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Title 23 — Highways

Chapter I — Federal Highway Administration, Department of Transportation

Subchapter E — Planning and Research

Part 470 — Highway Systems

Subpart A — Federal-aid Highway Systems

Source: 62 FR 33355, June 19, 1997, unless otherwise noted.

Authority: 23 U.S.C. 103(b)(2), 103(c), 134, 135, and 315; and 49 CFR 1.85.

Source: 40 FR 42344, Sept. 12, 1975, unless otherwise noted. Redesignated at 41 FR 51396, Nov. 22, 1976.

§ 470.107 Federal-aid highway systems.

(a) **Interstate System.**

- (1) The Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate System) shall consist of routes of highest importance to the Nation, built to the uniform geometric and construction standards of 23 U.S.C. 109(h), which connect, as directly as practicable, the principal metropolitan areas, cities, and industrial centers, including important routes into, through, and around urban areas, serve the national defense and, to the greatest extent possible, connect at suitable border points with routes of continental importance in Canada and Mexico.
- (2) The portion of the Interstate System designated under 23 U.S.C. 103(c)(1)(D)(2) shall not exceed 69,230 kilometers (43,000 miles). Additional Interstate System segments are permitted under the provisions of 23 U.S.C. 103(c)(4) and section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, as amended.

(b) **National Highway System.**

- (1) The National Highway System shall consist of interconnected urban and rural principal arterials and highways (including toll facilities) which serve major population centers, international border crossings, ports, airports, public transportation facilities, other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. All routes on the Interstate System are a part of the National Highway System.
- (2) The National Highway System shall not exceed 286,983 kilometers (178,250 miles).
- (3) The National Highway System shall include the Strategic Highway Corridor Network (STRAHNET) and its highway connectors to major military installations, as designated by the Administrator in consultation with appropriate Federal agencies and the States. The STRAHNET includes highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peace time and war time.
- (4) The National Highway System shall include all high priority corridors identified in section 1105(c) of the ISTEA.

[62 FR 33355, June 19, 1997, as amended at 76 FR 6691, Feb. 8, 2011]

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Title 23 — Highways

Chapter I — Federal Highway Administration, Department of Transportation

Subchapter G — Engineering and Traffic Operations

Part 658 — Truck Size and Weight, Route Designations—Length, Width and Weight Limitations

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; sec. 347, Pub. L. 108-7, 117 Stat. 419; sec. 756, Pub. L. 109-58, 119 Stat. 829; sec. 1309, Pub. L. 109-59, 119 Stat. 1219; sec. 115, Pub. L. 109-115, 119 Stat. 2408; sec. 5516, Pub. L. 114-94, 129 Stat. 1312, 1557; 49 CFR 1.81(a)(3).

Source: 49 FR 23315, June 5, 1984, unless otherwise noted.

§ 658.5 Definitions.

Automobile transporters. Any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.

Beverage semitrailer. A van-type, drop-frame semitrailer designed and used specifically for the transport and delivery of bottled or canned beverages (i.e., liquids for drinking, including water) which has side-only access for loading and unloading this commodity. Semitrailer has the same meaning as in 49 CFR 390.5.

Boat transporters. Any vehicle combination designed and used specifically to transport assembled boats and boat hulls. Boats may be partially disassembled to facilitate transporting.

Bridge gross weight formula. The standard specifying the relationship between axle (or groups of axles) spacing and the gross weight that (those) axle(s) may carry expressed by the formula:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of any group of two or more consecutive axles, and N = number of axles in the group under consideration.

Cargo-carrying unit. As used in this part, cargo-carrying unit means any portion of a commercial motor vehicle (CMV) combination (other than a truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo-carrying section of a single-unit truck. The length of the cargo carrying units of a CMV with two or more such units is measured from the front of the first unit to the rear of the last [including the hitch(es) between the units].

Commercial motor vehicle. For purposes of this regulation, a motor vehicle designed or regularly used to carry freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vehicles used for vanpools, or recreational vehicles operating under their own power.

Drive-away saddlemount vehicle transporter combination. The term drive-away saddlemount vehicle transporter combination means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the forward vehicle of the truck tractor in front of it. Such combinations may include up to one fullmount.

Dromedary unit. A box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination.

Federal-aid Primary System. The Federal-aid Highway System of rural arterials and their extensions into or through urban areas in existence on June 1, 1991, as described in 23 U.S.C. 103(b) in effect at that time.

Fullmount. A fullmount is a smaller vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination.

Interstate System. The National System of Interstate and Defense Highways described in sections 103(e) and 139(a) of Title 23, U.S.C. For the purpose of this regulation this system includes toll roads designated as Interstate.

Length exclusive devices. Devices excluded from the measurement of vehicle length. Such devices shall not be designed or used to carry cargo.

Longer combination vehicle (LCV). As used in this part, longer combination vehicle means any combination of a truck tractor and two or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

Maxi-cube vehicle. A maxi-cube vehicle is a combination vehicle consisting of a power unit and a trailing unit, both of which are designed to carry cargo. The power unit is a nonarticulated truck with one or more drive axles that carries either a detachable or a permanently attached cargo box. The trailing unit is a trailer or semitrailer with a cargo box so designed that the power unit may be loaded and unloaded through the trailing unit. Neither cargo box shall exceed 34 feet in length, excluding drawbar or hitching device; the distance from the front of the first to the rear of the second cargo box shall not exceed 60 feet, including the space between the cargo boxes; and the overall length of the combination vehicle shall not exceed 65 feet, including the space between the cargo boxes.

Motor carrier of passengers. As used in this part, a motor carrier of passengers is a common, contract, or private carrier using a bus to provide commercial transportation of passengers. Bus has the same meaning as in 49 CFR 390.5.

National Network (NN). The composite of the individual network of highways from each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under § 658.11(f) or deleted under § 658.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, set out by the FHWA in appendix A to this part.

Nondivisible load or vehicle.

- (1) As used in this part, *nondivisible* means any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:
 - (i) Compromise the intended use of the vehicle, *i.e.*, make it unable to perform the function for which it was intended;
 - (ii) Destroy the value of the load or vehicle, *i.e.*, make it unusable for its intended purpose; or
 - (iii) Require more than 8 workhours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

- (2) A State may treat as nondivisible loads or vehicles: emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy; casks designed for the transport of spent nuclear materials; and military vehicles transporting marked military equipment or materiel.

Over-the-road bus. The term over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment, and typically operating on the Interstate System or roads previously designated as making up the Federal-aid Primary System.

Saddlemount combination. A saddlemount combination is a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination.

Single axle weight. The total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. The Federal single axle weight limit on the Interstate System is 20,000 pounds.

Special mobile equipment. Every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including military equipment, farm equipment, implements of husbandry, road construction or maintenance machinery, and emergency apparatus which includes fire and police emergency equipment. This list is partial and not exclusive of such other vehicles as may fall within the general terms of this definition.

Stinger-steered combination. A truck tractor semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

Tandem axle weight. The total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle. The Federal tandem axle weight limit on the Interstate System is 34,000 pounds.

Terminal. The term *terminal* as used in this regulation means, at a minimum, any location where:

Freight either originates, terminates, or is handled in the transportation process; or

Commercial motor carriers maintain operating facilities.

Tractor or Truck tractor. The noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit, and a truck tractor equipped with a dromedary unit operating in combination with a semitrailer transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835 may use the dromedary unit to carry a portion of the cargo.

Truck-tractor semitrailer-semitrailer. In a truck-tractor semitrailer-semitrailer combination vehicle, the two trailing units are connected with a “B-train” assembly. The B-train assembly is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth wheel connection point for the second semitrailer. This combination has one less articulation point than the conventional “A dolly” connected truck-tractor semitrailer-trailer combination.

Truck-trailer boat transporter. A boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection. The trailer axle(s) is located substantially at the trailer center of gravity (rather than the rear of the trailer) but so as to maintain a downward force on the trailer tongue.

Width exclusive devices. Devices excluded from the measurement of vehicle width. Such devices shall not be designed or used to carry cargo.

[49 FR 23315, June 5, 1984]

Editorial Note: For FEDERAL REGISTER citations affecting § 658.5, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

This content is from the eCFR and is authoritative but unofficial.

Title 23 —Highways

Chapter I —Federal Highway Administration, Department of Transportation

Subchapter H —Right-of-Way and Environment

Part 750 Highway Beautification

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- § 750.104 Signs that may not be permitted in protected areas.
- § 750.105 Signs that may be permitted in protected areas.
- § 750.106 Class 3 and 4 signs within informational sites.
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- § 750.301 Purpose.
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- § 750.501 Purpose.
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Subpart G Outdoor Advertising Control

§ 750.701 Purpose.

§ 750.702 Applicability.

§ 750.703 Definitions.

§ 750.704 Statutory requirements.

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§ 750.707 Nonconforming signs.

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§ 750.709 On-property or on-premise advertising.

§ 750.710 Landmark signs.

§ 750.711 Structures which have never displayed advertising material.

§ 750.712 Reclassification of signs.

§ 750.713 Bonus provisions.

PART 750—HIGHWAY BEAUTIFICATION

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

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

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

§ 750.101 Purpose.

- (a) In section 12 of the Federal-Aid Highway Act of 1958, Pub. L. 85-381, 72 Stat. 95, hereinafter called the act, the Congress declared that:
 - (1) To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, hereinafter called the *Interstate System*, it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such system by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

(2) It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Transportation.

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

[38 FR 16044, June 20, 1973, as amended at 39 FR 28629, Aug. 9, 1974]

§ 750.102 Definitions.

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

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

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

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

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

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

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secretary of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

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

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

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

- (g) **Informational site** means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.
- (h) **Legible** means capable of being read without visual aid by a person of normal visual acuity.
- (i) **Maintain** means to allow to exist.
- (j) **Main-traveled way** means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- (k) **Protected areas** means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.
- (l) **Scenic area** means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.
- (m) **Sign** means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.
- (n) **State** means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.
- (o) **State law** means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.
- (p) **Trade name** shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.
- (q) **Traveled way** means the portion of a roadway for the movement of vehicles, exclusive of shoulders.
- (r) **Turning roadway** means a connecting roadway for traffic turning between two intersection legs of an interchange.
- (s) **Visible** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 750.103 Measurements of distance.

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

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

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

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

- (a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.
- (b) Obsolete signs.
- (c) Signs that are not clean and in good repair.
- (d) Signs that are not securely affixed to a substantial structure, and
- (e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be permitted in protected areas.

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

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

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

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

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

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

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

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

- (c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.
- (d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

§ 750.106 Class 3 and 4 signs within informational sites.

- (a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with § 1.35 of this chapter. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.
- (b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:
 - (1) No sign may be permitted which is not placed upon a panel.
 - (2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.
 - (3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.
 - (4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.
 - (5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.
 - (6) No sign may be permitted which moves or has any animated or moving parts.
 - (7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.
 - (8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

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

§ 750.107 Class 3 and 4 signs outside informational sites.

- (a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:
- (1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;
 - (2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.
 - (3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either paragraph (a)(1) or (2) of this section.
- (b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:
- (1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

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

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

- (2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.
 - (3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.
 - (4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.
 - (5) No such signs may be permitted in scenic areas.
 - (6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.
- (c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 750.108 General provisions.

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

- (a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.
- (b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
- (c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.
- (d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.
- (e) No sign may be permitted which moves or has any animated or moving parts.
- (f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

§ 750.109 Exclusions.

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

§ 750.110 State regulations.

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

Subpart B—National Standards for Directional and Official Signs

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

§ 750.151 Purpose.

- (a) In section 131 of title 23 U.S.C., Congress has declared that:

- (1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.
- (2) Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23 U.S.C.

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

§ 750.152 Application.

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

[40 FR 21934, May 20, 1975]

§ 750.153 Definitions.

For the purpose of this part:

- (a) **Sign** means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.
- (b) **Main traveled way** means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.
- (c) **Interstate System** means the National System of Interstate and Defence Highways described in section 103(d) of title 23 U.S.C.
- (d) **Primary system** means the Federal-aid highway system described in section 103(b) of title 23 U.S.C.
- (e) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
- (f) **Maintain** means to allow to exist.
- (g) **Scenic area** means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.
- (h) **Parkland** means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

- (i) **Federal or State law** means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.
- (j) **Visible** means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.
- (k) **Freeway** means a divided arterial highway for through traffic with full control of access.
- (l) **Rest area** means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.
- (m) **Directional and official signs and notices** includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
- (n) **Official signs and notices** means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.
- (o) **Public utility signs** means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.
- (p) **Service club and religious notices** means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.
- (q) **Public service signs** means signs located on school bus stop shelters, which signs:
 - (1) Identify the donor, sponsor, or contributor of said shelters;
 - (2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;
 - (3) Contain no other message;
 - (4) Are located on schoolbus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and
 - (5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.
- (r) **Directional signs** means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
- (s) **State** means any one of the 50 States, the District of Columbia, or Puerto Rico.
- (t) **Urban area** means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within

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

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

§ 750.154 Standards for directional signs.

The following apply only to directional signs:

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

- (1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.
- (2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
- (3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (4) Obsolete signs.
- (5) Signs which are structurally unsafe or in disrepair.
- (6) Signs which move or have any animated or moving parts.
- (7) Signs located in rest areas, parklands or scenic areas.

(b) **Size.**

- (1) No sign shall exceed the following limits:
 - (i) Maximum area—150 square feet.
 - (ii) Maximum height—20 feet.
 - (iii) Maximum length—20 feet.
- (2) All dimensions include border and trim, but exclude supports.

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

- (1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.
- (2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
- (3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) **Spacing.**

- (1) Each location of a directional sign must be approved by the State highway department.
- (2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).
- (3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.
- (4)
 - (i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;
 - (ii) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;
 - (iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and
 - (iv) Signs located adjacent to the primary system shall be within 50 air miles of the activity.
- (e) **Message content.** The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.
- (f) **Selection method and criteria.**
 - (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.
 - (2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.
 - (3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23 U.S.C., and this part.

§ 750.155 State standards.

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

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

Subpart C [Reserved]

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

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

Source: 39 FR 27436, July 29, 1974, unless otherwise noted.

§ 750.301 Purpose.

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

§ 750.302 Policy.

- (a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.
- (b)
 - (1) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.
 - (2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR § 750.305(a)(2), and which are required to be removed as a result of the amendments made to 23 U.S.C. 131 by the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, section 109, January 4, 1975. Such signs must have been relocated to a legal site, must have been legally maintained since the relocation, and must not have been substantially changed, as defined by the State maintenance standards, issued pursuant to 23 CFR 750.707(b).
- (c) Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651, et seq.) applies except where complete conformity would defeat the purposes set forth in 42 U.S.C. 4651, would impede the expeditious implementation of the sign removal program or would increase administrative costs out of proportion to the cost of the interests being acquired or extinguished.
- (d) Projects for the removal of outdoor advertising signs including hardship acquisitions should be programed and authorized in accordance with normal program procedures for right-of-way projects.

[39 FR 27436, July 29, 1974; 39 FR 30349, Aug. 22, 1974, as amended at 41 FR 31198, July 27, 1976]

§ 750.303 Definitions.

- (a) **Sign.** An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.
- (b) **Lease (license, permit, agreement, contract or easement).** An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

- (c) **Leasehold value.** The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.
- (d) **Illegal sign.** One which was erected and/or maintained in violation of State law.
- (e) **Nonconforming sign.** One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.
- (f) **1966 inventory.** The record of the survey of advertising signs and junkyards compiled by the State highway department.
- (g) **Abandoned sign.** One in which no one has an interest, or as defined by State law.

§ 750.304 State policies and procedures.

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

- (a) **Project priorities.** The following order of priorities is recommended.
 - (1) Illegal and abandoned signs.
 - (2) Hardship situations.
 - (3) Nominal value signs.
 - (4) Signs in areas which have been designated as scenic under authority of State law.
 - (5) Product advertising on:
 - (i) Rural interstate highway.
 - (ii) Rural primary highway.
 - (iii) Urban areas.
 - (6) Nontourist-oriented directional advertising.
 - (7) Tourist-oriented directional advertising.
- (b) **Programing.**
 - (1) A sign removal project may consist of any group of proposed sign removals. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.
 - (2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-000B(), continuing the numbering sequence which began with the sign inventory project in 1966.

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

(c) **Valuation and review methods —**

- (1) **Schedules—formulas.** Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.
- (2) **Appraisals.** Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.
- (3) **Leaseholds.** When outdoor advertising signs and sign sites involve a leasehold value, the State's procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessee.
- (4) **Severance damages.** The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.304(h), and the law of the State before Federal participation will be allowed. Generally, Federal participation will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company's signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:
 - (i) One copy of each appraisal in which this was analyzed. One copy of the State's review appraiser analysis and determination of market value.
 - (ii) A plan or map showing the location of each sign.
 - (iii) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State's position.
- (5) **Review of value estimates.** All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) **Nominal value plan.**

- (1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to \$250 for each nonconforming sign, and up to \$100 for each nonconforming sign site.
 - (2) The State's procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.
 - (3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.
 - (4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State's procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.
 - (5) Programing and authorizations will be in accord with § 750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programed and authorized as one project.
- (e) **Sign removal.** The State's procedural statement should include provision for:
- (1) Owner retention.
 - (2) Salvage value.
 - (3) State removal.

[39 FR 27436, July 29, 1974; 42 FR 30835, June 17, 1977, as amended at 50 FR 34093, Aug. 23, 1985]

§ 750.305 Federal participation.

- (a) Federal funds may participate in:
- (1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and maintain the existing nonconforming sign on such site.
 - (2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.
 - (3) A duplicate payment for the site owner's interest of \$2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.
 - (4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State's normal force account and contractual reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under § 750.308 of this regulation.
 - (5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and reerecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

- (6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State's policy and procedures.
 - (7) In the event a sign was omitted in the 1966 inventory, and the State supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.
- (b) Federal funds may not participate in:
- (1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is \$2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations by State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining evidence of title should be set forth in the State's policy and procedure submission.
 - (2) Payments to a sign owner where the sign was erected without permission of the property owner unless the sign owner can establish his legal right to erect and maintain the sign. However, such signs may be removed by State personnel on a force account basis or by contract with Federal participation except where the sign owner reimburses the State for removal.
 - (3) Acquisition costs paid for abandoned or illegal signs, potential sign sites, or signs which were built during a period of time which makes them ineligible for compensation under 23 U.S.C. 131, or for rights in sites on which signs have been abandoned or illegally erected by a sign owner.
 - (4) The acquisition cost of supporting poles or partially completed sign structures in nonconforming areas which do not have advertising or informative content thereon unless the owner can show to the State's satisfaction he has not abandoned the structure. When the State has determined the sign structure has not been abandoned, Federal funds will participate in the acquisition of the structure, provided the cost are incurred in accordance with State law.

§ 750.306 Documentation for Federal participation.

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

- (a) *Payment to sign owner.*
- (1) A photograph of the sign in place. Exceptions may be made in cases where in one transaction the State has acquired a number of a company's nominal value signs similar in size, condition and shape. In such cases, only a sample of representative photographs need be provided to document the type and condition of the signs.
 - (2) Evidence showing the sign was nonconforming as of the date of taking.
 - (3) Value documentation and proof of obligation of funds.

- (4) Satisfactory indication of ownership of the sign and compensable interest therein (e.g., lease or other agreement with the property owner, or an affidavit, certification, or other such evidence of ownership).
- (5) Evidence that the sign falls within one of the three categories shown in § 750.302 of this regulation. The specific category should be identified.
- (6) Evidence that the right, title, or interest pertaining to the sign has passed to the State, or that the sign has been removed.

(b) **Payment to the site owner.**

- (1) Evidence that an agreement has been reached between the State and owner.
- (2) Value documentation and proof of obligation of funds.
- (3) Satisfactory indication of ownership or compensable interest.

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

[39 FR 27436, July 29, 1974, as amended at 41 FR 31198, July 27, 1976]

§ 750.307 FHWA project approval.

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

- (a) A general description of the project.
- (b) The total number of signs to be acquired.
- (c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

§ 750.308 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1424 and as prescribed.^[1]

[39 FR 27436, July 29, 1974, as amended at 41 FR 9321, Mar. 4, 1976]

Subpart E—Signs Exempt From Removal in Defined Areas

Authority: 23 U.S.C. 131 and 315, 49 CFR 1.48, 23 CFR 1.32.

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

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

§ 750.501 Purpose.

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

§ 750.502 Applicability.

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

§ 750.503 Exemptions.

- (a) The Federal Highway Administration (FHWA) may approve a State's request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:
 - (1) Have been lawfully erected prior to May 5, 1976, and must continue to be lawfully maintained.
 - (2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1976. Repair and maintenance of these signs shall conform with the State's approved maintenance standards as required by subpart G of this part.
- (b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:
 - (1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.
 - (2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.
- (c) In support of its request for exemption, the State shall submit to the FHWA:
 - (1) Its requirements and method (see § 750.503(b)).
 - (2) The limits of the defined area(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1976.
 - (3) The application of the requirements and method to the defined areas, demonstrating that the signs provide directional information to goods and services of interest to the traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).
 - (4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.
 - (5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to determine if an exemption is still warranted.

- (d) The FHWA, upon receipt of a State's request for exemption, shall prior to approval:
 - (1) Review the State's requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.
 - (2) Review the State's request and the proposed exempted area for compliance with State requirements and methods.
- (e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.
- (f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.

Subpart F [Reserved]

Subpart G—Outdoor Advertising Control

Authority: 23 U.S.C. 131 and 315; 49 CFR 1.48.

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

§ 750.701 Purpose.

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

§ 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 660 feet of the nearest edge of the right-of-way. These provisions apply regardless of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

§ 750.703 Definitions.

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

- (a) **Commercial and industrial zones** are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.
- (b) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
- (c) **Federal-aid Primary Highway** means any highway on the system designated pursuant to 23 U.S.C. 103(b).

- (d) **Interstate Highway** means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).
- (e) **Illegal sign** means one which was erected or maintained in violation of State law or local law or ordinance.
- (f) **Lease** means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a specified purpose, and which is a valid contract under the laws of a State.
- (g) **Maintain** means to allow to exist.
- (h) **Main-traveled way** means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- (i) **Sign, display or device**, hereinafter referred to as "sign," means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.
- (j) **State law** means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.
- (k) **Unzoned area** means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.
- (l) **Unzoned commercial or industrial areas** are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).
- (m) **Urban area** is as defined in 23 U.S.C. 101(a).
- (n) **Visible** means capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

§ 750.704 Statutory requirements.

- (a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:
 - (1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in subpart B, part 750, chapter I, 23 CFR, National Standards for Directional and Official Signs;
 - (2) Signs advertising the sale or lease of property upon which they are located;
 - (3) Signs advertising activities conducted on the property on which they are located;

- (4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;
- (5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and
- (6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.
- (b) 23 U.S.C. 131(d) provides that signs in § 750.704(a) (4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.
- (c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.
- (d) 23 U.S.C. 131 provides that signs not permitted under § 750.704 of this regulation must be removed by the State.

§ 750.705 Effective control.

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

- (a) Prohibit the erection of new signs other than those which fall under § 750.704(a)(1) through (6);
- (b) Assure that signs erected under § 750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;
- (c) Assure that signs erected under § 750.704(a)(1) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;
- (d) Remove illegal signs expeditiously;
- (e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (subpart D, part 750, chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);
- (f) Assure that signs erected under § 750.704(a)(6) comply with § 750.710, Landmark Signs, if landmark signs are allowed;
- (g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;
- (h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;
- (i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and
- (j) Submit regulations and enforcement procedures to FHWA for approval.

[40 FR 42844, Sept. 16, 1975; 40 FR 49777, Oct. 24, 1975]

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

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

- (a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.
- (b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or "V" type signs.
- (c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:
 - (1) The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.
 - (2) The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.
 - (3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.
 - (4) The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.
 - (5) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.

§ 750.707 Nonconforming signs.

- (a) **General.** The provisions of § 750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.

- (b) **Nonconforming signs.** A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.
- (c) **Grandfather clause.** At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.
- (d) **Maintenance and continuance.** In order to maintain and continue a nonconforming sign, the following conditions apply:
 - (1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:
 - (i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.
 - (ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.
 - (2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.
 - (3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.
 - (4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.
 - (5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

- (6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.
 - (i) Each state shall develop criteria to define destruction, abandonment and discontinuance. These criteria may provide that a sign which for a designated period of time has obsolete advertising matter or is without advertising matter or is in need of substantial repair may constitute abandonment or discontinuance. Similarly, a sign damaged in excess of a certain percentage of its replacement cost may be considered destroyed.
 - (ii) Where an existing nonconforming sign ceases to display advertising matter, a reasonable period of time to replace advertising content must be established by each State. Where new content is not put on a structure within the established period, the use of the structure as a nonconforming outdoor advertising sign is terminated and shall constitute an abandonment or discontinuance. Where a State establishes a period of more than one (1) year as a reasonable period for change of message, it shall justify that period as a customary enforcement practice within the State. This established period may be waived for an involuntary discontinuance such as the closing of a highway for repair in front of the sign.
- (e) **Just compensation.** The States are required to pay just compensation for the removal of nonconforming lawfully existing signs in accordance with the terms of 23 U.S.C. 131 and the provisions of subpart D, part 750, chapter I, 23 CFR. The conditions which establish a right to maintain a nonconforming sign and therefore the right to compensation must pertain at the time it is acquired or removed.

§ 750.708 Acceptance of state zoning.

- (a) 23 U.S.C. 131(d) provide that signs “may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law.” Section 131(d) further provides, “The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act.”
- (b) State and local zoning actions must be taken pursuant to the State's zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.
- (c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.
- (d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

§ 750.709 On-property or on-premise advertising.

- (a) A sign which consists solely of the name of the establishment or which identifies the establishment's principal or accessory products or services offered on the property is an on-property sign.
- (b) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.

- (c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.
- (d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (subpart A, part 750, chapter I, 23 CFR) in those States which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:
 - (1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and
 - (2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.
 - (3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as "on-property" signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

- (a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.
- (b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.
- (c) Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an "outdoor advertising sign" has then been erected which must comply with the State law in effect on that date.

§ 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

§ 750.713 Bonus provisions.

23 U.S.C. 131(j) specifically provides that any State which had entered into a bonus agreement before June 30, 1965, will be entitled to remain eligible to receive bonus payments provided it continues to carry out its bonus agreement. Bonus States are not exempt from the other provisions of 23 U.S.C. 131. If a State elects to comply with both programs, it must extend controls to the Primary System, and continue to carry out its bonus agreement along the Interstate System except where 23 U.S.C. 131, as amended, imposes more stringent requirements.

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Title 23 —Highways

Chapter I —Federal Highway Administration, Department of Transportation

Subchapter H —Right-of-Way and Environment

Part 750 —Highway Beautification

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

Subpart G Outdoor Advertising Control

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

Subpart G—Outdoor Advertising Control

Authority: 23 U.S.C. 131 and 315; 49 CFR 1.48.

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

§ 750.701 Purpose.

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

§ 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 660 feet of the nearest edge of the right-of-way. These provisions apply regardless of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

§ 750.703 Definitions.

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

- (a) **Commercial and industrial zones** are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.
- (b) **Erect** means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
- (c) **Federal-aid Primary Highway** means any highway on the system designated pursuant to 23 U.S.C. 103(b).
- (d) **Interstate Highway** means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).
- (e) **Illegal sign** means one which was erected or maintained in violation of State law or local law or ordinance.
- (f) **Lease** means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a specified purpose, and which is a valid contract under the laws of a State.
- (g) **Maintain** means to allow to exist.
- (h) **Main-traveled way** means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- (i) **Sign, display or device**, hereinafter referred to as "sign," means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.
- (j) **State law** means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.
- (k) **Unzoned area** means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.
- (l) **Unzoned commercial or industrial areas** are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).

- (m) **Urban area** is as defined in 23 U.S.C. 101(a).
- (n) **Visible** means capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

§ 750.704 Statutory requirements.

- (a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:
 - (1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in subpart B, part 750, chapter I, 23 CFR, National Standards for Directional and Official Signs;
 - (2) Signs advertising the sale or lease of property upon which they are located;
 - (3) Signs advertising activities conducted on the property on which they are located;
 - (4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;
 - (5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and
 - (6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.
- (b) 23 U.S.C. 131(d) provides that signs in § 750.704(a) (4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.
- (c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.
- (d) 23 U.S.C. 131 provides that signs not permitted under § 750.704 of this regulation must be removed by the State.

§ 750.705 Effective control.

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

- (a) Prohibit the erection of new signs other than those which fall under § 750.704(a)(1) through (6);
- (b) Assure that signs erected under § 750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;
- (c) Assure that signs erected under § 750.704(a)(1) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;
- (d) Remove illegal signs expeditiously;

- (e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (subpart D, part 750, chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);
- (f) Assure that signs erected under § 750.704(a)(6) comply with § 750.710, Landmark Signs, if landmark signs are allowed;
- (g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;
- (h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;
- (i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and
- (j) Submit regulations and enforcement procedures to FHWA for approval.

[40 FR 42844, Sept. 16, 1975; 40 FR 49777, Oct. 24, 1975]

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

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

- (a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.
- (b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or "V" type signs.
- (c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:
 - (1) The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.
 - (2) The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.
 - (3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

- (4) The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.
- (5) Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.

§ 750.707 Nonconforming signs.

- (a) **General.** The provisions of § 750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.
- (b) **Nonconforming signs.** A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.
- (c) **Grandfather clause.** At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.
- (d) **Maintenance and continuance.** In order to maintain and continue a nonconforming sign, the following conditions apply:
 - (1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease or agreement with the property owner. There are two exceptions to actual existence as follows:
 - (i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.
 - (ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.
 - (2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.

- (3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.
- (4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.
- (5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.
- (6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.
 - (i) Each state shall develop criteria to define destruction, abandonment and discontinuance. These criteria may provide that a sign which for a designated period of time has obsolete advertising matter or is without advertising matter or is in need of substantial repair may constitute abandonment or discontinuance. Similarly, a sign damaged in excess of a certain percentage of its replacement cost may be considered destroyed.
 - (ii) Where an existing nonconforming sign ceases to display advertising matter, a reasonable period of time to replace advertising content must be established by each State. Where new content is not put on a structure within the established period, the use of the structure as a nonconforming outdoor advertising sign is terminated and shall constitute an abandonment or discontinuance. Where a State establishes a period of more than one (1) year as a reasonable period for change of message, it shall justify that period as a customary enforcement practice within the State. This established period may be waived for an involuntary discontinuance such as the closing of a highway for repair in front of the sign.
- (e) **Just compensation.** The States are required to pay just compensation for the removal of nonconforming lawfully existing signs in accordance with the terms of 23 U.S.C. 131 and the provisions of subpart D, part 750, chapter I, 23 CFR. The conditions which establish a right to maintain a nonconforming sign and therefore the right to compensation must pertain at the time it is acquired or removed.

§ 750.708 Acceptance of state zoning.

- (a) 23 U.S.C. 131(d) provide that signs “may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law.” Section 131(d) further provides, “The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act.”
- (b) State and local zoning actions must be taken pursuant to the State's zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

- (c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.
- (d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

§ 750.709 On-property or on-premise advertising.

- (a) A sign which consists solely of the name of the establishment or which identifies the establishment's principal or accessory products or services offered on the property is an on-property sign.
- (b) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.
- (c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.
- (d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (subpart A, part 750, chapter I, 23 CFR) in those States which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:
 - (1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and
 - (2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.
 - (3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as "on-property" signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

§ 750.710 Landmark signs.

- (a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.
- (b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.
- (c) Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

§ 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an "outdoor advertising sign" has then been erected which must comply with the State law in effect on that date.

§ 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

§ 750.713 Bonus provisions.

23 U.S.C. 131(j) specifically provides that any State which had entered into a bonus agreement before June 30, 1965, will be entitled to remain eligible to receive bonus payments provided it continues to carry out its bonus agreement. Bonus States are not exempt from the other provisions of 23 U.S.C. 131. If a State elects to comply with both programs, it must extend controls to the Primary System, and continue to carry out its bonus agreement along the Interstate System except where 23 U.S.C. 131, as amended, imposes more stringent requirements.

23 USC 131: Control of outdoor advertising
Text contains those laws in effect on August 18, 2024

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§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

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Title 49 —Transportation

Subtitle A —Office of the Secretary of Transportation

Part 24 —Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

Subpart D —Payments for Moving and Related Expenses

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.85.

Source: 89 FR 36944, May 3, 2024, unless otherwise noted.

§ 24.301 Payment for actual reasonable moving and related expenses.

(a) **General.**

- (1) Any owner-occupant or tenant who qualifies as a displaced person (defined at § 24.2(a)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm, or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the agency determines to be reasonable and necessary.
- (2) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under this section to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at § 24.502(a)(3), the homeowner-occupant is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

(b) **Moves from a dwelling.** A displaced person's actual, reasonable, and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the methods in paragraphs (b)(1) and (2) of this section (eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (7) of this section):

- (1) **Commercial move.** Moves performed by a professional mover.
- (2) **Self-move.** Moves that may be performed by the displaced person in one or a combination of the following methods:
 - (i) **Fixed Residential Moving Cost Schedule.** The Fixed Residential Moving Cost Schedule described in § 24.302.
 - (ii) **Actual cost move.** Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover for moving staff necessary for moving the residential personal property. Costs for moving personal property that requires special handling should not exceed the hourly market rate for a commercial specialist. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.
 - (iii) **A moving cost estimate.** Prepared by a qualified agency staff person, as developed from the agency's thorough review of the personal property to be moved and documented costs for materials, equipment, and labor. Hourly labor rates should not exceed the cost paid by a commercial mover for moving staff. Costs for moving residential personal property that requires special handling should not exceed the hourly rate for a commercial specialist.

Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover. The cost of materials should equal those readily available locally.

- (iv) **Commercial mover estimate.** Based on the lower of two bids from a commercial mover. Federal funding agencies may establish policies and procedures which require its grantees to calculate and subtract an estimated amount of overhead and profit from the moving cost bids to establish a reimbursement eligibility.

- (c) **Moves from a mobile home.** Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (10) of this section. A displaced person's actual, reasonable, and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods:

- (1) **Commercial move.** Moves performed by a professional mover.

- (2) **Self-move.** Moves that may be performed by the displaced person in one or a combination of the following methods:

- (i) **Fixed Residential Moving Cost Schedule.** The Fixed Residential Moving Cost Schedule described in § 24.302.

- (ii) **Actual cost move.** Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover for moving staff necessary for moving the residential personal property. Costs for moving personal property that requires special handling should not exceed the hourly market rate for a commercial specialist. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

- (iii) **A moving cost estimate.** Prepared by a qualified agency staff person, as developed from the agency's thorough review of the personal property to be moved, and documented estimated costs for materials, equipment, and labor. Hourly labor rates should not exceed the cost paid by a commercial mover for moving staff. Costs for moving residential personal property that requires special handling should not exceed the hourly rate for a commercial specialist. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover. The cost of materials should equal those readily available locally.

- (iv) **Commercial mover estimate.** Based on the lower of two bids from a commercial mover. Federal funding agencies may establish policies and procedures which require its grantees to calculate and subtract an estimated amount of overhead and profit from the moving cost bids to establish a reimbursement eligibility.

- (d) **Moves from a business, farm, or nonprofit organization.** Eligible expenses for moves from a business, farm, or nonprofit organization include those expenses described in paragraphs (g)(1) through (7) and (11) through (18) of this section and § 24.303. Personal property as determined by an inventory from a business, farm, or nonprofit organization may be moved by one or a combination of the following methods:

- (1) **Commercial move.** Based on the lower of two bids or estimates prepared by a commercial mover. At the agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.
- (2) **Self-move.** A self-move payment may be based on one or a combination of the following:
 - (i) The lower of two bids or estimates prepared by a commercial mover or qualified agency staff person. At the agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or
 - (ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.
 - (iii) A qualified agency staff person may develop a move cost finding by estimating and determining the cost of a small uncomplicated nonresidential personal property move of \$5,000 or less, with the written consent of the person. This estimate may include only the cost of moving personal property which does not require disconnect and reconnect and/or specialty moving services necessary for activities including crating, lifting, transportation, and setting of the item in place.
- (e) **Personal property only.** Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm, or nonprofit organization include those expenses described in paragraphs (g)(1) through (7) and (18) of this section. (See appendix A to this part, section 24.301(e).)
- (f) **Advertising signs.** The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:
 - (1) The depreciated reproduction cost of the sign, as determined by the agency, less the proceeds from its sale; or
 - (2) The estimated cost of moving the sign, but with no allowance for storage.
- (g) **Eligible actual moving expenses.**
 - (1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the agency determines that relocation beyond 50 miles is justified.
 - (2) Packing, crating, unpacking, and uncrating of the personal property.
 - (3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms, or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State, or local law, code, or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
 - (4) An agency may determine that the storage of personal property is a reasonable and necessary moving expense for a displaced person or person required to move temporarily under this part. Agencies may approve a payment for storage when the process of relocating from the acquired site

to the replacement site is delayed for reasons beyond the control of the displaced person. Storage may not be longer than 12 months, starting at the date of vacation from the acquired site and ending when the replacement site becomes available. Agencies may approve storage for more than 12 months in unusual instances as justified, documented, and approved by the agency.

- (5) Insurance for the replacement value of the property in connection with the move and necessary storage.
- (6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- (7) A displaced tenant is entitled to reasonable reimbursement, as determined by the agency, for actual expenses not to exceed \$1,000, incurred for rental replacement dwelling application fees or credit reports required to lease a replacement dwelling.
- (8) Other moving-related expenses that are not listed as ineligible under paragraph (h) of this section, as the agency determines to be reasonable and necessary.
- (9) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.
- (10) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.
- (11) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced or temporarily moved from a mobile home park or the agency determines that payment of the fee is necessary to effect relocation.
- (12) Any actual, reasonable, or necessary costs of a license, permit, fee, or certification required of the displaced person to operate a business, farm, or nonprofit at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees, or certification.
- (13) Professional services as the agency determines to be actual, reasonable, and necessary for:
 - (i) Planning the move of the personal property;
 - (ii) Moving the personal property; and
 - (iii) Installing the relocated personal property at the replacement location.
- (14) Relettering signs, replacing stationery on hand at the time of displacement or temporary move, and making reasonable and necessary updates to other media that are made obsolete as a result of the move. (See appendix A to this part, section 24.301(g)(14).)
- (15) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of:
 - (i) If the item is currently in use, the lesser of:
 - (A) The estimated cost to move the item up to 50 miles and reinstall; or

- (B) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the agency determines that such effort is not necessary.
- (ii) If the item is not currently in use: The estimated cost of moving the item 50 miles, as is.
 - (iii) When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices. (See appendix A of this part, section 24.301(g)(15).)
- (16) The reasonable cost incurred in attempting to sell an item that is not to be relocated.
- (17) If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:
 - (i) The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
 - (ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.
- (18) Searching for a replacement location.
 - (i) A business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$5,000, as the agency determines to be reasonable, which are incurred in searching for a replacement location, including:
 - (A) Transportation;
 - (B) Meals and lodging away from home;
 - (C) Time spent searching, based on reasonable salary or earnings;
 - (D) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;
 - (E) Time spent in obtaining permits and attending zoning hearings; and
 - (F) Expenses negotiating the purchase of a replacement site based on a reasonable salary or fee, including actual, reasonable, and necessary attorney's fees.
 - (ii) The Federal funding agency may, on a program wide or project basis, allow a one-time payment of \$1,000 for search expenses with minimal or no documentation as an alternative payment method to paragraph (g)(18)(i) of this section. (See appendix A to this part, section 24.301(g)(18).)
- (19) When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the agency, the allowable moving cost payment shall not exceed the lesser of: the amount which would be received if the property were sold at the site; or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this paragraph (g)(19) include, but are not limited to, stockpiled sand, gravel, minerals, metals, and other similar items of personal property as determined by the agency.

Payment for actual reasonable moving and related expenses.

- (h) ***Ineligible moving and related expenses.*** The following is a nonexclusive listing of payments a displaced person is not entitled to:
- (1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this part does not preclude the computation under § 24.401(c)(2)(iii));
 - (2) Interest on a loan to cover moving expenses;
 - (3) Loss of goodwill;
 - (4) Loss of profits;
 - (5) Loss of trained employees;
 - (6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in § 24.304(a)(6);
 - (7) Personal injury;
 - (8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency;
 - (9) Expenses for searching for a temporary or replacement dwelling which include costs for mileage, meals, lodging, time and professional real estate broker or attorney's fees;
 - (10) Physical changes to the real property at the temporary or replacement location of a business or farm operation except as provided in paragraph (g)(3) of this section and § 24.304(a);
 - (11) Costs for storage of personal property on real property already owned or leased by the displaced person or person to be moved temporarily;
 - (12) Refundable security and utility deposits; and
 - (13) Cosmetic changes to a replacement or temporary dwelling, which are not required by State or local law, such as painting, draperies, or replacement carpet or flooring.
- (i) ***Notification and inspection (nonresidential).*** The agency shall inform the displaced person and persons required to move temporarily, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the person as set forth in § 24.203. To be eligible for payments under this section the person must:
- (1) Provide the agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the agency may waive this notice requirement after documenting its file accordingly.
 - (2) Permit the agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.
- (j) ***Transfer of ownership (nonresidential).*** Upon request and in accordance with applicable law, the claimant shall transfer to the agency ownership of any personal property that has not been moved, sold, or traded in.