

**TITLE 18      TRANSPORTATION AND HIGHWAY**  
**CHAPTER 21    TRAFFIC CONTROL SIGNAGE**  
**PART 3        REQUIREMENTS FOR SIGNS ON GAS, FOOD, LODGING, CAMPING AND**  
**ATTRACTION, TRAVELER INFORMATION SIGNS**

**18.21.3.1      ISSUING AGENCY:** New Mexico Department of Transportation Post Office Box 1149 Santa Fe, New Mexico 87504-1149 (505) 827-0714.  
[9/30/98; 18.21.3.1 NMAC - Rn & A, 18 NMAC 21.3.1, 1/14/2005]

**18.21.3.2      SCOPE:** This rule covers specific service signing to provide the traveler with business identification and directional information for essential motorist services for the general public.  
[9/30/98; 18.21.3.2 NMAC - Rn, 18 NMAC 21.3.2, 1/14/2005]

**18.21.3.3      STATUTORY AUTHORITY:**

A. Regulations for signs giving specific information in the interest of the traveling public are authorized under Sections 66-7-101, Most current adopted edition of the *manual on uniform traffic control devices* or latest approved edition; 66-7-102, 67-3-16, 67-12-4, 67- 12-5 and 67-14-1 NMSA 1978 et seq.

B. All rules and regulations set forth herein are subject to revision by the New Mexico department of transportation with the approval of the New Mexico state transportation commission.  
[9/30/98; 18.21.3.3 NMAC - Rn & A, 18 NMAC 21.3.3, 1/14/2005]

**18.21.3.4      DURATION:** Permanent.  
[9/30/98; 18.21.3.4 NMAC - Rn, 18 NMAC 21.3.4, 1/14/2005]

**18.21.3.5      EFFECTIVE DATE:** September 30, 1998, unless a later date is cited at the end of a section.  
[9/30/98; 18.21.3.5 NMAC - Rn & A, 18 NMAC 21.3.5, 1/14/2005]

**18.21.3.6      OBJECTIVE:** The objective of these regulations is to establish standards for signs, displays and devices related to specific service signs (LOGOS signs), giving specific information in the interest of the traveling public, to be erected within the rights-of-way of the interstate highway system and other controlled access roadways.  
[9/30/98; 18.21.3.6 NMAC - Rn, 18 NMAC 21.3.6, 1/14/2005]

**18.21.3.7      DEFINITIONS:** As used in these rules unless the context clearly indicates otherwise.

A. **"As-built plans"** means detailed plans showing the configuration and location of specific information "panels" and trailblazer signs after the initial construction is completed on an interchange by interchange basis.

B. **"Business sign"** means a separately affixed sign attached to a motorist informational "panel," showing the name, brand or trademark of a qualified motorist service business.

C. **"Commission"** means the New Mexico state transportation commission.

D. **"Department"** means the New Mexico department of transportation.

E. **"Department secretary"** means the secretary of the New Mexico department of transportation or his designated representative.

F. **"District"** means any one of six sub-districts of the NMDOT responsible for construction and maintenance activities in a defined geographical area.

G. **"Eligible highway"** means those sections of controlled access highways determined by the NMDOT to be eligible for the specific information "panel" program.

H. **"Eligible interchange"** means those interchanges within the eligible sections of highways where the specific information "panel" program may be provided.

I. **"Exit gore"** means the earliest point at which the exit roadway becomes fully separated from the mainline roadway.

J. **"Interstate system"** or **"interstate highway"** means every state highway that is a part of a national system of interstate and defense highways established pursuant to Section 103(b), Title 23, United States Code. This definition also includes fully controlled access freeways on the primary highway system.

K. **"Logo"** means a symbol or design used by a qualified traveler service business that may consist of an easily recognizable identification symbol, name brand, trademark, or combination thereof.

- L. **"Main traveled way"** means the through traffic lanes of interstate systems or access controlled routes, exclusive of frontage roads, auxiliary lanes and ramps.
- M. **"Specific service sign"** means a "specific informational panel" bearing separately affixed individual business signs, indicating the presence of one or more gas, food, lodging, camping or attraction, and erected in advance of exit ramps on interstate systems or access controlled roadways. In appropriate context only, it also means a supplemental directional panel.
- N. **"Separate traveler informational sign"** means a traveler information panel which indicates the presence of only one type of tourist service, namely, gas, food, lodging, or camping. The phrase "traveler information sign" when not qualified means "separate traveler informational panel."
- O. **"Combination traveler informational sign"** means a traveler informational panel which indicates the presence of more than one type of tourist service. No traveler informational panel may indicate the presence of more than three types of tourist services in any event.
- P. **"NMDOT program administrator"** means that person assigned by the NMDOT to oversee and coordinate the LOGOS sign program and when applicable the program manager's activity.
- Q. **"Owner"** means the holder of fee title, or holder of leasehold estates from the owner of the real property.
- R. **"Permit"** means formal approval by the NMDOT or when applicable the program manager for work performed within the highway right-of-way and processed on forms provided by the NMDOT or when applicable the program manager for that purpose.
- S. **"Program manager"** or **"contractor"** means, when applicable, that person, firm, or organization selected by the NMDOT for the purpose of administering, marketing, constructing, refurbishing, and maintaining the existing and future specific service sign program in New Mexico.
- T. **"Qualified motorist business"** means a business furnishing gas, food, lodging, camping or attraction related tourist services.
- U. **"Responsible operator"** means a person or entity other than an owner who operates an independent motorist service business, and who has authority to enter into agreements relevant to matters covered by these requirements.
- V. **"Mainline specific information panel"** means a background sign-panel with border and copy upon which one (1) or more separate business signs may be attached and are located adjacent to the mainline and exit ramps of the eligible highway.
- W. **"Ramp supplemental directional sign"** means a motorist informational panel located on, opposite or at the terminus of an exit ramp from the interstate system, bearing business signs and directional information for a qualified motorist service business.
- X. **"Trailblazer sign"** means a business sign with an appropriate directional arrow sign mounted along the route leading from the interchange to the business for traffic direction purposes.
- Y. **"Visible"** means the location of the business can be readily identified by traffic approaching the termini of the highway exit ramp serving the business or approaching an intersection along the route from the exit ramp to the business.
- [9/30/98; 18.21.3.7 NMAC - Rn & A, 18 NMAC 21.3.7, 1/14/2005]

**18.21.3.8 RESPONSIBILITY:** It shall be the responsibility of each division and section within the department to carry out their pertinent functions relating to programming, design and contracting for each project concerning the traveler informational signing program. The traffic services section shall handle all phases of the business sign portion of a project. All actions shall be in conformity with regulations promulgated by the department and with the federal-aid highway program manual, volume 6, chapter 8, section 3.

[9/30/98; 18.21.3.8 NMAC - Rn, 18 NMAC 21.3.8, 1/14/2005]

**18.21.3.9 LOCATION:**

- A. The use of specific service signs should be limited to areas primarily rural in character or to areas where adequate sign spacing can be maintained.
- B. Limitation of specific information panels and individual business signs:
- (1) Where there are sufficient qualified applicants, a separate specific information panel shall be erected for each type of traveler service. The GAS, FOOD, LODGING, CAMPING and ATTRACTION specific information panels shall carry no more than six individual business signs each.
  - (2) Combination motorist information signs may be used at an interchange at the discretion of the department or contractor.

C. Relationship to exit gore and right-of-way line: The specific information panels shall be erected between the previous interchange and 1/2 mile in advance of the exit gore for the approaching interchange. These panels shall be located outside of the clear zone and readable from the main traveled way. The last panel shall be erected no closer than 1/2 mile to the exit gore of the approaching interchange with at least 800 foot spacing between the information panels. In the direction of traffic, the successive panels shall be those of "ATTRACTION", "CAMPING", "LODGING", "FOOD", "GAS" in that order.

D. Not to be used where re-entry to freeway is Inconvenient: The specific information panel shall not be erected at an interchange at which an exit from the freeway is provided but at which no entrance ramp exists at that interchange or at another reasonably convenient location that would permit a traveler to proceed in the desired direction of travel without undue indirection or use of poor connection roads.

E. Continuity of signing along exit ramp: The traveler services information, shown on the specific information panels, shall be repeated on the panels located along the interchange ramp where distance allows or at the ramp terminal where the service installations are not visible from the ramp terminal. In addition, appropriate trailblazer assemblies or direction information panels may also be provided along the crossroad, as required, to adequately direct travelers to the respective service facilities. These signs shall be the same in shape, color, and message as those shown on the specific information panels, together with a supplemental arrow sign (M6 series) showing the directions for the different services and, where needed, the mileage to the service installation. Normally, this signing will not be necessary at double-exit interchanges. The legends or symbols on these signs shall be smaller (minimum 4-inch letter height, except that any legend on a symbol shall be in proportion to the size of the symbol) than those shown on the specific information panels.

F. General traveler service signs: There is no need for a general traveler service sign to confirm the specific information panels erected for any of the five services. A general traveler service sign carrying any of the legends or symbols not contained on the specific information panels and also the symbols for phone and hospital, when applicable, may be erected. If so used, it shall be erected in conjunction with the ground mounted exit direction signs, or may be a separate sign with appropriate directional information erected a minimum of 800 feet following the last advance guide sign. Figures 1 through 5 are prepared from the standards and are included for informational purposes.

[9/30/98; 18.21.3.9 NMAC - Rn & A, 18 NMAC 21.3.9, 1/14/2005]

#### **18.21.3.10 CRITERIA TO DETERMINE SPECIFIC INFORMATION PERMITTED:**

A. Location of service establishments from interchange: The maximum distance that the "ATTRACTION", "GAS", "FOOD", "LODGING" or "CAMPING" services can be located from the main traveled way to qualify for a business sign shall not exceed 3 miles in either direction. If within that 3-mile limit one or more of the service types considered is not available, continue in 3-mile increments of consideration up to 15-mile maximum, if necessary, to find an available service of the type being considered. Services beyond the 15-mile limit do not qualify for signing.

B. Types of services permitted: Subsequent to the date of this rule, the types of services permitted shall be limited to "gas", "food", "lodging", "camping" and "attraction". Requirements to qualify for display on a specific information panel are as follows:

- (1) "gas" and associated services to qualify for erection on a panel shall include:
  - (a) vehicle services such as fuel, oil and water;
  - (b) continuous operation at least 16 hours per day, 7 days per week for freeways and expressways, and continuous operation at least 12 hours per day, 7 days per week for conventional roads;
  - (c) modern sanitary facilities;
  - (d) public telephone;
  - (e) drinking water.
- (2) "food" to qualify for erection on a panel shall include:
  - (a) where required, licensing or approval by state or political subdivision;
  - (b) continuous operations to serve three meals per day at least 6 days per week;
  - (c) modern sanitary facilities;
  - (d) public telephone.
- (3) "lodging" to qualify for erection on a panel shall include:
  - (a) where required, licensing or approval by state or political subdivision;
  - (b) adequate sleeping accommodations;
  - (c) public telephone;
  - (d) modern sanitary facilities.

- (4) "camping" to qualify for erection on a panel shall include:
  - (a) licensing or approval by appropriate public agency;
  - (b) adequate parking accommodations;
  - (c) modern sanitary facilities, drinking water and showers;
  - (d) continuous operation seven days a week;
  - (e) public telephone;
  - (f) provisions for removal or covering of the business signs during off-seasons if operated on a

seasonal basis.

- (5) "attraction" to qualify for erection on a panel shall include:
  - (a) regional significance;
  - (b) adequate parking accommodations.

[9/30/98; 18.21.3.10 NMAC - Rn & A, 18 NMAC 21.3.10, 1/14/2005]

#### **18.21.3.11 COMPOSITION:**

A. Single-exit interchanges: For a single-exit interchange, the business signs shall be arranged on the panel, with a maximum of two horizontal rows. When the number of business signs is one-half or less of the maximum permitted, the arrangement shall be in one horizontal row. The maximum in one horizontal row shall be limited to one-half of the maximum permitted on the panel. The signs should be mounted on the panel in the order of the travel distance measured from the point of the intersection of the main traveled way and the exit traveled way, the closest at the top left, the next closest at the bottom left, and continuing to the end.

B. Double-exit interchanges: In the case of a double exit interchange, the specific information panels shall consist of two sections where the same type of traveler services are to be signed for each exit. The arrangement of the business signs on each section of the panel shall be in accordance with the requirements for a single-exit specific information panel. For double-exit interchanges, the travel distance shall be measured from the intersection of the main traveled way and the first exit traveled way. The specific information panel shall display the appropriate business sign or signs and directional information for each exit. The top section of this panel shall display the business signs for the first exit with the appropriate service type and the exit numbering. The lower section of this panel shall display the business signs for the second exit with the appropriate service type, same as the top section, and the exit numbering. Exit numbering shall be placed on the panels and shall consist of "Exit 44 A" or "Exit 44 B" with the appropriate number and letter. The number of business signs on this panel (total of both sections) shall be limited to six for "GAS," "FOOD," "LODGING," "CAMPING" or "ATTRACTION". If the "FOOD," "LODGING", "CAMPING" or "ATTRACTION" panel is 13-feet wide, the number of business signs on this panel shall be limited to four. The legends or symbols on the mainline signs shall be clearly legible at normal highway speeds (letter height and legend on a symbol shall be in proportion to the size of the symbol).

C. Commercial symbols or trademarks: Business signs composed of nationally, regionally, or locally known commercial symbols or trademarks for service stations, restaurants, motels and campgrounds shall be used when applicable. The brand or trademark identification symbol used on the business sign shall be reproduced with the colors and general shape consistent with customary use. Any messages, trademarks, or brand symbols which interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or device are prohibited. [9/30/98; 18.21.3.11 NMAC - Rn, 18 NMAC 21.3.11, 1/14/2005]

#### **18.21.3.12 SIZE:**

A. Business signs:

(1) The business signs displayed on the information panel shall be contained within a 48-inch wide and 36-inch high rectangular background area, including border.

(2) The existing business signs measuring 60-inch by 36-inch on "FOOD," "LODGING" and "CAMPING" specific information panels shall be replaced, at the logo client's expense, with 48-inch wide by 36-inch high business signs. New 48 inch wide by 36 inch high business signs must be provided by the participating business as new specific information panels are being installed or existing specific information panels are being overlaid or refurbished.

B. Information panel - single-exit interchange:

(1) The maximum size of the specific information panel should be 15-feet wide and 10-feet high, including border; the minimum size should be 15-feet wide and 6-feet high, including border.

(2) The size of existing "FOOD," "LODGING" and "CAMPING" specific information panels are 18-foot wide and 10-feet high or 13-foot wide and 6-foot high, including border. These specific information panels should be replaced with 15-feet wide and 10-feet high or 15-feet wide and 6-feet high respectively, as appropriate,

during routine re-construction projects or by, when applicable, the program manager/contractor. The department or contractor may choose to refurbish the existing sign and provide spacing between business signs as approved by the department.

C. Information panel - double-exit interchange:

(1) For double-exit interchanges where the same type of motorist services are to be signed for each exit, the specific information panels shall consist of two 15-foot wide and 6-foot high sections, one for each exit.

(a) Existing "FOOD," "LODGING" and "CAMPING", specific information panels, consist of two 13-foot wide and 6-foot high sections, one for each exit. These specific information panels shall be replaced with two 15-foot wide and 6-foot high during routine re-construction projects or as needed by the contractor.

(b) Each section shall be capable of accommodating a maximum of either three gas, FOOD, LODGING, CAMPING or ATTRACTION business signs.

(2) For double-exit interchanges where a type of motorist service is to be signed for only one exit, only one specific information panel may be used.

[9/30/98; 18.21.3.12 NMAC - Rn & A, 18 NMAC 21.3.12, 1/14/2005]

#### **18.21.3.13 COLOR AND RETROREFLECTORIZATION:**

A. Specific information panel: The background, border, and all legend shall consist of type III, or greater, retroreflective sign sheeting. The type of service, "GAS," "FOOD", "LODGING", "CAMPING" or "ATTRACTION" along with the exit number messages shall be white retroreflectORIZED 10-inch capital letters. The type of service shall be left justified and the "EXIT" and number shall be right justified. There shall be no hyphen between the type of service and the word "EXIT."

B. Business signs: The business sign color shall be a white message on a blue background, except that colors consistent with customary use should be used with nationally, regionally or locally known symbols or trademarks. The principal legend on the business sign shall be reflectORIZED and at least 10 inches in height, whether upper or lower case alphabet is used; however, where the symbol or trademark is used alone for the business sign, any legend on the symbol or trademark shall be in proportion to the size thereof, consistent with customary use. The business signs shall have a white border except that when symbols or trademarks are used the border may be omitted. The background, border, and all legend shall consist of type III, or greater, retroreflective sign sheeting.  
[9/30/98; 18.21.3.13 NMAC - Rn, 18 NMAC 21.3.13, 1/14/2005]

**18.21.3.14 TRANSVERSE LOCATION OF SIGNS AND OF SIGN SUPPORTS:** Specific information panels: The specific information panels shall be located outside of the clear zone, but in a location where they are readable from the traveled ways. Consideration should be given to the natural terrain in the placement of the panels.  
[9/30/98; 18.21.3.14 NMAC - Rn, 18 NMAC 21.3.14, 1/14/2005]

#### **18.21.3.15 PROCEDURES TO BE FOLLOWED BY THE DEPARTMENT:**

A. Eligibility of funds: Federal funds may be eligible to participate in the cost and erection of these panels in the same manner that such funds are eligible for other highway signs to the national highway system, except that federal funds are not eligible to participate in the cost of procuring and installing the business signs.

B. Programming, project authorization and other actions: The procedures for obtaining approval for programming, project authorizations and other actions for federal projects including these panels shall follow the same procedures in use for other national highway system projects. If the department desires to erect these panels on the interstate highway system or other controlled access routes on the national highway system without federal fund participation, it shall provide a design consistent with standards in the MUTCD and standards herein. No panels shall be approved which do not conform to the requirements of these standards. Programming of a traveler informational panel project shall be at the discretion of the department and/or, when applicable, the program manager/contractor.

[9/30/98; 18.21.3.15 NMAC - Rn & A, 18 NMAC 21.3.15, 1/14/2005]

#### **18.21.3.16 ELIGIBILITY:**

A. Intended primarily for rural interchanges: Traveler information panels shall be erected and maintained at rural interchanges whether a business is or is not visible to the traveling public from the highway and at suburban or urban interchanges where spacing allows.

B. Types of services and criteria: Types of services and criteria are set forth in Subsection B of 18.21.3.10 NMAC.

C. Conformity with civil rights laws: The owner or responsible operator of a qualified traveler business must give written assurance of its conformity with all applicable laws concerning the provisions of public accommodations without regard to race, religion, sex, handicap or national origin.

D. Mileage limits - who may apply. (See Subsection A of 18.21.3.10 NMAC)

E. Rules applicable to business signs:

(1) The owner or responsible operator of the business must file an application for placement of its business sign on all traveler informational panels erected at the interchange on which it is eligible for such placement, and if it is not visible from the exit ramp, on any supplemental directional panel on the exit ramp or at its terminus, on a form specified by the department or when applicable, the program manager/contractor.

(2) The applicant must also agree to furnish the necessary number of its business signs to be affixed to the traveler informational panels.

(3) The applicant must also acknowledge that the permit is revocable for his failure to comply with those requirements of Subsection J of 18.21.3.16 NMAC of this section; that revocation under this paragraph forfeits applicant's paid rental and permit fees, there being no allowance for a pro rata refund for the remainder of the year.

(4) The applicant expressly agrees to waive all claims against the department and when applicable, its contractor, including claims for damage to its business signs by the department's or contractor installation, maintenance removal and replacement as required in Subsection B of 18.21.3.18 NMAC. Applicant further agrees to indemnify the department and when applicable, the contractor and save them harmless from all claims arising out of the erection, maintenance and existence of applicant's business and logo signs within department's right of way. Such claims to be indemnified include, but are not limited to, damages caused as a result of relying upon the representations made by the business and logo signs to the detriment of the traveling public.

F. Conformity with laws: All signs or advertising on the premises must be in full compliance with all other state and federal laws and regulations.

G. Priority of business sign application: If applications are received for any one interchange from more than the maximum allowable businesses to be placed on any one panel, only six applications for gas, food, lodging, camping and attraction shall be granted. The order of priority shall be the six businesses closest to the interchange that have applied for a permit prior to the closing date set by the department or the contractor for receipt of applications except as stated in Subsection A of 18.21.3.16 NMAC of this requirement.

H. Length of time of permit: Any grant of a new or renewal application shall entitle the applicant to placement of its business sign(s) on traveler information panel(s) for the interchange(s) for the paid rental period.

I. Permit renewed annually: Eligibility of qualified traveler service businesses for continued placement of their business sign on a traveler information panel may be reviewed annually before a grant of renewal permit, on the same basis as for an original permit, but no new application shall be deemed to have higher priority than a renewal application unless it is received at least sixty (60) days before the permit is scheduled to expire under Subsection H of 18.21.3.16 NMAC.

J. Causes for removal of business signs: Notwithstanding Subsection I of 18.21.3.16 NMAC of this section, the business sign of a traveler service business shall be removed from all traveler informational panels and may be replaced by the business sign of another qualified applicant for failure to comply with Subsection B of 18.21.3.10 NMAC, as follows:

(1) If it fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by Subsection B of 18.21.3.10 NMAC, so as to justify a finding by the department or when applicable the program manager that the business is not in substantial compliance with that paragraph.

(2) If it fails to open for business for more than seven consecutive days or for more than ten days cumulatively during any one-year period, unless the department or when applicable the program manager finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances.

(3) If it fails to comply with Subsection C of 18.21.3.16 NMAC of this section, except in isolated instances without the knowledge of the owner, responsible operator or manager of the business, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur.

(4) If it willfully fails to comply with Subsection F of 18.21.3.16 NMAC of this section, or if it fails to take immediate steps to comply promptly after it is notified or becomes aware that it is not in compliance.

K. Removal caused by fire or accident: If due to fire, accident or similar causes, a qualified traveler service business becomes inoperable for an extended period of time, exceeding seven days, but not more than ninety days, its business sign shall be temporarily removed from or covered on all motorist informational panels, but the business shall not lose its priority. Further extension may be granted on good cause shown. However, failure of the

owner or responsible operator to proceed with necessary repairs within a reasonable time shall cause the loss of right to continued placement of the business sign and require a new application.

L. Waiver: Upon petition by an applicant showing a significant business disadvantage to it which would arise under strict enforcement of these regulations, or showing a substantial benefit to the public if a variance is granted, the department or when applicable the program manager may authorize a waiver of any requirements of Subsection J of 18.21.3.16 NMAC:

- (1) that it will not derogate from the purposes of these requirements;
  - (2) that the applicant will suffer a significant business disadvantage if the waiver is not granted, or that a substantial benefit to the public will be realized if the waiver is granted;
  - (3) that the waiver will not be contrary to any provisions of state law, or federal law or regulations.
- [9/30/98; 18.21.3.16 NMAC - Rn & A, 18 NMAC 21.3.16, 1/14/2005]

#### **18.21.3.17 APPLICATION AND APPEAL PROCEDURES:**

A. Application procedures:

(1) Upon selection of a particular interchange, individually or as part of a selected segment of the Interstate or access controlled national highway system, for erection of traveler informational panels for one or more types of qualified traveler service businesses, the department or when applicable the program manager may secure applications from owners or responsible operators of eligible businesses for placement of their business signs on such panels.

(2) The department or when applicable the program manager shall issue permits to each eligible applicant, up to the maximum number permissible.

B. Appeal procedure: Any order of the department or when applicable the program manager denying an application under these rules or for removal of a business sign pursuant to Subsection J of 18.21.3.16 NMAC, may be appealed by the applicant or permittee to the department secretary or when applicable the program manager within fifteen calendar days after knowledge of the facts or occurrences giving rise to the appeal. Any person who has been sent written notice of any fact or occurrence is presumed to have knowledge of the fact or occurrence. Appeals shall be in writing and contain the name and address of the party appealing, a concise statement of the grounds for the appeal, including any supporting evidence to substantiate the appeal, if available, and specify the ruling requested from the secretary or when applicable the program manager. The department or when applicable the program manager shall notify applicants or permittees promptly on any application denial or decision to remove a sign pursuant to Subsection J of 18.21.3.16 NMAC.

[9/30/98; 18.21.3.17 NMAC - Rn & A, 18 NMAC 21.3.17, 1/14/2005]

#### **18.21.3.18 ERECTION AND MAINTENANCE:**

A. Erect and maintain informational signs: The department or when applicable the program manager shall furnish, erect and maintain traveler informational panels at locations specified by the department or when applicable the program manager, or it may agree or contract with any city, county, or other governmental agency of this state, or with an independent contractor, to erect and maintain such panels at specified locations. In the event the department chooses to use an independent contractor for program management, the department may allow the contractor to fully administer the program, including marketing, issuing permits and collecting fees as well as providing, erecting informational panels, installing business signs and maintaining all logo informational sign panels. Compensation to the contractor may consist of the fees generated by the program. All existing sign panels as well as all sign panels provided and installed by the contractor will remain the property of the department and the state of New Mexico.

B. Erect and maintain business signs: The department or when applicable the program manager shall perform all required installation, maintenance, and removal and replacement of all business signs upon specific information panels within the right-of-way or as stated in Subsection A of 18.21.3.18 NMAC.

C. Business sign damage and new signs: The department or when applicable the program manager shall not be responsible for damages to business signs caused by acts of vandalism or natural causes requiring repair or replacement of business signs. Permittees in such event shall provide a new or renovated business sign together with payment of the appropriate service charge to the department or when applicable the program manager to replace such damaged business signs. A service fee for each mainline and/or each ramp supplement and/or each trailblazer business sign shall be assessed in accordance with the current, approved LOGO fee schedule.

D. Business sign approval actions: Promptly upon the approval of applications for business signs to be affixed to traveler informational panels, the department or when applicable the program manager shall notify the party with which it has contracted, so that the panels may be erected. The department or when applicable the

program manager shall furnish the party with which it has contracted with all necessary information in order to permit the department or when applicable the program manager to erect the panels.

E. Furnishing business signs: The department or when applicable the program manager shall notify businesses to which applications have been approved sufficiently in advance of the date the panels will be erected, or business signs will be affixed to them, to permit such businesses to furnish the necessary number and detail of their business signs to allow when applicable the program manager to fabricate and install the business signs. If the department or when applicable the program manager is notified that a motorist service business has failed to timely furnish detailed information of its business signs, or that the signs furnished are not in compliance with these requirements and, if the department or when applicable the program manager finds that the permittee has not shown due diligence, it may cancel the permit and forfeit the permit fee.

[9/30/98; 18.21.3.18 NMAC - Rn & A, 18 NMAC 21.3.18, 1/14/2005]

#### **18.21.3.19 FEES:**

A. Application fees: All application fees are a one-time charge and are payable on application approval. The application fee for each business sign placed on a motorist informational panel shall be in accordance with the current, approved logo fee schedule. A separate fee in accordance with the current, approved logo fee schedule, shall be applicable for each business sign placed on a supplemental ramp directional panel. A separate fee, in accordance with the current, approved logo fee schedule, shall be applicable for each business sign installed as trailblazer at a crossroads between the ramp terminus and the location of the business. If a business is not visible from the exit ramp terminal, the motorist services information, shown on the specific information panels shall be repeated on the supplemental panels located along the interchange ramp where distance allows or at the ramp terminal.

B. Annual rental fees: In addition to the application fee, an annual rental fee, in accordance with the current, approved logo fee schedule, for each business sign affixed to a traveler informational panel, not including supplemental ramp signs and/or trailblazers shall be paid annually. The advertiser shall be notified when the traveler information panel is erected and the logo installed and the rental fee is then due. Rental fees shall be reviewed periodically to determine their relationship to the cost of operation of this program. Rental fees not received within thirty (30) days of notification to the applicant by the department shall subject applicant's application to revocation and removal of his sign without application fees being refunded.

C. Fee schedule preparation: In the event the department chooses to use an independent contractor, the contractor will prepare a logo sign fee schedule that shall be included as part of his proposal and is, therefore, subject to approval by the department. At the end of four years the logo sign fee schedule should be reviewed by the department and the contractor, at which time any necessary changes can be made. If the department does not choose to use an independent contractor, the department will prepare the logo sign fee schedule.

D. Retention and refunding fees.

(1) If an application for a permit is, for any reason not granted or renewed, all fees tendered with the application shall be refunded. If the permit is revoked under Subsection J of 18.21.3.16 NMAC, or if the rental is not timely tendered under Subsection B of 18.21.3.19 NMAC, the department or when applicable the program manager shall not refund any application fees.

(2) If an application is approved and contract has been awarded for the erection of the sign, no part of the permit fee shall be refunded. If a permit has been renewed, no part of the permit fee shall be refunded. If the business sign is subsequently removed by a taking of eminent domain of the business being advertised, a proportional refund of the permit fee may be made; however, in case of any removal, the rental fee for any months or major portion (16 days or more) of a month remaining to the anniversary date of placement of the business sign may be refunded. There shall be no refund of rental fees for any business sign temporarily removed or covered pursuant to Subsection K of 18.21.3.16 NMAC.

E. Department administered logo sign program: If the department chooses to continue the administration of the logo sign program, the department shall fully administer the program, including marketing, issuing permits and collecting fees as well as providing, erecting informational panels, installing business signs and maintaining all logo informational sign panels. A separate logo signing program account shall be established to receive any and all fees from the program. All funds in this account shall be used to furnish, erect and maintain traveler informational panels as needed as well as to pay costs associated with the administration of the logo sign program.

[9/30/98; 18.21.3.19 NMAC - Rn & A, 18 NMAC 21.3.19, 1/14/2005]

#### **18.21.3.20 MISCELLANEOUS:**



A. The department or when applicable the program manager shall adopt all necessary forms, accounting methods and other necessary procedures to carry out the full intent of these regulations.

B. These regulations shall be effective on the day they are filed with the New Mexico records and archives center, and any regulation heretofore affecting the subject matter hereof is hereby superseded. [9/30/98; 18.21.3.20 NMAC - Rn & A, 18 NMAC 21.3.20, 1/14/2005]

**HISTORY OF 18.21.3 NMAC:**

**Pre-NMAC Regulatory Filing History:** The material in this part was derived from that previously filed with the State Records and Archives under:

SHC 75-2, Regulations for Gas, Food, Lodging and Camping, Motorist Information Signs, filed 6/24/75.

SHD 78-2, Regulations for Gas, Food, Lodging and Camping Motorist Information Signs on Interchanges of the Interstate Highway System and Full Access Controlled Primary Highway System, filed 9/22/78.

SHD 78-2, Amendment No.1, filed 5/7/85.

SHD Rule 88-2(L), Regulations for Gas, Food, Lodging and Camping Motorist Information Signs on Interchanges of the Interstate Highway System and Full Access Controlled Primary Highway System, filed 3/31/88.

**History of Repealed Material:** [RESERVED]

**Other History:**

SHD Rule 88-2(L), Regulations for Gas, Food, Lodging and Camping Motorist Information Signs on Interchanges of the Interstate Highway System and Full Access Controlled Primary Highway System (filed 3/31/88) was renumbered, reformatted, amended, and replaced by 18 NMAC 21.3, Requirements For Signs On Gas, Food, Lodging, Camping And Attraction, Traveler Information Signs, effective 9/30/1998.

18 NMAC 21.3, Requirements For Signs On Gas, Food, Lodging, Camping And Attraction, Traveler Information Signs (filed 9/16/1998) was renumbered, reformatted, amended, and replaced by 18.21.3 NMAC, Requirements For Signs On Gas, Food, Lodging, Camping And Attraction, Traveler Information Signs, effective 1/14/2005.