

SUBJECT:

Briefing on Findings of "A Study on the Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction."

Turner-Fairbanks Office of Research, Development, and Technology
(November 2010 Final Report)

QUESTION:

What, if any, Federal action is necessary to address operational and legal issues relating to State regulation of CEVMS under The Highway Beautification Act of 1965 (as amended), 23 U.S.C. 131 (HBA) in response to the research findings?

MAJOR ISSUE SUMMARY:

The study found:

- Drivers are exhibiting positive behaviors in regard to external stimuli by "keeping their eyes on the road" more than 80% of the time.
- The identifiable time spent viewing CEVMS or fixed signs was well below accepted "concern" thresholds.

Despite careful language explaining these findings, when taken out of context, they can be interpreted to support the opposing interests of both the industry (CEVMS are not distractions and should be more widely allowed) and scenic groups (FHWA's implicit endorsement of the industry's position and in direct contradiction to Secretary LaHood's serious concerns about driver distraction.)

Our September 25, 2007 Interim Guidance provided that States may permit CEVMS signs if they interpret them as not being contrary to the HBA's prohibition and are permitted under their State-Federal Agreement. Substantial controversy at local government and State levels has resulted in moratoria on CEVMS and heightened expectations pending the outcome of the FHWA study. Recently, there has been a dramatic increase in pressures on States to permit CEVMS due to technological/economic issues.

The study findings will require FHWA to take direct action to formally issue guidance that reiterates the standards proposed in our Interim Guidance and also aligns with the research results. This Guidance may be issued in either a policy Memorandum or in the Federal Register. (Per Administrator's recommendation)

This Memorandum will:

- Defend the HBA's prohibition of billboards that employ flashing, intermittent, or moving light(s)
- Support State DOT efforts to maintain "effective control" and prohibit CEVMS in accordance with their State-Federal Agreements

- Improve the consistency nation-wide of State's compliance with the prohibition
- Reiterate and clarify FHWA's stance and responsibilities under the HBA and provide State regulators with our support
- Clarify what states should consider prior to enacting legislation or regulations that would permit CEVMS signs along their control routes:
 - Duration of Message - each display is generally between 4 and 10 seconds; 8 seconds is recommended.
 - Transition Time between messages is generally between 1 and 4 seconds; 1-2 seconds is recommended.
 - Brightness - Adjust brightness in response to changes in light levels so their brightness does not affect the safety of the motoring public.
 - Spacing- If allowed, not less than minimum spacing requirements for signs under the Federal-State Agreement (FSA), or greater if necessary to ensure the safety of the motoring public.
 - Locations – Same as where allowed for signs under the FSA except such locations where determined inappropriate to ensure safety of the motoring public.

Action Needed/Timeline: HEP is proposing to formally issue guidance that reiterates the standards proposed in the 2007 Interim Guidance that are within a range of acceptability, and are based upon the research results. This may be issued as a policy memorandum Guidance Document upon formal release of the research report. This may be followed by formal issue of an FHWA Notice in the Federal Register if the Administrator so recommends.

Other Materials: Information on the Federal outdoor advertising control program is available from FHWA at http://www.fhwa.dot.gov/realestate/out_ad.htm.

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