

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

In the Matter of	)	
	)	
Travelers Information Stations;	)	PS Docket No. 09-19
	)	
American Association of Information Radio Operators Petition for Ruling on Travelers' Information Station Rules;	)	
	)	
Highway Information Systems, Inc. Petition for Rulemaking;	)	RM-11514
	)	
American Association of State Highway and Transportation Officials Petition for Rulemaking	)	RM-11531

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

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## SUMMARY

While the Federal Communications Commission (“FCC” or “Commission”) rules governing Travelers Information Stations (“TIS”) should be clarified to allow for the transmission of emergency information officially recognized by the Federal government (*e.g.*, AMBER Alerts and emergency weather alerts) as well as 511 information, broad expansion of the TIS rules to include routine weather information and local announcements would compromise the ability of the service to deliver important, time-sensitive, information to the traveling public. In addition, the Commission should update its TIS rules by (1) renaming the service the Highway Advisory Radio service, the name already used by state departments of transportation, (2) adjusting the power levels and other technical criteria to improve the service while ensuring that TIS facilities will not cause harmful interference to AM broadcast stations, and (3) eliminating the restriction on the use of ribbon systems to allow travelers to receive updated information before reaching the location of a traffic condition or other incident. Adoption of these tailored suggestions will allow the service to better serve the important needs of the traveling public.

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The American Association of State Highway and Transportation Officials (“AASHTO”), by its attorneys and pursuant to the Order and Notice of Proposed Rulemaking in the above-referenced proceeding, hereby submits its comments to the Federal Communications Commission (“FCC” or “Commission”) regarding the potential modification of the rules governing Travelers Information Stations (“TIS”).<sup>1/</sup> As AASHTO noted in its petition for rulemaking (the “AASHTO Petition”)<sup>2/</sup> and related pleadings in this proceeding,<sup>3/</sup> the Commission should retain the fundamental purpose of the TIS service. Nevertheless, in order to

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<sup>1/</sup> *Travelers Information Stations; American Association of Information Radio Operators Petition for Ruling on Travelers’ Information Station Rules; Highway Information Systems, Inc. Petition for Rulemaking; American Association of State Highway and Transportation Officials Petition for Rulemaking*, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 18117 (2010) (“*NPRM*”).

<sup>2/</sup> Petition for Rulemaking of the American Association of State Highway and Transportation Officials, RM-11531, RM-11514, PS Docket No. 09-19 (filed March 16, 2009).

<sup>3/</sup> See Comments of the American Association of State Highway and Transportation Officials, RM-11514, PS Docket No. 09-19 (filed March 16, 2009) (“AASHTO Comments”); Reply Comments of the American Association of State Highway and Transportation Officials, RM-11531, RM-11514, PS Docket No. 09-19 (filed June 8, 2009) (“AASHTO Reply Comments”).

make TIS more useful, the Commission should modify the TIS rules so that stations can transmit broadcast advisories regarding missing children, known as America's Missing: Broadcast Emergency Response Alerts ("AMBER Alerts"), other Federally-recognized emergency information, and information regarding 511 services. The Commission also should consider modifying the name of the service to the Highway Advisory Radio ("HAR") service and permit stations to operate with higher power and in ribbon configurations.

## **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 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 (“PSST”), which currently holds the Public Safety Broadband License (“PSBL”).

AASHTO’s 52 member organizations hold a majority of the approximately 1400 licenses to operate TIS facilities. Accordingly, the *NPRM* will affect the manner in which AASHTO’s members may transmit information that affects the traveling public. Moreover, the *NPRM* is in partial response to the AASHTO Petition. Therefore, AASHTO is pleased to have the opportunity to submit the following Comments.

## **II. Comments**

### **A. American Association of Information Radio Operators (“AAIRO”) Petition**

The Commission seeks comment on AAIRO’s suggestion that TIS stations should be permitted to broadcast information including routine National Oceanic and Atmospheric Administration (“NOAA”) Weather Radio retransmissions, AMBER Alerts, alternative phone numbers when local 911 systems fail, terror threat levels, public health warnings, and civil defense announcements.<sup>4/</sup> AASHTO disagrees with broadly expanding the TIS rules in this manner. As AASHTO noted previously, there has been a dramatic expansion in the means by which travelers can receive information.<sup>5/</sup> Travelers with smartphones can easily, for example, access routine NOAA weather information. TIS transmissions should continue to be reserved for location and time-limited weather related and other emergency information. An expansion of information beyond this basic core will dilute the value of TIS transmissions and travelers will

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<sup>4/</sup> *NPRM* ¶ 15.

<sup>5/</sup> AASHTO Comments at 6-7; *see also NPRM* ¶ 17.

be dissuaded from tuning to TIS transmissions unless they know that important emergency information is being transmitted. Moreover, without clear directive, TIS operators will be required to make individual decisions regarding the propriety of the information that may be transmitted over TIS facilities. These inconsistent – albeit well-intentioned – local assessments will further erode the public’s trust in TIS transmissions. In some locations, transmissions may be reserved for information that is emergency-oriented, while in others, travelers may hear routine local announcements.

As the Commission recognizes, the regulations permit stations regulated under Part 90 of the rules, including TIS facilities, to transmit emergency information.<sup>6/</sup> Arguably, therefore, no material modification of the rules is necessary – transmission of emergency information is already permitted and the Commission could simply modify its TIS regulations to reference Sections 90.405(a)(1) and 90.407, which otherwise permit the transmission of emergency communications. However, TIS licensees would be better served with rule-based criteria that specify the information that may be transmitted over TIS facilities and the mechanism by which a TIS operator may determine when the transmission of emergency information should begin and end.

First, while TIS stations can, like other Part 90 stations, transmit emergency information, some of the information that they may transmit – traffic conditions, for example – is not necessarily characterized as emergency information. A modified rule that more completely presents the type of information that a TIS facility may carry – both emergency and non-emergency – would be in the public interest. Second, by relying exclusively on Sections 90.405(a)(1) and 90.407, TIS licensees will risk mis-interpretation of the rule by transmitting

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<sup>6/</sup> *NPRM* ¶ 19.

information that they believe comports with the regulation but which the FCC may later determine does not. The provisions of Sections 90.405(a)(1) and 90.407 can continue to act as a safety valve – permitting TIS facilities to transmit emergency information not otherwise covered by the FCC’s rules. However, TIS licensees would be better served if they are not required to rely on that safety valve and instead are aware of the types of information that they may transmit.

Accordingly, in addition to the types of non-emergency information permitted to be transmitted today and the additional non-emergency information AASHTO proposes also be included in a modified rule (*i.e.*, information about 511 services), the Commission should modify its regulations to ensure that TIS licensees are aware that they may transmit emergency information officially recognized by the Federal government.<sup>7/</sup> Those official emergency transmissions should include AMBER Alerts, NOAA emergency weather conditions, and other enumerated emergency alerts that the FCC – through the Public Safety and Homeland Security Bureau or any successor entity – may note from time-to-time in a Public Notice or similar announcement. As AASHTO previously noted, the criteria for issuing Federally-based emergency information does not vary based on jurisdiction, which will allow for uniformity in the use of the TIS system among different localities. Clarifying the scope and permitted uses of the TIS system as AASHTO suggests without unnecessarily expanding the universe of

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<sup>7/</sup> AASHTO Reply Comments at 2-3. TIS licensees would be permitted to transmit alerts either initiated by the Federal government or pursuant to Federal government guidelines or standards. For example, AMBER Alerts are issued by local entities based on the following five Federally-established criteria: (1) there is reasonable belief by law enforcement that an abduction has occurred, (2) the law enforcement agency believes that the child is in imminent danger of serious bodily injury or death, (3) there is enough descriptive information about the victim and the abduction for law enforcement to issue an AMBER Alert to assist in the recovery of the child, (4) the abduction is of a child 17 years of age or younger, and (5) the child’s name and other critical data elements have been entered into the National Crime Information Center (“NCIC”) system. *See* U.S. Dep’t of Justice, Office of Justice Programs, AMBER Alert Guidelines, <http://www.amberalert.gov/guidelines.htm> (last visited Feb. 16, 2011).

information that may be transmitted will improve TIS operators' ability to use the TIS to promote situational awareness and further important public safety goals.<sup>8/</sup>

## **B. Highway Information Systems, Inc. (“HIS”) Petition**

### **1. Local Government Radio Service**

Based on the proposed expansion of the information that may be transmitted by TIS licensees, HIS proposes that the FCC re-name the service.<sup>9/</sup> As AASHTO notes, the TIS service should continue principally to serve the traveling public. Permitting the service to be used to transmit local government information will dilute the value of the service and duplicate information available through other outlets, including broadcasters. TIS licensees serve a unique function by serving the traveling public. If the FCC re-names the service, it should conform the name to what state departments of transportation use to describe their networks today – the Highway Advisory Radio service.<sup>10/</sup>

### **2. Permissible Use**

The Commission seeks comment on HIS's proposal that the Commission permit the transmission of all non-commercial information by TIS licensees.<sup>11/</sup> In particular, the Commission inquires whether the changes proposed by HIS would alter the current nexus between TIS transmissions and the traveling public.<sup>12/</sup> The changes proposed “would amount to a *de facto* elimination of the TIS service as presently constituted,” and, therefore, those changes should not be adopted.<sup>13/</sup> HIS has not demonstrated that there is a need for the general public to

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<sup>8/</sup> AASHTO Petition at 4-5; AASHTO Comments at 6-7.

<sup>9/</sup> *NPRM* ¶ 23.

<sup>10/</sup> AASHTO Comments at 10.

<sup>11/</sup> *NPRM* ¶ 25.

<sup>12/</sup> *NPRM* ¶ 27.

<sup>13/</sup> *NPRM* ¶ 27.

have access to non-commercial information otherwise available from other sources, including broadcasters. However, the traveling public has such a need for non-routine information that may uniquely affect them as they travel through an area. Therefore, the nexus between TIS and travel should be maintained. Nevertheless, maintaining that nexus does not require adherence to the information permitted by the current TIS rules. As AASHTO has recommended, the regulations should be modified to permit the transmission of other information useful to travelers – 511 messages, Federally-specified emergency alerts, and other specifically described types of messages.

### **3. Operational Limitations**

HIS asks that the Commission eliminate the requirement that TIS transmitters be located in areas near roads, highways, and public transportation terminals. AASHTO disagrees. As it pointed out in response to HIS’s petition for rulemaking, the Commission should not degrade the TIS by expanding the reach of TIS facilities far beyond the areas where reception is required by the traveling public.<sup>14/</sup> Nevertheless, because America’s highway and transportation system has expanded, the Commission should take a similarly expansive view of locations that are near roads, highways, and public transportation terminals. Moreover, AASHTO agrees that the principal purpose of the rules limiting the locations of TIS facilities is to protect AM broadcast facilities. The FCC already has waived its rules to allow stations a broader coverage area upon a demonstration that, among other things, they will not cause harmful interference to broadcast stations. Because it has been over 30 years since there has been a meaningful evaluation of the potential interference to AM broadcast stations from TIS stations, the Commission should re-evaluate the appropriate power levels and other technical criteria for TIS stations. If, however,

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<sup>14/</sup> AASHTO Comments at 11.

the Commission determines to increase the permitted power levels for TIS transmitters, it should also re-evaluate the required separation distance between stations.

#### **4. Ribbon Systems**

As the *NPRM* notes, while AASHTO does not object to a modification of the rules governing geographic limitations, it believes that a better approach is the elimination of the restriction on ribbon systems.<sup>15/</sup> The use of ribbon configurations would provide travelers with useful information in precisely the format required. For example, a traveler along an interstate highway should be able to receive information about a traffic condition well before arriving at the location of the incident, in order to allow the traveler the option of making alternate arrangements and plans. Indeed, state departments of transportation do not generally operate a single TIS facility; they operate a network of TIS transmitters used together to convey information over a broad geographic area. A ribbon system will provide travelers with updated information as they approach an area. Similarly, as AASHTO noted in its Comments, the use of a ribbon system can provide travelers with updated information along evacuation routes.<sup>16/</sup>

The Commission asks whether ribbon systems would provide information unique to an area around a TIS transmitter or the same information simulcast along a series of transmitters.<sup>17/</sup> AASHTO envisions the latter approach as explained above. Current engineering practices permit the synchronizing and phasing of transmitters to allow wide area coverage, allowing a transportation agency, through its Traffic Management Center (“TMC”) to prepare a single broadcast providing necessary information of interest to all travelers throughout the expanded coverage area and increasing the possibility that critical information is received.

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<sup>15/</sup> *NPRM* ¶¶ 30-33.

<sup>16/</sup> AASHTO Comments at 11; *NPRM* ¶ 30.

<sup>17/</sup> *NPRM* ¶ 31.

The Commission notes that in prohibiting ribbon systems, it intended that travelers not be attracted by “superfluous or redundant” information.<sup>18/</sup> The Commission should pursue that goal by restricting the type of information transmitted by TIS facilities, not by unnecessarily limiting the geographic scope of TIS operations.

## **5. Low Power FM**

The Commission asks whether the TIS rules should be expanded to permit stations to transmit a broader scope of non-commercial information, similar to government-operated, low-power FM services.<sup>19/</sup> As noted above, the TIS service should retain its status as an aid to the traveling public. While the Commission should expand incrementally the type of information that TIS facilities can transmit as explained above, there should not be a wholesale change in the nature of the service. Indeed, the fact that there are already low-power government-operated FM stations suggests that TIS facilities need not transmit the same information, which would only serve to dilute the character of the TIS service as an aid to travelers.

### **C. AASHTO Petition**

The Commission also seeks comment on AASHTO’s petition, which requests the Commission to permit the transmission of AMBER Alerts and information about 511 services over TIS facilities.<sup>20/</sup> As explained above, AASHTO favors incremental change to the TIS rules to permit the transmission of information useful to travelers not contemplated when the TIS rules were adopted. Information about AMBER Alerts, 511 services, and similar information (*e.g.*,

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<sup>18/</sup> *NPRM* ¶ 31.

<sup>19/</sup> *NPRM* ¶ 34.

<sup>20/</sup> *NPRM* ¶ 35.

NOAA emergency weather alerts) not susceptible to varied interpretation should be included in that incremental expansion.<sup>21/</sup>

### **III. Conclusion**

The Commission should clarify the types of information that may be transmitted over the TIS system to include specific categories of information governed by well-established criteria – such as AMBER Alerts, 511 information, and Federally-designated emergency information – to enhance the utility of the system and preserve its intended purposes. Adoption of proposals calling for broad expansion of the scope of information that may be transmitted using TIS facilities and urging the Commission to leave determination of the use of the TIS to the discretion of each locality would threaten the ability of the TIS to serve the important purposes initially designated by the Commission. Consistent with the current use of the TIS system, the Commission should re-name the service the Highway Advisory Radio service and should not alter the system’s nexus with the traveling public. AASHTO further urges the Commission to ensure that TIS transmissions continue to cover primarily roads, highways, and public transportation terminals, while eliminating the restriction on ribbon systems to enable the TIS system to alleviate congestion and provide alternative route information to travelers during emergencies. Adoption of these clarifications to the Commission’s TIS rules will ensure that the TIS system will continue to be used to provide important, localized information to the traveling public.

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<sup>21/</sup> See AASHTO Comments at 5-9.

Respectfully submitted,

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