



U.S. Department  
of Transportation

**Federal Highway  
Administration**

June 11, 2015

1200 New Jersey Ave., SE  
Washington, D.C. 20590

In Reply Refer To:  
HIPA  
FOIA Control No. 2015-0266

Mr. Carl Malamud  
Public.Resource.Org  
1005 Gravenstein Highway North  
Sebastopol, CA 95472

Dear Mr. Malamud:

This letter is in further reply to your Freedom of Information Act (FOIA) request to the Federal Highway Administration regarding our Notice of Proposed Rulemaking (NPRM) on “Design Standards for Highways.” Under the FOIA, you requested all communications that FHWA had with the American Association of State Highway and Transportation Officials (AASHTO) and the American Welding Society (AWS) about making the AASHTO and AWS standards available for public viewing during the NPRM period or after a rule is promulgated. Our FOIA office acknowledged receipt of your request on June 8.

In preparing the NPRM, we did not exchange correspondence with AASHTO or AWS on making the standards available for public viewing. When proposing to incorporate a document by reference in our regulations, FHWA follows the policies and procedures under 1 CFR Part 51 to ensure that the materials proposed to be incorporated are reasonably available to interested parties and usable by the class of persons affected. The NPRM describes where the materials can be obtained by members of the public, including in person at the U.S. Department of Transportation. The materials have been formally adopted by professional organizations and have been in use by the community for some time. The FHWA believes these documents to be in use by the State and local departments of transportation affected by this rulemaking. As a result, we do not have any documents that are responsive to your FOIA request.

The undersigned is responsible for the determination that we do not have any documents responsive to your request. Pursuant to U.S. Department of Transportation regulations (49 C.F.R. § 7.32), you have the right to appeal this decision in writing to Ms. Sarah Shores, Associate Administrator for Administration, Federal Highway Administration. You can mail your appeal to 1200 New Jersey Avenue, SE., Room E66-322, Washington, D.C. 20590-9898, or send it via e-mail at [FHWA.foia.appeals@dot.gov](mailto:FHWA.foia.appeals@dot.gov) or fax at 202-366-7499. Should you wish to exercise this right, the agency decision on the appeal will be the final administrative action. Your appeal must be postmarked or, in the case of electronic or facsimile transmission

submitted, within 45 calendar days from the date the initial determination is signed and should include the FHWA file or reference number (2015-0266) assigned to the request and all information and arguments relied upon in making the appeal.

The cost of preparing this reply is below our minimum fee for handling FOIA requests. This letter concludes our determination on your FOIA request.

Sincerely yours,

A handwritten signature in blue ink that reads "Thomas D. Everett". The signature is written in a cursive style with a long horizontal flourish at the end.

Thomas D. Everett  
Director, Office of Program Administration