

**GOVERNMENT OF PAKISTAN**  
**MINISTRY OF COMMUNICATIONS**

No. 9 (2)1997-Roads

Islamabad, the 23<sup>rd</sup> December, 2009

Subject: **DECISION OF 'THE MEETING OF ECONOMIC COORDINATION COMMITTEE (ECC)**

I am directed to state that the Economic Coordination Committee (ECC) considered the Summary dated 10-02-2009 submitted by Ministry of Communications on Leasing of Right of way by National Highway Authority (NHA) and approved the NHA leasing Policy 2009 (copy enclosed) in principal with a direction that Ministry of Communications may finalize an action plan including modalities of leasing in consultation with all stakeholders taking into account the following:

- a. Establishing recreational facilities at a distance of 20 - 25 kms through transparent bidding.
- b. Review of existing encroachments by National Highway Authority for a rational and permanent solution.
- c. Devising a transparent and viable mechanism for grant of short term leases in the ROW.

2. It was further desired that comprehensive proposal(s) for regularization of existing lease in RoW granted by Provincial Governments/ Local authorities

3. To implement the decisions of EC~ the competent authority has constituted a committee comprising following as members:

- i. General Manger, RMID, NHA
- ii. D.I.G NH &MP
- iii. Director (Roads), MoC

4. It is requested that that a meeting of the Committee may be convened urgently so that within 45 days it would submit comprehensive proposal(s) for regularization of existing lease in ROW' granted by Provincial Governments/ Local authorities.

  
(Ghulam Sarwar)  
Section Officer (Roads)

**Encl:** As above'

1. **Chairman,**  
National Highway Authority  
Islamabad
2. **Inspector General,**  
National Highways & Motorway Police  
Islamabad
3. Members of Committee

No. 4571-PS-Secy (C)/06  
**Government of Pakistan**  
**Ministry of Communications**

Subject: **Decisions Taken in the Cabinet Meeting Held on September 27, 2006**

The undersigned is directed to state that following Decision taken in the Economic Coordination Committee (ECC) of the Cabinet. in its meeting held on 27<sup>th</sup> September 2006) in the Cabinet Room of the Prime Minister's Secretariat, Islamabad and directed that an implementation report may please be furnished to the Cabinet Division within a fortnight:

Cas. No. ECC-114/10/2006  
27-09-2006

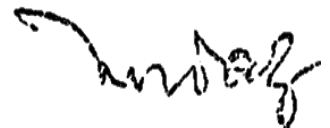
Leasing of Right of Way (ROW) Land by Dated:  
National Highway Authority (NHA)

**DECISION**

The Economic Coordination Committee (ECC) of the Cabinet considered the Summary, dated 29<sup>th</sup> August 2006, submitted by the Communications Division on "Leasing of Right of Way (ROW) Land by National Highway Authority (NHA) and decided as under:

- (i) All the fresh leases under process/allocation be frozen until approval of a new leasing policy.
- (ii) The Ministry in consultation with NHA should prepare a transparent policy spelling, out judicious recommendations for leasing the ROW land by the- NHA. The Ministry and the NHA shall discuss the draft policy with the Prime Minister before its submission to the next meeting of the ECC.
- (iii) The Ministry of Communications to review actions taken in respect of the roads recently built which-have started deteriorating/collapsing.

Submitted for information/ necessary action.



**Muhammad Riaz**  
PS to Secretary

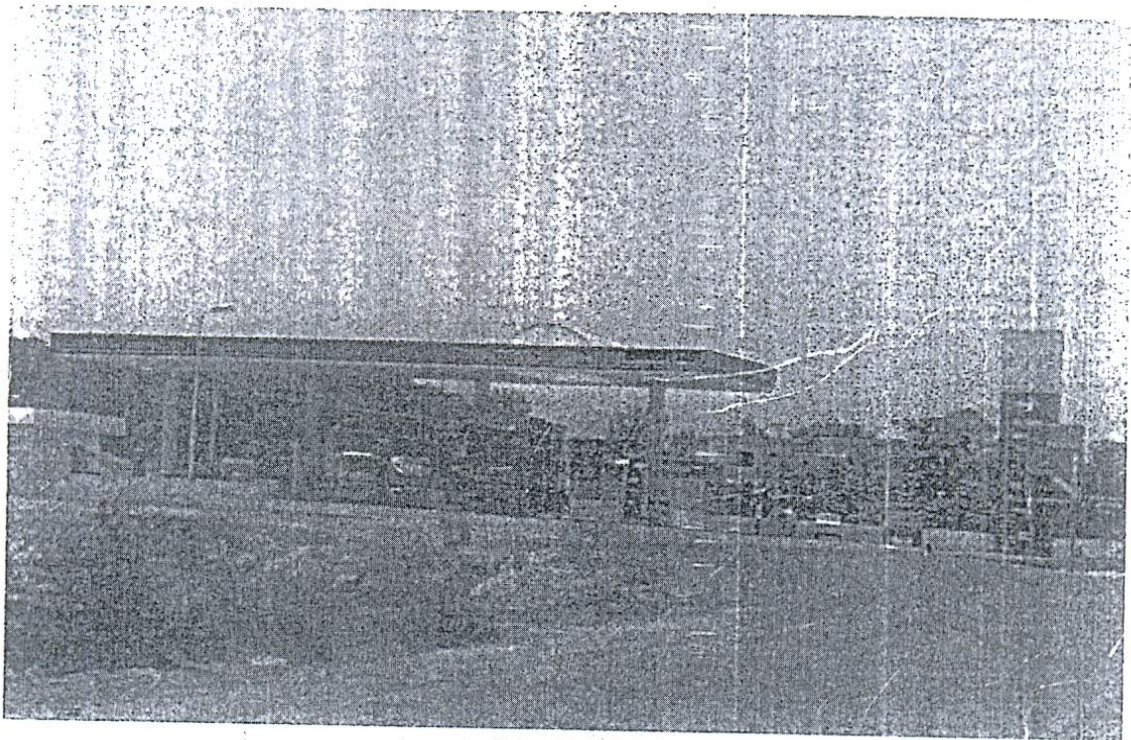
1. **Mr. Khalid Ahmed Khan**  
Joint Secretary (I)
2. **Mr. Firdaus Alam**  
Joint Secretary (II)

Government of Pakistan  
Ministry of Communications

## NATIONAL HIGHWAY AUTHORITY



# LEASING POLICY



OPERATION WING

RAMD

Road Asset Management Division

## **LEASING POLICY**

### **Introduction**

National Highway Authority was established through an Act (No XI of 1991) of the Parliament in 1991, with an mandate for planning, development, operation of maintenance of National Highways and Strategic Roads and to provide for matters connected therewith or incidental thereof.

### **Provision of NHA Act 1991 (As amended in 2001)**

Under the provision of Article of 10(2) of National Highway Act 1991 as amended in 2001, NHA is empowered to:

- (vii) Levy, collect or cause to be collected tolls on National Highways, strategic roads and such other roads may be entrusted to it and bridges thereon;
- (viii) License facilities on roads under its control on such terms as it deems fit;
- (xiii) raise funds (local and foreign) through borrowing, floating of bonds, sharing or leasing of assets or any other means, from time to time;
- (xiv) perform any other function supplemental, incidental or consequential to the purposes and function's aforesaid.

### **National Highways & Strategic Roads Control Rules**

National Highways & Strategic Roads Control Rules-1998 as amended in 2002 inter-alia provides for the management of Right of Way by NHA. These rules have the approval of the Federal Government.

### **Regulatory Framework and Standard Operating Procedures**

In order to streamline procedures for leasing of ROW, Standard Operating Procedures were developed for regularization of already established facilities and setting up of new facilities within NHA, ROW for the benefit of road users.

### **Lease of NHA land for establishment of Filling/CNG Stations & other amenities**

- (a). In view of the fact that construction activity had already taken place, all across the Highways, within ROW during the time of its control by Provincial C&W Departments, through leases granted for upto period of 99 years (more than 600 cases), it was considered imperative to regularize the same and to control further ribbon development.
- (b). With a view to achieve a consensus on the matter, as well as to ensure that economic activity is not jeopardized, a stakeholders conference was held by the NHA wherein Filling Station owner, Representatives of Oil Marketing Companies were invited to attend.

- (c). Methodology, having a consensus achieved through this conference, is being implemented through the “Regulatory Framework and Standard Operating Procedures” for Preservation and Commercialization of Right-of-Way (ROW). In this context, C&W had already charged rentals upto 1998 and it was agreed that NHA shall charge rentals w.e.f 1999.
- (d). Commercialization of ROW is being implemented in accordance with under NHA Act 1991 (as amended in 2001) under the Regulatory Framework for preservation of its ROW, Demarcation of Building line and removal of encroachments, erection/establishment of Filling/CNG Stations, hotel/motel, restaurants, factories, nurseries, shops, khokhas, hoarding/billboards etc, and laying of utility lines.
- (e). The measures so taken, have helped NHA to enforce its writ on the National Highway Network to make the roads safe and convenient, besides a source of permanent revenue generation to preserve , rehabilitate and upgrade this precious asset.
- (f). It is thus evident that, Lease of suitable land within the Right –of Way through regularization of existing C&W leases and or grant of new licenses/leases, is a part of Regulatory Framework and not the whole, and thereof one of the ways of commercialization.
- (g). License or Lease of NHA’s land within its ROW is divided into two categories:
  - i. Regularization of Filling Station, amenities and utility lines, already established within NHA’s ROW (i.e C&W leases) without having any NOC from NHA and without payment of ground rental charges to NHA.
  - ii. Establishment of new Filling/CNG Stations and other amenities within NHA’s ROW on payment of ground rental charges to NHA.

## **NHA LEASING POLICY 2009**

Based on the past leasing experience, NHA in coordination with MOC as per decision of ECC has formulated a fresh leasing policy for future leasing of NHA land to make the procedures transparent and mutually beneficial to the road users, services providers as well as NHA.

### **2. Inventory of Assets**

NHA shall inventorize and value their entire asset along side the National Highway Network within the Right of Way such as land/plots, permanent structures, temporary structure, amenities etc. NHA shall maintain and update the inventory and valuation for future leasing if any. The asset valuation shall be carried out by professional valuers registered with relevant Government departments viz, SBP etc.

### **3. Identification of Sites**

NHA through pre-feasibility study shall identify the way side amenities/sites; define the categorization of amenities to be provided and confirm the availability of land, taking into consideration future road development plans of NHA in those areas. All schemes shall be well supported by the market survey, outline design and detailed independent commercial feasibility. The sites thus identified shall comprise the following categorization:

- Category A: Main service area after 40 kilometer
- Category B: Mini service area after 15 kilometer
- Category C: Primary service area after 5 kilometer

The list of way side amenities for each category is attached (Annex-A). The way side amenities shall offer the road users an opportunity for rest and recreation as well as serve their needs for food, drink, fuel vehicle repairing, communication facilities, first aid (if required) etc. It is extremely important that the facilities/amenities constructed are architecturally beautiful, aesthetically pleasing and environmentally compliant, functionally efficient and operationally convenient as well as safe & comfortable to international standards.

However, Motorway/Expressways, fenced Bypasses existing, planned or proposed shall not be leased out by NHA in future. On such locations the main/mini service area if required shall be provided through h PSDP or PPP (BOT Mechanism) by raising a special purpose vehicle (SPV).

### **4. Fixation of Reserved Rentals per Annum**

The reserved rentals of the plots shall be fixed based on 10% of notified DCO rates in urban areas and Rs 50,000 per Kanal rent in remote and under developed areas if annual average price assessed by the revenue department is less than Rs. 50,000.

## 5. **Publicity of Sites**

All schemes shall be widely publicized in print and electronic media through expression of interest (EOI) which includes the standardized pre-qualification procedure, request for proposal (RFP) issuance, technical/financial evaluation, negotiation, approval and award.

## 6. **Bids Opening and Evaluation**

- (i) NHA shall dedicate the existing Operational Management Unit (OMU) for project preparation, marketing, procurement, monitoring, evaluation and operation etc. The Operational management Unit (OMU) shall develop standardized contract agreements/ SOPs duly vetted by legal and financial experts.
- (ii) All the bids thus received shall be opened by the Bid Opening Committee constituted as per NHA code and the highest evaluated bid shall be declared successful. The committee under no circumstances shall consider the single bid. Likewise no conditional bid will be accepted. However, if the highest bid offer is less than the reserve price, then there shall be re-bidding.

## 7. **Signing of Lease Agreement**

After approval, the lease Agreement shall be signed with the successful bidder on judicial stamp papers where contents of the agreement/conditions of contract and amount of stamp papers shall be duly vetted by the legal expert of NHA. However, the possession of sites shall be given to the lessee on completion of all legal, financial and other contractual requirements within 90 days after signing of lease agreement.

## 8. **Development of Site**

The lessee shall develop the site as per the approved layout plan of NHA and the concerned Deputy Director (Maintenance) will be responsible to monitor the construction of the facility as per approved plan. However, in case the lessee's request for design changes without reducing the facility or covered area, in the layout, plan, he/she shall obtain prior approval of NHA.

## 9. **Leasing in Remote and under Developed Areas**

If only a single bid is received after two efforts in remote and under developed areas as identified by NHA not situated on prime locations, the bid will be considered on the fixed reserve price of NHA, for that particular site. However, the non refundable commercial fee as notified by NHA will be paid in addition to the fixed price.

## 10. **Transfer of Lease Rights**

The transfer of lease shall be allowed by NHA at a fee of Rs. 200,000/- per kanal (or revised from time to time), where of any dispute/controversy or litigation inter-se transferor and transferee shall have no effect upon the lessor in any mode or manner what so ever.

11. **Delay in Establishment of Facility/Amenity**

- (i) The lessee shall be required to establish the facility/amenity within two years from the date of possession of site in case the facility is not established in time then penalties shall be invoked in accordance with terms and conditions of the Lease Agreement. In case the lessee fails to operationalize the facility/amenity within the stipulated time frame, NHA shall have the powers to cancel the Lease Agreement.
- (ii) However, in circumstances where NHA is of the view that the lessee was constrained to operationalize the facility due to non-issuance of NOCs of any other relevant departments, such cases will be reviewed by NHA for time extension but under no circumstances will give rental waiver.

12. **Quarterly Progress Report**

The lessee shall be required to submit quarterly progress reports of his/her project. In case of any delay in developing the facility/amenity in the said quarter, he/she shall give proper justification. If quarterly reports are not submitted by the lessee, his/her requests for extension of time on expiry date may not be entertained.

13. **Compensation:**

In case the site is established and the facility is required by NHA for planned utilization, the lessee shall be given fair compensation for only structural part of the facility after applying depreciation. However, the provision of an alternate site under these circumstances is subject to availability of land adjacent vicinity and the lease period remaining.

In such cases the lessee shall not be entitled to any compensation, claims/damages including loss of profit/opportunity cost under any circumstances, or any claim for relief of payment on ground rentals charges on account of any reasons or grounds whatsoever. Furthermore, the decision of NHA in this regard will be final and binding on the lessee.

14. **Regularization of inherited established facilities from Provincial Government**

In view of the fact that a number of filling stations, hotels, nurseries etc were established within the right of way during the time when the Highways were under the jurisdiction of Provincial C&W Department. NHA as per the Standard Operating Procedure shall take measures to regularize these facilities and recover arrears of previous 10 years starting from 1999 to date or from the date of Federalization of the roads and charge the rentals fee per annum @ 7% of land value notified/assessed by the District Coordination Officer of Rs. 50,000/-Kanal whichever is higher. However, the rentals per annum from 2009 onwards shall be charge @ 10% of DCO notified/assessed price or minimum of Rs. 250,000/-Kanal whichever is higher for the same amenity.



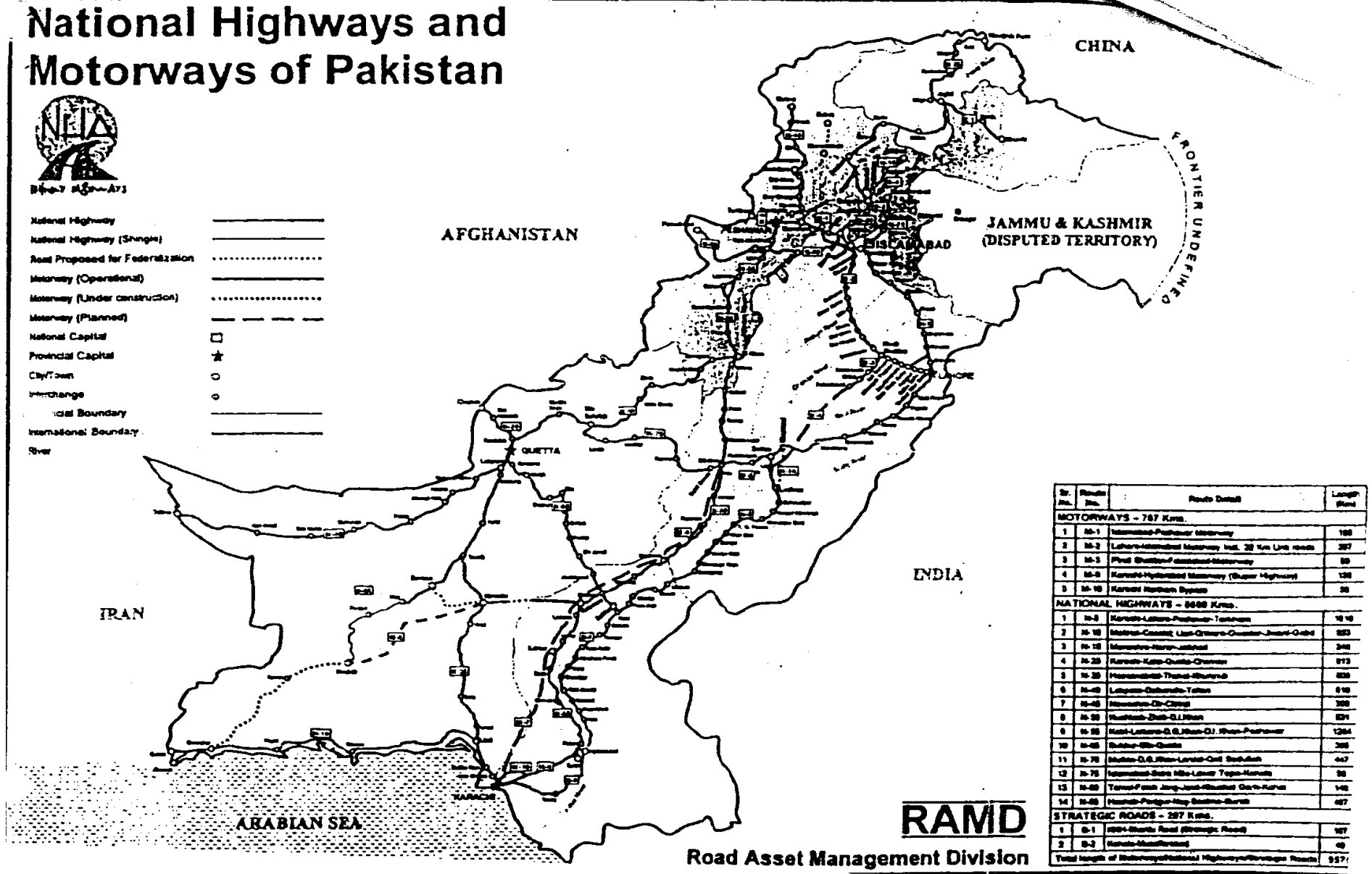
15. **Ban on the Processing of Private NoCs for filling CNG Stations**

NHA shall ban the processing of private approach NOCs for Filling CNG stations till the inventorization and valuation of all assets within the right of way. NHA shall identify the locations to be leased out for the establishment of main service areas. Mini service areas or Primary service areas. Approach to private land owners shall not be allowed for the establishment of the filling/CNG station so as to make the lease site commercially feasible.

# National Highways and Motorways of Pakistan



- National Highway
- National Highway (Shingle)
- Road Proposed for Federalization
- Motorway (Operational)
- Motorway (Under construction)
- Motorway (Planned)
- National Capital
- Provincial Capital
- City/Town
- Interchange
- Local Boundary
- International Boundary
- River



**RAMD**

Road Asset Management Division

Sr. No.	Road No.	Road Detail	Length (Kms)
<b>MOTORWAYS - 787 Kms.</b>			
1	M-1	Islamabad-Peshawar Motorway	198
2	M-2	Lahore-Islamabad Motorway Incl. 22 Km Link roads	297
3	M-3	Faisalabad-Shikarpur Motorway	89
4	M-5	Karachi-Hyderabad Motorway (Super Highway)	138
5	M-10	Karachi Northern Bypass	36
<b>NATIONAL HIGHWAYS - 8668 Kms.</b>			
1	N-5	Karachi-Lahore-Peshawar-Turkmen	1918
2	N-10	Multan-Castle, Larkana-Quetta, Sialkot-Gudiva	833
3	N-12	Muzaffargarh-Rawalpindi	248
4	N-25	Karachi-Kota-Quetta-Chennai	873
5	N-26	Hyderabad-Thatta-Murree	838
6	N-40	Lahore-Delhi-Tatla	618
7	N-45	Rawalpindi-Delhi	300
8	N-50	Muzaffargarh-Delhi	821
9	N-55	Karachi-Lahore-Delhi/Quetta-Peshawar	1284
10	N-65	Delhi-Kota-Quetta	388
11	N-75	Multan-Delhi/Lahore-Castle Sialkot	447
12	N-78	Islamabad-Delhi-Muzaffargarh	36
13	N-80	Tarapur-Jhang-Jhelum-Quetta-Delhi	148
14	N-85	Karachi-Peshawar-Muzaffargarh	487
<b>STRATEGIC ROADS - 287 Kms.</b>			
1	S-1	Islamabad-Rawalpindi (Strategic Road)	107
2	S-2	Karachi-Muzaffargarh	40
<b>Total length of Motorways/National Highways/Strategic Roads</b>			<b>9577</b>