



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

District of Columbia Division  
(202) 219-3570 FAX 219-3545

1990 K Street, NW  
Suite 510  
Washington, DC 20006-1103

**September 11, 2012**

In Reply Refer To: HDA-DC

Terry Bellamy  
Director, District Department of Transportation  
55 M Street, Suite 400  
Washington, DC 20003

Dear Mr. Bellamy:

We have received your July 6, 2012, letter regarding the requested Action Plan to bring the District of Columbia's Outdoor Advertising Control (OAC) Program into Federal compliance.

As you know, the Federal Highway Administration (FHWA) District of Columbia Division Office initiated a Review of the District of Columbia's OAC on November 9, 2011. The review found that the District's OAC was not in compliance with Federal requirements. We submitted the results of the review to DDOT during a May 1, 2012, presentation and requested DDOT to submit an Action Plan within 30 days. Subsequently, DDOT asked for 60 days extension which FHWA granted.

DDOT's July 6, 2012, letter stated "At this point, we believe that an Action Plan is premature and that discussions are first needed regarding certain observations in the report." In response, we believe that adequate time has passed to resolve the concerns of DDOT. To supplement page 6 of the OAC Report, below is a brief timeline of the activities that have occurred within the last two years:

April 19, 2011 – FHWA offered to be a member on the DC Task Force that was revising the DC sign regulations in order to ensure local billboard regulations do not conflict with Federal regulations; however, the offer was denied.

November 9, 2011 – At the OAC Program Review kick-off meeting, the District was invited to participate in the OAC review; however, the District rejected the invitation.

March 2012 – In the OAC Report, FHWA committed to providing technical assistance and training to ensure DDOT thoroughly understands the provisions of the Highway Beautification Act (HBA).

May 1, 2012 – An invitation to discuss the review was opened to DDOT in FHWA's extension letter, "...if the District desires to meet with the FHWA, DC Division to discuss the program review and the measures that may be taken to bring this program into compliance, you may contact ... to schedule a meeting." The only contact and notification that FHWA received from the District regarding their concerns was in the referenced July 6, 2012, letter.



To address the comments presented in your July 6, 2012, letter, I offer the following responses:

- DDOT maintains that modifying the DC building codes (sign regulations) throughout the years, without Federal approval, automatically amends their Federal-District agreement. Federal regulations [23 CFR 750.705(h)(j)] requires State DOT to “(h) Develop laws, regulations and procedures to accomplish the requirements of this subpart;... (j) Submit regulations and enforcement procedures to FHWA for approval.” As you are aware, the Federal-State Agreement requires both Agencies to sign all amendments to the agreement. Unfortunately, there is no record of the District submitting any of the DC sign regulations to FHWA for approval. The OAC Report outlines the procedure to amend the Federal-State Agreement.
- The referenced letter states that the old 1961 Building Code allowed “special signs” over 1200 square feet (SF) which the District believes justifies the allowance of the current special signs. FHWA agrees that the 1961 Building Code allows “special signs” on DC streets. However, the 1961 code does not specify size. According to the 1961 Building Code 3-1410, special signs were “unusual in character, of a type infrequently encountered and that approval thereof will aid in the promotion of an activity of an exclusively civic nature”. These “special signs” described in the DC Building Code of 1961 are very different than the current “special signs” that can be found throughout the District. FHWA offers no objections with these signs being used on DC streets but such signs are not allowed on federally controlled routes. The HBA is very specific about the types or categories of signs allowed along federally controlled routes such as directional and official signs; sale/lease of property signs; on premise signs advertising a business on property; and only signs that meet the size, spacing and lighting standards set out in the Federal-District Agreement. The role of the Federal-District agreement is not to come up with additional types or categories of signs but rather to stipulate size, lighting, and spacing of signs. As indicated in the OAC Report, FHWA is willing to make allowances for special signs since DDOT has expressed their desire to amend this agreement.

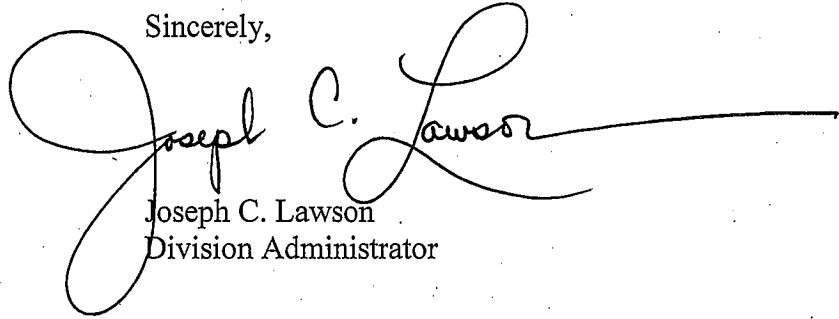
The 1961 Building Code does not explicitly provide the size limitation for OA signs; however, the HBA allows the States to use the customary size of signs at the time of the 1967 Agreement. The signs at that time average approximately 850 SF. However, in an effort of collaboration, FHWA agreed to allow signs not to exceed 1200 SF during negotiations to amend the Federal-District Agreement. FHWA would be willing to allow these signs to remain contingent upon amending the Federal-District Agreement and with the understanding that signs over 1200 SF will need to be removed. This will align the District with other States which allow OA signs up to 1200 SF. If DDOT fails to amend the Federal-District agreement, all off-premise commercial signs within the Federal-aid control area must be removed.

- The referenced letter also indicates DDOT’s objection to keeping an on-going inventory of signs on federally controlled routes because the code mentions an initial inventory but makes no mention of an on-going inventory. However, 23 CFR 750.705 (i), requires that State DOTs “Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal.” Therefore, an on-going, up-to-date inventory is needed to accurately detect illegally erected signs. If DDOT had maintained an up-to-date inventory, then that inventory would have shown the three (3) illegal billboards found during the OAC Review.

This OAC issue has been a continuous challenge for the last three years which has caused the District to remain out of compliance with the HBA. As always, my staff is willing to assist the District in bringing the OAC Program into Federal compliance to prevent the possibility of federal funds being lost. Therefore, the FHWA is requiring the District to develop and submit an Outdoor Advertising Control Action Plan by October 31, 2012.

Please note that Eric Savage has replaced Rosemary Jones as the Realty Specialist in the DC Division. For assistance, he may be contacted at (410) 779-7155 or [Eric.Savage@dot.gov](mailto:Eric.Savage@dot.gov).

Sincerely,

A handwritten signature in black ink, reading "Joseph C. Lawson". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Joseph C. Lawson  
Division Administrator