



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Guidance to Florida
Department of Transportation Outdoor
Advertising Nonconforming Sign
Upgrade Pilot Project

Date: May 13, 2010

From: Gloria M. Shepherd *Gloria M. Shepherd*
Associate Administrator for
Planning, Environment, and Realty

In Reply Refer To:
HEPR-20

To: Martin C. Knopp
Division Administrator
Tallahassee, FL

Your December 7, 2009 email forwarded a modified version of a Florida Department of Transportation (FDOT) Pilot Project Proposal along with a summary of additional comments and FDOT responses as a result of an extension of the public comment period. The pilot is in reference to 23 CFR 750.707(d)(5) which pertains to maintenance and continuance of nonconforming signs and is approved for implementation. The initial pilot project proposal was developed in accordance with the August 30, 2005, **Guidance on the Approval Process for Outdoor Advertising Control Pilots** (see the Realty Web site: <http://www.fhwa.dot.gov/realestate/oacappilot.htm>) and was approved by FHWA on June 18, 2009 for presentation at a public hearing.

The FDOT had extensive public involvement prior to developing the original proposal. The draft pilot project document was made available to all stakeholders and interested parties and the FDOT held three other public meetings to obtain comments on the proposed project. The FDOT has analyzed the public comments and made changes to the proposal as a result of the public input.

The pilot project corridor is Interstate 75 from the Georgia/Florida line to Wildwood and is approximately 144 miles in length. The proposal is an effort thru 2012 that will allow the upgrading of certain nonconforming signs along Interstate 75 in exchange for permanent removal of other nonconforming signs in high priority areas along the same Interstate. We appreciate the extensive effort by Mr. John Garner and his staff as well as your staff in finalizing the pilot project. We would request that the



FDOT provide an interim review of the pilot after one year and we would also suggest periodic conference calls to discuss the status of the project. We certainly look forward to any results that may occur as a result of the Florida initiative. If you have any questions, please contact Cathy O'Hara at 785-271-2448 Ext 216 or Ed Kosola at 202-493-0350.

Kosola, Edward (FHWA)

From: Telfair, Brian (FHWA)
Sent: Monday, December 07, 2009 5:45 PM
To: Kosola, Edward (FHWA); Wainright, Marshall (FHWA)
Cc: Black, Robert (FHWA); Gramatins, Janis (FHWA); O'Hara, Catherine (FHWA); Knopp, Martin (FHWA); Hawk, David (FHWA); Brunelle, Karen (FHWA); Jacobs, LeeAnn (FHWA)
Subject: FW: Proposed I-75 Pilot Project
Attachments: FINAL PILOT PROJECT PROPOSAL.doc; Comments - Exhibit F.doc

Ed and Marshall:

FDOT has submitted a revised request for approval of the I-75 pilot project for Outdoor Advertising. The Division has been heavily involved in working with FDOT in the development of this proposal. We have reviewed the attached revised submittal and believe that it meets the guidance described in the August 30, 2005 memorandum, *Guidance on the Approval Process for Outdoor Advertising Control Pilots*.

We recommend approval of the pilot project.

Please let me know if you have any questions. We look forward to your affirmative response.

Brian R. Telfair

Realty Officer
FHWA-Florida Division
545 John Knox Road, Suite 200
Tallahassee, Florida 32303
Phone: (850) 942-9650, ext. 3060

From: Garner, John [mailto:John.Garner@dot.state.fl.us]
Sent: Monday, December 07, 2009 2:58 PM
To: Knopp, Martin (FHWA); Telfair, Brian (FHWA)
Cc: Hagan, Juanice; Kosola, Edward (FHWA)
Subject: Proposed I-75 Pilot Project

Attached is a modified version of our proposed Pilot Project. We have made changes to include the fact that we added an additional period of time for public comment and conducted an additional public meeting. The proposed Pilot Project has been modified to no longer allow the addition of multi-vision ("tri-vision") technology in response to the large number of negative comments received on this issue. Due to the time delay in finalizing the document, we have also proposed a new pilot project ending date of December 31, 2012.

Also attached is a summary of the additional comments received and our responses to these comments. I have not included copies of all the exhibits due to the volume and the fact that the other exhibits did not change.

We would appreciate your favorable review and approval of this pilot project proposal.

John L. Garner, PSM

Director, Office of Right of Way
Florida Department of Transportation
Telephone: (850) 414-4557
FAX: (850) 414-4850

Buckle up, hang up and drive safely!

PROPOSED PILOT PROJECT
Highway Beautification: Outdoor Advertising Sign Reduction
Interstate 75, State of Florida

1. General Overview

The Florida Department of Transportation (FDOT) is proposing a Pilot Project in the Outdoor Advertising Control Program to test the concepts of dealing with non-conforming signs. Specifically, the proposed pilot will test whether it is possible to move toward the Highway Beautification Act (HBA) purposes of promoting the recreational value of public travel and preserving natural beauty by modifying some of the regulations regarding the maintenance and continuance of non-conforming signs.

The highway corridor chosen for the pilot project is Interstate 75 from the Florida/Georgia State Line southward to the intersection with Florida's Turnpike at Wildwood. In 1996, the Florida Legislature passed Section 479.27, Florida Statutes, in which it found that "Interstate Highway 75 is used extensively by tourists and other visitors to reach their ultimate vacation, recreation, and business destinations in Florida." This statute goes on to designate the roadway chosen for this pilot project as a "highway beautification and tourism promotion pilot project." (See Attachment "A" for the full text of the statute.)

In response to the statute, FDOT developed a corridor management plan which considered all the required aspects. Although there has been an ongoing effort to effect beautification of the corridor through plantings, progress in removing any of the substantial number of non-conforming signs has been impossible because of lack of funding for purchase and the restrictions imposed by 23 CFR §750.707(d)(5).

Beginning with Fiscal Year 2008/2009, FDOT has committed \$3 Million per year for each of the next five (5) years to purchase non-conforming signs on this corridor. In order to facilitate identification of the signs which should be given the highest priority for removal, the firm of Keith and Schnars was commissioned to develop a study of the visual aspects of the corridor. This study is complete and has identified each of the areas along the corridor with distinct visual characteristics and prioritized them according to their sensitivity to visual obstructions such as signs. FDOT is proceeding with the sign purchase program with appraisals which began in January, 2009. While this purchase program will certainly reduce the number of non-conforming signs on the corridor, it is unlikely to cause a substantial reduction because of the cost of such signs in Florida.

The corridor study presents an opportunity for Federal Highway Administration (FHWA) and FDOT to partner on a pilot project which can test concepts for potentially modifying the regulations regarding changes to non-conforming signs.

2. Compliance with Federal Guidelines

We believe this pilot can provide a solid test for identifying potential changes to federal regulations. One of the difficulties encountered in allowing changes to non-conforming signs is in controlling which signs will be allowed to be modified and the type of modifications allowed. The pilot introduces the concept of the corridor study which can serve as a basis for identifying which non-conforming signs could be allowed to be modified. Other aspects of the pilot will test which modifications are effective in enticing the industry to participate while effectively removing signs in high priority areas.

This pilot will be specifically targeted at promoting the purposes of the HBA, specifically, the recreational value of public travel and the preservation of natural beauty. The corridor study has identified the areas of natural beauty along the corridor and has considered how man-made structures, such as billboards, negatively impact these areas. By focusing the removal in the areas deemed most sensitive, the corridor will be made more attractive and the natural beauty will be preserved.

The HBA is predicated on the premise that the public interest is served by the protection and preservation of natural beauty along highways. By emphasizing the protection of the most sensitive areas of natural beauty, the proposed pilot serves the public interest.

This pilot project has been developed in compliance with the National Environmental Policies Act (NEPA) process. After completion of the process, including public meetings, a Programmatic Categorical Exclusion was issued for the pilot project and is attached as Exhibit "B".

Public involvement has been at two levels. At the first level, meetings were conducted February 23 – 25, 2009, with each local government along the corridor, the outdoor advertising industry, and the beautification groups. Meetings with the local governments included Marion, Sumter, Alachua, Columbia, Suwannee, and Hamilton Counties as well as the City of Ocala and the City of Gainesville. Meetings with the industry included CBS Outdoor, Clear Channel Outdoor, Lamar Outdoor, Magic Media, Clyde Anderson Outdoor, and the Florida Outdoor Advertising Association. The beautification groups were represented by Citizens for a Scenic Florida and the Florida Federation of Garden Clubs. After these initial meetings, participants were provided electronic copies of the corridor study as well as a listing of the non-conforming signs within the proposed pilot area and the priority area within which each is located. A second meeting with the industry representatives was held on April 14, 2009, to capture their comments after having had an opportunity to review specific signs and locations. The comments received from these meeting were incorporated into draft documents provided to FHWA on June 3, 2009.

As the second level of public involvement, public meetings were held on July 21, 2009, in Ocala, Florida and on July 22, 2009, in Lake City, Florida. The public meetings were

advertised in the Florida Administrative Weekly as well as local newspapers in accordance with the Department's standard NEPA process for such meetings. The draft pilot project document was made available to all stakeholders and interested parties simultaneous with the publication of the meeting notices. Printed versions of the Keith & Schnars study of the project corridor as well as additional copies of the pilot project document were made available for review at the meeting sites 1 ½ hours prior to convening the meeting. During this review period, Department staff was available to answer questions. At the meetings, an overview of the proposed pilot project was presented and comments were solicited. The meetings were recorded to ensure accurate capture of all comments. Summaries of the two meetings have been prepared and are attached as Exhibits "C" and "D." Responses to specific comments offered and issues raised are included as Exhibit "E."

In response to concerns about the timeframe made available for comments, a new 30 day comment period was made available through publication and through e-mail contact with all those who had expressed interest. In addition, a final Public Meeting was held on November 20, 2009, in Lake City. This meeting was advertised in the Florida Administrative Weekly and placed on the Department's website with access to copies of the documents made available. Responses to the written and verbal comments are attached at Exhibit "F."

3. Pilot Specifics

- a. This pilot is designed to test a potential change in Federal regulations which currently prohibit modifications to a non-conforming sign. The pilot will seek to identify parameters which could be used to allow one-time modifications to non-conforming signs when identified objectives are met.
- b. The pilot would require a waiver of the requirements of 23CFR§750.707(d)(5).
- c. As previously stated, the proposed pilot project corridor is Interstate 75 from the Georgia/Florida line to Wildwood. This is a north-south corridor approximately 144 miles in length and is generally rural in character with the predominant land use being agricultural. The corridor is composed of eight (8) distinct landscape types identified as:
 1. Wooded pastoral
 2. Horse farm pastoral
 3. Pine forest
 4. Mixed pine/hardwood forest
 5. Payne's Prairie (a unique eco-system)
 6. Heartland urban
 7. Rural transitional
 8. Corridor nodes

Each of these landscape types has been analyzed based upon numerous factors including existing natural characteristics and vulnerability to man-made

structures. The areas have then been prioritized for beautification activities including sign removal as follows:

1. Strongly recommended
2. Recommended
3. Neutral
4. Not recommended
5. Strongly not recommended

The corridor is divided as follows:

Left (West) Side

1. Priority 1 – 10.2 miles – 96 non-conforming signs
2. Priority 2 – 26.0 miles – 130 non-conforming signs
3. Priority 3 – 89.5 miles – 272 non-conforming signs
4. Priority 4 – 17.9 miles – 1 non-conforming sign
5. Priority 5 – 0 miles – 0 non-conforming signs

Right (East) Side

1. Priority 1 – 11.3 miles – 51 non-conforming signs
2. Priority 2 – 16.0 miles – 58 non-conforming signs
3. Priority 3 – 103.0 miles – 239 non-conforming signs
4. Priority 4 – 13.3 miles – 1 non-conforming sign
5. Priority 5 – 0 miles – 0 non-conforming signs

Sixty-three point five (63.5) miles or 22.1% of the corridor length is sensitive priority 1 and 2 areas. These areas also have 335 or 39.5% of the 848 non-conforming sign structures on the corridor.

The Department anticipates acquiring between 150 and 180 of the 335 Priority 1 and 2 area nonconforming signs as part of the 5 year, \$15 Million sign purchase program. This would leave an estimated balance of between 155 and 185 Priority 1 and 2 area nonconforming signs that could potentially be removed under the proposed pilot project. Signs removed under this purchase program may not be used as credit for required removals under paragraph d. below.

- d. The Department will allow a one-time rebuild of existing non-conforming signs in exchange for removal of other non-conforming signs. For each sign which is to be given authority for a one-time rebuild, a written agreement will be entered into between the Department and the sign owner. This agreement will specifically set out the identification of the structure to be rebuilt and the terms of the rebuild as well as identification of the faces and structures to be removed and the conditions of removal. The rebuild will be required to meet the following conditions:
 - i. Signs to be rebuilt must be located in a priority 3 or priority 4 area as designated in the Keith & Schnars corridor study.
 - ii. Signs being rebuilt must remain at the existing location.
 - iii. The sign owner must obtain all necessary local government approvals for the proposed rebuild.
 - iv. To the greatest extent possible, signs selected for rebuild will be those which are backed by existing vegetation (particularly forested areas).

- v. Rebuilt signs may not extend above the tree canopy when viewed from the motorist's viewpoint.
- vi. No multi-vision, electronic or digital technology may be added.
- vii. After the rebuild is complete, the signs will continue to be regulated as non-conforming signs unless subsequent events remove the conditions causing the non-conformity.
- viii. In order to be allowed to rebuild a non-conforming sign, other signs must be removed as follows:
 1. For rebuilding a structure, remove one facing and structure.
 2. For adding a facing, remove one facing. If addition of a facing is the only action proposed, the removal of the facing must include removal of a structure.
 3. For raising the height above ground level (HAGL), remove one facing and structure.
 4. For adding illumination to a facing, removal of one facing and structure will permit lighting to be added to two facings.

EXAMPLE SIGN REMOVAL REQUIREMENTS

Existing Sign						Rebuilt Sign						Required Removal	
Material	Supports	Facing Size	Lighted	Faces	HAGL	Material	Supports	Facing Size	Lighted	Faces	HAGL	Facing Size	Number
Wood	4	12x48	No	1	12	Steel	1	12x48	No	1	12	12x48	1
Wood	4	12x48	No	1	12	Steel	1	12x48	No	2	12	12x48	2
Wood	4	12x48	No	1	12	Steel	1	12x48	No	2	18	12x48	3
Wood	4	12x48	No	1	12	Steel	1	12x48	Yes	2	18	12x48	4

- ix. Signs or facings to be removed must meet the following criteria:
 1. Not be the subject of any removal action by the state or local government.
 2. Be located on the corridor in a priority 1 or priority 2 area.
 3. Be of comparable size and configuration to the sign to be rebuilt.
Comparable size means like square footage of the sign face.
 - x. Addition of a facing will not be permitted if removal of vegetation other than exotic or invasive species is required to provide a view zone.
 - xi. Any failure to rebuild or maintain a sign in conformance with the agreement between the Department and the sign owner will result in the sign becoming illegal and subject to removal.
- e. For signs which are located on leased premises, the Department will require documentation that the landlord's interest has been addressed. To the extent that budget is available, the Department will provide funding for compensation to landlords for the loss of the income stream from the sign site lease. Availability of funding will be determined at the time the Department enters into the Agreement with the sign owner, pursuant to paragraph d. above.

- f. In order to allow time to measure the full impact of the pilot process, we would propose that the pilot extend through December 31, 2012.
- g. It is anticipated that this pilot will result in a corridor with a much improved visual character, making it more attractive to motorists. There would be a general reduction in the number of signs along the corridor and those which are rebuilt would be as unobtrusive as possible. A general reduction in the number of sign faces available for advertising may result in an increase in the cost of advertising or a reduction in availability of advertising space. No concerns of this nature were expressed at the public meetings.
- h. Monitoring of the pilot will be accomplished through the agreements with the sign owners as set out in d. above. These agreements will set out the exact terms and conditions under which the rebuild of a non-conforming sign is allowed and how the sign will be dealt with after the rebuild. Records will be kept regarding the number of non-conforming signs purchased, removed by agreement and rebuilt. The report will detail the location and number of rebuilt signs and the location and number of removed signs. Pictorial records will be periodically updated to document the improvement in the motorist's visual experience. Semi-annual status reports will be provided to FHWA.
- i. During the Pilot Project, there will be an increased administrative burden on the Department to draw agreements and monitor compliance. After completion of the pilot, there will be a long term reduction in administrative burden due to a reduction in the number of non-conforming signs.
- j. There is very little risk associated with this pilot. There are no environmental or safety concerns. The expected result is an improvement in the appearance of the corridor from the motorist's perspective. Risks associated with any individual removal or rebuild will be controlled through the agreement between the Department and the sign owner.