



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Program Review

## Outdoor Advertising Control 23 U.S.C. 131



**-----Final REPORT-----**

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## Introduction

As part of its stewardship and oversight responsibilities, the Federal Highway Administration (FHWA), an agency of the U.S. Department of Transportation (USDOT), conducts periodic reviews of state transportation departments to ensure that the federal-aid program is being delivered in compliance with applicable statutes and regulations under authorities granted by Congress in title 23, United States Code (USC).

In August 2023, FHWA with the assistance of the Utah Department of Transportation (UDOT) initiated a regularly scheduled, periodic agency program review of the State of Utah's Outdoor Advertising Control (UT-OAC) program, which is managed by UDOT. The review encompassed current UT-OAC program practices, procedures and assessed the general effectiveness of the UT-OAC program.<sup>1</sup>

## Background

The Highway Beautification Act (HBA) of 1965, as amended, codified at 23 USC §131, Pub. L. 85-767, and FHWA's implementing regulations at 23 Code of Federal Regulations (CFR) 750.701<sup>2</sup>, establish the Federal requirements for outdoor advertising. The stated program objectives of the HBA are as follows:

*Control the erection and maintenance of outdoor advertising signs in areas adjacent to the Interstate System and primary system (controlled Federal-aid routes) to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.*

The HBA along with FHWA's implementing Federal regulations (including a Federal-State Agreement (FSA)) together provide the foundation for States' control of outdoor advertising. Important elements of the Federal requirements include:

1. Responsibility of States to ensure "effective control" of outdoor advertising.
2. Scope of application for providing effective control of outdoor advertising in the Interstate System and the primary system, defined for this purpose as controlled routes on

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<sup>1</sup> Additional information regarding the UT-ODA program is available online at [Outdoor Advertising Control | UDOT \(utah.gov\)](https://www.udot.utah.gov/outdoor-advertising-control).

<sup>2</sup> The 1958 Bonus Program provisions found in Subpart A of section 23 CFR §750 are not applicable in the State of Utah.

the Federal-aid primary systems in existence on June 1, 1991, and any highway which is not on such system, but which is on the National Highway System. 23 USC 131(t). For additional information on controlled Federal-aid routes in Utah refer to the UDOT Roadway Classification Online Map tool ([weblink](#)) or UDOT Outdoor Advertising Control Map ([weblink](#)).

3. Title 23 Section 131(b) USC authorizes the Secretary of Transportation to withhold ten per centum [10%] of a state's Federal-aid Highway Program apportionment under §104 of Title 23 for failure to ensure effective control until such time that effective control is [re]established.

4. The Utah Federal-State Agreement as executed between the State of Utah and the Secretary of Transportation on January 18, 1968 is included as [Appendix A](#).

## **Purpose**

The purpose for this risk-based stewardship and oversight periodic review is to: (1) identify and review the State's current administrative rules as they relate to effective control of the HBA; (2) observe and evaluate the State's practices and procedures; (3) identify, discuss, and offer recommendations; and (4) provide an assessment of the State's overall compliance with the regulatory standards of effective control of outdoor advertising.

## **Scope & Methodology**

The program review was conducted by a team composed of FHWA staff with technical expertise and knowledge of the HBA statute and regulatory program requirements assigned from FHWA Office of Real Estate Services, FHWA Resource Center, and the Utah Division office. UDOT staff with prior UT-OAC program experience assisted in the review by facilitating communication with UT-OAC staff, providing access to internal records, and offering program insights. The review team also relied on a multidisciplinary group of FHWA staff for additional technical expertise in preparing the final report. Finally, UDOT's ODA Program provided FHWA an overview session of the online permitting systems ([weblink](#)) and training procedures for permit application and renewals.

The scope of this review included:

1. Identification and Review of Current Requirements.
2. Desk Audit and Field Review.
3. Assessment of UT-OAC Program.
4. Provide Observations and Recommendations.

### **Program Review Team Members**

<i>Name</i>	<i>Agency</i>	<i>Position</i>
<i>Edward Woolford</i>	FHWA, HDA-UT	Right of Way Manager
<i>Jennifer Janik</i>	FHWA, HEPR	Outdoor Advertising Control Program Manager
<i>Michelle Palicka</i>	FHWA, HEPR	Realty/ODA Technical Specialist
<i>Rod McDaniels</i>	UDOT	Director of Risk Management

### **1. Identification and Review of Current Requirements**

The first element of this review was to identify and review the current Federal and State laws, regulations and procedures governing the UT-OAC Program. An overview of the Federal and State laws, regulations and procedures is provided below.

#### Federal Requirements

The HBA and FHWA's implementing regulations provide national policy and requirements for the control of outdoor advertising along all Interstate and primary system highways (see above, pp. 1-2). These Federal provisions establish the responsibility of States to ensure effective control of outdoor advertising, specify the types of signing exempted from outdoor advertising requirements, and establish the consequence in the event that a State is found to not be providing effective control of outdoor advertising.

The HBA required States to enter into a State specific FSA that stipulates size, spacing, and lighting requirements of outdoor advertising signs. It may also identify and certify specific cities or other local authorities within the State to which control of outdoor advertising has been

delegated. Utah’s Federal-State Agreement, signed by FHWA on January 18, 1968, specifies sign size, spacing, and lighting criteria but does not include any delegation of outdoor advertising control to local jurisdictions. A copy of the Utah FSA is included as [Appendix A](#).

### State Requirements

In accordance with 23 CFR 750.705(h), for a State to ensure effective control it must “develop laws, regulations, and procedures, establish enforcement procedures sufficient to discover illegally erected or maintained signs, and submit regulations and enforcement procedures to FHWA for approval.” Control of outdoor advertising is in Utah Code, Title 72, Chapter 7, Part 5. FHWA reviewed the UT-OAC Program policy and procedures identified as Utah Administrative Rule (UAR) [R933-2](#) [2015]. Utah administrative rules are prepared by the State DOT and approved for use by the Utah Transportation Commission as the policy and procedure for external program implementation. The last amendment to R933-2 occurred in 2015. On July 9, 2015, UDOT provided FHWA the formal submittal for the amendments that occurred in 2015 with a request for approval, per 23 CFR 750.705(j). The UAR was recertified, per State rules, without amendment in 2016 and 2021.

## **2. Desk Audit and Field Review**

FHWA conducted a desk-level permit review of 40 randomly selected permits as well as 10 additional permits identified from a complaint submitted to FHWA from a local non-governmental organization regarding the UT-OAC program, for a total of 50 permits of the 1,699 active permits on file. Permits selected for a desk-level review were determined based upon the relative share of active permits issued by UDOT’s four localized regions. For example, UDOT Region 1 has 20% of all total active permits in the State; therefore, 20% (8 of 40) of the desk audits of the randomly selected permits were conducted in that region. [Appendix B](#) provides a table of the 50 permits selected for the desk-level permit review. To obtain relevant data, the review team utilized UDOT’s ODA Program Map ([weblink](#)) and UDOTs ODA Program Online Data tool ([weblink](#)), both publicly accessible.

Random selection of permits included different geographical locations to ensure a variety of regulatory oversight areas, such as permits identified as MAP-21<sup>3</sup> additions, conforming and non-

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<sup>3</sup> MAP-21 additions refer to signs incorporated under amendments to Title 23 under the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21). MAP-21 incorporated National Highway System (NHS) routes under the requirement of effective control. Therefore, the HBA requirements are now applicable to all roads classified as Interstate Highway System, the Federal-Aid primary system in existence on June 1, 1991, and the NHS.

conforming status indicators, and locations in proximity to interstate interchanges or points of gore (that is, where two roadways merge). FHWA conducted onsite inspections of 20 of the 50 selected active permits covering 360 miles of Interstate 15, Interstate 80, State Route (SR) 68 (referred as Redwood Road), SR-39, SR-114, and 4700 South on the boundary of Kearns and West Valley City.

### Assessment of UT-OAC Program

UT-OAC Program is recognized for its ability to identify and implement new methods and technologies into its program structure. Over the past decade UDOT has enhanced the program from a regional, decentralized setup to a centralized headquarters-based operation consisting of four full-time employees operating under a revenue neutral fee-based structure. Utah State Code was amended to allow a fee structure based on a revenue neutral operation that substantially increased the fee cost per individual permit in Utah. These program amendments, authorized through State legislation, granted the program the ability to improve and expand upon the program's overall effectiveness by doubling the size of the staff, hiring two additional full-time employees. Program staff have improved existing procedures, by converting a paper-based permitting structure into a publicly accessible online operation and offering beginning-to-end online permitting tools, including educational tools, new permits applications, renewals, and an advanced online payment portal.

Since 2019, UT-OAC staff has investigated 180 complaints and taken enforcement actions on 34 of these, with a total of 52 signs having been removed. For additional details on enforcement actions taken by the UT-OAC staff, refer to the UT-OAC 5-Year Enforcement Activity 2019-2023 table depicted below.

### UT-OAC 5-Year Enforcement Activity 2019-2023<sup>4</sup>

	2019	2020	2021	2022	2023	Total
COMPLAINTS RECEIVED/ INVESTIGATED	24	43	25	26	62	180
ENFORCEMENT ACTIONS	11	5	5	8	5	34
SIGNS REMOVED AS A RESULT OF COMPLAINT / ENFORCEMENT ACTIONS	17	21	6	7	1	52
NEW PERMITS APPROVED AS A RESULT OF COMPLAINT OF ENFORCEMENT ACTIONS	0	4	6	1	2	13
UNLAWFUL TEMPORARY SIGNS	10	14	14	13	8	59
ADMINISTRATIVE APPEALS	0	3	0	0	0	3

### 3. Observations, Findings, Recommendations, Action Plan

FHWA identified 5 observations based on the results of this program review and available information. UT-OAC has been provided an opportunity to review and comment on the report and proposed action plan. Based on additional supplemental documentation submitted to FHWA the concerns outlined in observation 4 have been resolved. The recommendations are suggestive corrective, forward-looking actions the State may consider.

**Next steps:** FHWA and UDOT will coordinate on resolution to the action plan as defined in Appendix D that will provide resolutions to each of the observations, for UDOT to implement on a going forward basis. The action plan shall outline stated resolutions with proposed timeframes. The action plan shall provide the State an opportunity for discovery to provide additional clarifying documentation to resolve the findings.

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<sup>4</sup> Enforcement actions reflect actions taken in 2019 to 2023 and are current as of July 17, 2023.



**Observation 1:** FHWA observed the support beams for permit #2-2065 have been embedded in a newly installed concrete barrier of a local public agency sponsored project on 4700 South in West Valley City, and Kearns, Utah. The facing of the sign is encroaching within the right of way of a controlled Federal-aid highway (see photo). The encroachment creates a safety and operational issue.



**Finding:** Sign permit #2-2065 is in violation of 23 U.S.C. 109(d), 23 CFR § 1.23 and § 655.

**Recommendation:** UDOT and the local project sponsor will need to address this violation with the sign company.

**Action Plan:** UDOT and the local project sponsor have been coordinating with the sign owner and have selected a site for relocating the sign to a new site.

**Observation 2:** Among the 50 permits examined in the publicly accessible UT-OAC Online Data Tool, the FHWA observed seventeen permits with quality control/accuracy deficiencies. The failure of a State to maintain accurate permit inventory could lead to permitting errors that may compromise effective control under 23 CFR §750.704(a)(1)-(6). During interviews with UT-OAC staff, FHWA learned that quality control measures are to be conducted on existing permit documentation on a three-year cycle (permits are renewed annually), although FHWA observed deficiencies in the public facing records exceeding 3 years. For example, several permits were shown as conforming when the signs should have reflected non-conforming status.

**Finding:** FHWA observed several permits showing signs as conforming when the signs should have reflected non-conforming status in the UT-OAC Online Data Tool. A state should maintain an accurate permit inventory to assure quality assurance and control that is considered in the context of effective control under 23 CFR §750.704(a)(1)-(6).

Recommendation: Establish a procedure to improve the quality assurance and control for the public facing UT-OAC Online Data tool and permit documentation, particularly in connection with conforming and non-conforming status.

Action Plan: UDOT will enhance its existing quality assurance and control protocols, particularly in connection with conforming and non-conforming status. UDOT also intends to increase the frequency of its 3-year regular inventory for the database.

**Observation 3:** Utah Code & Utah Administrative Rule 933

Utah Code 72-7-515 provides that Utah Code Title 72, Part 7, is subject to and shall be superseded by conflicting provisions of the FSA.

Utah Code 72-7-505(3)(b) provides for an exception to the 500-foot setback requirement to public parks, public forests, playgrounds, and cemeteries by limiting the scope to unincorporated areas, which is not consistent with the FSA.

Utah Code 72-7-505(3)(c)(ii) appears to provide for an exception to the FSA by allowing a sign relocated due to the construction of a highway project within the 500-foot setback of an interchange. FHWA observed signs as addressed in Observation 5 that may be located within 500 feet of an interchange. FHWA is aware that this section of Utah Code is not in effect until such a time that the requirements of Utah Code 72-7-505(4) have been met, which states that Utah Code 72-7-505(3)(c)(ii) may not be implemented until the FSA has been modified to allow that sign placement.

Utah Code 72-7-510.5 differs from the FSA and 23 CFR 750.707 as to non-conforming signs regarding the definition of customary maintenance found in agency guidance.

**72-7-510.5. Height adjustments for outdoor advertising signs.**

(1) If the view and readability of an outdoor advertising sign, including a sign that is a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency of this state, along an interstate, federal aid primary highway existing as of June 1, 1991, national highway systems highway, or state highway or by an improvement created on real property subsequent to the department's disposal of the property under Section 72-5-111, the owner of the sign may:

(a) adjust the height of the sign; or

(b) relocate the sign to a point within 500 feet of its prior location if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone.

(2) A height adjusted sign under this section does not constitute a substantial change to the sign.

FHWA examples of “customary maintenance” provided as a guide to State DOTs include actions such as changing existing nonstructural external light fixtures for energy efficiency; replacement of structural components with the same materials consistent with State restrictions; nailing, cleaning, and painting, and replacement of nuts and bolts; or changes in the advertising message. For additional information see Appendix C. Customary Maintenance of Legal Non-Conforming Signs.

Utah Administrative Rule 933-2-8(5) provides for the alteration or re-erection of non-conforming signs damaged by vandalism or an act of God. This language differs from 23 CFR 750.707(d)6 that states, “a non-conforming sign may continue as long as it is not destroyed, abandoned, or discontinued”. Federal law allows for exceptions to be made for signs destroyed due to vandalism and other criminal or tortious acts, but not due to acts of God.

Utah Administrative Rule 933-2-8(5)(a) allows for a nonconforming sign located on a Scenic Byway that is damaged by vandalism or an act of God may only be repaired to the original recorded approved permitted state for size and structure. This language differs from 23 CFR 750.707(d)6 that states, “a non-conforming sign may continue as long as it is not destroyed, abandoned, or discontinued”. Federal law allows for exceptions to be made for signs destroyed due to vandalism and other criminal or tortious acts, but not due to acts of God.

Finding: Per 23 CFR 750.705(h), the State shall develop laws, regulations, and procedures to accomplish the requirements of effective control. The review identified the above instances where the UAR 933 or Utah Code differs from, or contains ambiguous language that may be interpreted in a confusing manner as related to, the FSA or Federal statute and regulations:

Recommendation: In the past, FHWA and UDOT have interpreted federal and state law differently in two areas: non-conforming signs damaged by acts of God; and the location of signs within 500’ of an interchange when an interchange is constructed or modified.

UDOT should consider reviewing Utah Administrative Rule 933 to prioritize FSA implementation. UDOT should also enhance staff training and provide adequate procedures that consistently interpret Federal statute and regulations. Any proposed amendments to R933 shall be submitted to FHWA for pre-approval. Additionally, UDOT should evaluate the need to update the 1965 FSA. For further details on updating the FSA, please see Federal Register Notice 4910-22-P published on January 2, 2014

Action Plan: UDOT will review its statutes, regulations, case law, and the FSA, and consider how to further modify R933 to harmonize R933 with the FSA, Utah law, and FHWA's interpretations of federal law as detailed in this report. The proposed amendments shall be submitted to FHWA for pre-approval by no later than June 30, 2025.

**Observation 4:** Permitted signs within 500' of a Public Park.

Finding: The FSA states, "signs may not be located within 500 feet of any of the following which are adjacent to the highway" ... (a) public parks / (c) playgrounds. FHWA observed the following permits located within the 500-foot setback requirement from a public park: Permit Number: 5-0854, 2-0940, 2-1167, and 2-0993. UDOT provided additional supporting documentation related to each of the following permits. UDOT is acting in accordance with the FSA based on the supplemental information provided; therefore, FHWA has determined there is no observed finding. The FSA does not provide for an exception based on land designation of un/incorporated land designation.

Recommendation: No further action is required.

Action Plan: Not applicable

Permit Number: 5-0854

Resolved. UT-OAC has provided supporting documentation demonstrating the permit for this sign was issued in 2002, and the park was not constructed until 2008. The permit should be reflected in the data portal as a non-conforming sign.

Permit Number: 2-0940

Resolved. UT-OAC has provided historical information demonstrating this sign is adjacent to a fee-for-membership recreation center business operation. The State of Utah does not consider this type of facility to fall within the definition of a "park". The local jurisdiction also does not consider this type of facility to be a park.

Permit Number: 2-1167

Resolved. UT-OAC has provided historical information demonstrating the sign was in place prior to the enactment of the HBA and is therefore grandfathered.

Permit Number: 2-0993

**Resolved.** UT-OAC has provided historical information demonstrating the sign was in place prior to the enactment of the HBA and is therefore grandfathered.

**Observation 5:** Permitted signs located within 500' of an interchange.

**Finding:** FHWA observed 3 permitted signs located within 500 feet of an interchange (Permit Number: 2-1154, Permit Number: 2-1187, Permit Number: 3-0958). The FSA states, “no sign may be located on an interstate highway or freeway within 500 feet of an interchange, or intersection at grade, or rest area (measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).” Despite this restriction, FHWA observed the three permitted signs located within 500 feet of interchanges. The FSA does not provide for any exceptions to this requirement and Utah Code 72-7-505 (3)(c)(ii) is not in effect until such a time that the requirements of Utah Code 72-7-504(4) has been complied with.

**Recommendation:** FHWA recommends continued discussion with UT-OAC staff to ensure the 500-foot setback requirement interchanges is complied with.

**Action Plan:** Improve quality control and assurances through training that the 500-foot setback from an interchange is required per the FSA. Ensure staff are aware that Utah Code 72-7-505(3)(c)(ii) is not in effect.

#### 4. Action Plan

Finding/Compliance	Action	UDOT Lead	Anticipated Completion
Sign permit #2-2064 is in violation of 23 U.S.C. 109(d), 23 CFR § 1.23 and § 655.	UDOT and the local project sponsor have been coordinating with the sign owner and have selected a site for relocating the sign to a new site.	Ross Crowe	December 31, 2024
FHWA observed several permits showing signs as conforming when the signs should have reflected non-conforming status in the UT-ODA Online Data Tool. A state should maintain an accurate permit inventory could lead to permitting errors that may compromise effective control under 23 CFR §750.704(a)(1)-(6).	UDOT will enhance its existing quality assurance and control protocols, particularly in connection with conforming and non-conforming status. UDOT also intends to increase the frequency of its 3-year regular inventory for the database.	Ross Crowe	May 31, 2025
FHWA observed 3 permitted signs located within 500 feet of an interchange. The FSA states, “no sign may be located on an interstate highway or freeway within 500 feet of an interchange, or inter-section at grade, or rest area (measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).”	Improve quality control and assurances through training that the 500-foot setback from an interchange is required per the FSA. Ensure staff are aware that UAR 72-7-505(3)(c)(ii) is not in effect. Further harmonize state and federal law concerning measurements, as appropriate.	Ross Crowe	Submit to FHWA for pre-approval by June 30, 2025

<p>Per 23 CFR 750.705(h), the State shall develop laws, regulations, and procedures to better harmonize state and federal law in a manner that reflects the needs of effective control.</p>	<p>UDOT will review its statutes, regulations, case law, and the FSA, and consider how to further modify R933 to harmonize R933 with the FSA, Utah law, and FHWA’s interpretations of federal law as detailed in this report. The proposed amendments shall be submitted to FHWA for pre-approval by no later than June 30, 2025.</p>	<p>Ross Crowe</p>	<p>Submit to FHWA for pre-approval by June 30, 2025</p>
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## 5. Effective Control Finding

FHWA is issuing a conditional determination of "effective control" for Utah's outdoor advertising control program, contingent upon the implementation of the action plan by June 30, 2025.

Effective control is codified in 23 CFR 750.705(a)-(j). The state must satisfactorily meet the following regulatory standards:

- (a) Prohibit the erection of new signs other than those which fall under [§ 750.704\(a\)\(1\)](#) through [\(6\)](#);
- (b) Assure that signs erected under [§ 750.704\(a\)\(4\)](#) and [\(5\)](#) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;
- (c) Assure that signs erected under [§ 750.704\(a\)\(1\)](#) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;
- (d) Remove illegal signs expeditiously.
- (e) Remove nonconforming signs with just compensation within the time period set by [23 U.S.C. 131](#) (subpart D, part 750, chapter I, [23 CFR](#), sets forth policies for the acquisition and compensation for such signs);

- (f) Assure that signs erected under [§ 750.704\(a\)\(6\)](#) comply with [§ 750.710](#), Landmark Signs, if landmark signs are allowed;
- (g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements will apply;
- (h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;
- (i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and
- (j) Submit regulations and enforcement procedures to FHWA for approval.



## Appendices

### Appendix A. Utah Federal-State Agreement

#### AGREEMENT

(UTAH)

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM.

THIS AGREEMENT made and entered into this 18th day of January, 1968, by and between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the Administrator, and the State of Utah, acting by and through its Governor, hereinafter referred to as the State.

Witnesseth:

WHEREAS, the Governor is authorized by Senate Bill No. 94, enacted by the Thirty-seventh Utah State Legislature, to enter into agreements with the Secretary of Commerce, whose functions, powers and duties in regard to highway matters have been transferred to the Secretary of Transportation by Public Law 89-760, 89th Congress, on behalf of the State of Utah to comply with Title I of the Highway Beautification Act of 1965; and

WHEREAS, Section 131(d) of Title 23, United States Code provides for agreement between the Secretary of Transportation and

the several states to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the interstate and primary systems which are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas, which areas are also to be determined by agreement; and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in interstate and primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, the State of Utah elects to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the national policy in order to remain eligible to receive the full amount of all federal-aid highway funds to be apportioned to such state on or after January 1, 1968, under Section 104 of Title 23, United States Code.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

A. The term "Act" means Section 131 of Title 23, United States

Code (1965), commonly referred to as Title I of the Highway Beautification Act of 1965.

B. Commercial or industrial zone means those areas which are reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinance or regulation, or enabling state legislation, including Highway Service Areas lawfully zoned as Highway Service Zones, in which the primary use of the land is reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

C. Unzoned commercial or industrial area means those areas not zoned by state or local law, regulation or ordinance, which are occupied by one or more industrial or commercial activities, other than outdoor advertising signs, the lands along the highway for a distance of 600 feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions, <sup>provided those lands on the opposite side of the</sup> highway are not deemed scenic or having aesthetic value as determined by the Utah Road Commission.

All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

D. Commercial or industrial activities, for purposes of the unzoned area definition above, mean those activities generally recognized as commercial or industrial by zoning authorities in

this state, except that none of the following activities shall be considered commercial or industrial:

1. Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
2. Transient or temporary activities.
3. Activities not visible from the main-traveled way.
4. Activities conducted in a building principally used as a residence.
5. Railroad tracks and minor sidings.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of six continuous months, any signs located within the former unzoned area shall become non-conforming.

E. Sign means any 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.

F. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing

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activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign or sign structure.

G. Center line of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided interstate or other limited-access highway, or the center line of the main-traveled way of a non-divided highway.

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

I. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

## II. Scope of Agreement

This agreement shall apply to:

A. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of all portions and of the interstate/primary systems within the State of Utah in which outdoor advertising signs, displays and devices may be visible from the main-traveled way of said system.

III. State Control

The State hereby agrees that, in all areas within the scope of this agreement, the State shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this agreement other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following criteria:

A. In zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply to signs, displays and devices erected subsequent to the effective date of this agreement.

General. THE FOLLOWING SIGNS SHALL NOT BE PERMITTED:

1. Signs which imitate or resemble any official traffic sign, signal, or device.
2. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
3. Signs which are erected or maintained 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.

Size of Signs.

1. No sign shall exceed the following dimensions:

- (a) Maximum area -- 1000 square feet
  - (b) Maximum height -- 25 feet
  - (c) Maximum length -- 60 feet
2. The area shall be measured by the outer limits of the advertising space.
3. A sign structure may contain no more than two facings visible and readable from the same direction on the main-traveled way on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.
4. Back-to-back or V-type sign structures will be permitted with the maximum area being allowed for each facing; and considered as one structure and subject to spacing as hereinbelow ~~above~~ provided, but must be erected so that no more than two facings are visible to traffic in any one direction.

Spacing of Signs.

1. Signs may not be located within 500 feet of any of the following which are adjacent to the highway:
- (a) Public parks
  - (b) Public forests
  - (c) Playgrounds
  - (d) Cemeteries
2. Interstate Highways and Limited-Access Highways on the Primary System.

- (a) Spacing between sign structures along each side of the highway shall be a minimum of 500 feet except that this spacing shall not apply to signs which are separated by a building or other obstruction in such a manner that only one sign located within the minimum spacing distance set forth above is visible from the highway at any one time.
- (b) No sign may be located on an interstate highway or freeway within 500 feet of an interchange, or intersection at grade, or rest area (measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).

3. Non-Limited Access Primary Highways.

The location of sign structures situated between streets, roads or highways entering into or intersecting the main-traveled way shall conform to the following minimum spacing criteria to be applied separately to each side of the primary highway:

- (a) Where the distance between centerlines of intersecting streets or highways is less than 1000 feet, a minimum spacing between structures of 150 feet



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(double-faced, V-type and/or back-to-back) may be permitted between such intersecting streets or highways.

- (b) Where the distance between centerlines of intersecting streets or highways is 1000 feet or more, minimum spacing between sign structures (double-faced, V-type and/or back-to-back) shall be 300 feet.

4. Explanatory Notes.

- (a) Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways.
- (b) Only roads, streets and highways which enter directly into the main-traveled way of the primary highway shall be regarded as intersecting.
- (c) Official and "on premise" signs, as defined in Section 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with the above spacing requirements.
- (d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs.

Lighting.

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
2. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the highway and 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.

IV. Interpretation

The provisions contained herein shall constitute the acceptable standards for effective control of signs, displays, and devices within the scope of this agreement.

Nothing contained herein shall be construed to abrogate or prohibit a municipality from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive in controlling outdoor advertising than the provisions of this Agreement.

Standards and criteria contained in Section III shall apply to signs erected subsequent to the effective date of this Agreement. Existing signs in zoned and unzoned commercial or industrial areas will be considered to be conforming to said standards and criteria.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, or the provisions of Chapter 51, Section 5, Laws of Utah, 1967, are amended by subsequent action of the Utah State Legislature, the parties reserve the right to re-negotiate this Agreement or to modify it to conform with any amendment.

V. Effective Date

\*This Agreement shall become effective when signed and executed on behalf of both the State and the United States of America.

IN WITNESS WHEREOF, the State has caused this Agreement to be duly executed in its behalf, and the Secretary of Transportation has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

WITNESSES:

STATE OF UTAH

Brace P. Thurmond

By

Earl K. Raynt (SEAL)  
Governor

William J. Howe

Date

Nov 10, 1967

WITNESSES:

*A. McInerney*  
\_\_\_\_\_

UNITED STATES OF AMERICA

By *Lawrence P. Burtwell*

Date *January 18, 1969*

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney General

Date \_\_\_\_\_

APPROVED BY:

\_\_\_\_\_

Date \_\_\_\_\_

## Appendix B. Desk Audit and Field Review

Region Name	HBA #	Permit Number	Type	Status	Status Date	Repair	Zoned	Sign Height	Sign Width	Number Of Poles	Pole Material	Illuminated	Digital Sign	Scenic Byway	Map21 Expansion	In Service Date	Permit Check Date	Inventory Check Date
Region 1	YES	2*1154	Two Sided	Conforming	-	Good	Commercial	14	48	4	Metal	YES	NO	NO	NO	9/16/1997	3/9/2017	3/9/2017
Region 4	YES	5*0853	Two Sided	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	39010	4/27/66	4/27/66
Region 4	YES	5*0854	Two Sided	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	10/20/2006	4/5/2017	4/5/2017
Region 1	YES	1*0198	V-Type	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	10/31/2006	1/26/2017	2/8/2021
Region 1	YES	1*0957	V-Type	Non-conforming	10/12/2017	Average	Commercial	14	48	1	Metal	YES	YES	NO	NO	12/15/1986	1/26/2018	3/15/2021
Region 1	YES	1*0936	Two Sided	Conforming	-	Average	Commercial	14	48	4	Metal	YES	NO	NO	NO	12/24/1984	3/2/2017	3/15/2021
Region 1	YES	2*1156	V-Type	Non-conforming	11/5/2020	Good	Other	14	48	1	Metal	YES	NO	NO	NO	6/7/1999	-	-
Region 1	YES	1*2046	Two Sided	Conforming	7/7/2021	Average	Commercial	6	12	3	Wood	NO	NO	NO	YES	8/5/2015	8/5/2015	8/5/2015
Region 2	YES	2*0940	Two Sided	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	2/27/2020	1/19/2017	1/19/2017
Region 2	YES	2*1167	Two Sided	Non-conforming	-	Average	Commercial	14	48	4	Metal	YES	NO	NO	NO	10/27/2006	2/22/2017	2/22/2017
Region 1	YES	2*0993	Two Sided	Conforming	-	Good	Industrial	14	48	2	Metal	YES	NO	NO	NO	10/31/2006	3/9/2017	3/9/2017
Region 1	YES	1*2048	Two Sided	Conforming	8/5/2015	Average	Commercial	6	12	1	Metal	NO	NO	NO	YES	8/5/2015	8/5/2015	8/5/2015
Region 1	YES	2*1272	Two Sided	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	10/31/2006	2/16/2017	2/16/2017
Region 1	YES	1*0200	Two Sided	Conforming	-	Good	Industrial	14	48	1	Metal	YES	NO	NO	NO	10/31/2006	2/16/2017	2/8/2021
Region 2	YES	2*1118	V-Type	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	5/22/1998	1/17/2017	1/17/2017
Region 2	YES	2*1035	Two Sided	Conforming	-	Good	Industrial	14	48	1	Metal	YES	NO	NO	NO	10/27/2006	1/19/2017	1/19/2017
Region 2	YES	2*1187	Two Sided	Conforming	-	Good	Other	14	48	1	Metal	YES	NO	NO	NO	10/27/2006	2/13/2017	2/13/2017
Region 2	YES	2*1435	Two Sided	Non-conforming	-	Good	Commercial	14	48	1	Metal	NO	NO	NO	NO	-	-	4/26/2012
Region 2	YES	2*1438	Two Sided	Non-conforming	-	Good	Commercial	14	48	1	Metal	NO	NO	NO	NO	5/16/2000	-	4/26/2012
Region 2	YES	2*2058	Stacked	Conforming	11/17/2014	Average	Commercial	5	14	1	Metal	NO	NO	NO	YES	11/17/2014	11/17/2014	8/8/2019
Region 2	YES	2*2107	Two Sided	Conforming	2/18/2015	Average	Commercial	12	24	1	Metal	YES	NO	NO	YES	2/18/2015	2/18/2015	2/18/2015
Region 2	YES	2*2086	Two Sided	Non-conforming	2/18/2015	Good	Commercial	14	48	2	Metal	YES	NO	NO	YES	2/18/2015	2/18/2015	2/18/2015
Region 2	YES	2*2087	Two Sided	Conforming	2/18/2015	Good	Commercial	14	48	1	Metal	YES	NO	NO	YES	2/18/2015	2/18/2015	2/18/2015
Region 3	YES	3*0958	V-Type	Non-conforming	4/24/2015	Good	Industrial	14	48	1	Metal	YES	YES	NO	NO	7/2/2007	8/20/2021	8/20/2021
Region 2	YES	2*2134	V-Type	Conforming	6/21/2017	Good	Independant	33	10	1	Metal	YES	NO	NO	YES	6/14/2017	6/21/2017	6/21/2017
Region 2	YES	2*2140	Stacked	Conforming	8/8/2017	Average	Commercial	6	12	1	Metal	NO	NO	NO	YES	7/19/2017	8/8/2017	8/15/2019
Region 2	YES	2*1163	Two Sided	Conforming	-	Good	Commercial	14	48	2	Metal	YES	NO	NO	NO	10/27/2006	2/15/2017	2/15/2017
Region 3	YES	4*1431	Two Sided	Conforming	-	Good	Commercial	8	12	3	Wood	NO	NO	NO	NO	5/5/1995	3/9/2017	3/9/2017
Region 3	YES	3*0904	Two Sided	Conforming	-	Good	Commercial	10	30	1	Metal	NO	NO	YES	NO	10/31/2006	2/8/2017	2/8/2017
Region 3	YES	6*1247	Two Sided	Conforming	4/8/2016	Average	Commercial	14	48	7	Wood	YES	NO	NO	NO	12/18/1987	2/10/2017	2/10/2017
Region 3	YES	4*1420	V-Type	Non-conforming	11/22/2019	Good	Commercial	14	48	1	Metal	YES	YES	NO	NO	12/8/1994	11/20/2019	10/20/2020
Region 3	YES	4*1331	Two Sided	Non-conforming	-	Good	Commercial	8	24	4	Wood	YES	NO	YES	NO	8/27/1990	3/15/2017	3/15/2017
Region 3	YES	4*1365	One Sided	Non-conforming	3/6/2018	Average	Other	7	20	3	Wood	YES	NO	NO	NO	11/21/1991	2/9/2017	2/9/2017
Region 3	YES	3*2006	Two Sided	Conforming	3/10/2014	Good	Independant	14	48	1	Metal	YES	NO	NO	NO	3/10/2014	3/10/2014	3/10/2014
Region 3	YES	3*2017	Side-by-Side	Conforming	12/23/2014	Average	Independant	12	25	2	Metal	NO	NO	NO	YES	12/23/2014	12/23/2014	2/11/2021
Region 2	YES	2*2065	Two Sided	Conforming	11/20/2014	Average	Commercial	12	25	2	Metal	NO	NO	NO	YES	11/20/2014	11/20/2014	7/22/2019
Region 4	YES	5*0753	Official	Conforming	-	Good	Other	12	36	5	Wood	NO	NO	NO	NO	10/20/2006	8/12/2013	8/12/2013
Region 4	YES	5*0891	One Sided	Non-conforming	-	Good	Other	27	53	2	Other	YES	NO	NO	NO	10/20/2006	2/1/2017	2/1/2017
Region 4	YES	5*0452	V-Type	Conforming	-	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	3/22/1982	1/26/2017	1/26/2017
Region 4	YES	5*0686	Two Sided	Non-conforming	9/6/2018	Good	Commercial	14	48	1	Metal	YES	NO	NO	NO	8/8/1989	1/24/2017	1/24/2017
Region 4	YES	5*0694	V-Type	Conforming	7/7/2014	Average	Other	14	48	14	Wood	NO	NO	NO	NO	9/11/1989	6/9/2014	6/9/2014
Region 4	YES	5*0932	V-Type	Conforming	-	Good	Commercial	34	14	1	Metal	YES	NO	NO	NO	5/1/2008	4/10/2017	4/10/2017
Region 4	YES	3*0872	Two Sided	Non-conforming	8/19/2014	Poor	Other	19	6	2	Wood	NO	NO	NO	YES	-	8/19/2014	2/25/2020
Region 2	YES	2*2059	Two Sided	Conforming	11/18/2014	Average	Commercial	12	25	2	Metal	YES	NO	NO	YES	11/18/2014	11/18/2014	8/8/2019
Region 4	YES	5*0958	V-Type	Conforming	4/28/2020	Good	Other	14	48	1	Metal	YES	YES	NO	NO	3/13/2012	6/9/2021	6/9/2021
Region 4	YES	3*0890	V-Type	Conforming	-	Good	Commercial	8	16	2	Metal	NO	NO	NO	YES	-	3/7/2017	2/25/2020
Region 4	YES	5*0920	V-Type	Conforming	8/26/2019	Good	Commercial	12	40	6	Wood	NO	NO	NO	NO	-	4/10/2017	4/10/2017
Region 4	YES	5*0580	One Sided	Conforming	-	Good	Commercial	14	48	7	Wood	YES	NO	NO	NO	10/10/1986	1/30/2017	1/30/2017
Region 4	YES	4*2033	Two Sided	Non-conforming	2/21/2019	Good	Other	14	44	3	Metal	NO	NO	NO	YES	7/17/2018	-	9/10/2019
Region 4	YES	4*2037	V-Type	Conforming	1/30/2019	Good	Commercial	14	48	1	Metal	YES	YES	NO	NO	1/29/2019	2/26/2020	2/26/2020

## Appendix C. Customary Maintenance of Legal Non-Conforming Signs.

### CUSTOMARY MAINTENANCE OF LEGAL NON-CONFORMING SIGNS

#### Examples of “customary maintenance” which is allowed, includes:

1. Changing existing nonstructural external light fixtures for energy efficiency.
  - a. Replacement of structural components with the same materials consistent with State restrictions.
2. Nailing, cleaning and painting, and replacement of nuts and bolts
3. Changes in the advertising message

23 CFR 750.707 provides that a nonconforming sign “must” remain substantially the same as it was on the effective date of the regulations or the date it became nonconforming. Some States have adopted a strict approach to the “remain substantially the same” rule while others adhere to a less stringent application of that rule. For instance, some States allow poles to be replaced while other States do not allow poles to be replaced. This information is not intended to set the threshold for “effective control” determination. Nor is it an all-inclusive list of all possible situations encountered in the field. The Office of Real Estate Services remains available to discuss any unique situations that may occur.

#### Examples of a “substantial change” which could terminate a nonconforming use, include:

1. Adding variable or changeable message capability
2. Adding lighting, either attached or unattached, to a sign that previously did not have lights
3. Adding bracing, guy wires or other reinforcing devices which would extend the life of the sign beyond the duration of its normal life—(per 23CFR 750.707 (c) Grandfather Clause)
4. Changing the type of material of the structural components, i.e. from wooden stringers to metal stringers, but removing the components is allowed.
5. Increasing the size (diameter/dimension) of vertical support, changing the number of vertical supports or changing the vertical support materials, such as replacing wooden supports with metal, or replacing I-beams with a monopole which could extend the life of the sign beyond the duration of its normal life
6. Changing the configuration of the sign structure, such as changing a “V” sign to a stacked or back-to-back sign, or a single face sign to a back-to-back sign
7. Increasing the height of the sign
8. Changing the physical location
9. Increasing the size or dimensions of the sign face, including the addition of a face
10. Removing and re-erecting the structure
11. Changing the direction of the sign face



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