agrees to and does file a notice with the respondents that he will be bound by the provisions contained in this order;

(d) If any person covered by subparagraph (a) above, does not agree to file such a notice with the respondents and be bound by the provisions of this order, the respondents shall not engage or utilize the services of such person in any of the activities or functions referred to in said subparagraph (a) above;

(e) Respondents advise each person covered by subparagraph (a) above, that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own the deceptive or unfair acts or practices prohibited by this order;

(f) Respondents institute a program of continuing surveillance adequate to reveal whether the business practices of each of the persons covered by subparagraph (a) above, conform with the provisions and requirements of this order:

(g) Respondents discontinue their relationship with any person covered by subparagraph (a) above, in the event it should be revealed by the aforesaid program of surveillance that any such person has, after the date of this order, engaged on more than one occasion, in any act or practice prohibited by this order; and

(h) Respondents submit to the Commission a detailed report every 6 months for a period of 3 years from the effective date of this order demonstrating the effectiveness of the steps or actions taken by respondents with regard to the aforesaid surveillance program.

2. *It is further ordered*, That respondents shall notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporations which may affect compliance obligations arising out of this order.

V.—*It is further ordered*, That respondents herein shall, within 60 days after the service upon them of this order, file with the Commission, a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued May 1, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary*.

[FR Doc.73-12277 Filed 6-19-73;8:45 am]

[Docket No. C-2396]

PART 13—PROHIBITED TRADE PRACTICES

Discount Carpets, Inc., & Bobby Gene Chambers

Subpart—Advertising falsely or misleadingly: § 13.15, Business status, advantages or connections: 13.15-225, Personnel or staff; § 13.30, Composition of goods: 13.30-75, Textile Fiber Products Identification Act; § 13.155, Prices: 13.155-15, Comparative; 13.155-35, Discount savings; § 13.155-40, Exaggerated as regular and customary; 13.155-70, Percentage savings; 13.155-100, Usual as reduced, special, etc.; § 13.270, Trademark registration or use. Subpart—Failing to maintain records: § 1051, Failing to maintain records: 13.1051-20, Adequate. Subpart—Misbranding or mislabeling: § 13.1185, Composition: 13.1185-80, Textile Fiber Products Identification Act: § 13.1212, Formal regulatory and statutory requirements: 13.1212-80, Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1520, Personnel or staff; Goods: § 13.1590, Composition: 13.1590-70, Textile Fiber Products Identification Act; Prices: § 13.1785, Comparative; § 13.1805, Exaggerated as regular and customary; § 13.1820, Retail as cost, etc., or discounted; § 13.1825, Usual as reduced or to be increased. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845, Composition: 13.1845-70, Textile Fiber Products Identification Act; § 13.1852, Formal regulatory or statutory requirements; 13.1852-70, Textile Fiber Products Identification Act; § 13.1882, Prices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Discount Carpets, Inc., et al., Rockville Md., docket No. C-2396, May 2, 1973.]

In the Matter of Discount Carpets, Inc., a Corporation, and Bobby Gene Chambers, Individually and as an Officer of Said Corporation

Consent order requiring a Rockville, Md., seller, distributor, and installer of carpeting and floor coverings, among other things to cease misrepresenting sale prices as being significantly less than the regular prices; misrepresenting comparative prices; misrepresenting percentage savings; failing to maintain adequate records; misrepresenting the training, certification, or qualifications of any of respondent's personnel; and falsely advertising and misbranding its textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered*, That respondents Discount Carpets, Inc., a corporation, its successors and assigns, and its officers and Bobby Gene Chambers, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of carpeting and floor coverings, or any other article of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Sale," or any other word or words of similar import of meaning not set forth specifically herein unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. (a) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise or services have been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise or services in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise or services at the compared price or some higher price.

(c) Representing, directly or indirectly, orally or in writing, that by purchasing any of said merchandise or services, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or services, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or services of like grade and quality.

3. Advertising or otherwise representing a compared value price for carpet remnants or rugs (a) unless the carpet remnants or rugs being advertised are of the same grade and quality as the carpets with which such advertised prices are compared; and (b) without disclosing in immediate conjunction therewith that the carpet remnants or rugs are usually sold for less than wall-to-wall prices, and that the compared value is based on the wall-to-wall price of carpeting of the same grade and quality.

4. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing in immediate conjunction therewith, the basis for such savings representations.

5. Failing to maintain and produce for inspection or copying for a period of 3 years, adequate records (a) which disclose the facts upon which any savings claims, sale claims, and other similar representations as set forth in paragraph

1, 2, and 4 of this order are based, and (b) from which the validity of any savings claims, sale claims, and similar representations can be determined.

6. Representing, directly or by implication, that any article of merchandise is offered for sale or sold at a discount price or at a price below the price charged by other retail establishments for the same or substantially similar merchandise unless respondent shall have conducted, within 12 months before making any such representation, a statistically significant survey of principal retail establishments in the same trade area, which survey establishes that a substantial number of such outlets sell the same or similar merchandise at prices substantially above the prices represented by respondent to be discount, and unless respondent shall retain all documents relating to the manner in which such survey was conducted and the results thereof for at least 24 months after making any such representation.

7. Representing, directly or by implication, orally or in writing, that respondents employ or have available for their prospective customers a trained, qualified interior decorator; or that respondents' installers have received certification by a recognized institution or government licensing agency; or misrepresenting in any manner, the training, certification, or qualifications of any of respondents' employees, agents, or representatives.

II. *It is further ordered*, That respondents Discount Carpets, Inc., a corporation, its successors and assigns, and its officers, and Bobby Gene Chambers, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, sale, advertising, or offering for sale, in commerce, or the transportation, or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

B. Falsely and deceptively advertising textile products by:

1. Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label, or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to set forth in advertising the fiber content of floor covering containing exempted backings, fillings, or paddings, that such disclosure related only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings or paddings.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondents shall maintain for at least a 1-year period, following the effective date of this order, copies of all advertisements, including newspaper, radio, and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of carpeting or floor coverings, or utilized in the advertising, promotion, or sale of carpeting or floor coverings and other merchandise.

It is further ordered, That respondents, for a period of 1 year from the effective date of this order, shall provide each advertising agency utilized by respondents, and each newspaper publishing company, television, or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of carpeting or floor coverings and other merchandise, with a copy of the Commission's news release setting forth the terms of this order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, sale of any product, consummation of any extension of consumer credit, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued May 2, 1973.

By the Commission,

[SEAL] CHARLES A. TOBIN, *Secretary*.

[FR Doc.73-12278 Filed 6-19-73;8:45 am]

[Docket No. C-2397]

PART 13—PROHIBITED TRADE PRACTICES

Rubins Discount Carpet Center of Virginia, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30, Composition of goods: 13.30-75, Textile Fiber Products Identification Act; § 13.155, Prices: 13.155-15 comparative; 13.155-35 discount savings; 13.155-40 exaggerated as regular and customary; 13.155-70 percentage savings; 13.155-100 usual as reduced, special, etc.; § 13.270, Trademark registration or use: Subpart—Failing to maintain records: § 13.1051, Failing to maintain records: 13.1051-20 Adequate. Subpart—Misbranding or mislabeling: § 13.1185, Composition: 13.1185-80 Textile Fiber Products Identification Act; § 13.1212, Formal regulatory and statutory requirements: 13.1212-80, Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—business status, advantages or connections: § 13.1395, Connections and arrangements with others: Goods: § 13.1590, Composition: 13.1590-70, Textile Fiber Products Identification Act; Prices: § 13.1785, Comparative: § 13.1805, Exaggerated as regular and customary; § 13.1820, Retail as cost, etc., or discounted; § 13.1825, Usual as reduced or to be increased. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845, Composition: 13.1845-70 Textile Fiber Products Identification Act; § 13.1852, Formal regulatory and statutory requirements: 13.1852-70, Textile Fiber Products Identification Act; § 13.1880 Old, used, or reclaimed as unused or new.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70). [Cease-and-desist order, Rubins Discount Carpet Center of Virginia, Inc., et al., Arlington, Va. Docket No. C-2397, May 2, 1973.]

In the Matter of Rubins Discount Carpet Center of Virginia, Inc., a Corporation, and Rubins Discount Carpet Center of Maryland, Inc., a Corporation, and Rubins Discount Carpet Center of Pennsylvania, Inc., a Corporation, and Rubins Discount Carpet Center of New Jersey, Inc., a Corporation, and Milton Rubin, Alvin Rubin, and Stanley Greenberg, Individually and as Officers of said Corporations

Consent order requiring an Arlington, Va., corporation and other corporations which sell, distribute, and install carpeting and floor coverings, among other things, to cease misrepresenting sale prices as being significantly less than regular selling prices; misrepresenting comparative prices; misrepresenting percentage savings; failing to maintain adequate records; and falsely advertising and misbranding its textile fiber products.

The order to cease-and-desist, including further order requiring report of compliance therewith, is as follows:

I.—*It is ordered*, That respondents Rubins Discount Carpet Center of Virginia, Inc., a corporation, and Rubins Discount Carpet Center of Maryland, Inc., a corporation, and Rubins Discount Carpet Center of Pennsylvania, Inc., a corporation, and Rubins Discount Carpet Center of New Jersey, Inc., a corporation, their successors and assigns, and their officers, and Milton Rubin, Alvin Rubin, and Stanley Greenburg, individually and as officers of said corporations and respondents' agents, representatives, and employees, directly or through any corporate, subsidiary, division of other device, in connection with the advertising, offering for sale, sale or distribution of carpeting and floor coverings, or any other article of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "sale" or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent regular course of their business.

2. (a) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at the compared price or some higher price.

(c) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

3. Advertising or otherwise representing a compared value price for carpet remnants or rugs (a) unless the carpet remnants or rugs being advertised are of the same grade and quality as the carpets with which such advertised prices are compared; and

(b) Without disclosing in immediate conjunction therewith that the carpet remnants or rugs are usually sold for less than wall-to-wall prices, and that the compared value is based on the wall-to-wall price of carpeting of the same grade and quality.

4. Representing, directly or by implication, orally or in writing, that purchasers of respondents' merchandise will save any stated dollar or percentage amount without fully and conspicuously disclosing in immediate conjunction therewith, the basis for such savings representations.

5. Failing to maintain and produce for inspection or copying for a period of 3 years, adequate records (a) which disclose the facts upon which any savings claims, sale claims, and other similar representations as set forth in paragraphs 1, 2, and 4 of this order are based, and (b) from which the validity of any savings claims, sale claims, and similar representations can be determined.

6. Representing, directly or by implication, orally or in writing, that carpet dealers or other floor covering establishments cannot purchase carpets, floor coverings, or any other merchandise at the same prices or from the same sources which are available to respondents.

II.—*It is further ordered*, That respondents, Rubins Discount Carpet Center of Virginia, Inc., a corporation, and Rubins Discount Carpet Center of Maryland, Inc., a corporation, and Rubins Discount Carpet Center of Pennsylvania, Inc., a corporation, and Rubins Discount Carpet Center of New Jersey, Inc., a corporation, their successors and assigns, and their officers, and Milton Rubin, Alvin Rubin, and Stanley Greenberg, individually and as officers of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate, subsidiary, division or other device, in connection with the introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

B. Falsely and deceptively advertising textile products by:

1. Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label, or other means of identification under section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to set forth in advertising the fiber content of floor covering containing exempted backings, fillings, or paddings, that such disclosure related only to the face, pile, or outer surface of such textile fiber products and not to the exempted backings, fillings, or paddings.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondents shall maintain for at least a 1-year period, following the effective date of this order, copies of all advertisements, including newspaper, radio, and television advertisements, direct-mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of obtaining leads for the sale of carpeting or floor coverings, or utilized in the advertising, promotion or sale of carpeting or floor coverings and other merchandise.

It is further ordered, That respondents, for a period of 1 year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of carpeting or floor coverings and other merchandise, with a copy of the Commission's News Release setting forth the terms of this order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale, or sale of any product or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this order.

Issued May 2, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.73-12279 Filed 6-19-73;8:45 am]

Title 19—Customs Duties

CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-165]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Export of Pre-Columbian Art; Addition of Colombia to Restricted List

JUNE 11, 1973.

On May 2, 1973, an amendment to part 12 of the Customs Regulations was published in the FEDERAL REGISTER (38 FR 10807), which set forth regulations for the importation into the United States of pre-Columbian monumental and architectural sculpture or murals exported contrary to the laws of the country of origin. Section 12.105(a) limits the term "pre-Columbian monumental or architectural sculpture or mural" to certain products of Bolivia, British Honduras, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela. These countries restrict the exportation of such pre-Columbian art. Information has now been received that the laws of Colombia also restrict the exportation of pre-Columbian monumental and architectural sculpture or murals. Accordingly, § 12.105(a) is amended by inserting "Colombia" after "British Honduras."

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 204, 86 Stat. 1297; 5 U.S.C 301, 19 U.S.C. 66, 1624, 2094.)

The amendment to part 12 which sets forth the regulations affecting the importation of pre-Columbian monumental and architectural sculpture or murals became effective on June 1, 1973. Therefore, good cause exists for dispensing with notice and public procedure as contrary to the public interest, and good cause is found for dispensing with a delayed effective date, under the provisions of 5 U.S.C. 553.

Effective date.—This amendment shall be effective on June 20, 1973.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved June 11, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-12313 Filed 6-19-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Nutrition Labeling Clarification

In the FEDERAL REGISTER of March 14, 1973 (38 FR 6951) the Commissioner of Food and Drugs published a new § 1.17 *Food; nutrition labeling.*

It has come to the attention of the Commissioner that the phrase "and contains no additional nutrition information" appearing in paragraph (a)(1) of § 1.17 has been misconstrued by some persons as prohibiting a manufacturer or producer from including any information other than the mandatory information listed in § 1.17(c).

The Commissioner recognizes that some consumers may desire information about properties of a food (e.g., fiber content, moisture) not made mandatory by § 1.17 and it was not his intent that the furnishing of such information should subject the food to the requirements of nutrition labeling.

The Commissioner concludes that this phrase is not essential to the regulation and that, for the sake of clarity, it should be deleted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), subparagraph (a)(1) of § 1.17 is amended by deleting the phrase "and contains no additional nutrition information."

As this order merely clarifies an existing regulation, notice of public procedure and delayed effective date are not necessary prerequisites to this promulgation.

Effective date.—This order shall become effective on June 20, 1973.

(Secs. 201, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047, 1055; 21 U.S.C. 321, 343, 371(a).)

Dated June 14, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-12305 Filed 6-19-73;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750—HIGHWAY BEAUTIFICATION

The regulations of the Federal Highway Administration in chapter 1 of title 23 are hereby amended by redesignating parts numbered 20, 21, and 22 as subparts A, B, and C of new part 750 of said chapter, and republishing them together with new Subpart D, "Outdoor Advertising (Acquisition of advertising signs, displays, devices, and related property interests)."

Subpart D prescribes the policies and procedures of the Federal Highway Administration relating to Federal participation in the costs of acquiring the property interests necessary for the removal of nonconforming advertising signs, displays, and devices under 23 U.S.C. 131. It codifies policies and procedures contained in Federal Highway Administration Policy and Procedure Memorandum 80-5.2, issued December 12, 1972.

In consideration of the foregoing, effective on June 20, 1973, chapter 1 of title 23 of the Code of Federal Regulations is amended by adding this new part 750, subparts A, B, C, and D, as regulations of the Federal Highway Administration.

Subpart A—National Standards for Regulation by States of Outdoor Advertising Signs, Displays, and Devices Adjacent to the National System of Interstate Highways

Subpart A—National Standards for Regulation by States of Outdoor Advertising Signs, Displays, and Devices Adjacent to the National System of Interstate and Defense Highways

AUTHORITY: 23 U.S.C. 131; delegation of authority in 49 CFR 1.48(b).

§ 750.101 Purpose.

(a) In title 23, United States Code, section 131, hereinafter called the "act," the Congress has 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.

§ 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 20.7 (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.

§ 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 of 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 the Regulations for the Administration of Federal-Aid for Highways. 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, 1970, as amended at 35 FR 18719, Dec. 10, 1970]

§ 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 subparagraph (1) or (2) of this paragraph.

(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 apreciation 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 Other Official Signs

AUTHORITY: Issued under 23 U.S.C. 131, 315, 49 U.S.C. 1651; delegation of authority in 49 CFR 1.4(d).

§ 750.151 Purpose.

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

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

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

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

§ 750.152 Application.

The following standards apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid primary system, and which are visable from the main traveled way of the system. These standards do not apply to directional and other official signs erected on the highway right-of-way.

§ 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 Defense Highways described in section 103(d) of title 23, United States Code.

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

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

(f) Maintain means to allow to exist.

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

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

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

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

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

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

(m) Directional and other 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.

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

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

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

§ 750.155 State standards.

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

Subpart C—National Standards and Criteria for Official Highway Signs within Interstate Rights-of-Way Giving Specific Information for the Traveling Public

AUTHORITY: 23 U.S.C. 131, 315, 49 U.S.C. 1651; delegation of authority to 49 CFR 1.4(d); delegation of authority in 49 CFR 148(b).

§ 750.201 Purpose.

The purpose of this part is to establish standards for the erection of signs and displays within the rights-of-way of the Interstate highway system to give the traveling public specific information as to gas, food, or lodging available on the crossroad at or near an interchange.

§ 750.202 Definitions.

As used in this part—

(a) Specific information panel means a panel, rectangular in shape, located in the same manner as other official traffic signs readable from the main traveled ways, and consisting of—

(1) The words Gas, Food, or Lodging and directional information; and

(2) One or more individual business signs mounted on the panel.

(b) Roadside area information panel or display means a panel or display, located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with specific services information.

(c) Business sign means a separately attached sign mounted on the specific information panel or roadside area information panel to show the brand or trademark and name, or both, of the motorist services available on the crossroad at or near the interchange. Nationally, regionally, or locally known commercial symbols or trademarks for service stations, restaurants and motels shall be used when applicable. The brand or trademark identification symbol used on the business sign shall be reproduced with the colors and general shape consistent with customary use. Any messages, trademarks, or brand symbols which interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or device are prohibited.

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

§ 750.203 Location.

(a) The specific information panels are designed for application at rural interchanges where a number of motorist services normally are not available. Specific information panels may not be installed within suburban or urban areas, except on circumferential, bypass, or beltway-type routes where existing roadside development is not urban in character.

(b) A separate specific information panel shall be provided on the interchange approach for each qualified type of motorist service. Where a qualified type of motorist services is not available at an interchange, the specific information panel may not be erected.

(c) The specific information panels shall be erected between the previous interchange and in advance of the first advance guide sign for the approaching interchange. These panels shall be located in the same general manner as other official traffic signs in advance of the interchange, readable from the main traveled way. The panels shall be erected in advance of the first advance guide sign and no panel shall be closer than 1,500 feet to any major guide signs, with at least an 800-foot spacing between the information panels. In the direction of traffic, the successive panels shall be those for LODGING, FOOD, GAS, in that order.

(d) The specific information panel may not be erected at an interchange at which an exit from the Interstate highway is provided, but at which no entrance ramp exists at that interchange or at another reasonably convenient location that would permit a motorist to proceed in the desired direction of travel without undue indirection or use of poor connection roads.

(e) The motorist services information, shown on the specific information panels, shall be repeated on the signs located along the interchange ramp or at the ramp terminal where the service installations are not visible from the ramp terminal. In addition, appropriate trail blazer assemblies or direction information panels, described below, may also be provided along the crossroad, as required, to adequately direct motorists to the respective service facilities. The signs shall be the same in shape, color, and message as those shown on the specific information panels, together with an arrow showing the directions for the different services and, where needed, the mileage to the service installation. Normally, this signing will not be necessary at double-exit interchanges. These sign legends or symbols shall be smaller (minimum 4-inch letter height, except that any legend on a symbol shall be in proportion to the size of the symbol) than those shown on the specific information panels.

(f) As a confirmation to the specific information panels, a sign carrying the legend GAS-FOOD-LODGING and, where applicable, PHONE and HOSPITAL shall be erected below the ground mounted exit direction sign, or may be a separate sign with appropriate directional information erected a minimum of 800 feet following the last advance guide sign. This sign shall have reflectorized white letters and border on a blue background. The legend shall be 10-inch capital letters.

(g) Roadside area information panels and displays for subsequent interchanges shall be located within safety rest areas. Motorist services information may be displayed in one roadside area for all interchanges preceding the next roadside area.

§ 750.204 Criteria to determine specific information permitted.

The following are minimum criteria for permitting business signs to be erected on the specific information panel or the roadside area information panel:

(a) The individual business installation whose name, symbol, or trademark appears on a business sign, shall have given written assurance of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, or national origin, and shall not be in continuing breach of that assurance.

(b) The maximum distance that the GAS, FOOD, or LODGING services can be located from the main traveled way to qualify for a business sign shall be in accordance with State standards, but may not exceed 3 miles in either direction, if within that 3-mile limit one or more of the service types considered is available, or, if not available, continue in 3-mile increments of consideration up to a 15-mile maximum if necessary to find an available service of the type being considered. Services beyond the 15-mile limit do not qualify for signing.

(c) GAS and associated services to qualify for erection on a panel shall include—

(1) Vehicle services such as fuel, oil, lubrication, tire repair, and water;

(2) Rest room facilities and drinking water;

(3) Continuous operation at least 16 hours per day, 7 days a week; and

(4) Telephone.

(d) FOOD to qualify for erection on a panel shall include—

(1) Where required, licensing or approval by State or political subdivision;

(2) Continuous operation to serve three meals a day, 7 days a week; and

(3) Telephone.

(e) LODGING to qualify for erection on a panel shall include—

(1) Where required, licensing or approval by State or political subdivision;

(2) Adequate sleeping accommodations; and

(3) Telephone.

§ 750.205 Composition.

(a) The GAS specific information panel shall be limited to six business signs; the FOOD and the LODGING specific information panels shall be limited to four business signs each. For a single exit interchange, the business signs shall be arranged on the panel, with a maximum of two horizontal rows. When the number of business signs is one-half or less of the maximum permitted, the arrangement shall be in one horizontal row. The maximum in one horizontal row shall be limited to one-half of the maximum permitted on the panel. The signs shall be mounted on the panel in the order of the travel distance measured from the point of the intersection of the main traveled way and the exit traveled way, the closest at the top left, the next closest at the bottom left, and continuing to the end.

(b) In the case of a double-exit interchange, the specific information panels shall consist of two sections where the same type of motorist services are to be signed for each exit. The arrangement of the business signs on each section of the panel shall be in accordance with the requirements for a single-exit specific information panel. For double exit interchanges, the travel distance shall be measured from the intersection of the main traveled way and the first exit traveled way.

(c) In the case of a double-exit interchange, the specific information panel shall display the appropriate business sign or signs and directional information for each exit. The top section of this panel shall display the supplemental signs for the first exit with the directional legend NEXT RIGHT. The lower section of the panel shall display the business signs for the second exit with the directional legend SECOND RIGHT. Exit numbering, where used, may be placed on the panels, such as EXIT 28 in place of the NEXT RIGHT or SECOND RIGHT message. The number of business signs on this panel (both sections) shall be limited to six for GAS, or four each for FOOD and LODGING.

§ 750.206 Size.

(a) The business signs displayed on the GAS information panel shall be contained within a 36-inch wide and a 24-inch high rectangular background area, including border. The business signs on the FOOD and LODGING information panels shall be contained within a 54-inch wide and a 24-inch high rectangular background area, including border.

(b) For the single-exit interchange, the maximum size of the specific information panel shall be 12 feet wide and 8 feet high, including border; the minimum size shall be 12 feet wide and 5 feet high, including border.

(c) For double-exit interchanges, where the same type of motorist services are to be signed for each exit, the specific information panel shall consist of two 12-foot wide and 5-foot high sections, one for each exit. Each section shall be capable of accommodating a maximum of either three gas business signs or two food or lodging business signs. For double-exit interchanges where a type of motorist service is to be signed for only one exit, only one 12-foot wide by 5-foot high specific information panel may be used.

(d) Latitude in design is permitted in provision of roadside area information signs or displays. Design by the State should include considerations of the architectural treatment of the buildings and other structures in the roadside area. Additional considerations are recreational, historic, and other sightseeing attractions in the area. Flexibility in design is expected and desirable. Standard symbols and trademarks, where applicable, can be used for glance recognition.

§ 750.207 Color, reflectorization, and illumination.

(a) The background color of the specific information panel shall be blue with a white reflectorized border. The words GAS, FOOD, and LODGING and exit direction messages shall be white reflectorized 10-inch capital letters mounted on the blue panel.

(b) The business sign color shall be a white message on a blue background, except that colors consistent with customary use should be used with nationally, regionally, or locally known symbols or trademarks. The principal legend on the business sign shall be at least 8 inches in height, whether capitals or lower case. However, where the symbol or trademark is used alone for the business sign, any legend on the symbol or trademark shall be in proportion to the size thereof, consistent with customary use. The business signs, symbols, or trademarks shall have a white border.

(c) The specific information panel may be illuminated, but on any interchange approach all panels shall be consistent with the treatment for other guide signs for that approach.

§ 750.208 Structural design and transverse location of signs and sign supports.

Where signs along the roadside cannot be placed at a safe distance away from the line of traffic, or in an otherwise protected site, they shall be designed to minimize the impact forces in the event of being hit by out-of-control vehicles.

§ 750.209 Inclusiveness of use.

States electing to provide service signing as described in this Part may choose to install—

(a) Specific information panels only;

(b) Roadside area information panels or displays only; or

(c) Both specific information panels and roadside area information panels or displays.

§ 750.210 Procedures to be followed by States.

Procedures to be followed by the States in applying for and obtaining approval for the erection of service signing shall be as outlined by the Federal Highway Administrator.

Subpart D—Outdoor Advertising (Acquisition of Advertising Signs, Displays, Devices, and Related Property Interests)

AUTHORITY: 23 U.S.C. 131 and 23 U.S.C. 315; delegation of authority in 49 CFR 1.48 (b).

§ 750.301 Purpose.

(a) To prescribe the Federal Highway Administration (FHWA) policies and procedures relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices under 23 U.S.C. 131. This subpart 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).

(b) To provide a framework of simplified requirements within which a State may develop its procedures to remove outdoor advertising signs in an efficient and expeditious manner.

§ 750.302 Applicability.

(a) The provisions of this subpart are applicable to all highway outdoor advertising projects on the Federal-aid Primary and Interstate Systems regardless of whether Federal funds participated in the construction thereof.

(b) The provisions of title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621–4638) do not apply to the Highway Beautification Act of 1965 (23 U.S.C. 131) as related to the sign removal program. Title III of said Act applies. However, where complete conformity would defeat the purpose of the Uniform Act and the sign removal program, the particular requirements of title III need not be followed. For example, in the acquisition of an interest of minimal value, the observance of elaborate procedures for preparing appraisals and for giving notice to sign and site owners of their right to accompany appraisers may be modified or dispensed with when their observance would impede the expeditious implementation of the program and increase administrative costs out of proportion to the cost of the minimal interest being acquired or extinguished.

(c) Funds provided by 23 U.S.C. 131 (m) may participate in the costs of acquisition of those property interests or rights necessary to permit removal of outdoor advertising signs under the Highway Beautification Act of 1965.

(d) When funds are provided by 23 U.S.C. 131(m) for the acquisition of signs the site owner shall also be compensated for the acquisition of his right to erect and maintain existing signs on qualifying sites. It is expected the site owner shall be compensated at the time or shortly after compensation is paid to the sign owner.

§ 750.303 Definitions.

The following terms are defined as to their meaning and use in the sign removal program:

(a) *Sign.* 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 Primary Systems.

(b) *Lease* (also called a license, an 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 to another person for a specified period of time.

(c) *Leasehold value.* The lessee value is the present worth of the rent saving when the contractual rent at the time of the appraisal is less than the current market rent for a comparable site. The lessor has leasehold value if the contractual rent is greater than the currently established market rent.

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

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

(f) *1966 inventory.* The record of the survey of advertising signs and junkyards compiled by the State highway department as requested in FHWA Instructional Memorandum 50-1-66 dated January 7, 1966.

(g) *Abandoned sign.* One in which the owner no longer has an interest.

§ 750.304 State policies and procedures requirements.

(a) *Policy statement.* Each State shall develop for FHWA approval a policy statement regarding the procedures it proposes to follow to implement a sign removal program under a State law complying with 23 U.S.C. 131, no later than 60 days after issuance of this subpart. States now implementing the Act should not delay sign removal while developing a policy statement.

(b) *Operating procedures.* Operating procedures should reflect in detail the procedures and controls adopted by the State to accomplish the sign removal program.

§ 750.305 Control area and zoning.

(a) The applicable control distance, 660 feet for advertising signs, shall be measured horizontally from the edges of the right-of-way along lines perpendicular to the centerline of the highway.

(b) Any revision in right-of-way limits after initial control is obtained will require similar revisions in the control area. The additional expenditures are eligible for Federal participation in the same manner as the original expenditures for creation of the controlled area.

(c) Placing the label Zoned Commercial or Industrial along areas adjacent to the highway solely for the purpose of allowing outdoor advertising to be erected or maintained is not acceptable under 23 U.S.C. 131(d).

(d) Except as stated in (c) above, the zoning of an area will determine applicability of the standards for control of outdoor advertising signs. Similarly, actual industrial or commercial use at any given time will determine the classification of unzoned commercial or industrial areas.

(e) Where State standards are more stringent than Federal control requirements along interstate and primary systems, the Administrator may approve Federal participation in costs of applying the State standards to those systems on a statewide basis.

§ 750.306 **Bonus States.**

Any State which is carrying out an agreement to control outdoor advertising along the Interstate System under the 1958 bonus program may continue to receive bonus payments. Where such a State is also in compliance with the 1965 Act requirements, it must continue to carry out the bonus agreement except where the 1965 Act calls for more restrictive controls.

§ 750.307 **Acceptable conforming signs.**

Each State shall make provision for effective control of the erection and maintenance, along the Interstate System and the Federal-aid primary system, of outdoor advertising signs which are within 660 feet of the nearest edge of the right-of-way and visible from the main traveled way of the system. Under the provisions of the 1965 Act, the following signs are permitted:

(a) Directional and other official signs, including signs and notices pertaining to natural wonders and scenic and historical attractions. These signs shall conform to national standards set forth in subpart B of Part 750 of this chapter.

(b) Signs advertising only the sale or lease of property upon which they are located.

(c) Signs advertising only activities conducted on the property on which they are located.

(d) Signs erected and maintained in areas which are zoned industrial or commercial under State law, or in unzoned industrial or commercial areas, as determined and in accordance with the provisions of the agreement between the Secretary and the State. This subsection is not applicable to on-premise signs rereferred to in (b) and (c) above.

§ 750.308 **Federal participation.**

(a) Federal reimbursement will be made on the basis of 75 percent of the costs of removal paid by the State as just compensation for:

(1) Signs which were lawfully in existence on October 22, 1965;

(2) Signs lawfully on any highway made a part of the Interstate or primary system on or after October 22, 1965, and before January 1, 1968; and

(3) Signs lawfully erected after January 1, 1968, in accordance with the criteria in the Highway Beautification Act.

(b) In the event a sign was omitted in the original inventory, the State should submit adequate evidence to establish that that the sign was in existence prior to October 22, 1965. Based on the evidence submitted, the division engineer may determine whether the sign removal cost is eligible for Federal participation under the provisions of the Act.

(c) Federal funds may participate in the cost of removal of abandoned signs and those which are illegal under State law within the controlled areas regardless of when these signs were erected, provided such costs for removal are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Federal funds may not participate in payments for rights in sites on which signs have been abandoned or illegally erected by the sign owner or in the costs of removal in cases where a new sign is erected or there has been a relocation of a sign after October 22, 1965, either as a result of a regular right-of-way taking or by the sign owner as a part of his operation and the sign in its new location is within the 660 feet controlled area.

(d) Signs lawfully erected for which just compensation is provided under paragraph 8a above, and which must be removed by requirement of the Act, are not required to be removed if Federal funds are not available.

(e) Federal funds may participate in 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. Federal funds may participate in relocation of a sign only to the extent of the cost to acquire the sign, less salvage value if any. Each sign shall be treated as a separate entity without regard to the effect its removal will have on the business operation of the sign owner, except as provided in § 750.311(d).

(f) Reimbursement for the Federal pro-rata share of the just compensation paid for the removal of outdoor advertising signs shall not be made until the removal shall have been accomplished.

(g) Except where required by State law, Federal funds will not participate in the costs of a title certificate, 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 such payment to the landowner for his interest is $2,500 or less. Federal funds, however, 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.

(h) When a duplicate payment for a landowner's interest of $2,500 or less is necessary because of a bona fide error in ownership, Federal funds will also participate in the duplicate payment provided the State has followed its title procedures as set forth in its policy and procedure submission. The State shall take all reasonable steps to recover any wrongful payment made and appropriate credit shall be made to Federal funds from the proceeds of the recovery.

(i) Subject to §§ 750.311, 750.312, and 750.313, Federal funds will not participate in items generally not compensable under eminent domain.

§ 750.309 **Payments to sign and site owners.**

(a) Payments made to the landowner and the sign owner are to be supported by schedules, formulas, value estimates or appraisals.

(b) Signs, erected without permission of the property owner, should be removed without payment to the sign owner unless the sign owner can otherwise establish his legal right to erect and maintain the sign. Federal funds may participate in such costs.

(c) Where compensation to landowners and sign owners is established by a schedule, formula or other such method approved by the FHWA, the valuation and negotiation may both be done by the same member of the staff of the State highway department, provided that any negotiated agreement does not become effective until it has been reviewed (checked) and approved by another member of the staff. Where compensation to landowners and sign owners is established by value findings, abbreviated appraisal reports, or standard appraisal reports, all such estimates shall be reviewed and approved by a State reviewing appraiser.

§ 750.310 **Program and authorization.**

(a) *Type of project.* A sign removal project may consist of any group of proposed sign removals selected in a reasonable fashion. Generally speaking, a single project should not include signs along both Interstate and Primary highways unless the number of signs along one system is so small that it would be more logical to include these in the project than on the other system.

(1) A project for sign removal on other than a Federal-aid primary route basis should be identified as CAF-000B(—), continuing the numbering sequence which began with the sign inventory project in 1966.

(2) Sign removal projects set up by Interstate routes should be by route sections unless one section contains only a very limited number of signs.

(3) Projects for the removal of outdoor advertising signs shall be programed and authorized in accordance with normal procedures and in the same manner as set forth for right-of-way projects.

(b) *Division engineer approval.* Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to the division engineer the following:

(1) A general statement or description of the project.

(2) A list of the signs to be removed, including the approximate location of each sign and its 1966 inventory number, if available.

(3) The total estimated cost of all sign removals within the project, including payments to sign owners, landowners and incidental costs.

(c) *Project priorities.* The selection and programing of sign removal projects will be the responsibility of the State.

§ 750.311 **Valuation methods.**

(a) *Schedules-formulas.* Schedules, formulas, or other methods to simplify valuation may be used. Appendix A provides guides for the development of such methods. These methods may be based on income, cost of reproduction less depreciation, or other factors. Such methods of simplified valuation do not purport to be a basis for the determination of just compensation under eminent domain principles, but are developed for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. Any such method shall be approved by FHWA prior to its use. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal under principles of eminent domain will be required.

(b) *Value finding—Appraisals.* Where appropriate the State may use its approved value finding, abbreviated appraisal, or standard appraisal report forms.

(c) *Leaseholds.* When outdoor advertising signs and sign sites involve a leasehold value, such value should be determined in the same manner as any other real estate leasehold that has value to the lessor or lessee.

(d) *Special cases—severance damages.* Generally, Federal participation will not be allowed in the payment of damages to remaining signs, or other property of a sign company alleged to be due to the taking of some 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 damages to economic plants or loss of business profits are not compensable. The State shall have the burden of justifying the recognition of severance damages pursuant to FHWA right-of-way procedures and the law of the State before Federal participation will be allowed.

§ 750.312 Valuation of sites.

(a) Normally sites will be valued by the use of schedules or formulas without requiring before and after appraisals. The additional income produced by the sign may be considered the primary indicator of value of the landowner's interest, subject to limitations of State law. Any formula or schedule developed should be based on accepted appraisal principles such as estimating the present worth of a future income stream. If the income approach is used, consideration should be given to:

(1) The terms of the lease or agreement.

(2) Annual rent received for the site.

(3) An interest rate which reflects the durability and quality of the income stream.

(4) Factors effecting the remaining life of the sign on the site.

(b) The State may establish a minimum payment for sites acquired not to exceed $100 per site interest. A landowner's right to erect and maintain signs on a contiguous ownership will be considered as one site interest, regardless of the number of signs. Federal funds will not participate in the acquisition of potential sign sites or sites where signs were built during a period of time which makes them ineligible for compensation under the law. The existing sign must be removed in order to compensate the landowner.

§ 750.313 Valuation of signs.

(a) The valuation of signs can be accomplished by developing formulas, cost schedules which reflect typical construction costs of signs or, by using other appropriate estimating methods. The State should obtain information from sign companies and others to support its formula or schedule methods.

(b) *Minimum payment.* The State may establish a minimum payment for signs acquired not to exceed $100 per interest. A sign owner's right to erect and maintain signs located on a contiguous ownership will be considered as one interest, regardless of the number of signs.

(c) *Sign removal.* Sign removal will be accomplished in accord with the State's procedural statement. The statement should include provision for:

(1) *Owner retention.* Owner may retain removed signs with no deduction from the estimated value where it has been determined the sign has only a nominal salvage value. Signs which have an apparent salvage value shall be removed in accord with the State's procedures.

(2) *State removal.* Where owners do not remove signs, the State shall remove the signs on a contract basis, or when appropriate by State force account.

§ 750.314 Review of estimates.

All estimates whether based on an approved schedule, formula, or other such method or, on a value finding, abbreviated appraisal, or standard appraisal, shall be reviewed and approved by a person other than one who prepared the estimate. Review and approval of estimates based on approved schedules shall occur before any negotiated agreement becomes effective. In the case of estimates based on value findings or appraisals, the review and approval must occur prior to the initiation of negotiations.

§ 750.315 Negotiations.

(a) Negotiations with sign owners and landowners will be conducted in accordance with the State's procedural statement. FHWA approval of fee negotiators on a project basis is required. No part of the acquisition cost of a sign or site will be eligible for Federal participation if the negotiator is paid on a percentage basis.

(b) Administrative settlements shall be in accordance with the State's procedural statement.

(c) Where condemnation action is necessary, the State's eminent domain procedures pertaining to condemnation of property for public purposes, or the procedures spelled out in State law on this subject, shall apply and be in accord with the State's procedural statement.

§ 750.316 Documentation for Federal participation.

The following information concerning each sign must be available in the State files prior to Federal participation in the cost of sign removals.

(a) *Payment to sign owner.* (1) Value documentation including proof of payment.

(2) A statement of facts showing the sign was nonconforming as of the date of taking. The statement will indicate the zoning of the land on which the sign was located and if unzoned that the sign was not located in an unzoned commercial or industrial area.

(3) A statement that the sign falls within one of the three categories shown in paragraph 8a of this memorandum.

(4) A photograph of the sign in place.

(5) Satisfactory indication of ownership of the sign and compensable interest (e. g. lease or other agreement, if any, with the property owner).

(6) Evidence that sign has been removed.

(b) *Payment to the landowner.* (1) Value documentation, including proof of payment.

(2) Satisfactory indication of ownership and compensable interest.

(3) Evidence that sign has been removed.

§ 750.317 Reports.

Division engineers will submit monthly reports on actual sign removals on a form to be prescribed.

§ 750.318 Nominal value plan.

(a) To supplement the above provisions, a State may elect to establish a nominal value plan which will permit negotiating reasonable payments:

(1) Of up to $100 for each sign;

(2) Of up to $100 for each sign site;

(3) For the cost of removal of each eligible nominal value sign, including illegal and/or abandoned signs where there is no sign or site interest involved.

(b) Negotiations for signs, sites, and removals under this plan may be accomplished simultaneously by any capable State employee without prior review and approval.

(c) Before a sign is removed, the State records must be documented with a copy of applicable sign and site owner agreements. The State representatives accomplishing the removal should complete the record according to Appendix B, Exhibit 1. All other documentation called for in § 750.316, except value documentation, must be available to the State's records or files, including proof of payment.

(d) 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.

(e) It is not expected that salvage value will be a consideration in most acquisitions under this plan; however, the sign may be turned over to the sign owner, site owner, contractor, or individual as a part of the consideration for its removal.

(f) The use of the nominal value plan will require the submission of a simplified statement of procedures to be followed.

(g) Programing and authorizations will be in accord with § 750.310 except that a total estimated number of signs for each program or project may be substituted for the detailed list and identification required in § 750.310(b) (2).

(h) Section 750.318 supplements §§ 750.304, 750.309, 750.310, 750.312, 750.313, 750.314, 750.315, and 750.316 and Attachment 1 of this subpart.

§ 750.319 Sign cost and depreciation schedules.

(a) *Sign cost schedules.* A State may adopt the following schedules, in lieu of its own, for use in valuing and acquiring nonconforming poster panel and painted bulletin signs. If adopted, the schedules and appropriate modifiers (see Appendix C) shall be applied statewide to all such signs. At its option, a State may elect to use one appropriate modifier, statewide, for all of a given owner's signs. Additions not identified in the schedules, for such items as mercury vapor lights, quartz floodlights, or molding on painted bulletins, may be made when appropriate and the costs are verified.

(1) *Poster panel cost schedule.* Typical industry-built, single-faced poster panel of average quality construction, approximately 300 square feet in area, with wood poles or posts and frame, wood or metal panels, molding, and/or platform or back-bracing. Basic cost: $6.45 per square foot of sign area.

Additions	*Per square foot of sign area*
(i) Steel posts and frame	$1.25
(ii) Fluorescent lights	1.00

(For double-faced poster panels multiply basic cost or sum of basic cost and either or both of the above additions, as appropriate, for a single-faced sign by 1.5.)

(2) *Painted bulletin cost schedule.* Typical industry built single-faced painted bulletin with average art and display, of average quality construction, approximately 200 square feet, or more, of display area, with wood poles or posts and frame, wood or metal panels, and/or skirting, platform or back-bracing. Basic cost including artwork: $7.85 per square foot of display area.

Additions	*Per square foot of display area*
(i) Steel posts and frame	$1.45
(ii) Fluorescent lights	1.00

(For double-faced painted bulletins multiply basic cost or sum of basic cost and either or both of the above additions, as appropriate, for a single-faced sign by 1.5.)

(iii) Reflective material: $1.35 per square foot of actual area covered.

(b) *Sign depreciation.* Depreciation is any loss caused by deterioration, obsolescence, or both.

(1) Deterioration is physical and is evidenced by wear and tear, decay, dry rot, cracks, structural defects, or anything that detracts from the physical makeup of the sign. Early evidences of deterioration include faded paint, cracked and deteriorated reflectorization, rust and rot of supporting structure, old material, and twisted structures.

(2) Obsolescence is economic or functional. Some examples are where a transition in the area threatens the sign in the present location and abandonment or removal is likely, where a view obstruction has reduced a sign's effectiveness or threatens to make it ineffective in the near future, or where a property is undergoing a change in use and the sign will no longer be a compatible use.

(c) *Depreciation schedules.* In determining the extent of depreciation for a particular sign or group of signs, full consideration should be given to observed physical deterioration and functional and/or economic obsolescence as discussed in paragraph (b). If the sign cost schedules described in paragraph (a) are adopted, the use of the following depreciation schedules in connection therewith is mandatory. The schedules may be applied to each of an owner's signs to be acquired under a specific project. At its option, a State may in the case of poster panels use one average rate from the poster panel schedule and in the case of painted bulletins use one average rate from the painted bulletin schedule, for all of a given owner's signs, provided the rates selected represent an appropriate average for the signs to which they are applied.

(1) *Poster panel depreciation schedule.* This schedule applies only to poster panel signs. Select the most characteristic category and apply the rate shown to the total cost of the sign.

(i) No deduction when:

(*a*) Structure is new or maintained in excellent condition; and

(*b*) There is no evidence of neighborhood or site development which would cause obsolescence.

(ii) Deduct 10 percent when:

(*a*) Structure is basically sound but needs minor maintenance; or

(*b*) There is neighborhood development which will later cause obsolescence.

(iii) Deduct 30 percent when:

(*a*) Structure is sound but deterioration is evident, i.e., paint may be weathered, wood slightly warped, some metal parts rusted or bent, or some stringers or panels need renailing; and

(*b*) Neighborhood property development will cause displacement of sign in about 7 to 9 years.

(iv) Deduct 50 percent when:

(*a*) Obsolescence is evident, i.e., neighborhood property development will cause sign displacement or view impairment in about 5 to 6 years or

(*b*) Sign structure is seriously deteriorated.

(v) Deduct 70 percent when:

(*a*) Obsolescence is apparent, i.e., neighborhood properties are definitely in transition to other uses, or site will be developed for another use or the sign will be displaced or obscured by development in the next 2 to 3 years; or

(*b*) Lack of maintenance is evident and deterioration is advanced.

(vi) Deduct 90 percent when:

(*a*) Sign is obsolete, i.e., view is substantially obscured by development of neighboring property, or site will be developed in the next several months and cause displacement of the sign; or

(*b*) Structure is not maintained and shows severe deterioration.

(*c*) Principal value of sign is in salvage.

(2) *Painted bulletin depreciation schedule.* This schedule applies only to painted bulletin signs. Select the most characteristic category and apply the rate shown to the total cost of the sign.

(i) No deduction when:

(*a*) Structure and display are new or maintained in excellent condition; and

(*b*) There is no evidence of neighborhood or site development which would cause obsolescence.

(ii) Deduct 10 percent when:

(*a*) Structure is basically sound but needs minor maintenance;

(*b*) There is neighborhood development which will later cause obsolescence; or

(*c*) The display is not new nor maintained in excellent condition nor has it been fully painted in the last 6 months.

(iii) Deduct 30 percent when:

(*a*) Structure is sound but deterioration is evident, i.e., paint is weathered, wood slightly warped, some metal parts rusted or bent, or some stringers or panels need renailing; or

(*b*) Neighborhood property development will cause displacement of sign in about 7 to 9 years; or

(*c*) The display is blank, painted out, or otherwise obsolete.

(iv) Deduct 50 percent when:

(*a*) Obsolescence is evident, i.e., neighborhood property development will cause sign displacement or view impairment in about 5 to 6 years; or

(*b*) Sign structure is deteriorated; and

(*c*) The display is blank, painted out, or otherwise obsolete.

(v) Deduct 70 percent when:

(*a*) Obsolescence is evident, i.e., neighborhood properties are definitely in transition to other uses, or site will be developed for another use or the sign will be displaced or obscured by development in the next 2 or 3 years; or

(*b*) Lack of maintenance is evident and deterioration is advanced;

(*c*) The display may or may not be obsolete.

(vi) Deduct 90 percent when:

(*a*) Sign is obsolete, i.e., view is substantially obstructed by development of neighboring property or site will be developed in the next several months and cause displacement of the sign; or

(*b*) Structure is not maintained and shows severe deterioration;

(*c*) The display may or may not be obsolete.

(*d*) Principal value of sign is in salvage.

(d) *Depreciation adjustments.* (1) To the extent practicable under State law, depreciation occurring after the adoption of a State outdoor advertising control law passed in response to the Highway Beautification Act and following the expiration of live copy shall be disregarded when the sign owner proves to the State that:

(i) He still owns the sign, i.e., he has not abandoned the sign;

(ii) Maintenance of the sign was beyond his reasonable control as a result of the likelihood that the sign would be taken pursuant to the State control law;

(iii) This inability to maintain the sign, resulting from the likelihood that the sign would be taken pursuant to the State control law, caused the full amount of the depreciation which the sign owner seeks to have disregarded;

(iv) The sign owner has been unable to sell new advertising copy as a result of the likelihood that the sign would be taken pursuant to the State control law.

(2) A loss of value due to changes in traffic patterns, normal loss of business or abandonment will not be considered as depreciation caused by a State outdoor advertising control law.

(3) In no event will the depreciation of a painted bulletin without live copy be less than 30 percent.

(4) When a sign owner has established that certain of his signs have incurred depreciation because maintenance was beyond his reasonable control, as a result of the likelihood that the sign would be taken pursuant to the State control law, such signs may be depreciated at an appropriate average rate most characteristic of signs maintained within the reasonable control of the owner as outlined in the depreciation schedule.

(5) The foregoing will only apply in those States wherein outdoor advertising signs are considered real property under State eminent domain law.

(6) Any agreement providing for reduced depreciation under this paragraph must be submitted to FHWA for prior approval.

(e) *Vandalized signs.* (1) Federal participation in signs which have been materially damaged by vandals is limited to the current fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and reerecting the sign.

(2) Hardship acquisitions of vandalized signs, otherwise eligible for compensation under State law, may be programed and authorized as a hardship situation in accordance with the provisions of § 750.310 of this subpart.

(3) The devision engineer, prior to authorizing the acquisition of vandalized signs as hardship cases, should assure himself that such acquisitions qualify as bona fide hardship situations.

NOTE: An abandoned or illegal sign is noncompensable.

APPENDIX A

SIGN AND SITE VALUATION FORMULA AND SCHEDULE GUIDE

Introduction

Standardized sign industry construction methods and the simple structural nature of nonstandardized signs support the development of easily administered payment schedules and other equitable valuation techniques. These are intended to facilitate sign and site valuations, speed acquisition and substantially increase program progress.

In brief, the Guide suggests procedures for the development of schedules and valuation techniques for the following:

I. Standard poster panels.
II. Painted bulletins.
III. Miscellaneous signs.
IV. Depreciation techniques.
V. Leasehold value.
VI. Gross rent multiplier.
VII. Site valuation.

The suggested methods are not mandatory. These methods were developed by State and Federal representatives with the assistance of the outdoor advertising industry. This Guide will be subject to modification as improved procedures develop and additional valuation information becomes available. Industry, State, and division information and suggestions should be submitted promptly for consideration and inclusion in any revision of this Guide.

Method of developing sign payment schedules

1. By contact with the industry and observation in the field, locate a suitable number of newly constructed signs.

2. Contact the companies that have built signs recently and obtain from them the direct and indirect costs of the specific sign construction. At the same time, request authority to audit the company's records to determine the validity of the data acquired. Obtain information on the normal useful life of each sign for the development of depreciation rates. This initial study and data is crucial to the development of the valuation techniques set forth herein.

3. Field check each sign to determine whether it was built according to the company's plans, to determine the specific type of construction, including such things as wood or metal construction, illumination, one face, two face, and the area of the advertising face or faces.

4. Correlate the data obtained from the field and the audited construction data.

5. When adequate sign cost data has been collected from a sufficient number of signs, analyze the data to determine the cost of variables such as height, lighting, addition of a second face, reflectorization, quality and type of construction, and the appropriate form for schedules.

6. The data acquired should then be broken down into various categories and averaged to determine the appropriate costs and depreciation rates which can be used as a basis for the schedules.

7. In lieu of the above steps, a State may adopt another State's FHWA approved schedules after test auditing local new sign construction costs and making any necessary adjustments.

8. Obtain and evaluate industry's position concerning the payment schedule concept and the resultant formula based on the analysis in 5 above.

PART I—SCHEDULE 1: STANDARD POSTER PANELS

Definition

An outdoor advertising device built on two or more posts imbedded into the ground or attached to the wall or roof of a building which is designed to support a flat surface of 300 square feet upon which printed advertising or other messages are affixed by pasting.

A. *Direct costs:*

1. *Material, labor, etc.:*
a. Construction material.
b. Material handling.
c. Construction labor.
d. Engineering.
e. Permits
f. Equipment costs.

B. *Indirect costs* (overhead or burden) attributable to construction. Items to be considered:
1. Shop overhead.
2. Insurance.
3. Salaries.
4. General office expense.
5. Utilities (not including sign illumination).
6. Taxes.
7. Business licenses.
8. Site procurement.
9. Management.

C. *Adjustments:*
1. Illumination, including power run-in.
2. Steel support.
3. Height.
4. Multiple face.
5. Other appropriate adjustments.

NOTE: Either a lump-sum or square-foot schedule may be developed with the above information.

PART II—SCHEDULE 2: PAINTED BULLETINS

Definition

An outdoor advertising device built on one or more posts imbedded into the ground or attached to the wall or roof of a building which is designed to support one or more flat surfaces upon which at least one advertisement or other message is painted in whole or substantial part.

	Cut out ($/S.F.)	Modular ($/S.F.)
A. Direct cost:		
1. Material, labor, etc.:		
a. Construction material		
b. Material handling		
c. Construction labor		
d. Engineering		
e. Permits		
f. Equipment costs		
2. Art and display		
B. Indirect costs (overhead or burden) attributable to construction. Items to be considered		
1. Shop overhead		
2. Insurance		
3. Salaries		
4. General office expense		
5. Utilities (not including sign illumination)		
6. Taxes		
7. Business licenses		
8. Site procurement (not including payment to landowner)		
9. Management		
C. Adjustments:		
1. Illumination, including power run-in		
2. Steel support		
3. Height		
4. Reflectorization		
5. Multiple face		
6. Other appropriate adjustments		
7. Special costs (costs involved in special use sign design and erection specifically for the sole use of one advertiser (not to exceed 10 percent of direct and indirect costs))		

NOTE: A lump-sum schedule may be developed where appropriate.

PART III—SCHEDULE 3: MISCELLANEOUS SIGNS

Definition

Factory-made signs produced for mass distribution, or small inexpensive signs characterized by "do-it-yourself" workmanship, and all other signs that do not fit into the standard 300-square foot poster panel or painted bulletin categories.

	($/S.F.)	($/S.F.)
A. Direct cost:		
1. Material, labor, etc.:		
a. Construction material		
b. Material handling		
c. Construction labor		
d. Engineering		
e. Permits		
f. Equipment costs		
2. Art and Display		
B. Indirect Costs (overhead or burden) attributable to construction: In those instances where these costs are applicable, use the appropriate costs under Painted Bulletins		
C. Adjustments		
1. Illumination		
2. Steel support		
3. Height		
4. Reflectorization		
5. Double face		
6. Other appropriate adjustments		
D. Quantity survey method		

As an alternative to the above, miscellaneous signs may also be estimated through use of a simplified quantity survey. Such methods should be supported with a table of realistic material costs developed through study of suppliers' prices. A standard form should be used to list the basic components as line items and show their quantities, costs, and extended amounts. The list of basic components could include suppliers' prices for typically used sizes of dimensioned lumber, dur-a-ply or its equal, plywood, pipe, angle iron, I-beams, sheet metal, pressure treated poles and posts, fasteners, and other appropriate items.

Labor and overhead should be added to the material cost. These figures may be obtained from sign contractors or through audit of sign companies' costs.

A list of adjustments should also be provided, such as in C above. They may be computed on an individual basis and include both direct and indirect costs. In addition to the adjustments in C above, this list could include adjustments for transportation, excavation and erection, and light or heavy copy.

NOTE: A lump-sum schedule may be developed when appropriate.

PART IV—DEPRECIATION TECHNIQUES

Average depreciation rate schedules should be established to reflect the depreciation of signs of similar type, size and physical condition. These schedules should include high, intermediate and low rates of depreciation to reflect the condition of the signs, their maintenance, and other appropriate factors.

Generally, the age-life method of estimating depreciation should be used. The estimator should be aware of the typical economic life of the sign. Consideration should be given to past maintenance, quality of construction, type of materials, etc. A remaining economic life should be estimated and applied to each sign.

Depreciation should also reflect functional, economic, legal and other matters, such as zoning, setback easements, deed restrictions, visibility, compatibility with future use, and traffic conditions. It should not, however, reflect any decrease in value attributable to the fact that the Highway Beautification Act prevents relocation of the sign.

PART V—LEASEHOLD VALUE

If it is established that economic site rent exceeds contract site rent, the bonus value may be computed in accordance with applicable State law and accepted appraisal technique. This amount may be added to the sign owner's compensation.

PART VI—GROSS RENT MULTIPLIER

A carefully developed gross rent multiplier may be useful in valuing some signs. Development and acceptance of this technique depends upon the availability of reliable and sufficient current sales of rented signs. Sales of signs or groups of signs are preferred to sales of entire companies, but both types may be considered. The usual conditions of a fair market sale should be present, and all nonsign values (items not normally considered in eminent domain) should be deducted from the sales prices. The signs should have similar expense and revenue producing characteristics. Reasonable details on conditions of the signs and sites will show whether the gross incomes have about the same quality and duration. If sufficient sales become available and this technique proves feasible, multipliers may be prepared for consideration. Any proposed Gross Rent Multipliers should be submitted to FHWA for approval prior to use.

PART VII—SITE VALUATION

The valuation process outlined in § 750.312(a), would lend itself to the adoption of a formula permitting annual income to be multiplied by a present worth factor to determine the amount of payment to the site owner. Selection of the appropriate multiplier would depend upon the judgment of the appraiser and reflect the following considerations:

1. The maximum duration of the income stream may not exceed the remaining economic life of the sign on the site.
2. Existing or proposed local ordinances.
3. Neighborhood quality and trends.
4. The effect of the existing sign(s) on the dominant use of the property.
5. Any potential change in use of the property.
6. Potential development of adjacent property which might block the view of existing sign(s).
7. Present and future traffic flow.
8. Existing zoning and potential rezoning.
9. Deed restrictions.
10. The effect of cancellation clauses and/or renewal options in the lease.
11. The ability of the tenant to pay.

In developing a payment schedule or formula, it should be recognized that the risk rate may increase on those sites having a relatively long remaining economic life.

A schedule will not apply to sites exceeding a 10-year remaining economic life without prior FHWA approval. Sites producing substantial income and having long remaining economic lives should be valued using accepted appraisal procedure.

In applying developed schedule multiples to site income, the average rental for the preceding 2 years shall be utilized.

APPENDIX B

EXHIBIT 1

SUGGESTED FORMAT OF RECORD FOR ILLEGAL, ABANDONED, AND NOMINAL VALUE SIGNS

Federal project No.______________ State project No.______________

Description of sign______________

____

Location and sign No.______________

____

Name of sign owner______________

Name of site owner______________

Before photograph only

Negotiated value of sign $______________ Site $______________ Removal $______________

Who removed sign?______________

____
Negotiator

I certify that as of ______________ the
Date
above sign had been removed.

____
Inspector

APPENDIX D

EXHIBIT

SUGGESTED FORMAT FOR POLICY AND PROCEDURES STATEMENT

This is a policy and procedural statement to cover the acquisition and/or removal of illegal, abandoned, and nonconforming nominal value signs. No payment will be made for the interest in illegal signs erected or maintained in violation of State law.

The State will negotiate a reasonable payment of up to $100 for each eligible sign structure, of up to $100 for each eligible site value, and a reasonable payment for the removal of each sign including illegal and/or abandoned.

Each sign value, site value, and removal cost may be negotiated by the same individual without prior approval or other valuation support. The sign removal may be accomplished by negotiation with individuals (including the sign or site owners), contract, or by State forces. Payment will not be made to the site owner until the sign is removed. Appropriate releases or agreements will be executed by the sign owner and site owner conveying their interests and removal rights to the State. All payments disbursed will be in accordance with the State's approved operating procedures.

APPENDIX C

NATIONAL MODIFIERS—The appropriate modifier should be applied to the base cost as adjusted for additions.

As of September 1, 1972

State-Zip Code	*Modifier*
Alabama:	
350–352	0.88
354	.86
355–359	.88
360–361	.86
362	.88
363–364	.86
365–366	.92
267–369	.86
Alaska:	
995–996	1.19
997	1.20
998–999	1.24
Arizona:	
850–855	1.04
856–857	1.00
859	1.04
860–864	1.00
865	1.04
Arkansas:	
716–719	.85
720–726	.87
727–729	.85
California:	
900–918	1.05
920–921	1.04
922–925	1.02
926–931	1.05
932–933	1.03
934	1.05
935	1.03
936–939	1.04
940–951	1.07
952–953	1.05
954	1.07
955–961	1.06
Colorado:	
800–806	.91
807–810	.90
811–816	.91
Connecticut:	
060–067	1.01
068–069	1.04
Delaware:	
197	.96
198	.95
199	.96
District of Columbia:	
200–205	.97
Florida:	
320–322	.91
323–324	.86
325	.88
326–328	.91
329	.97
330–333	1.02
334	.97
335–339	.91
Georgia:	
300–303	.92
304	.81
305–309	.92
310–319	.81
Hawaii:	
967–968	1.01
Idaho:	
832–834	.89
835	.96
836–837	.89
838	.96

State-Zip Code	*Modifier*
Illinois:	
600–606	1.01
609	.93
610–611	.94
612	.95
613–617	.93
618–619	.92
620–622	.99
623	.86
624	.92
625–627	.97
628–629	.92
Indiana:	
460–462	.96
463–464	.99
465–466	.97
467–468	.94
469	.96
470–477	.94
478–479	.96
Iowa:	
500–503	.94
504–507	.92
508–520	.91
521–524	.92
525–526	.94
527–528	.95
Kansas:	
660–669	.96
670–672	.95
673–674	.96
675–679	.95
Kentucky:	
400–402	1.00
403–405	.94
406	.97
407–409	.94
410	1.00
411–418	.94
420–422	.88
423–424	.93
425–427	.94
Louisiana:	
700–701	.93
703–705	.92
706	.90
707–708	.92
710–714	.88
Maine:	
040–049	.87
Maryland:	
206	.97
207–212	.98
214	.97
215	.92
216	.97
217	.92
218–219	.97
Massachusetts:	
010–014	.95
015–016	.93
017–026	.98
Michigan:	
480–482	1.04
484–485	1.02
486–487	1.01
488–489	1.02
490–492	.97
493–499	.96
Minnesota:	
550–551	.99
553–554	.98
556–558	.97
559–567	.89
Mississippi:	
386–389	.88
390–394	.82
395	.88
396–397	.82
Missouri:	
630–631	.99
633–639	.86
640–648	.99
650–657	.86
658	.93
Montana:	
590–593	.90
594–595	.93
596	.88
597	.90
598–599	.93
Nebraska:	
680–681	.91
683–693	.89
Nevada:	
890–894	1.04
895–898	1.03
New Hampshire:	
030–037	.90
038	.88
New Jersey:	
070–073	1.07
074–089	1.01
New Mexico:	
870–874	.90
875–877	.89
878	.90
879–884	.89
New York:	
100–104	1.14
105–107	.95
108–109	1.07
110–114	1.14
115–119	1.11
120–126	.99
127	.97
128	.96
129	.97
130–132	1.00
133–136	.96
137–139	.97
140–146	1.05
147–148	.97
149	.95
North Carolina:	
270–289	.84
North Dakota:	
580–588	.91
Ohio:	
430–433	.99
434–436	1.03
437–439	1.01
440–441	1.10
442–443	1.07
444–445	1.01
446–449	1.07
450–452	1.03
453–454	1.01
455	.99
456–457	1.01
458	.99
Oklahoma:	
730–731	.91
734–739	.89
Oregon:	
970–972	.94
973–979	.93
Pennsylvania:	
150–163	1.04
164–165	.97
166–169	1.04
170–189	.90
190–191	1.01
192–194	.90
195–196	.93
Rhode Island:	
027–029	.98
South Carolina:	
290–299	.80
South Dakota:	
570–577	.90
Tennessee:	
370–372	.87
373–376	.89
377–379	.87
380–384	.90
385	.89
Texas:	
750–761	.91
762–769	.89
770	.93
773–779	.89
780–782	.88
783–785	.85
786–787	.89
788	.85
789–796	.89
797–798	.82
799	.86
Utah:	
840–847	.93
Vermont:	
050–053	.86
054	.88
056–059	.86
Virginia:	
220–223	.83
224–232	.82
233–237	.83
238–246	.85
Washington:	
980–982	.99
983–984	.96
985	.99
986	.97
988–989	.98
990–994	.99
West Virginia:	
247–249	.87
250–268	1.00
Wisconsin:	
530	1.00
531	.95
532	1.00
534	.95
535	.96
537	.99
538	.90
539	.99
540	.94
541–543	.95
544–545	.93
546	.90
547–549	.94
Wyoming:	
820–831	.89

NORBERT T. TIEMANN,
Federal Highway Administrator.

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PART 795—ACTION PLAN—PROCESS GUIDELINES

This amendment adds part 795 to the regulations of the Federal Highway Administration.

Part 795 implements 23 U.S.C. 109(h) by providing guidelines for the development of Action Plans by State highway departments to assure that adequate consideration is given to possible adverse social, economic, and environmental effects of proposed Federal-aid highway projects. It codifies policies and procedures contained in Federal Highway Administration Policy and Procedure Memorandum 90–4.

In consideration of the foregoing, effective on June 20, 1973, chapter 1 of title 23, Code of Federal Regulations is amended by adding a new "Part 795—Action Plan—Process Guidelines."

Sec.

AUTHORITY: 23 U.S.C. 109(h), 23 U.S.C. 315, and 49 CFR 1.48(b).

§ 795.1 Purpose.

To provide to highway agencies and Federal Highway Administration (FHWA) field offices guidelines for the development of Action Plans to assure that adequate consideration is given to possible social, economic, and environmental effects of proposed highway projects and that the decisions on such projects are made in the best overall public interest. These guidelines identify issues to be considered in reviewing the present organization and processes of a highway agency as they relate to social, economic, and environmental considerations, and in developing desirable improvements. The guidelines recognize the unique situation of each State and do not prescribe specific organizations or procedures.

§ 795.2 Definitions.

(a) Highway agency: The State highway department or State department of transportation with the primary responsibility for initiating and carrying forward the planning, design, and construction of Federal-aid highway projects.

(b) Human environment: The aggregate of all external conditions and influences (esthetic, ecological, biological, cultural, social, economic, historical, etc.) that affect the lives of humans.

(c) Environmental effects: The totality of the effects of a highway project on the human and natural environment.

(d) A–95 clearinghouse: Those agencies and offices in States, metropolitan areas, and multi-State regions which perform the coordination functions called for in Office of Management and Budget (OMB) Circular A–95.

(e) The following definitions are provided solely to clarify the terms "system planning," "location," and "design" as they are used in these guidelines. A highway agency may choose to use different definitions in responding to these guidelines. If not stated otherwise, the following definitions will be assumed to be applicable:

(1) *System planning.* Regional analysis of transportation needs and the identification of transportation corridors.

(2) *Location.* From the end of system planning through location approval.

(3) *Design.* From location approval through the approval of plans, specifications, and estimates.

§ 795.3 Policy.

(a) It is the FHWA's policy that full consideration shall be given to social, economic, and environmental effects throughout the planning of highway projects including system planning, location, and design; that provisions for ensuring such consideration shall be incorporated in the decisionmaking process; and that decisions shall be made in the best overall public interest, taking into consideration the need for fast safe, and efficient transportation, public services, and the costs of eliminating or minimizing possible adverse social, economic, and environmental effects.

(b) The process by which decisions are reached should be such as to merit public confidence in the highway agency. To achieve this objective, it is the FHWA's policy that:

(1) Social, economic,* and environmental effects be identified and studied early enough to permit analysis and consideration while alternatives are being formulated and evaluated.

(2) Other agencies and the public be involved in project development early enough to influence technical studies and final decisions.

(3) Appropriate consideration be given to reasonable alternatives, including the alternative of not building the project and alternative modes.

§ 795.4 Application.

(a) These guidelines apply to State highway agencies that propose projects for which plans, specifications, and estimates are approved by the FHWA.

(b) These guidelines apply to all processes that will be used for all Federal-aid projects, including secondary road plan projects.

(c) These guidelines apply to system planning decisions, including those made in the urban transportation planning process established by section 134, title 23, United States Code, and to project decisions made during the location and design stages.

(d) These guidelines and the Action Plan shall only be applied to the future development of on-going projects and to future projects. They are not retroactive, and shall not apply to any step or steps taken in the development of a project prior to the time of the implementation of the parts of the Action Plan applicable thereto.

§ 795.5 Procedures.

(a) To meet the requirements of these guidelines, each highway agency shall develop an Action Plan which describes the organization to be utilized and the processes to be followed in the development of Federal-aid highway projects from initial system planning through design.

(b) The Action Plan should be consistent with the requirements of Parts 790, 770, 771, 772, and 773 of this chapter, and of other applicable directives.

(c) Involvement of the public and local, State, and Federal officials and agencies, including A-95 clearinghouses and the section 134 Metropolitan transportation planning process agencies, should be sought throughout the development of the Action Plan. Comments should be solicited during the draft and final stage of development of the Action Plan.

(d) The Action Plan submitted to the Governor of the State and to the FHWA should be accompanied by a description of the procedures followed in developing the Action Plan; the steps taken to involve the public and other agencies during development of the Plan; and a summary of comments received on the Plan (including the sources of such comments) and the State's disposition of these comments.

(e) The FHWA, through its division and regional offices, will consult with the State in the development of the Action Plan and, within the limits of its resources, will be prepared to assist or advise.

(f) The Action Plan shall be submitted to the Governor of the State for review and approval as a means of obtaining a high degree of interagency and intergovernmental coordination. Approval by the Governor may occur prior to submittal of the Action Plan to the FHWA, or, if desired by the State, may occur concurrently with FHWA approval.

(g) The Action Plan should be submitted to the FHWA not later than June 15, 1973, for approval. The FHWA will not give location approval on projects after November 1, 1973, unless the Action Plan has been approved.

(h) Review and approval of the Action Plan and revisions thereto will be the responsibility of the Regional Federal Highway Administrator.

§ 795.6 Implementation and revision.

(a) The FHWA shall review the States' implementation of their Action Plans at appropriate intervals. The FHWA may withhold location approvals, or such other project approvals as it deems appropriate, if the Action Plan is not being followed.

(b) The Action Plan shall be implemented as quickly as feasible. A program of staged implementation for the period up to November 1, 1974, shall be developed and described in the Action Plan. It is expected that all aspects of the Action Plan will be implemented by this date. If the highway agency believes that any provision in its Action Plan cannot be implemented prior to November 1, 1974, it shall present a schedule for the implementation of such provisions to the FHWA, which will consider the proposed schedule on a case-by-case basis.

(c) If the schedule for implementation set forth in an approved Action Plan is not met, the FHWA may withhold location approvals or such other project approvals as it deems appropriate.

(d) An approved Action Plan may be revised to meet changed circumstances or to permit adoption of improved procedures or assignments of responsibilities.

(1) The Action Plan should identify the assignment of responsibility for developing Action Plan revisions.

(2) Section 795.5, paragraph (f) of this section (Governor's approval) shall apply to revision of the Action Plan; except that the highway agency, with the Governor's approval, may include a provision in the Action Plan to allow all or some types of revisions in the approved Action Plan without review and approval by the Governor. In such instances, the Action Plan should include a description of the types of such revisions.

(3) The Highway Agency in consultation with the FHWA shall determine the extent to which involvement of the public and other agencies is necessary in the development of proposed Action Plan revisions.

§ 795.7 Contents of the Action Plan.

(a) The Action Plan shall indicate the procedures to be followed in developing highway projects, including organizational structure and assignments of responsibility by the chief administrative officer of the highway agency to positions or units within the agency. Where participation of other agencies or consultants will be utilized, this should be so indicated. The topics to be covered by the Action Plan are outlined in §§ 795.8 through 795.17.

(b) The Action Plan should describe the procedures followed in developing the Action Plan and the steps taken to involve other agencies and the public during development of the plan.

§ 795.8 Identification of social, economic, and environmental effects.

(a) Identification of potential social, economic, and environmental effects, both beneficial and adverse, of alternative courses of action should be made as early in the study process as feasible, in accordance with parts 770 and 790 of this chapter. Timely information on such effects should be produced so that the development and consideration of alternatives and studies can be influenced accordingly. Further, the costs, financial and otherwise, of eliminating or minimizing possible adverse social, economic, and environmental effects should be determined.

(b) The Action Plan should identify:

(1) The assignment of responsibility for:

(i) Providing information on social, economic, and environmental effects of alternative courses of action during system planning, location, and design stages.

(ii) Controlling the technical quality of social, economic, and environmental studies.

(iii) Monitoring current social, economic, and environmental research; monitoring environmental effects of completed projects, where appropriate; and disseminating "state-of-the-art" information within the agency.

(2) Procedures to be followed to ensure that timely information on social, economic, and environmental effects:

(i) Is developed in parallel with alternatives and related engineering data, so that the development and selection of alternatives and other elements of technical studies can be influenced appropriately.

(ii) Indicates the manner and extent to which specific groups and interests are beneficially and/or adversely affected by alternative proposed highway improvements.

(iii) Is made available to other agencies and to the public early in studies.

(iv) Is developed with participation of staffs of local agencies and interested citizens.

(v) Is developed sufficiently to allow for the estimation of costs, financial or otherwise, of eliminating or minimizing identified adverse effects.

§ 795.9 Consideration of alternative courses of action.

(a) Alternatives considered should include, where appropriate, alternative types and scales of highway improvements and other transportation modes. The option of no highway improvement should be considered and used as a reference point for determining the beneficial and adverse effects of other alternatives. Appropriate alternatives which might minimize or avoid adverse social, economic, or environmental effects should be studied and described, particularly in terms of impacts upon specific groups and in relationship to 42 U.S.C. 2000d–2000d-4 (Title VI of the Civil Rights Act of 1964) and 42 U.S.C. 3601–3619 (Title VIII of the Civil Rights Act of 1968). The key trade-offs among the alternatives should be presented.

(b) The Action Plan should identify the assignment of responsibility and the procedures to be followed to ensure that:

(1) The consequences of the no-highway-improvement option are set forth, with data of a level of completeness and of detail consistent with that developed for other alternatives.

(2) A range of alternatives appropriate to the stage is considered at each stage from system studies through final design.

(3) The development of new transportation modes or the improvement of other modes are adequately considered, where appropriate.

(4) Nontransportation components, such as replacement housing, joint development, multiple use of rights-of-way, etc., are in coordination with transportation components.

(5) Suggestions from outside the agency are given careful consideration.

§ 795.10 Involvement of other agencies and the public.

(a) The President has directed Federal agencies to "develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties" (Executive Order 11514, 35 FR 4247). Part 790 of this chapter contains similar provisions. Interested parties should have adequate opportunities to express their views early enough in the study process to influence the course of studies, as well as the actions taken. Information about the existence, status, and results of studies should be made available to the public throughout those studies. The required public hearings (Part 790 of this chapter) should be only one component of the agency's program to obtain public involvement.

(b) The Action Plan should identify the assignment of responsibility and procedures to be followed:

(1) To ensure that information is made available to other agencies and the public throughout the duration of project studies, and that such information is as clear and comprehensible as practicable concerning:

(i) The alternatives being considered.

(ii) The effects of alternatives, both beneficial and adverse, and the manner and extent to which specific groups are affected.

(iii) Right-of-way and relocation assistance programs and relocation plans.

(iv) The proposed time schedule of project development, including major points of public interest.

(2) To clearly indicate the organizational unit or units within the Highway Agency to which the public can go for information outlined in paragraph (b)(1) of this section, and for assistance to clarify or interpret the information.

(3) To ensure that interested parties, including local governments and metropolitan, regional, State and Federal agencies, and the public have an opportunity to participate in an open exchange of views throughout the stages of project development.

(4) To select and coordinate procedures, in addition to formal public hearings, to be used to inform and involve the public.

(5) To utilize appropriate agencies with area-wide responsibilities to assist in the coordination of viewpoints during project development.

(6) To involve appropriately the organization which is officially established in urbanized areas of over 50,000 population to conduct continuing, comprehensive, cooperative transportation planning (consistent with Part 520, Subpart E of this chapter).

§ 795.11 Systematic interdisciplinary approach.

(a) United States Code, Title 42, section 4332 (National Environmental Policy Act, 1969) requires that agencies use "a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment."

(b) The Action Plan should indicate procedural arrangements and assignments of responsibilities which will be necessary to meet this requirement, including:

(1) The organization and staffing of interdisciplinary project groups which are systematic and interdisciplinary in approach, including the possible use of consultants and representatives of other State or local agencies.

(2) Recruitment and training of personnel with skills which are appropriate to add on a full-time basis, and the development of appropriate career patterns, including management opportunities.

(3) Additional training for present personnel to enhance their capabilities to work effectively in an interdisciplinary environment.

§ 795.12 Decisionmaking process.

(a) The process of reaching various decisions on highway improvement projects should be reviewed to assure that it provides for the appropriate consideration of all economic, social, environmental, and transportation factors as required by these guidelines.

(b) The Action Plan should identify:

(1) The processes through which other State and local agencies, government officials, and private groups may contribute to reaching decisions, and the authority, if any, which other agencies or government officials can exercise over decisions.

(2) Different decision processes, if any, for various categories of projects (e.g., Interstate, Primary, Secondary, TOPICS (Part 460, subpart D of this chapter)), and for various geographic regions of the State (e.g., in various urban and rural regions) to reflect local differences in the nature of potential environmental effects or in the structure of local governments and institutions.

(3) The processes to be used to obtain participation in decisions by officials of appropriate agencies in other States for those situations in which the potential social, economic, and environmental effects are of interstate concern.

§ 795.13 Interrelation of system and project decisions.

(a) Many significant economic, social, and environmental effects of a proposed project are difficult to anticipate at the system planning stage and become clear only during location and design studies. Conversely many significant environmental effects of a proposed project are set at the system's planning stage. Decisions at the system and project stages shall be made with consideration of their social, economic, environmental, and transportation effects to the extent possible at each stage.

(b) The Action Plan should identify:

(1) Procedures to be followed to:

(i) Ensure that potential social, economic, and environmental effects are identified insofar as practicable in system planning studies as well as in later stages of location and design.

(ii) Provide for reconsideration of earlier decisions which may be occasioned by results of further study, the availability of additional information, or the passage of time between decisions.

(2) Assignment of responsibility for ensuring that project studies are effectively coordinated with system planning on a continuing basis.

§ 795.14 Levels of action by project category.

(a) A highway agency may develop different procedures to be followed depending upon the economic, social, environmental, or transportation significance of the highway section to be developed. Different procedures may also be adopted for various categories of projects, such as TOPICS (Part 460, subpart D of this chapter), new route locations, or secondary roads, and for various regions of the State, such as urban areas or zones of particular environmental significance.

(b) The Action Plan should identify:

(1) The categories which the highway agency will use to distinguish the different degrees of effort which under normal circumstances will be devoted to various types of projects.

(2) Assignment of responsibility for determining, initially and in periodic reviews, the category of each ongoing highway project.

(3) Procedures to be followed for each category (including identification of impacts, public involvement, decision process, and other issues covered in these guidelines).

§ 795.15 Responsibility for implementation.

Assignment of responsibility for implementation of the Action Plan should be identified.

§ 795.16 Fiscal and other resources.

(a) An important component of the Action Plan is identification of resources of the highway agency and of other agencies required to perform the identified procedures and execute the assigned responsibilities.

(b) The Action Plan should identify:

(1) The resources of the Highway agency (in terms of personnel and funding) that will be utilized in implementing and carrying out the Action Plan.

(2) Resources that are available in other agencies to provide necessary information on social, economic, and environmental effects.

(3) Programs for the addition of trained personnel or fiscal or other resources to either the highway agency itself or other agencies.

§ 795.17 Consistency with existing laws and directives.

The highway agency should identify and report, either in the Action Plan or otherwise, areas where existing Federal and State laws and administrative directives prevent or hamper full compliance with these guidelines. Where appropriate, recommendations and proposed actions to overcome such difficulties should be described.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.73-12311 Filed 6-19-73;8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

PART 1623—CLASSIFICATION PROCEDURE

Miscellaneous Amendments

Whereas, on May 14, 1973, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations (38 FR 12620, May 14, 1973) and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. secs. 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

The amendments to §§ 1611.2 and 1611.5 would permit all persons who have been separated from the Armed Forces after having served on active duty to register with the Selective Service System. The revision of § 1623.1(b) would restrict the present requirement that the System furnish to the registrant a copy of specified material in his file prior to classification. Only registrants being classified into classes available for military or alternative service would be furnished a copy of such material.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. secs. 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of chapter XVI of title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.d.s.t., on June 30, 1973, as follows:

Section 1611.2(d) is amended to read as follows:

§ 1611.2 Persons not required to be registered.

* * * * *

(d) Any person who is separated from the Armed Forces after having served on active duty, other than active duty for training, or who has served as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service for not less than 24 months.

Section 1611.5 *Voluntary registration*, is amended to read as follows:

§ 1611.5 Voluntary registration.

Any male person who entered the Armed Forces before being required to be registered in accord with the provisions of § 1611.1 and is separated therefrom after having served on active duty, other than active duty for training, may present himself for and submit to registration before a local board.

Section 1623.1(b) is amended to read as follows:

§ 1623.1 Commencement of classification.

* * * * *

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements by the registrant at his personal appearance before the local board, appeal board, or National Selective Service Appeal Board, and oral statements by the registrant's witnesses at his personal appearance before the local board. No information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official or employee of the Selective Service System will be considered or placed in the registrant's file unless a copy of it has been furnished to the registrant by the Selective Service System. No information in any other document in the registrant's file shall be considered in classifying the registrant into a class available for military or alternate service unless that document was supplied by the registrant or a copy of it or a fair resume of its contents has been furnished to him by the Selective Service System.

BYRON V. PEPITONE,
Director.

JUNE 14, 1973.

[FR Doc.73-12336 Filed 6-19-73;8:45 am]

PART 1612—REGISTRATION DUTIES

Miscellaneous Amendments

Whereas, on May 15, 1973, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations (38 FR 12759, May 15, 1973) and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

The amendments would revoke regulations prescribing the internal organizational duties in connection with registration.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 app. U.S.C. secs. 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of chapter XVI of title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.d.s.t. on June 30, 1973, as follows:

§§ 1612.11, 1612.21–1612.24 [Revoked]

Section 1612.11, Responsibility of State director of Selective Service, is revoked.

Section 1612.21, Duties of chairman of local board, is revoked.

Section 1612.22, Establishing and making ready places of registration, is revoked.

Section 1612.23, Registrars, is revoked.

Section 1612.24, Interpreters, is revoked.

BYRON V. PEPITONE,
Director.

JUNE 15, 1973.

[FR Doc.73-12335 Filed 6-19-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

TRAINING GRANTS AND FELLOWSHIPS

On January 29, 1973, notice of proposed regulations governing Environmental Protection Agency training grants and fellowships was published in the FEDERAL REGISTER (38 FR 2705). After consideration of all comments submitted by interested persons, the regulations promulgated hereby are adopted. The requirements set forth in the proposed rules remain basically the same except