximum extent possible location underground of electric power transmission lines within the municipality. (§§ 2, 3 ch 57 SLA 1961; am § 4 ch 106 SLA 1977; am § 3 ch 142 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (c) deleted "by the state" following "construction to be paid" and substituted the language beginning "as follows:" for "notwithstanding the terms or provisions of any existing permit, agreement, regulation or statute to the contrary."

Opinions of attorney general. — This section is constitutional. 1961 Op. Att'y Gen. No. 12.

Secs. 19.25.030 — 19.25.040. Damages and obstructions. [Repealed, § 5 ch 52 SLA 1988.]

Article 2. Outdoor Advertising.

Opinions of attorney general. — The safety of persons using the road is of overriding importance when weighed against the interest of a sign owner who has illegally placed a sign where it threatens public safety. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may summarily remove a sign or other object it determines to be a visual obstruction or a safety hazard; so long as it protects the sign or other object upon removal, the department is protecting the owner's only recognizable interest. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may not collect the cost of removal of a sign or other object unless the owner has had an opportunity to remove the object and save that cost. The department may use a fee payment schedule instead of figuring the actual removal cost in every case, as long as the schedule is based upon and reflects actual removal costs incurred by the department; and it may charge a reasonable fee for storing the sign. January 3, 1984 Op. Att'y Gen.

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 other interference 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 that 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 declared by the Congress relating to areas within and adjacent to the right-of-way of a highway of the interstate, primary, or secondary systems. (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970; am § 1 ch 158 SLA 1988)

Effect of amendments. — The 1988 amendment rewrote paragraph (5) to the extent that a detailed comparison is impracticable.

Legislative history reports. — For report on ch. 233, SLA 1968 (HCSCSSB 144 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.

Validity and construction of provision prohibiting or regulating advertising sign overhanging street or sidewalk. 80 ALR3d 687.

Validity and construction of state or local regulation prohibiting off-premises advertising structures. 81 ALR3d 486.

Governmental liability for compensation or damages to advertiser arising from obstruction of public view of sign or billboard on account of growth of vegetation in public way. 21 ALR4th 1309.

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, § 14 ch 155 SLA 1970.]

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) Outdoor advertising may not 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;

(5) advertising on bus benches or bus shelters if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highway systems.

(b) *[Repealed, § 21 ch 94 SLA 1980.]*

(c) Outdoor advertising may not 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.

(d) Outdoor advertising may not be erected or maintained within the right-of-way of an interstate, primary, or secondary highway except that outdoor advertising is allowed on bus benches and bus shelters located within the right-of-way under the authority of a permit issued under AS 19.25.200, if the bus benches or bus shelters are located within a borough or unified municipality and the buses that stop at that location operate during the entire year. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987; am § 2 ch 158 SLA 1988)

Effect of amendments. — The 1987 amendment in subsection (a) substituted "Outdoor advertising may not" for "No outdoor advertising may" at the beginning of the subsection and added paragraph (5).

The 1988 amendment added subsection (d).

Collateral references. — Classification and maintenance of advertising structure as nonconforming use. 80 ALR3d 630.

Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 ALR3d 564.

Secs. 19.25.110 — 19.25.120. Removal of nonconforming advertising; neglect or refusal to obey removal order. [Repealed, § 43 ch 85 SLA 1988.]

Sec. 19.25.130. Penalty for violation. A person who violates AS 19.25.030 — 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)

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) "department" means the Department of Transportation and Public Facilities;

(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) "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;

(4) "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". (§ 5 ch 233 SLA 1968; am §§ 46, 47 ch 69 SLA 1970; am §§ 5, 6 ch 155 SLA 1970)

Revisor's notes. — Reorganized in 1988 to alphabetize the defined terms.

Sec. 19.25.170. Agreements with the United States; regulations. The department may 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 adopt required regulations. (§ 5 ch 233 SLA 1968)

Sec. 19.25.180. Interpretation. AS 19.25.080 — 19.25.180 may not be construed to abrogate or affect any law, ordinance, regulation or resolution that is more restrictive than the provisions of AS 19.25.080 — 19.25.180. (§ 5 ch 233 SLA 1968)

Article 3. Encroachments In Highways.

Opinions of attorney general. — Encroachment under this article covers any intrusion into the highway right of way, including signs, or infringement of the limitations on use of the right of way. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may not collect the cost of removal of a sign or other object unless the owner has had an opportunity to remove the object and save the cost. The department may use a fee payment schedule instead of figuring the actual removal cost in every case, as long as the schedule is based upon and reflects actual removal costs incurred by the department; and it may charge a reasonable fee for storing the sign. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section. The commissioner of administration shall separately account for encroachment permit fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986)

Effect of amendments. — The first 1986 amendment added the third, fourth and fifth sentences and made grammatical changes in the second sentence.

The second 1986 amendment designated the existing language as subsection (a), in the second sentence of subsection (a) deleted "duly" preceding "authorized" and added the language "unless the department provides otherwise by regulation" and added subsection (b).

Collateral references. — 3 Am. Jur. 2d, Advertising, §§ 2, 7, 11, 24-26. 39 Am. Jur. 2d, Highways, Streets and Bridges, § 288.

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 must 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)

Sec. 19.25.240. Summary removal. The department may at any time remove from a state highway or road an encroachment that obstructs or prevents the use of the highway or road by the public. (§ 2 ch 64 SLA 1971)

Opinions of attorney general. — The safety of persons using the road is of overriding importance when weighed against the interest of a sign owner who has illegally placed a sign where it threatens public safety. January 3, 1984 Op. Att'y Gen.

An encroachment which obstructs anyone's view of the road is one which "obstructs ... the highway or road" and also presents a serious danger to the public. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may summarily remove a sign or other object it determines to be a visual obstruction or a safety hazard; so long as it protects the sign or other object upon removal, the department is protecting the owner's only recognizable interest. January 3, 1984 Op. Att'y Gen.

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

Article 2. Outdoor Advertising.

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) Outdoor advertising may not 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;

(5) advertising on bus benches or bus shelters if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highway systems.

(b) *[Repealed, § 21 ch 94 SLA 1980.]*

(c) Outdoor advertising may not 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.

(d) Outdoor advertising may not be erected or maintained within the right-of-way of an interstate, primary, or secondary highway except that outdoor advertising is allowed on bus benches and bus shelters located within the right-of-way under the authority of a permit issued under AS 19.25.200, if the bus benches or bus shelters are located within a borough or unified municipality and the buses that stop at that location operate during the entire year. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987; am § 2 ch 158 SLA 1988)

Editor's notes. — This section is set out above to correct minor errors in the main pamphlet.

Sec. 19.25.150. Unlawful advertising. An advertising sign, display, or device that violates the provisions of AS 19.25.080 — 19.25.180 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 AS 19.25.080 — 19.25.180 or ordering the owner to cause it to conform to regulations if it is authorized by AS 19.25.080 — 19.25.180. 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; am § 19 ch 21 SLA 1991)

Effect of amendments. — The 1991 amendment, effective June 11, 1991, substituted Code section references for "this chapter" in three places.

Article 3. Encroachments in Highways.

Section
200. Encroachment permits

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986; am § 10 ch 90 SLA 1991)

Effect of amendments. — The 1991 amendment, effective July 3, 1991, in subsection (a), deleted the former last two sentences.

(53) "utilidor" means a structure containing one or more channels, usually prefabricated in units, including units that are fitted with a removable cover that may also be used as a sidewalk or roadway surface;

(54) "utility" includes any corporation, company, individual, or association of individuals, or any lessee, trustee, or court-appointed receiver, that owns, operates, manages, or controls any line, plant, pipeline, or system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, gas, oil, petroleum products, steam, heat, light, chemicals, air, sewage, drainage not connected with highway drainage, irrigation, or similar products including publicly owned fire and police signal systems and street lighting systems which directly or indirectly serve the public or 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;

(58) "airport" has the same meaning as in AS 02.15.260(5);

(59) "public facility" has the same meaning as in AS 35.25.020(7).

(Eff. 5/23/82, Register 82; am 10/2/87, Register 103)

Authority: AS 02.15.020 AS 19.30.051
AS 02.15.102 AS 19.30.121
AS 02.15.106 AS 19.40.065
AS 19.05.020 AS 35.05.020
AS 19.05.040 AS 35.10.230

CHAPTER 20. MAINTENANCE

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, Register 30)

Authority: AS 19.05.020

Editor's notes. — The source of this section is 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, Register 30; am 11/16/83, Register 88)

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1, 1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed. the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1048(a) of the ISTEA. By amending 23 U.S.C 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act, considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes $121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over $11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is $428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than $24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-5287 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federal Advisory Committee Act) as amended by section 5(c) of Public Law 94-409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202-535-7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92-463, as amended by section 5(c) of Public Law 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 28, 1992.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-5217 Filed 3-5-92; 8:45 am]

BILLING CODE 8320-01-M

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1, 1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed, the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1048(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act, considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes $121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over $11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is $428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we b[illegible]ve the ISTEA requires States to [illegible] immediate removal of n[illegible]orming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than $24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-5287 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federal Advisory Committee Act) as amended by section 5(c) of Public Law 94-409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202-535-7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92-463, as amended by section 5(c) of Public Law 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 28, 1992.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-5217 Filed 3-5-92; 8:45 am]

BILLING CODE 8320-01-M

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1, 1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed. the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1046(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act, considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes $121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over $11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is $428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than $24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-5287 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federal Advisory Committee Act) as amended by section 5(c) of Public Law 94-409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC (202-535-7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92-463, as amended by section 5(c) of Public Law 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 28, 1992.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-5217 Filed 3-5-92; 8:45 am]

BILLING CODE 8320-01-M

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1, 1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed. the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1046(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act, considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes $121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over $11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is $428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than $24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-5287 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federal Advisory Committee Act) as amended by section 5(c) of Public Law 94-409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202-535-7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92-463, as amended by section 5(c) of Public Law 94-409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 28, 1992.

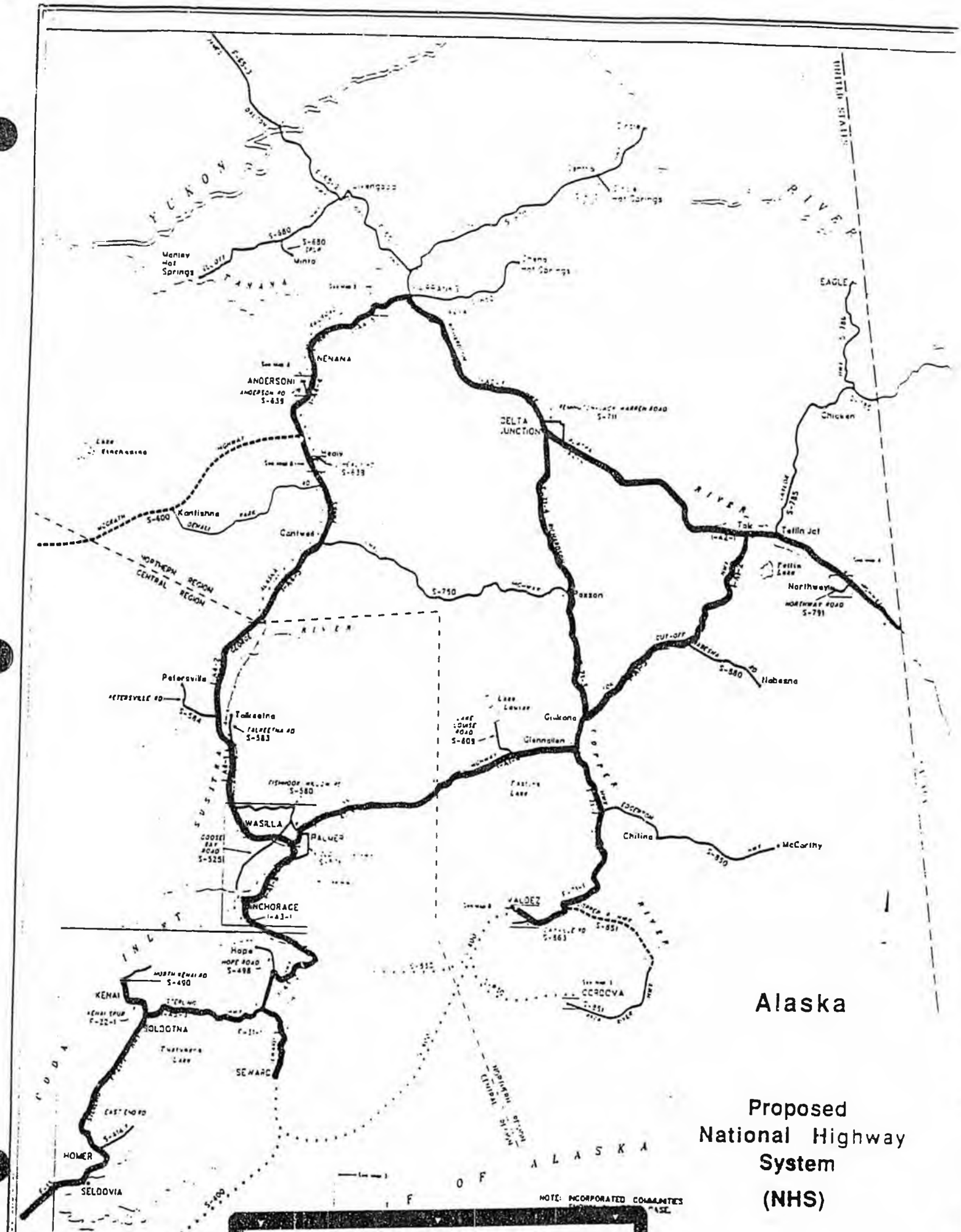
By Direction of the Secretary.

Diane H. Landis,

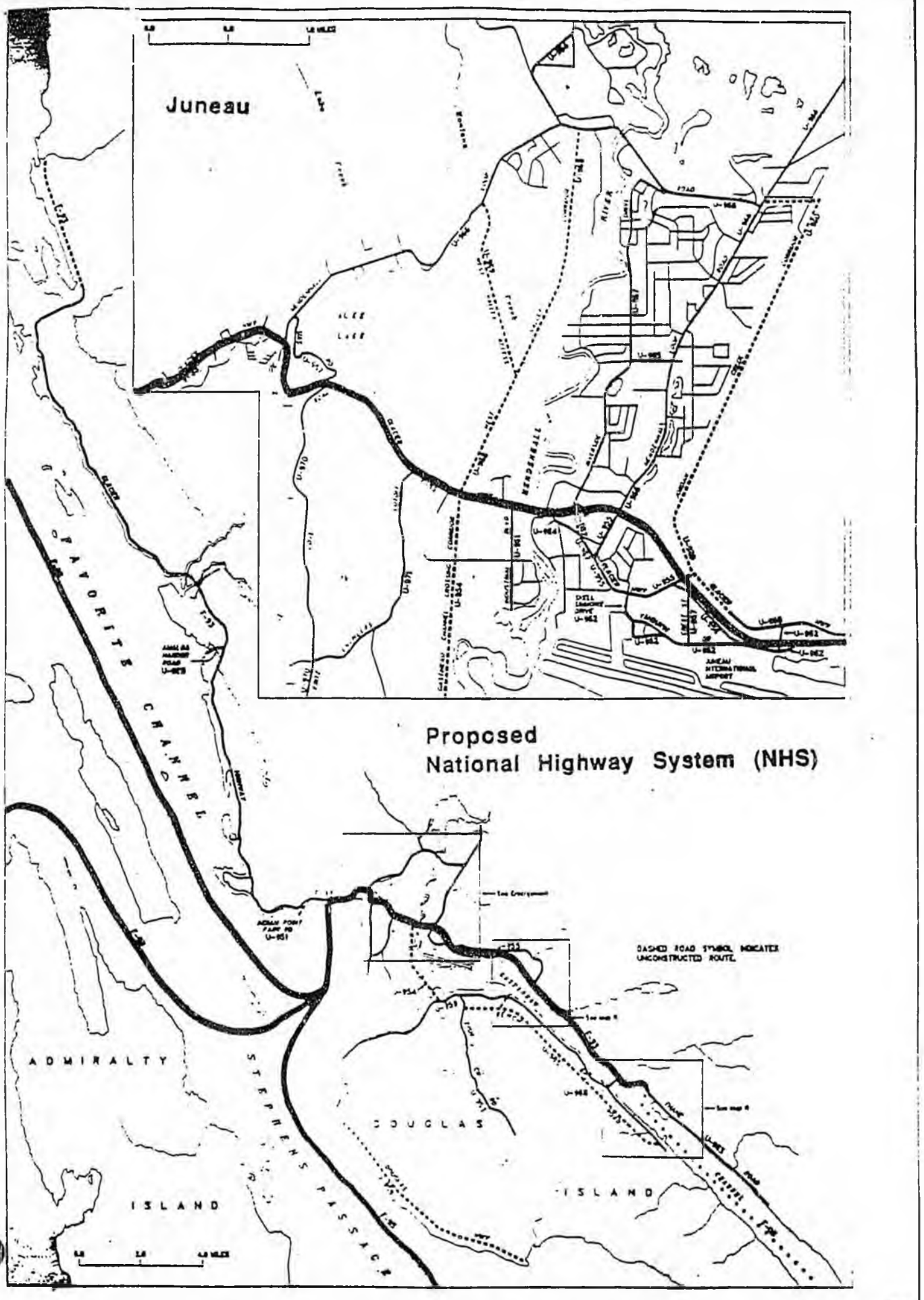
Committee Management Officer.

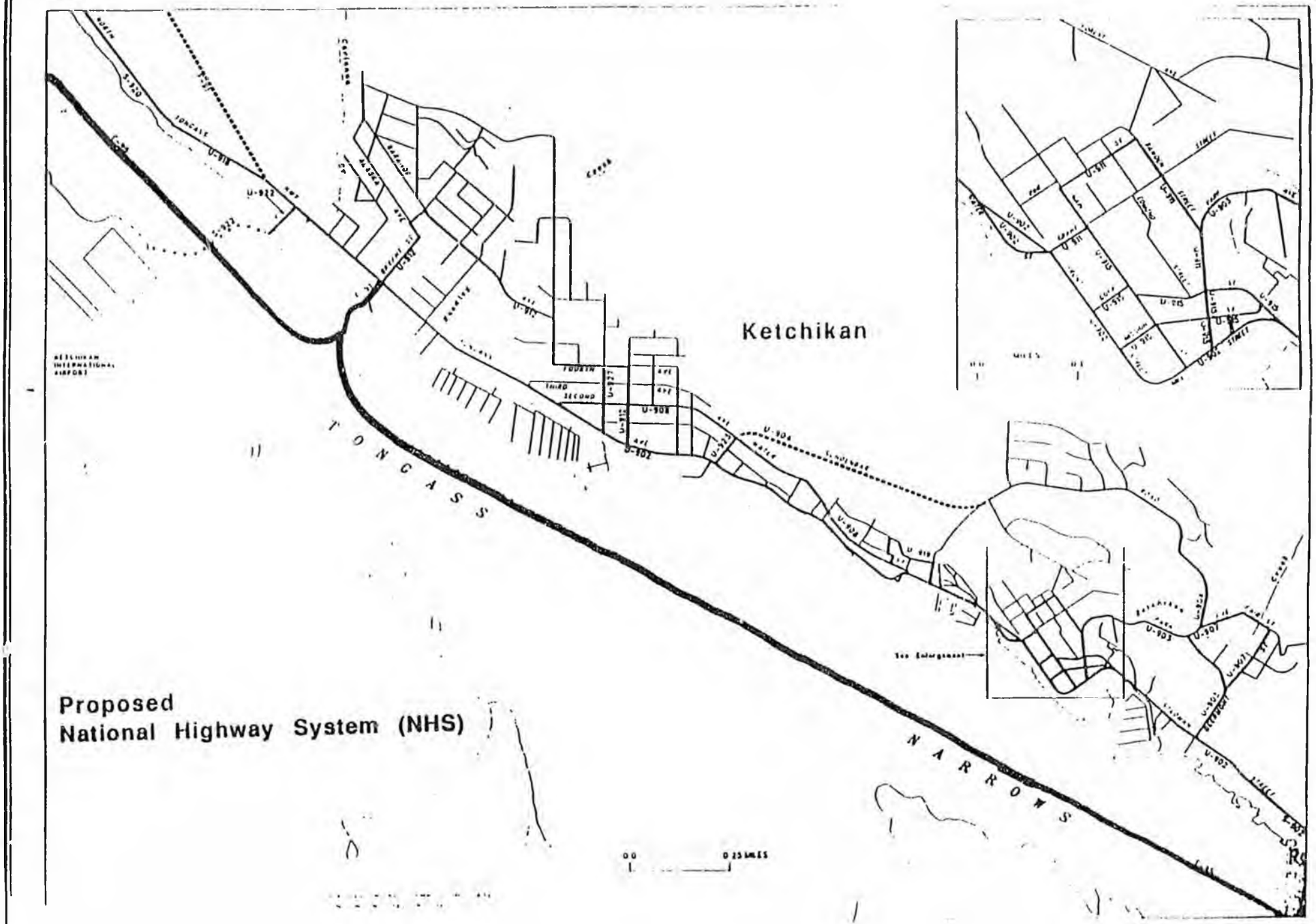
[FR Doc. 92-5217 Filed 3-5-92; 8:45 am]

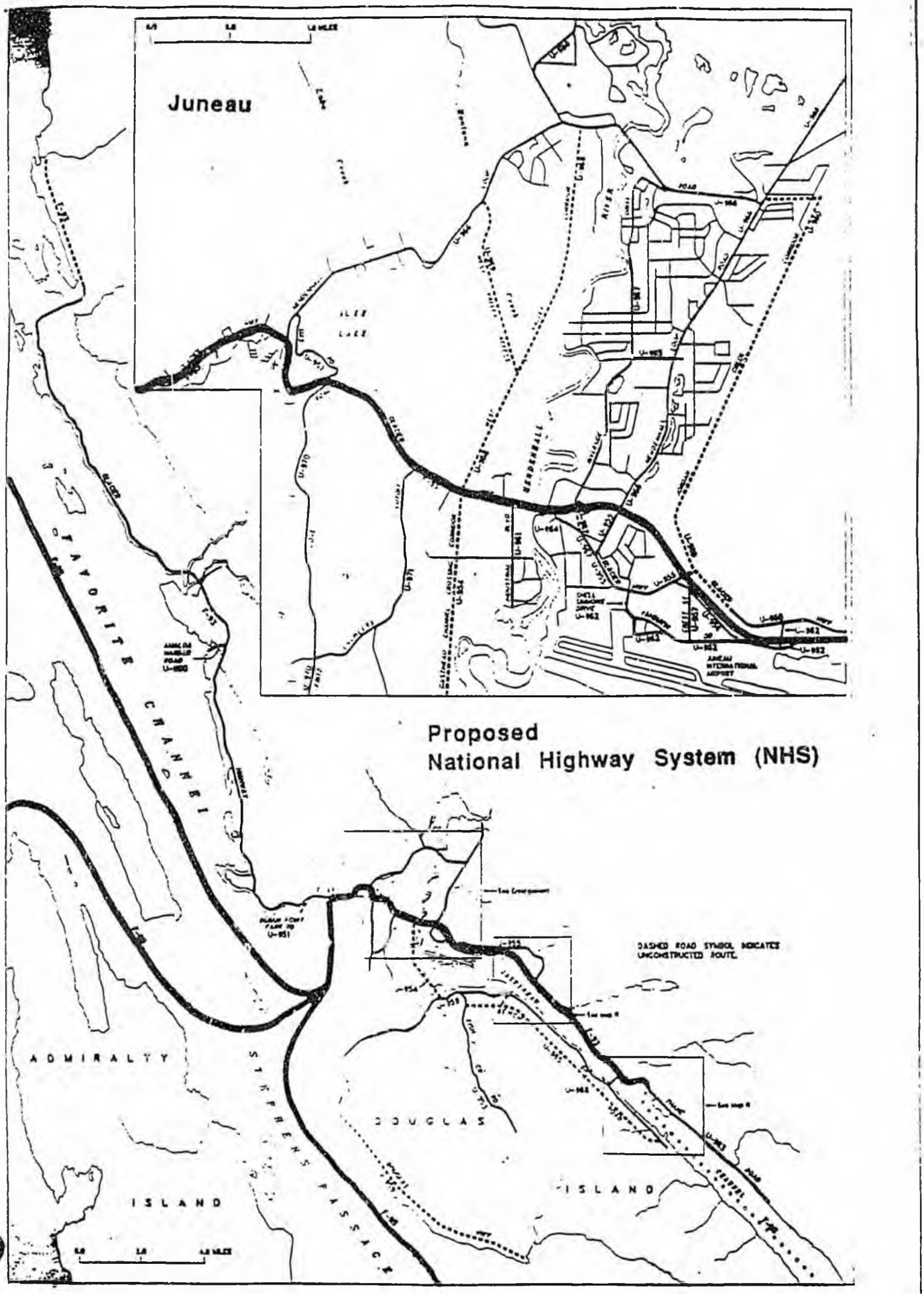
BILLING CODE 8320-01-M

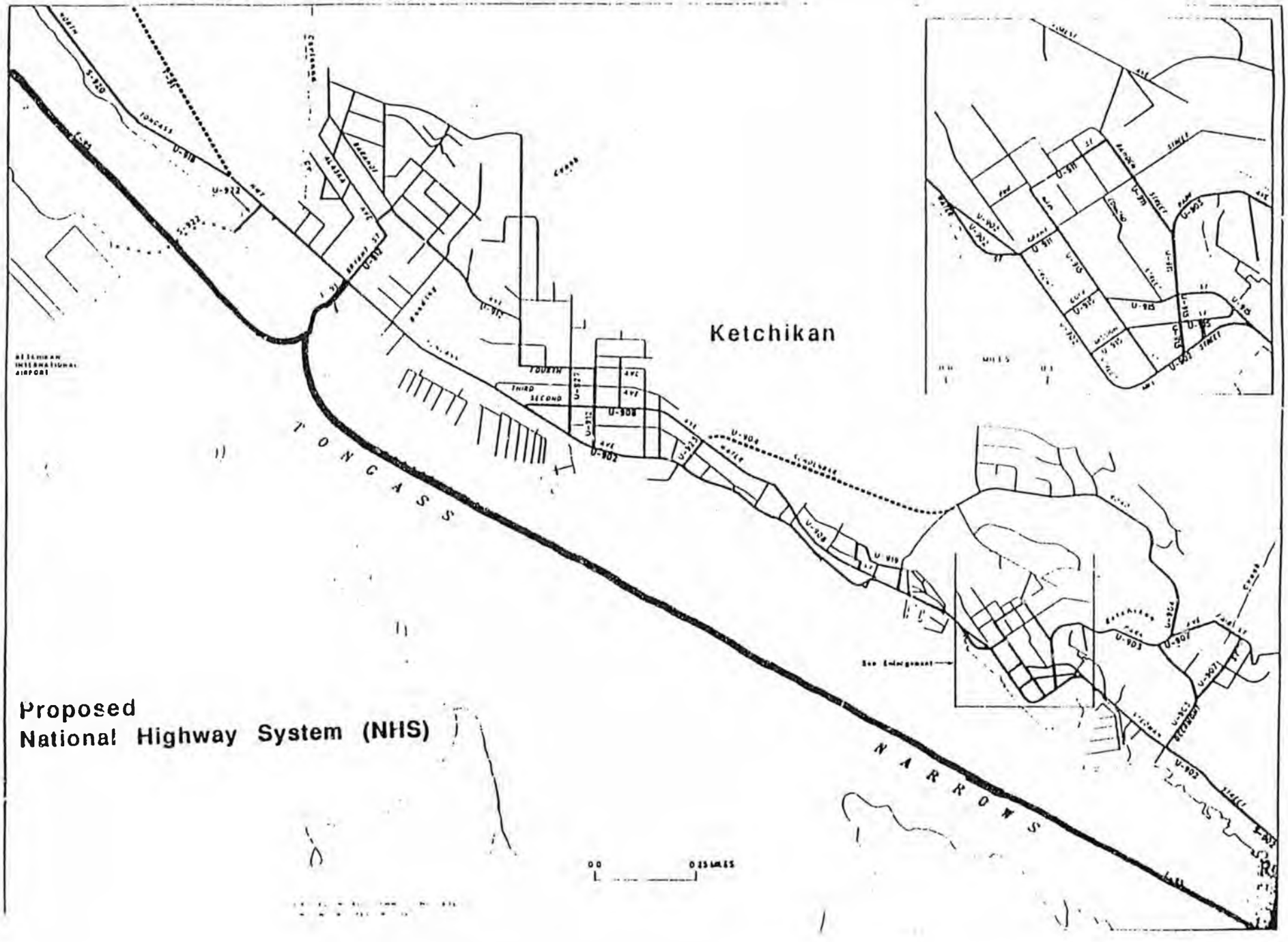


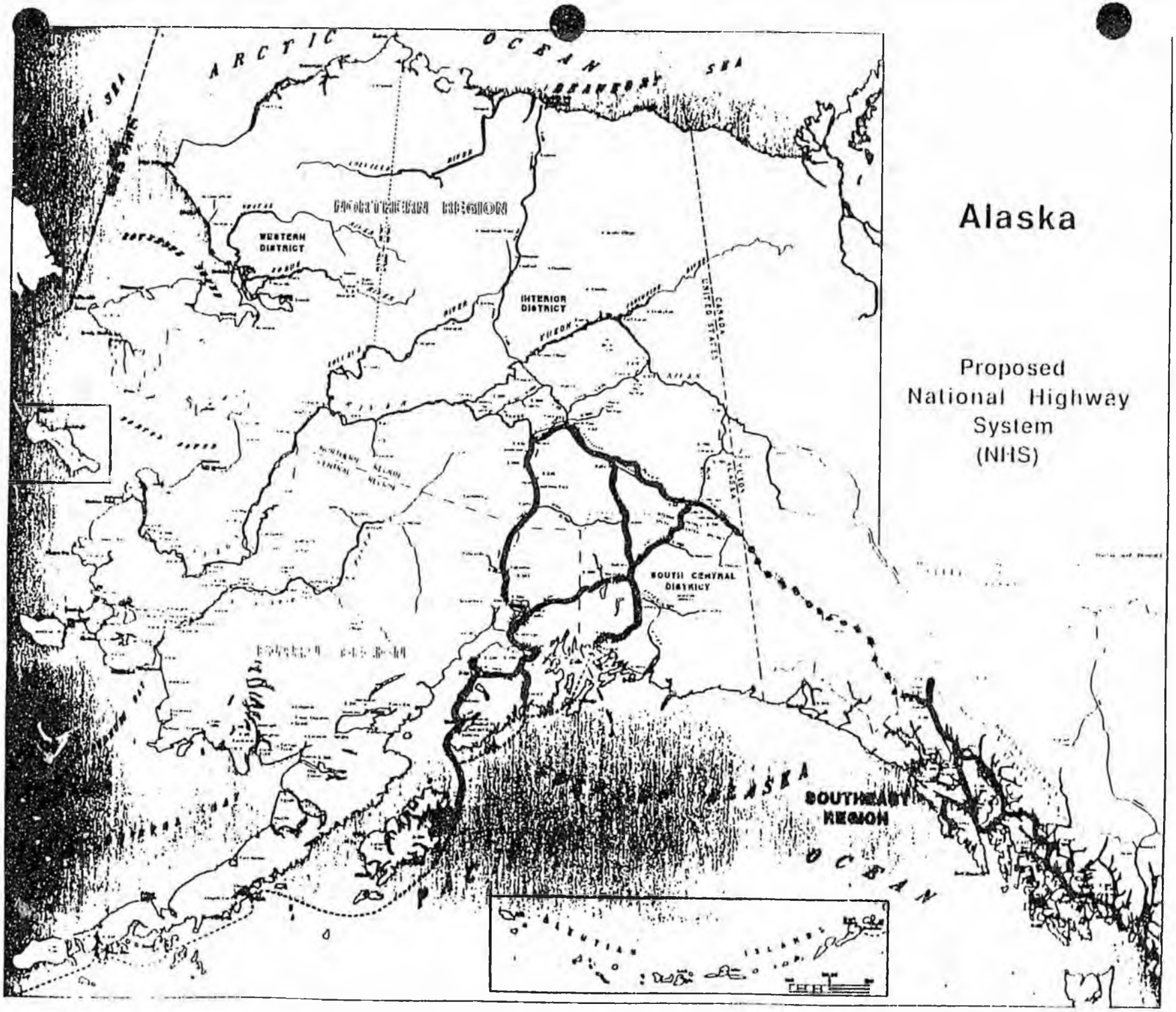
AK HIGHWAY MAPS

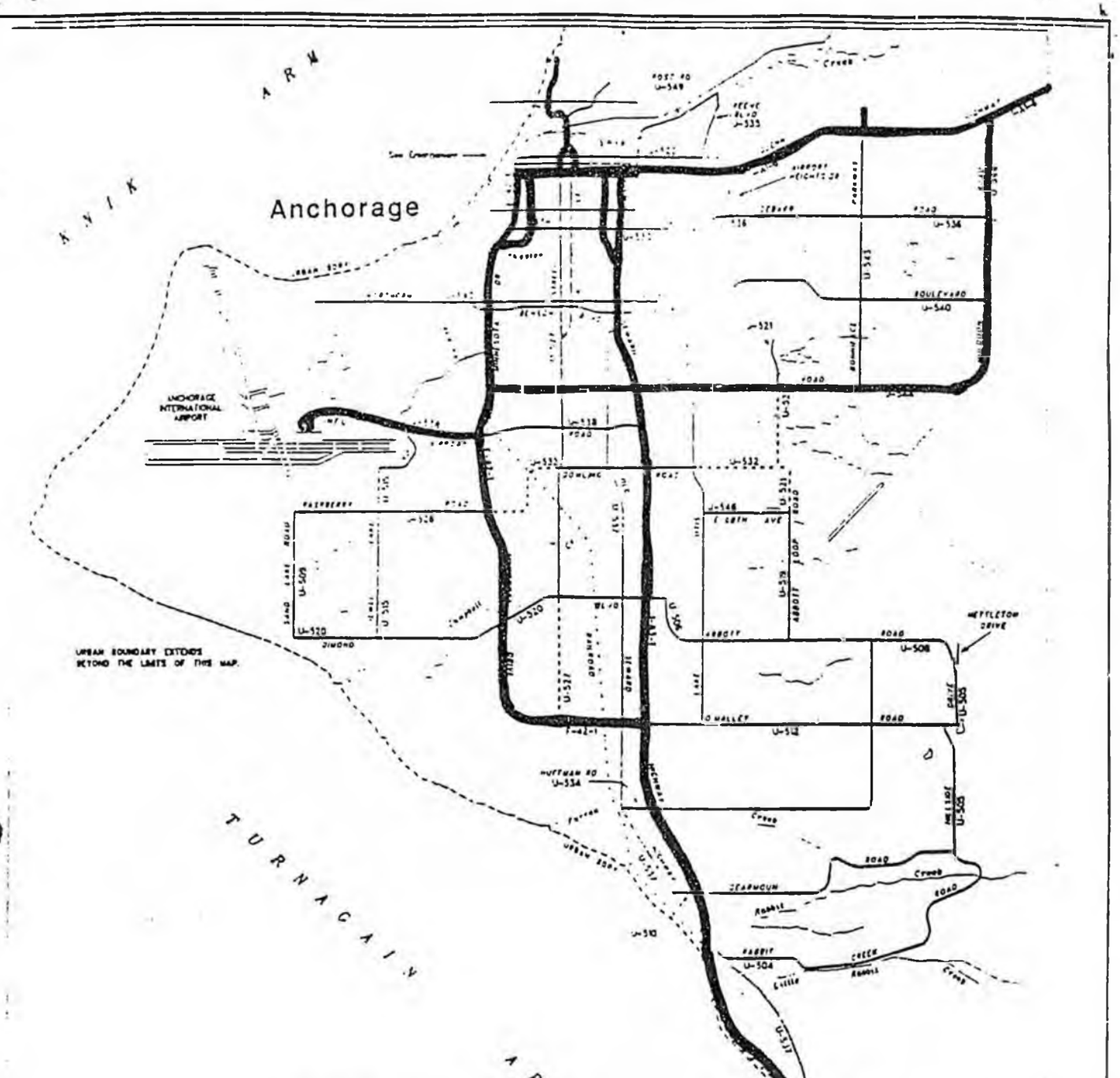

Juneau
Proposed
National Highway System (NHS)
ADMIRALTY
ISLAND
STEPHENS PASSAGE
DOUGLAS
ISLAND
FAVORITE CHANNEL


Ketchikan
TONGASS
NARROWS
Proposed
National Highway System (NHS)


Juneau
Proposed
National Highway System (NHS)
DASHED ROAD SYMBOL INDICATES UNCONSTRUCTED ROUTE.
ADMIRALTY
ISLAND
STEPHENS PASSAGE
DOUGLAS
ISLAND
GAVORITE CHANNEL

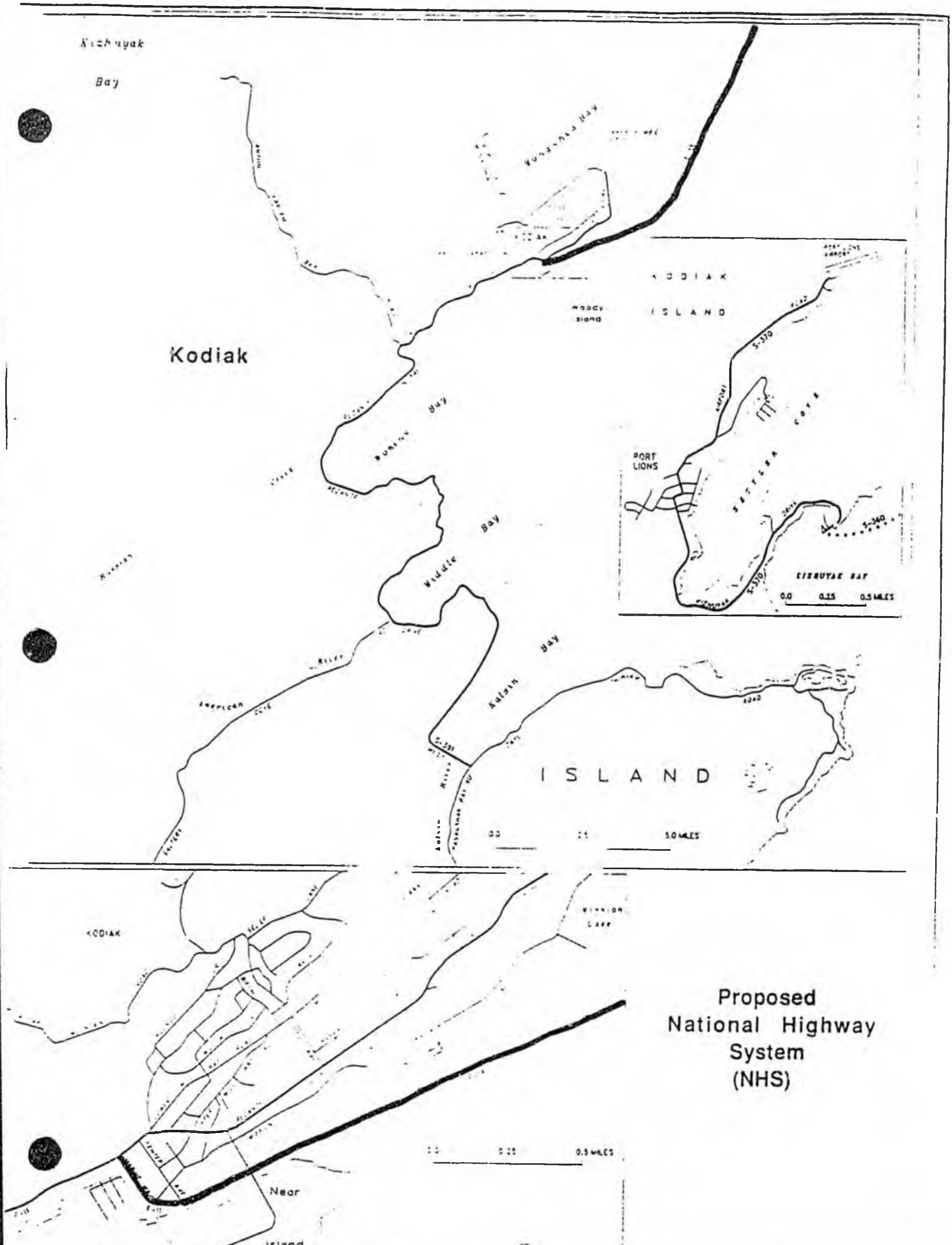

Ketchikan
TONGASS
NARROWS
Proposed
National Highway System (NHS)


ARCTIC OCEAN
BEAUFORT SEA
WESTERN DISTRICT
INTERIOR DISTRICT
SOUTH CENTRAL DISTRICT
SOUTHEAST REGION
PACIFIC OCEAN
ALEUTIAN ISLANDS
Alaska
Proposed
National Highway
System
(NHS)

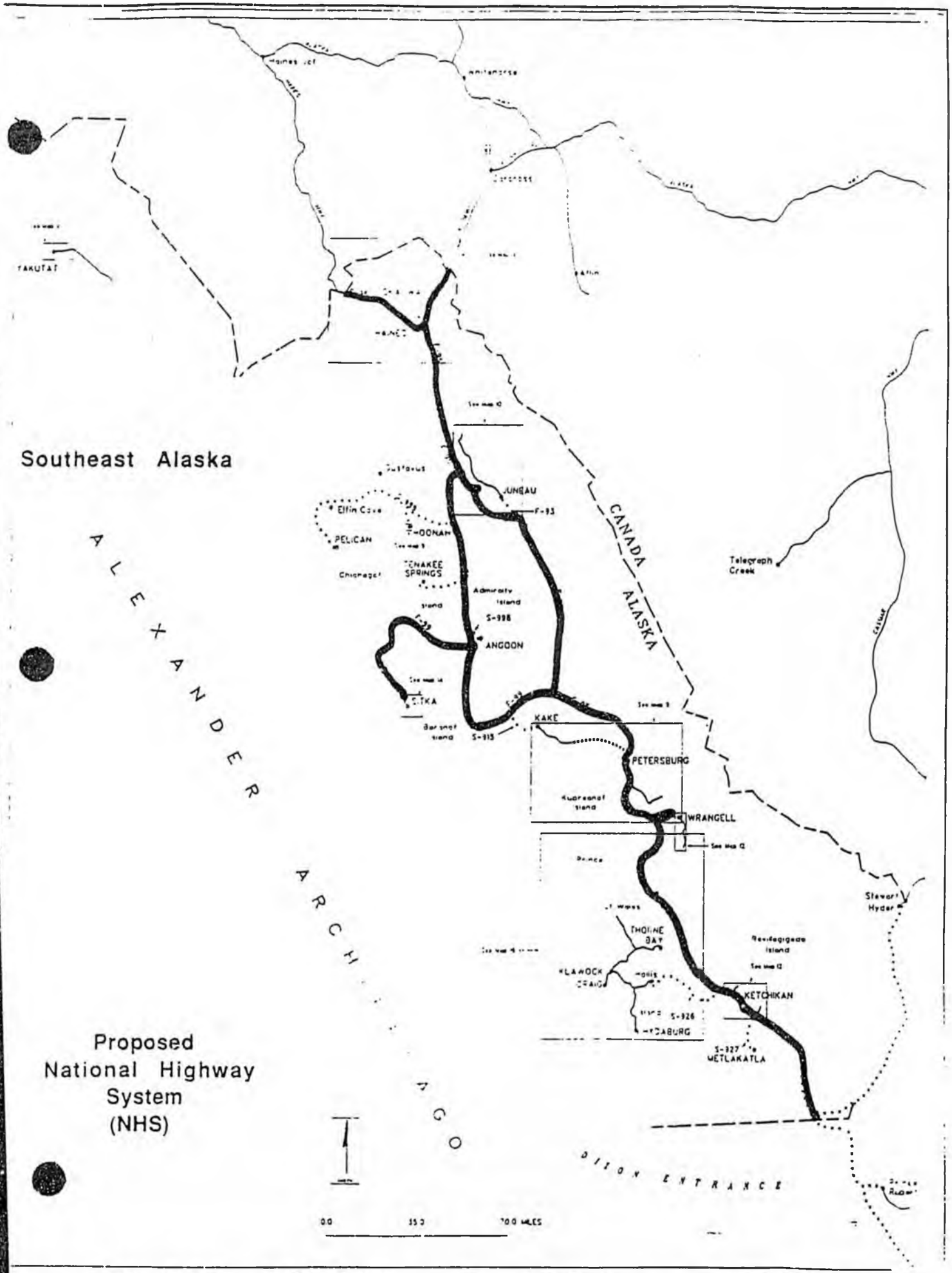


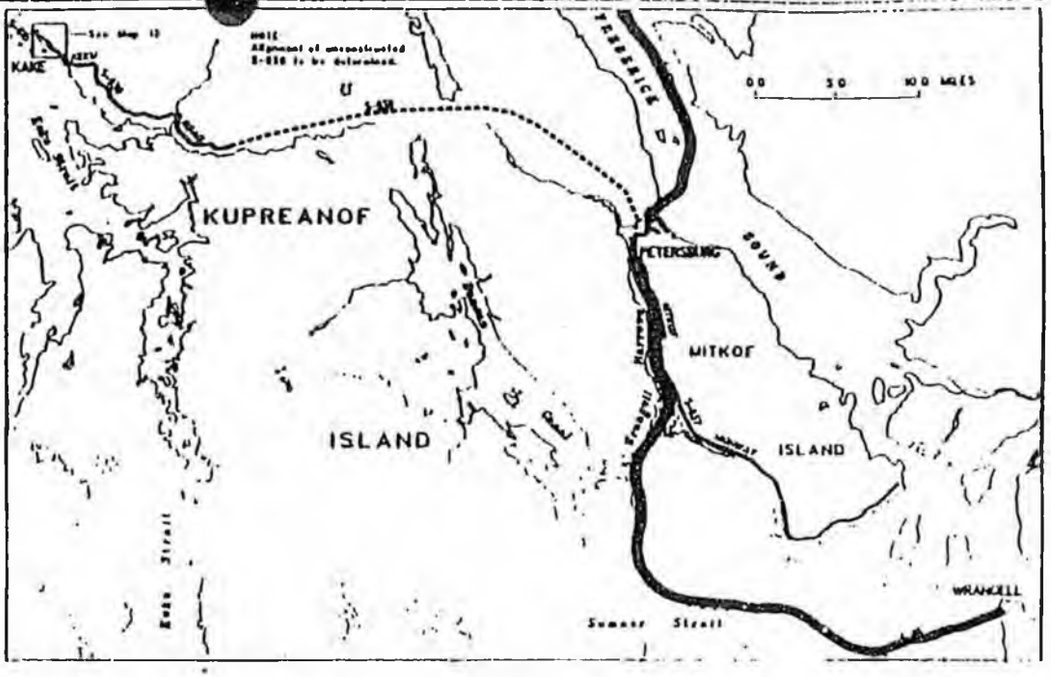
Proposed National Highway System (NHS)

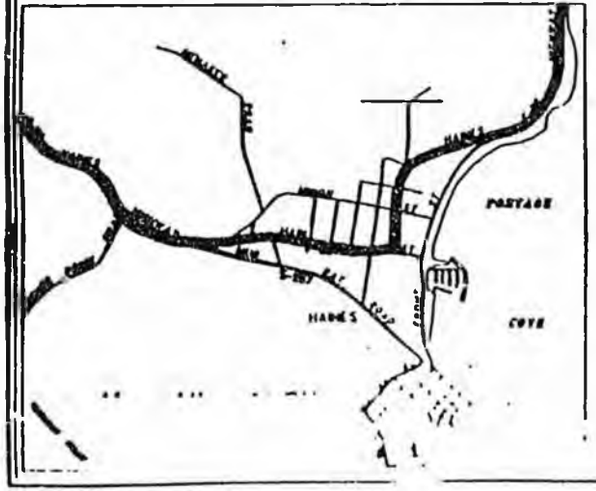
DASHED ROAD SYMBOL INDICATES UNCONSTRUCTED ROUTE.

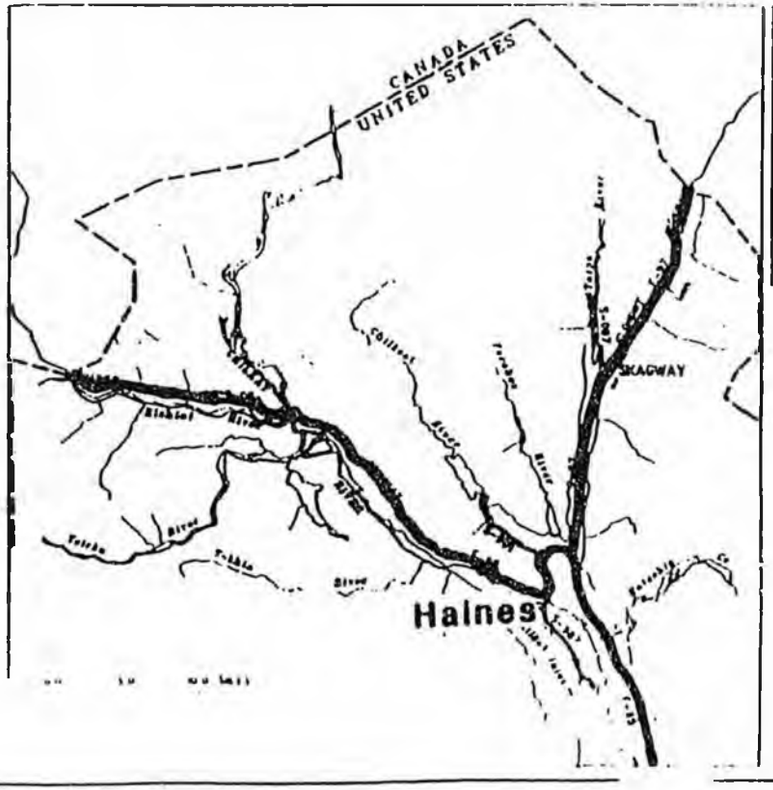


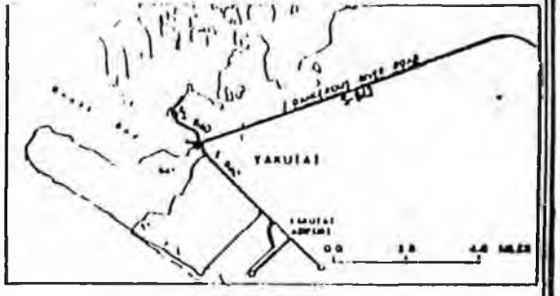
Proposed
National Highway
System
(NHS)


Southeast Alaska
Proposed
National Highway
System
(NHS)
JUNEAU
PELICAN
KAKE
PETERSBURG
WRANGELL
KETCHIKAN
ANGOON
SITKA
METLAKATLA
CANADA
ALASKA
ALEXANDER ARCHIPELAGO
DIXON ENTRANCE
Telegraph Creek
Stewart
Hyder
0 0 35 0 70 0 MILES









Proposed NHS