

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Public Safety and Homeland Security Bureau	)	
Seeks Comment on the Petition for Rulemaking	)	RM-11514
of Highway Information Systems, Inc. to Revise	)	PS Docket No. 09-19
and Update the Travelers' Information Station	)	
Rules and on the Petition of the American	)	
Association of Information Radio Operators for	)	
Ruling on Travelers' Information Station Rules	)	

**COMMENTS OF THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND  
TRANSPORTATION OFFICIALS**

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Dated: March 16, 2009

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## **Summary**

While certain modifications should be made to the FCC's Travelers' Information Station ("TIS") rules, adoption of the proposals submitted by the American Association of Information Radio Operators ("AAIRO") and Highway Information Systems, Inc. ("HIS") would dilute the utility of the service and frustrate the important purpose for which the TIS service was established. Instead, the Federal Communications Commission ("FCC" or Commission") should refine the categories of communication for which the TIS service may be used and broaden the geographic reach of the service.

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**COMMENTS OF THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND  
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The American Association of State Highway and Transportation Officials (“AASHTO”), by its counsel and pursuant to the invitation extended by the Federal Communications Commission (“FCC” or “Commission”) in its Public Notice of February 13, 2009<sup>1/</sup> hereby submits its comments in response to the petitions of the American Association of Information Radio Operators (“AAIRO”) and Highway Information Systems, Inc. (“HIS”) (collectively, the “Petitions”), both of which seek modification of section 90.242 of the FCC’s Travelers’ Information Station (“TIS”) regulations.<sup>2/</sup> While AASHTO agrees that the TIS rules require modification, the changes proposed by AAIRO and HIS would inadvisably broaden the type of information that TIS licensees may transmit, potentially diluting the value of the service.

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<sup>1/</sup> *Public Safety and Homeland Security Bureau Seeks Comment on the Petition for Rulemaking of Highway Information Systems, Inc. to Revise and Update the Travelers’ Information Station Rules and on the Petition of the American Association of Information Radio Operators for Ruling on Travelers’ Information Station Rules*, RM-11514, PS Docket No. 09-19, Public Notice (rel. Feb. 13, 2009).

<sup>2/</sup> *Travelers’ Information Service Provision of Localized Public Safety and Emergency Information Pursuant to 47 C.F.R. Section 90.242 and 90.407*, Petition for Ruling (filed Sept. 9, 2008) (“AAIRO Petition”); *Petition for a Rulemaking to Revise and Update the Travelers Information Service Rules of Highway Information Systems, Inc.* (filed July 16, 2008) (“HIS Petition”); 47 C.F.R. § 90.242.

## **I. Background**

AASHTO is a non-profit association of Departments or Agencies of the States of the United States, Puerto Rico, and the District of Columbia in which the official highway responsibility for that State or Territory is lodged, and the United States Department of Transportation, which is an ex-officio member. Membership consists of the following organizations:

- Alabama Department of Transportation
- Alaska Department of Transportation & Public Facilities
- Arizona Department of Transportation
- Arkansas Department of Transportation
- California Department of Transportation
- Colorado Department of Transportation
- Connecticut Department of Transportation
- Delaware Department of Transportation
- District of Columbia Department of Transportation
- Florida Department of Transportation
- Georgia Department of Transportation
- Hawaii Department of Transportation
- Idaho Transportation Department
- Illinois Department of Transportation
- Indiana Department of Transportation
- Iowa Department of Transportation
- Kansas Department of Transportation
- Kentucky Transportation Cabinet
- Louisiana Department of Transportation and Development
- Maine Department of Transportation
- Maryland Department of Transportation
- Massachusetts Executive Office of Transportation and Public Works
- Massachusetts Highway Department
- Michigan Department of Transportation
- Minnesota Department of Transportation
- Mississippi Department of Transportation
- Missouri Department of Transportation
- Montana Department of Transportation
- Nebraska Department of Roads
- Nevada Department of Transportation
- New Hampshire Department of Transportation
- New Jersey Department of Transportation
- New Mexico Department of Transportation
- New York Department of Transportation

- North Carolina Department of Transportation
- North Dakota Department of Transportation
- Ohio Department of Transportation
- Oklahoma Department of Transportation
- Oregon Department of Transportation
- Pennsylvania Department of Transportation
- Puerto Rico Department of Transportation and Public Works
- Rhode Island Department of Transportation
- South Carolina Department of Transportation
- South Dakota Department of Transportation
- Tennessee Department of Transportation
- Texas Department of Transportation
- Utah Department of Transportation
- Vermont Agency of Transportation
- Virginia Department of Transportation
- Washington State Department of Transportation
- West Virginia Department of Transportation
- Wisconsin Department of Transportation
- Wyoming Department of Transportation

The individual employees of these constituent organizations collectively form the largest single user group of public safety spectrum. Through its Special Committee on Wireless Communications Technology, AASHTO informs its member departments of pending Commission actions and advocates for the inclusion of all critical infrastructure spectrum users in any decision that may be reached by the Commission. AASHTO is a certified Frequency Advisory Committee (“FAC”) with primary responsibility for Highway Maintenance and is authorized by the Commission to recommend the most appropriate frequency or frequencies to qualified applicants that will cause the least amount of harmful interference to incumbent users. AASHTO is a member of the Land Mobile Communications Council (“LMCC”), Public Safety Communications Council (“PSCC”), the National Public Safety Telecommunications Council (“NPSTC”), and the Board of Directors for the Public Safety Spectrum Trust Corporation (“PSST”), which currently holds the Public Safety Broadband License (“PSBL”).

AASHTO's 52 member organizations hold a majority of the approximately 1300 licenses to operate TIS facilities. Accordingly, the Petitions will affect the manner in which AASHTO's members may transmit information that affects the traveling public. Therefore, AASHTO is pleased to have the opportunity to submit the following Comments.<sup>3/</sup>

## **II. Comments**

### **A. The TIS Rules**

In 1975, the Commission proposed a new category of station, TIS, intended to permit the use of low power radio transmitters to communicate certain types of local information to the traveling public.<sup>4/</sup> Specifically, the FCC determined that such a service would be particularly useful for alerting motorists to road hazards, controlling traffic during emergencies, and apprising travelers of other situations present at parks and other tourist areas.<sup>5/</sup> The Commission found that the "use of radio can, in many situations, offer significant advantages over road signs or other methods" ordinarily used for such purposes.<sup>6/</sup>

In 1977, the Commission adopted regulations establishing the TIS service.<sup>7/</sup> The Commission specifically clarified that the TIS rules would enable local government entities, as

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<sup>3/</sup> Indeed, AASHTO submitted a letter to the then Chief of the Public Safety and Homeland Security Bureau on September 26, 2008 regarding the AAIRO petition. These comments reiterate many of the points made in that correspondence.

<sup>4/</sup> *Amendment of Parts 2 and 89 of the Rules to Provide for the Use of Frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Service for the Transmission of Certain Kinds of Information to the Traveling Public*, Notice of Proposed Rulemaking, 53 FCC 2d 943, ¶ 2 (1975) ("TIS NPRM").

<sup>5/</sup> *TIS NPRM* ¶ 2.

<sup>6/</sup> *TIS NPRM* ¶ 2.

<sup>7/</sup> *Amendment of Parts 2 and 89 of the Rules to Provide for the Use of Frequencies 530, 1606, and 1612 kHz by Stations in the Local Government Radio Service for the Transmission of Certain Kinds of Information to the Traveling Public, et al.*, Report and Order, 67 FCC 2d 917, ¶ 1 (1977) ("TIS Order").

the only eligible licensees, to transmit certain types of information to the public traveling within their local areas and that “[n]o commercial operation of these stations is intended or permitted.”<sup>8/</sup> The Commission strictly limited the purpose for which TIS could be used, noting that the service “should be non-commercial and restricted to local governments so that it does not evolve into a ‘quasi broadcasting’ service” and that the sole objective of TIS is to serve as “a source of localized information pertinent only to the traveler in the immediate proximity of the station.”<sup>9/</sup> To achieve this specific purpose, the Commission restricted “the transmitting sites of each station to a location within an area that would be mainly frequented by travelers,” such as transportation terminals, public parks, interstate highway interchanges, and tunnels, and specifically precluded TIS licensees from setting up “networks” or “ribbons” of transmitting stations along highways “for the purpose of continuously attracting a motorist with what could be superfluous information.”<sup>10/</sup> The FCC attached specific limitations to the use, eligibility, and scope of TIS to ensure that it met the service’s narrow yet critical purpose.

## **B. The Proposed Rules Will Dilute the Purpose of the TIS Rules**

### **1. The AAIRO Petition**

AAIRO’s Petition asks that any TIS licensee be permitted to transmit any message “at the sole discretion of officials authorized to operate” the stations that “may affect any traveler or any individual in transit or soon to be in transit.”<sup>11/</sup> AAIRO asserts that among other information, TIS licensees should be permitted to rebroadcast weather radio information transmitted by the

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<sup>8/</sup> *TIS Order* ¶ 1.

<sup>9/</sup> *TIS Order* ¶ 22.

<sup>10/</sup> *TIS Order* ¶ 23.

<sup>11/</sup> AAIRO Petition at 1.

National Oceanic and Atmospheric Administration (“NOAA”).<sup>12/</sup> AASHTO disagrees.

Retransmission of routine weather information provided by NOAA should not be permitted on TIS stations. The TIS service was created principally so that the traveling public could be aware of non-routine road conditions and advisories relating to the immediate safety or comfort of the traveler. While the rules permit the transmission of other non-commercial information, the most meaningful use of TIS continues to be the transmission of emergency road conditions and similar information designed to promote situational awareness.

Rather than expanding the scope of information that can be transmitted on TIS stations, the categories of information should be refined or contracted and the FCC should otherwise modify the TIS rules so that the benefits of the TIS service to travelers are maximized. Since 1977, when the rules governing TIS were adopted, there has been an explosion in the amount of information to which travelers may have access. For example, multiple technologies and devices permit consumers to access the Internet remotely.<sup>13/</sup> Similarly, the FCC has licensed stations in the low power radio services, allowing the reception of a wide variety of programming responsive to local needs.<sup>14/</sup> All of these factors mean that there are a variety of sources from which information is available and the Commission should re-focus the type of information that

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<sup>12/</sup> AAIRO Petition at 3-7.

<sup>13/</sup> Consumers use an increasingly growing number of devices and technologies for mobile Internet access, including Internet-enabled Personal Digital Assistants (“PDAs”), such as those offered by Palm Pilot; smartphones, such as the RIM BlackBerry and Apple iPhone; and mobile Internet access technologies and network platforms, such as Wi-Fi, WiMAX, High Speed Packet Access (“HSPA”), Long Term Evolution (“LTE”), Universal Mobile Telecommunications System (“UMTS”) and Evolution-Data Optimized (“EV-DO”).

<sup>14/</sup> See, e.g., *Creation of a Low Power Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912 (2007) (making certain rule modifications and clarifications to the rules governing the low power radio service, which was established by the Commission in 2000).

should be permitted on TIS stations to include information intended to promote situational awareness and not, as AAIRO suggests, routine weather information.

To be sure, the transmission of information concerning weather conditions can promote situational awareness and AASHTO supports the ability of a TIS licensee to transmit information regarding adverse conditions. Indeed, NOAA itself signifies when non-routine weather information is about to be broadcast. For NOAA weather warnings, the period of emergency is defined as commencing with the broadcast of a Specific Area Message Encoding (“SAME”) digital burst of information and terminating when one of three conditions is experienced: a) when NOAA broadcasts an end-of-alert digital burst; b) when the period specified has elapsed or; c) when the maximum time period permitted to be specified in an alert — six (6) hours — have passed since the SAME alert was transmitted.<sup>15/</sup>

AASHTO recognizes, as AAIRO suggests, that the FCC’s rules generally permit Part 90 licensees to transmit emergency information without specific authority.<sup>16/</sup> These provisions permit TIS stations, like other stations regulated under Part 90, to transmit emergency information despite, for example, the limitations on content contained in Section 90.242(a)(7).

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<sup>15/</sup> Indeed, the use of SAME technology is a good example of why the transmission of weather information in general should not be permitted. SAME permits NOAA to specify the particular area to which alerts should be transmitted. Most warnings or watches transmitted by NOAA are county (or in Louisiana, parish) or independent city-based. SAME alerts are, therefore, both location and time specific, which is the type of information that should be carried on TIS channels.

<sup>16/</sup> 47 C.F.R. § 90.403(d) (“Communications involving the imminent safety-of-life or property are to be afforded priority by all licensees.”); 47 C.F.R. § 90.405(a)(1) (identifying as “permissible communications” for Part 90 licensees “[a]ny communication related directly to the imminent safety-of-life or property”); 47 C.F.R. § 90.407 (“The licensee of any station authorized under [Part 90] may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake or similar disaster, utilize such station for emergency communications in a manner other than that specified in the station authorization or in the rules and regulations governing the operation of such stations.”).

However, these rules certainly do not support the transmission of routine weather information. AASHTO supports the modification of Section 90.242(a)(7) to define more clearly the type of content that may be transmitted on TIS stations so that licensees need not rely on the emergency communications provisions of Sections 90.403(d), 90.405(a)(1), and 90.407 of the rules. Such a clarification would make it clear that routine weather information should not be included in the content that may be transmitted over TIS facilities.

Reliance on the provisions of Sections 90.403(d), 90.405(a)(1), and 90.407 to determine when TIS stations may transmit emergency information is ill-advised for other reasons. For example, the FCC's rules do not, but should, specify a mechanism by which a TIS operator may determine when an emergency begins and ends.<sup>17/</sup> Starting emergency transmissions at the time at which a state declares an official state of emergency may be too late as it may take some time for a state government to make, and define the scope of, such a declaration. Likewise, there may be a delay in the announcement of the official end of a state of emergency. Contrary to what AAIRO suggests, TIS licensees should not merely rely on the provisions of Sections 90.403(d), 90.405(a)(1), and 90.407 to determine when TIS stations may transmit emergency information; the FCC's rules should provide such guidance.

## **2. The HIS Petition**

HIS notes that the FCC has undertaken a series of measures designed to create additional outlets for the provision of emergency information and asserts correctly that the TIS service can and should be among those outlets.<sup>18/</sup> Yet, HIS argues that “[u]nnecessary editorial restrictions

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<sup>17/</sup> Section 90.407 allows Part 90 licensees to transmit emergency communications during “a period of emergency” but does not clearly indicate how such a period should be determined. *See* 47 C.F.R. § 90.407.

<sup>18/</sup> HIS Petition at 4.

on the content of TIS transmissions unduly deprive federal, State and local government entities in achieving the value of their investment in TIS.”<sup>19/</sup>

AASHTO agrees that the current content limitations are out of date. However, the FCC should not change the TIS regulations in the manner that HIS suggests. Instead of eliminating the TIS content restrictions, the Commission should refine the type of information that may be transmitted over TIS and, to the extent necessary, modify the TIS service rules to most effectively promote the provision of information to the traveling public. While AASHTO does not wish to unreasonably restrict government entities from transmitting information, the TIS service should continue to be used to promote situational awareness, not transmit routine government information.<sup>20/</sup> If the FCC permits a broad expansion in the content permitted over TIS stations, it will dilute the value of the TIS service. Citizens tuning to TIS stations should anticipate hearing timely, important and localized information. As noted above, and as HIS itself recognizes, there are alternative outlets for other information.

In addition to proposing the elimination of content restrictions, HIS also recommends that the FCC completely eliminate the limitation on the sites for TIS stations to areas near roads, highways and public transportation terminals and designate the TIS service the Local Government Radio Service.<sup>21/</sup> AASTO disagrees. While, as HIS notes, the FCC has taken important steps to facilitate the provision of emergency information, the TIS service remains a unique platform for communicating that information to the traveling public. AASHTO does not

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<sup>19/</sup> HIS Petition at 6.

<sup>20/</sup> However, AASHTO does not include in this restriction information about the availability of 511 services, which is the type of information for which the TIS was created. At the end of TIS transmissions, stations should be encouraged to state, for example “for more information, dial 511 or visit [the local government 511 website].”

<sup>21/</sup> HIS Petition at 9-10.

object if TIS licensees are permitted to provide service to areas beyond roads, highways and public transportation terminals, but they should at least and principally cover those areas.

Instead of the measures that HIS recommends, AASHTO suggests other changes to the TIS rules that will promote the more effective use of the service.<sup>22/</sup> First, if the FCC is inclined to change the name of the service as HIS suggests, it should be re-designated the Highway Advisory Radio (“HAR”) service, a name to which it is commonly referred in many jurisdictions. Characterization of the TIS service as the HAR service will make it clear that the stations are intended to be used by local government to provide important and useful information, designed to promote situational awareness, to the traveling public.

Second, instead of changing the geographic limitations as HIS suggest, the FCC should consider the elimination of the TIS rules’ restriction on “ribbon systems.” In fact, ribbon systems could represent one of the more useful purposes of TIS today. While the FCC generally prohibits TIS licensees from setting up “networks” or “ribbons” of transmitting stations along highways, such ribbon systems could be useful in providing alternative route information to alleviate congestion and manage the flow of traffic during emergencies. Within the past several years, the United States Department of Transportation has increased its efforts to alleviate congestion on America’s highways and has been looking for ways to reduce the impact congestion has on the nation’s economy.<sup>23/</sup> The TIS service — particularly through the use of

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<sup>22/</sup> In addition to those suggestions contained here, AASHTO concurrently submitted a petition for rulemaking on behalf of its member, the New York State Department of Transportation. The petition for rulemaking addresses the content limitation in the TIS rules and encourages the Commission to clarify that TIS licensees may transmit AMBER Alerts and 511 information using TIS stations. *See* Petition for Rulemaking of the American Association of State Highway and Transportation Officials (filed March 16, 2009).

<sup>23/</sup> *See* U.S. Dep’t of Transp., Fed. Hwy. Admin., <http://www.fhwa.dot.gov/congestion/index.htm> (last visited March 11, 2009) (estimating that, in 2003, the 85 largest metropolitan areas experienced 3.7 billion vehicle-hours of delay due to

ribbon systems along highway routes — is an important tool that local authorities could use to alert travelers of congestion and provide alternative route information. Similarly, TIS (and ribbon systems specifically) may be useful for providing information to the public in the event of an evacuation due to a natural or manmade disaster. Temporary TIS stations could be installed along evacuation routes to provide critical information regarding the availability of temporary emergency facilities and information regarding evacuation areas. At evacuation shelters or areas, TIS could be used to provide official news and information regarding the particular emergency and services available for evacuees at the shelter area.

Similarly, while AASHTO disagrees with HIS’s proposals regarding the elimination of geographic restrictions on TIS locations, the Commission should recognize that the rules should be modified to permit transmission over broader areas than now permitted. For example, the area encompassed by NOAA SAME broadcasts generally exceeds the current coverage area of a TIS station. The FCC could, therefore, improve the efficacy of the TIS rules by allowing TIS stations to operate in an area larger than that currently permitted by FCC regulations.

Section 90.242(b)(4)(iv) specifies that the field strength of TIS stations may “not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.”<sup>24/</sup> When the Commission set the field strength requirements for this service, the national speed limit was 55 miles per hour. A vehicle traveling at this speed would be within the effective service area for approximately two (2) minutes. Since 1977, the national speed limit was rescinded with the last states reverting to 65–70 mile per hour speed limits. The 2mV/M radiated power limitation effectively limits the amount of information

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traffic congestion, which resulted in 2.3 billion gallons in wasted fuel and a congestion cost of \$63 billion, and projecting that freight movement alone is expected to nearly double by 2020).

<sup>24/</sup> 47 C.F.R. § 90.242(b)(4)(iv).

that may be transmitted by a single location to approximately 90 seconds including station identification. The FCC has already recognized the utility in allowing the expansion of a station's coverage area — particularly in times of emergency — as long as the station complies with the FCC's interference and technical requirements.<sup>25/</sup> The FCC should consider modification of the rules to broaden TIS coverage while still protecting, among others, broadcast stations.

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<sup>25/</sup> See, e.g., *Howard County, Maryland, Application for Modification of Travelers' Information Station WQCR505, Howard County, Maryland, and Request for Waiver of Section 90.242 of the Commission's Rules*, Order, 24 FCC Rcd 1566 (2009) (granting a request for waiver of Section 90.242(b)(4)(iv) because operation of the TIS station in a larger coverage area would not cause interference to broadcast stations and serves the public interest by providing valuable information to the traveling public); *County of Arlington, Virginia, for Modification of Travelers' Information Stations WQBY206 and WQCR563, Arlington, Virginia, and Request for Waiver of Section 90.242 of the Commission's Rules*, Order, 22 FCC Rcd 4192, ¶ 9 (2007) (allowing extension of a TIS station coverage contour beyond that permitted by the rules to enhance Arlington County's comprehensive emergency communications preparedness plan); *Los Angeles World Airports for Modification of Conventional Public Safety Pool Station WNHV296, Los Angeles, California, and Request for Rule Waiver*, Order, 19 FCC Rcd 4117 (2004) (finding a request for waiver warranted where Los Angeles World Airports wished to expand the TIS coverage area surrounding Los Angeles International Airport).

### III. Conclusion

The FCC must ensure that the use of the TIS spectrum continues to advance the service's narrowly tailored purpose. Accordingly, the FCC should not expand the TIS rules as AAIRO and HIS suggest. While the TIS rules should be updated, any modifications adopted by the Commission must preserve the specific, important purpose served by the TIS rules: to provide important, localized information to the traveling public.

Respectfully submitted,

AMERICAN ASSOCIATION OF STATE  
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Dated: March 16, 2009

## CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of March, 2009, a true copy of the foregoing

Comments was served as shown, upon:

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