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Memorandum

U.S. Department
of Transportation

**Federal Highway
Administration**

Subject Lighting Nonconforming Signs - Virginia Date **SEP 1 1995**

From Chief, Program Requirements Division Reply to **HRW-12**
Attn of

To Mr. Roberto Fonseca-Martinez
Division Administrator (HDA-VA)
Richmond, Virginia

By memorandum of August 19, Division Right-of-Way Officer Deborah Leete asked whether the new owners of certain nonconforming signs may add lights on a separate structure, but not on the nonconforming sign itself.

Federal regulations require that a nonconforming sign remain substantially the same as it was on the effective date of the State law or regulations. The State is required by such regulations to develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights. These criteria should be in the State law or regulations, the latter of which have the force and effect of State law.

We would consider that the addition of lighting, whether as a part of the structure or from a remote location if done for the purpose of lighting the sign would constitute a substantial change which should cause the sign to lose its nonconforming rights under State law. Generally, the addition of lighting results in a nonconforming use confined to daylight hours to be substantially extended, i.e. to a 24 hour period, which constitutes a substantial change.


Since 23 CFR 750.706(b) indicates signs located not more than 15 feet apart may be considered as one sign for spacing purposes, some have suggested that lights placed beyond 15 feet from the sign would not be considered as being added to the sign. However, for the reasons given above, it is the substantial change in a nonconforming use that is in question, rather than whether the lights are physically added to the sign, are within or beyond 15 feet of the sign.



Nonconforming signs that are maintained in violation of State law or local ordinance lose their right to just compensation and must be removed expeditiously under the due process procedures of State law.

Attached are three memorandums that address this issue which may be of interest to the State.

We would be interested to know the outcome.



F. D. Luckow

Attachments

fhwa:RPHarter:HRW-12:PW:9/1/95:62026
cc: HRW-READER, CHRON, 12, HRA-03
File:
LOCATION: H:\HRW\12\RPH\LIGTNONC.VA