

NAHBA SURVEY RESULTS– CEMVS RULES

1.	Texas DOT	Roger Dreesen	Texas does not allow CEMVS
2.	Oregon DOT	Jimmy L. Odom	<ol style="list-style-type: none"> 1) Does your state have CEMVS Regulations? – No, but Oregon does have a statute that prohibits off-premise CEMVS – See ORS 377.720 on the NAHBA website. 2) Are your states CEVMS regulations accessible on the NAHBA web page? – See answer to question 1. 3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible). – ORS 377.720 allows on-premise CEMVS signs and CEMVS signs that advertise time, date and temperature and similar public service information. This is making it difficult for Oregon to argue against allowing off-premise CEMVS. We are getting a proliferation of on-premise CEMVS, so it’s difficult say that it is a safety issue. We have no definition in our statutes for “intermittent”, which makes it difficult to argue what intermittent is. We have one case now pending in which the sign owner ask whether changing the message once in a 24-hour period—in the wee hours of the morning—would constitute intermittent. Our department of justice is finding it very difficult to address this issue. <i>Note: Since this case is still pending and has not been decided, please consider this as attorney client privileged information.</i> 4) What are the violation procedures of your CEVMS regulations? Are they different than from billboards? The only difference in procedure is the way the violation notice is worded and the specific statutes used. 5) What are the penalty provisions of your CEVMS regulations? – The same as for illegal billboards. Civil penalties of up to \$100 per day up to a maximum of \$100,000.00 6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? – Generally, whenever a legal on-premise or an illegal off-premise CEVM goes up visible to an interstate, we get a lot of complaints from the motoring public. Their main complaints are that the lights are too bright/intense or that the movement is distracting. 7) Does your states have any horror stories or victories regarding CEVMS? – Nothing other than the City of Portland got taken to court when they tried to have CEMVS signs remove (not visible to state highways), they lost. However, they have since then enacted regulations controlling them. The preexisting CEMVS are allowed to remain—only the new CEMVS are subject to the regulations. 8) Please provide any advice or comments on writing a CEVMS rule. – No advice, other than I would appreciate a copy of your regulations when you do pass them.

3.	New York DOT	Cheryl Duprey	<p>1) Does your state have CEMVS Regulations? No. NYS outdoor advertising regulation currently prohibits this type of sign and reads at 17 NYCRR Part 150.4 Signs prohibited at subdivision (7) “signs which move or have animated or moving parts, except those giving public service information such as time, date, temperature, weather or similar information.” The industry, through the OAAA, approached the Department seeking the Department’s approval for a regulation change to allow this type of signing in NYS. The industry and the Department failed to reach an agreement on the length of dwell and static time for this type of signs if a regulation change was made. It is our understanding that the industry will seek legislation to change this regulation this session.</p> <p>2) Are your states CEVMS regulations accessible on the NAHBA web page?</p> <p>3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible).</p> <p>4) What are the violation procedures of your CEVMS regulations? Are they different than from billboards?</p> <p>5) What are the penalty provisions of your CEVMS regulations?</p> <p>6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues?</p> <p>7) Does your states have any horror stories or victories regarding CEVMS?</p> <p>8) Please provide any advice or comments on writing a CEVMS rule.</p>
4.	Virginia DOT	James R. Barrett	<p>1) Does your state have CEMVS Regulations? Yes. Virginia has a statute.</p> <p>2) Are your states CEVMS regulations accessible on the NAHBA web page? The Web page has not been updated to reflect the latest language.</p> <p>3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible). Because of the nature of the technology a notice of violation can be issued or one of my agents can go by to discuss a violation with the owner. The owner will change the message sequence to bring the sign into compliance. As soon as the agent leaves the owner will change the sign beck to the pre-discussion sequence. I also have trouble getting our attorneys to take the outdoor advertising laws seriously and file an injunction against a violator.</p> <p>4) What are the violation procedures of your CEVMS regulations? Are they different than from billboards? In Virginia, we would write a notice of violation giving the owner 30-days to bring the sign into compliance. If the sign continued to operate illegally, the owner could ask for an administrative hearing. If the owner failed to abide by the administrative ruling we could file an injunction.</p>

			<p>5) What are the penalty provisions of your CEVMS regulations? The state has the authority to enter private property to remove the sign structure.</p> <p>6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? None.</p> <p>7) Does your state have any horror stories or victories regarding CEVMS? Only the problems encountered in #3 above. It's a very frustrating law to enforce.</p> <p>8) Please provide any advice or comments on writing a CEVMS rule. Our attorneys have advised us that the exemption in federal law for time, date, temperature, or similar messages is unconstitutional because it makes us censors which violates the 1st and 14th Amendments of the Constitution. The law must put forward the public need and encompass any and all messages. The following is a copy of Virginia's current statute:</p> <p>§ 33.1-369. Certain advertisements or structures prohibited.</p> <p>No advertisement or advertising structure shall be erected, maintained or operated: (2) Which involves motion or rotation of any part of the structure, moving reflective disks, running animation, or displays an intermittent light or lights visible from any highway. The prohibition of this subsection shall not apply to: (a) advertisement or advertisement structure with messages that change no more than once every four seconds and is consistent with agreements entered into between the Commonwealth Transportation Commissioner and the United States Department of Transportation; or (b) an on-premises advertisement or advertising structure with messages displayed as scrolling words and/or numbers;</p> <p>The language in (a) addresses the time, date, temp, etc. which is still in our agreement as an exception. It has not been challenged.</p>
5.	Utah FHWA	Russell Robertson	Utah does not have CEVMS regulations. The VMS are considered part of the law referencing MUTCD. In conversations with Utah Highway Patrol, they are not comfortable that the DMS are regulatory to where they are enforceable. Therefore, Utah is not on track to propose legislation.
6.	Kansas DOT	Cathy Ohara	<p>1) Does your state have CEMVS Regulations? Kansas Statutes indicate in lighting regulations that "Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature, weather or news"</p> <p>2) Are your states CEVMS regulations accessible on the NAHBA web page? Kansas Statutes annotated (KSA) 68-2234(d)</p> <p>3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible). The State of Kansas only allows CEVMS on "on premise" signs.</p> <p>4) What are the violation procedures of your CEVMS regulations? Are they different than from</p>

			<p>billboards? No</p> <p>5) What are the penalty provisions of your CEVMS regulations? None, other than causing removal</p> <p>6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? No</p> <p>7) Does your states have any horror stories or victories regarding CEVMS? No</p> <p>8) Please provide any advice or comments on writing a CEVMS rule. Sorry, no advice.</p>
7.	Ohio DOT	Kerry Yoakum	<p>1) Does your state have CEMVS Regulations? Yes</p> <p>2) Are your states CEVMS regulations accessible on the NAHBA web page? Yes. Ohio administrative Code 5501:2-2-02(B)</p> <p>3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible). Scrolling messages are not really covered by our rules. We occasionally will find devises that do not stay fixed for 8 seconds. We generally call the company and they slow the signs down.</p> <p>4) What are the violation procedures of your CEVMS regulations? Are they different than from billboards? No. See ORC 5516.99 and OAC 5501:2-2-08</p> <p>5) What are the penalty provisions of your CEVMS regulations? The penalty provisions are contained in the above-referenced provisions</p> <p>6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? We often receive complaints from the traveling public that scrolling messages are moving too fast and are cluttered.</p> <p>7) Does your states have any horror stories or victories regarding CEVMS? No</p> <p>8) Please provide any advice or comments on writing a CEVMS rule. Address change times, scrolling messages and consider mobile variable message units that are becoming more of a problem.</p>
8.	California DOT	James Arbis	<p>Currently, California is amending a number of regulations, which have not been finalized yet. Therefore, our reply must be made on that basis.</p> <p>1. Does your state have CEVMS Regulations? Yes, however, they have had major revisions this year and are currently being reviewed.</p> <p>2. Are your states' regulations accessible on the NAHBA web page? We're not sure. They are accessible on ours, www.dot.ca.gov/hq/oda/.</p> <p>3. What enforcement issues do your state have regarding the CEVMS regulations? The only CEVMS displays subject to State control are off premise displays. They are required to obtain</p>

			<p>state permits and are subject to size, spacing, lighting and message timing requirements. On premise CEVMS are not subject to State control. State permits are not required for these displays and they are not subject to State size, lighting and spacing regulations. The primary problems we have are on premise displays advertising off site activities and the flashing and moving light capability of these displays. We define a message center display as one whose message does not change more frequently than once every four seconds. During the time each message is displayed, they are not allowed to flash, scroll or move. However, this is the most common violation due to the high tech capability of these devices.</p> <p>4. What are the violation procedures of your CEVMS regulations? Are they different than from billboards? The procedures are basically the same. Obviously, message center violations in most cases can be resolved with a keystroke. Based on that capability, we are in the process of developing policies that address this issue.</p> <p>5. What are the penalty provisions of CEVMS regulations? The legislature recently adopted more severe penalty provisions to deal with all ODA violations. Under the new statutes, the penalties for violating the State Outdoor Advertising Act consist of a ten thousand dollar fine, one hundred dollars a day for as long as the display remains in violation and disgorgement of all profits from the illegal display if the violation is not correct within a specified time. These provisions became effective January 1st of this year. Regulations and internal policies to implement the law are currently being developed.</p> <p>6. Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? Most of the complaints have come from motorists claiming that the lights are too bright and distracting, and from adjacent homeowners claiming that they are too intrusive. Ironically, planning departments, which have generally opposed billboards, seem to embrace message center displays.</p> <p>7. Does your state have any horror stories or victories regarding CEVMS? Not so far.</p> <p>8. Please provide any advice or comments on writing a CEVMS rule. It is recommended that the penalties for violating any rules are unequivocally enforced and that profit motives for illegal operation are discouraged. As stated above, most violations can be corrected with a keystroke. It is also recommended that enforcement procedures be tailored to the possible violations unique to this type of display.</p>
9.	Missouri DOT	Mark Rankin	These answers are regarding off R/W but within 660' of R/W permitted signs only. There have been new rules recently developed for on R/W changeable message

			<p>signs, I will try to get a copy of those to you also.</p> <ol style="list-style-type: none"> 1) Does your state have CEMVS Regulations? Yes, but we call them "automatic changeable facing" (see 7 CSR 10-6.040 (6)). 2) Are your states CEVMS regulations accessible on the NAHBA web page? No and the statutes need to be updated, we had a bill pass last session. 3) What enforcement issues do your state have regarding the CEVMS regulations? (Please explain in detail and provide examples if possible). Our regulations do not address what type of lighting may be used such as LEDs and our statutes are too vague regarding what constitutes flashing, intermittent, or moving lights. We are working on regulations to address this issue now. 4) What are the violation procedures of your CEVMS regulations? Are they different than from billboards? If a N/C sign is changed in a way that does not comply with the rules and regs we will seek removal of it. Conforming signs can have remedial action, that is they can change it back. Changeable message signs are considered BBs in Missouri. 5) What are the penalty provisions of your CEVMS regulations? Removal of a N/C sign that is changed to changeable message sign, however we are considering remedial action of changing it back (removal of the changeable message board). An otherwise conforming sign that does not meet our regs on changeable message signs could be removed also, but we would offer the chance to change it to conform to the regs, with a time limit to complete the change, before removing. 6) Do you have any customer feedback on the CEVMS, i.e. complaints, safety issues? No 7) Does your states have any horror stories or victories regarding CEVMS? Not yet. The most challenging case we have had is dealing with changeable projected image signs and our new regs will address some issue on that also. 8) Please provide any advice or comments on writing a CEVMS rule. Try to conceive of every possible twist and consider the necessary rules to control each case before enacting statutes or regs. Vague or imprecise rules and regs lead to circuit court interpretations and in Missouri we are not coming out on top of those at this time. (although we have not had any specifically on changeable message signs yet)
10.	Louisiana DOT	Marian Patton	<ol style="list-style-type: none"> 1- Yes, we do have regulations for CEMVS signs. 2- I do not think so, however, I do believe that Darrell Johnson sent you the regulations and our states laws. 3- We have many Parish initiatives that have signs built for Parks, Sports Arenas, Ball Fields (such as the New Orleans Zephyrs). What I did was to contact the Parish Presidents Office, and request a meeting to discuss the concerns of these signs, because they are along a controlled highway and are considered illegal to us. It took a while to pull it together, but finally after meeting with them, they were willing to do what they could to resolve the problems. They submitted permits for all of them. I still has two signs that are being addressed. The biggest thing was for them to conform to the lighting restrictions. I have

			<p>one location that we were going to allow to change the zoning, only to help in resolving to whole bush, but the Mayor insists that he would not be re-elected if he changed the zoning, so we are going to contract it's removal.</p> <p>4- We send a certified letter to the sign owner and land owner, letting the sign owner know what their violation is, with a copy of the law and what they need to do to resolve the problem. The Landowners letter notifies him that we will enter upon his property to remove the sign. We send him a copy of the letter sent to the sign owner. The rules/laws are treated the same except we do not allow the zoning changes. That was a one-time offer to resolve the CEMVS signs because there were so many at a time that we were addressing.</p> <p>5- 100 Dollars a day until the sign is removed, and if we remove it , the cost of removal including Time, Equipment used, Salaries of those it took to remove it, mileage to the site, fuel etc. .</p> <p>6- Occasional complaints.</p> <p>7- Mainly the fact the Parishes/Counties are having these signs built, and they do not even meet their own regulations/ordinances.</p> <p>8- I referred this answer to Susan Stafford our Legal person to answer.</p>
11.	Mississippi DOT	John Lee	The State of Mississippi doesn't currently have regulations regarding CEMVS. We are in the process of re righting our SOP's and I believe this is something that kneads to be addresser in them. I would appreciate any information you could share.
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