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U.S. Department of Transportation Caves in to Billboard Industry and Allows Potentially Dangerous Digital Signs to be Erected on Federal Highways

WASHINGTON, D.C. -- Ignoring the clear language of the Highway Beautification Act and its regulations, requirements for federal rulemaking, and its own promises to conduct highway safety research, the Federal Highway Administration (FHWA) of the U.S. Department of Transportation issued a "guidance memorandum" on Sept. 25 that will permit the construction of thousands of digital billboards along Interstate and federal-aid highways.

The "guidance" memorandum was issued without the opportunity for public comment or scrutiny by affected governments and communities, and dramatically alters the letter and spirit of the law while ignoring congressional intent and public opinion.

The policy was issued in spite of the fact that FHWA has agreed to conduct research into the safety issues associated with these controversial signs. That research will not be completed until 2009. The FHWA policy means that hundreds, if not thousands, of digital signs will go up along federal roads before it is determined if they are safe.

"This policy is backwards and extraordinarily irresponsible," said Kevin Fry, President of Scenic America. "Why is the federal government allowing a potentially dangerous device to go up without knowing if it poses a hazard to the American people? Obviously, there is some doubt about safety or the government wouldn't be spending money to study the issue. You'd think that given the problems the government already has with the safety of our infrastructure they wouldn't be looking for ways to add dangerous distractions to our overcrowded and congested highways."

Digital billboards generally take the form of large LED displays, which function like giant TV screens, and show advertisements that change intermittently every 4, 6, or 8 seconds. They are considered potential hazards due to their ability to distract motorists from the driving task in ways traditional billboards do not.

The signs are extraordinarily bright, especially at night, where they dominate the driver's field of vision and cause inadvertent and instinctual glances. Images change on a regular and intermittent basis, like a huge slide show in the sky. The constantly changing images cause many motorists to look at the signs long enough to see what comes up next in the rotation. And the messages on the signs take a minimum of five seconds to comprehend, according to the billboard industry itself.

A 2006 National Highway Traffic Safety Administration study showed that anything that distracts drivers for more than two seconds significantly increases the chances of accidents. The FHWA policy does not explain how the agency came to the conclusion that the unique characteristics of digital signs do not violate the two-second distraction threshold established by their own agency.

"I have yet to get an explanation from anyone about how a digital billboard can simultaneously be safe for drivers and be an effective advertising medium," said Fry. "The Federal Highway Administration has

completely abandoned the law, science, common sense, and public sentiment and told American motorists that their safety is secondary to the interests of the giant media companies that dominate outdoor advertising.”

The new policy:

- Violates the Highway Beautification Act’s prohibitions on changeable off-premise message signs along Interstate and federal-aid highways which were established by Congress in 1978.
- Violates the Highway Beautification Act’s regulations prohibiting signs illuminated by “flashing or intermittent” lights, and ignores the accepted definition of “intermittent,” a word which has been in common English usage for over five hundred years.
- Permits digital signs to go up along federal roads even though FHWA has not completed its research on the safety of electronic billboards, thereby allowing potentially dangerous devices to be erected without a full understanding of their effect on motorists.
- Ignores the results of research on driver distraction conducted by the National Highway Traffic Safety Administration, which showed that anything that distracts drivers for more than two seconds increases the chances of accidents, and makes no attempt to show that digital billboards do not cause distractions above and beyond the two-second threshold.
- Does not explain what will happen to digital billboards erected as a result of this policy if future research, including their own, shows the signs are a hazard to motorists, and presents no analysis of the costs to taxpayers of compensating billboard companies if studies show the signs to be dangerous and the signs must then be altered or removed.
- Allows transitions between changing images that can last up to four seconds, presumably in the form of dissolves or slow wipes that would almost certainly give the appearance of animation and motion, which is generally acknowledged to be dangerous by safety experts.
- Willfully and improperly subverts requirements for federal rulemaking in order to benefit a powerful special interest. By issuing this far-reaching policy as a “guidance memorandum,” FHWA avoids public and stakeholder comment and media scrutiny, and prohibits interested parties, including local governments, from learning about the policy until it is too late to affect the outcome.

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For a copy of the September 25 FHWA memorandum, go [here](#).

For more details on the relationship of digital signs to the Highway Beautification Act, and the relevant language in the law and regulations, [go here](#).

For a broad overview of the digital sign issue, download “Billboards in the Digital Age: Unsafe and Unsightly at Any Speed,” [here](#).

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Scenic America is the only national nonprofit organization dedicated solely to preserving and enhancing the visual character of America's communities and countryside. Through national advocacy efforts and technical assistance services, local and national projects, and the support of its state affiliates, Scenic America fights to eliminate billboard blight; mitigate the impact of visual intrusions like cell phone towers and overhead power lines, while promoting scenic easements and other strategies to protect open space; preserve the visual qualities of public lands; protect the scenic character of the nation's highways and byways, and promote context-sensitive highway solutions; and build a national movement to preserve and defend America's irreplaceable scenic resources. For more information, visit www.scenic.org.