

NCHRP 20-7 (247) Outdoor Advertising Sign Regulation Study

Clyde B. Johnson, SR/WA, R/W-RAC

Peer Review Members

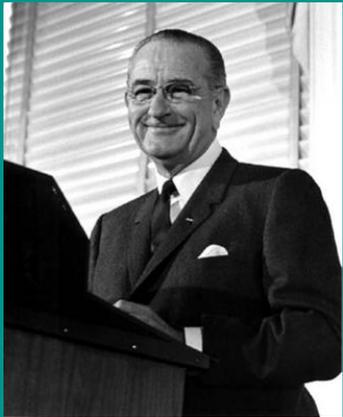
Barbara Wessinger, Assistance Chief Council,
South Carolina Department of Transportation

Juanice Hagan, Deputy Director of Operations, Office of
Right of Way, Florida Department of Transportation

Joyce Musick, Outdoor Advertising Manager,
Missouri Department of Transportation



Objective of Study



To provide a compilation and analysis of current standards, measures, practices and how “effective control” of outdoor advertising signs in various states is being addresses.

**NOT INTENDED TO BE A SCIENTIFIC STUDY
OF THE OUTDOOR ADVERTISING PROGRAM!**

Data collection and analysis



- 📁 ODA Manager Contact list.
- 📁 “Questionnaire”.
- 📁 Federal/State & Bonus Agreements.
- 📁 State laws and regulation.
- 📁 ODA Manager Interview questions.



Accomplishments



- ODA Managers contact list developed.
- Copies of all Federal/State & “Bonus” agreements.
- 100% response to “Questionnaire”.
- Copies of laws and regulations.
- 48% response to ODA Managers Interview questions.

Finding



The study indicated the various States laws and regulations addressing control of outdoor advertising provides questionable measures and/or standards to assure uniform enforcement. Also, the lack of national standards and uniform enforcement makes the highway beautification program difficult to administer.

Question 1. Size of Signs



- Size range form 642 sq. ft. to 1,200 sq. ft.
- 25 States reported 1,200 sq. ft.
- 7 States reported 1,000 sq. ft.
- Remaining States varied from 642 sq. ft to 900 sq. ft.



Question 1 – Size of Sign

How many faces do you allow per facing? (a face would be a single message on the facing, if a sign had two messages it would be considered to have two (2) faces per facing etc...)

- 34 States allow 2 faces per facing.
- The remaining States range from 1 face per facing to 4.

Do you allow stacked sign faces?

- 28 States allow stacked sign faces.
- 13 States reported they do not allow.
- 2 States revised their rules and do not allow (1995)

Question 2. – Spacing of signs



- 11 States regulate beyond 660' in urban areas. 29 do not.
- 11 States recognize blocked out zones. 27 responded no.
- 38 States adopted the 500' blocked out zone. However, 1 State has 250', 3 States have 1,000'. 1 State reported 2,000' and 1 State 3,000'. 3 States reported none

Question 3. – Lighting of Signs



- All States (in F/S agreements) prohibit signs that contain, include, or are illuminated by and flashing, intermittent, or moving lights or lights.
- Also, they prohibit signs which cause glare or impair the vision of motorists and signs that interferes with the effectiveness of official signs.
- 6 States indicated their F/S includes specific prohibitions for other types of lighting; however, review of F/S agreement only noted: All lighting shall be subject to any other provisions relating to lightning of signs presently applicable to all highways under the jurisdiction of the state.

Question 3, continued



- 42 States allow signs to be lighted by floodlights, spot lights etc...for nighttime visibility.
- Numerous States have had issues regarding lighting, especially floodlights or spot lights being installed on post located in the ground in front of a non-conforming sign (no lights when the sign became non-conforming). This has been a legal issue in some states. 2 States indicated their laws were silent on this issue.

Question 4 – Height of Signs



- 1 F/S agreement stipulated a maximum height of 40', later reduced to 30'.
- 1 State – 65'
- 2 States – 50'
- 1 State – 30'

Question 5 – Certified Cities



- Language issues in F/S agreements.
- 22 States responded yes, 10 States no.
- 9 States indicated they have Certified locals.
- Criteria more/less restrictive – 1 State is same, 1 State more restrictive, 1 State less restrictive, 3 States did not respond to question, 1 State varied and 2 States were not sure.

Question 5 – Certified Cities (2)



- 3 States indicated they have criteria for determining “customary use”. 22 States indicated no criteria.
- 9 States with local jurisdictions exercising “customary use” only 4 States reported they have a process to periodically review control within certified local government jurisdictions. 4 States do not have a process and 1 State did not respond.

Question 5 – Certified Cities (3)



- 9 States with 107 Certified Cities

Alabama – 1

Florida – 1

Minnesota – 2

New York – 1

Pennsylvania – 2

South Dakota – 9

Texas – 60

Virginia – 8

Wisconsin - 23

Question 5 – Does your Federal/State Agreement address control by local government entities of size, lighting and spacing for outdoor advertising signs?



- 39 Federal/State Agreements provide for local control.
- 11 Federal/State Agreements do not provide for local control.

Question 6 – Has your Federal/State agreement ever been amended?



- 38 States responded no.
- 7 States indicated yes.
- 1 State indicated they were not aware of any amendments.

Question 7 – Has your state adopted rules/regulations that establish size, lighting or spacing criteria stricter than the criteria provided for in your Federal/State Agreement?



- 25 States indicated they have adopted stricter criteria for size, lighting and spacing.
- 17 reported they have not adopted stricter criteria.
- 14 States for adopted stricter size requirements.

Question 9 – Has your State been successful in enforcing the criteria in question #8?



- 33 States indicated that they have been successful in enforcing criteria stipulated in question #8.
- 10 States responded in the negative.

Question 10 – Nonconforming signs



- Does your State allow modification of the sign facing on nonconforming signs to accommodate vinyl wrap technology?

36 States indicated they allow vinyl wrap technology.

10 States reported they do not allow this technology.

- Do you allow the addition of extensions, cutouts or embellishments?

24 States allow, the % runs from 10% to 30%. Square footage was up to 150 sq. ft. if it was part of the originally permitted structure.

2 States reported time limits from 90 days to 18 months.

1 State allows the use of cutouts.

Question 10 – Nonconforming signs (2)



- Does your State rules/regulation prohibit the addition of lighting that is placed so that it illuminates a nonconforming sign but is not part of the sign structure?

20 States indicated their rules/regulations prohibit the addition of lighting that is placed so as to illuminate the sign but is not part of the structure.

22 States have no such prohibition or it's not addressed in state rules and regulations.

Question 11 – Evolving Technology



- Does your State allow changeable electronic variable message signs (CEVMS)?

46 States allow CEVMS (on-premise).

35 States reported they allow this type of technology on off-premise signs.

11 States reported they are working on procedures.

Some reported these types of signs must not have random/off-premise messages.

Question 11 – Evolving Technology (2)



- Does your State specifically prohibit any type of technology for display of the sign's advertising message (tri-vision, LED, digital, etc...)?

43 States do not restrict (prohibit) regardless of the type of technology utilized.

3 States reported they do restrict certain types of technology.

Question 12 – Do you perform periodic reviews of your sign inventory?



- 40 States indicated they do perform periodic reviews.
- 1 State indicated they do not, but agents carry the inventory with them and look for illegal signs during field trips.
- 5 States do not perform periodic reviews.

Question 12 – Do you perform periodic reviews of your sign inventory? (2)

Date of last statewide inventory?

Not sure – 2 States

No response – 6 States

On-going – 12 states (2 outsourced)

1971 – 1 State

1992 – 1 State

1999 – 1 State

2003 – 1 State

2006 – 5 States

2007 – 7 States

2008 – 10 States



Question 13 – Does your State have a map of the federal-aid primary system as it existed on June 1, 1991?



- 36 States reported yes.
- 7 States responded no.
- 3 State did not respond.

Question 14 – Does your State allow vegetation clearance on ROW adjacent to ODA signs?



- Conforming signs – 27 States yes, 13 States no (6 States no laws/policies or rules).
- Nonconforming signs – 24 States yes, 15 States no (7 States reported no laws/policies or rules).
- Compensation required – 22 States yes, 11 States no (13 States reported no laws/policies or rules).

Question 15 – What State Organization unit is responsible for the ODA program?



- Administration – 1 State
- Environment – 1 State
- Legal – 1 State
- Traffic Ops/Safety – 10 States
- Maintenance – 11 States
- ROW – 18 States
- Others – 4 States

Recommendation #1



Establish annual update procedures to maintain State ODA Managers contact list on web-site (FHWA's).

15) INDIANA

Connie McQuern

Outdoor Advertising

Indiana Department of Transportation

100 N. Senate Avenue, Room N901

Indianapolis, IN 46204-2218

Tel: (317) 232-3927

Fax: (317) 233-1565

E-mail: cmcquern@indot.state.in.us

Recommendation #2



Update 23 CFR 750 to reflect state-of-the-art terminology/technology and provide concise, non-subjective “guidance definitions/terminology”. Also, include clear criteria to address “height” requirements as a national standard.

Reflective Disk



Mono-poles exceeding 100+feet



Recommendation #3



Develop clear and concise guidance definition for “customary maintenance”.

Develop national standards for types of maintenance that is not allowed on nonconforming signs.

Clarify the “blank” sign issue.

Provide a clear and concise guidance definition for what constitutes a valid “business activity” in an unzoned area.

Amend 23 CFR 750.708(b) to accurately reflect congressional intent.

The above would provide clear and concise, less subjective terminology and/or definitions that address “effective control” issues. These would then be made available to the States as examples of guidance definitions to be incorporated into their State rules and regulation.

Customary maintenance of non-conforming sign or complete replacement of sign done illegally?



Clarify blank sign issue!!



**Bogus businesses to qualify
Unzoned areas for ODA permits**



Recommendation #4



Establish a committee of stakeholders to monitor existing and pending research in new technology lighting with a goal to develop national standards that address lighting intensity and spacing issues for new and future technologies. Also, develop criteria to address/evaluate and standardize current lighting technology.

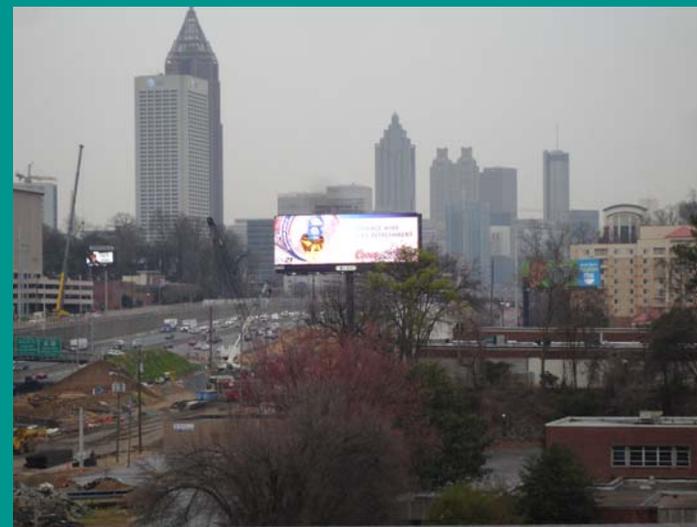
**Digital sign – 5 miles away from
17th floor at 5:30am, Las Vegas**



**5,850 s.f. full motion video screen,
(65'x90') 165' high – Queen's, NY**



**Digital sign- I-75/I-85
Connector downtown Atlanta**



Recommendation #5



Confirm and maintain a list of “certified cities”. Also, 23 CFR §750.706.(4) criteria needs to be more fully developed to give clear guidance on certified city requirements.

9 States – 107 Certified Cities



8.10 Exhibit #10

Certified Cities/Towns/Counties

STATE	CITY/TOWN OR COUNTY
Alabama (1)	Tuscaloosa
Florida (1)	Tampa Sports Authority Jurisdiction
Minnesota (2)	Grand Marais, Rock Creek
New York (1)	New York City
Pennsylvania (2)	Pittsburgh, Philadelphia
South Dakota (9)	Ft. Pierre, Sturgis, Rapid City, Custer, Mitchell, Sioux Falls, Huron, Aberdeen and Meade County
Texas (60)	Denison, Arlington, Bedford, Burleson, Fort Worth, Grand Prairie, Grapeville, Haltom City, Hudson Oaks, Hurst, Lakeside, Mansfield, Richland Hills, Southlake, Watauga, Westlake, White Settlement, Gainesville, Earth, Pecos City, Toyah, Waco, Tyler, Bellaire, Deer Park, Hedwig Village, Hilshire Village, Houston, Lake Jackson, Pasadena, Seabrook, Shoreacres, Spring Valley, Victoria, Sunset Valley, Balcones Heights, Boerne, Hollywood Park, Leon Valley, Live Oak, Uvalde, Winderest, Castle Hills, Corpus Christi, Portland, Corinth, Dallas, Denton, Desoto, Duncanville, Farmer's Branch, Grand Prairie, Highland Park, Irving, Mesquite, Plano, Richardson, University Park, Westlake, El Paso
Virginia (8)	Hampton, Lynchburg, Richmond, Roanoke, Virginia Beach, Counties of Culpeper, Henrico, Town of South Hill
Wisconsin (23)	Village of Bayside, City of Beloit, Village of Brown Deer, Village of Chenequa, Village of Elm Grove, City of Fond du Lac, Village of Fox Point, City of Franklin, City of Glendale, Village of Greenfield, City of Greenfield, Village of Hales Corners, City of Janesville, Village of Lake Delton, City of Madison, City of Milwaukee, Village of Nashotah, City of New Berlin, City of Oak Creek, City of Platteville, City of Richland Center, Village of Suring, City of Tomah, City of Viroqua, City of West Allis. Three have been repealed.

We have many more cities/towns permitting signs with little or no control or surveillance being provided by State DOT's as required.

FHWA Divisions/State DOT's are not familiar with 23 CFR §750.706(4) and requirements.

Recommendation #6



Complete a nationwide sign inventory to get an accurate count of existing conforming, nonconforming/grandfathered signs, and develop a system to update the inventory on an annual basis. Included on the nationwide inventory should be the number of signs located on June 1, 1991 routes that have been dropped from a State's system.

40 States do perform periodic reviews
5 States do not perform periodic reviews

1 State – 1971	5 States – 2006
1 State – 1992	7 States – 2007
1 State – 1999	10 States – 2008
1 State – 2003	1 State not sure when!



Recommendation #7



Establish a stakeholders committee to evaluate and further define “excessive cost” and “administrative burden”. This would support the development of a guidance memorandum to address federal-aid primary routes that existed on June 1, 1991 but have subsequently been removed from a State highway system, yet continue to be subject to State control under the HBA.



Recommendation #8



Establish a stakeholders committee to develop “guidance definitions” for States seeking to address vegetation maintenance issues along and in front of outdoor advertising signs.

Poisoning vegetation



CUTTING REMARKS

43C
10-4-01

420 02087 2007
Department of Transportation employee Barbara Cohen puts up a sign on I-75 northbound in **Cobb County**, in front of a stand of oak trees that someone hacked. The trees were cut in violation of an order issued by the state Supreme Court.

DOT seeks to root out who chopped trees

By CHRISTOPHER QUINN
cq@ap.com

Investigators from the state Department of Transportation are looking for tips from drivers in hopes of solving the I-75 chain saw massacre.

Someone recently lopped the limbs off five mature oak trees that were blocking the view of a billboard north of Windy Hill Road in Cobb County.

Wednesday, the DOT put up signs in front of the bare trees reading, “Please help the DOT stop illegal tree cutting, sterilization or spraying,” and gives tipsters a phone number to call.

Whoever cut the trees back to their trunks violated an order of the state Supreme Court. The court issued an order in December 2000 prohibiting such acts while it reviews a lawsuit by the Garden Club of Georgia over tree-cutting on public rights of way. The violators can face fines of \$10,000.

“To me, it’s the most positive step [the DOT] has taken on illegal cutting,” said Rachel Fowler, the legislative chairman of the club.

The club’s suit says the state does not charge billboard and other companies a fair-market price for trees cut on rights of way.

The company that owns the billboard behind the cut trees and the two advertisers on the sign said they did not order the cutting.

It would have taken someone in a cherry picker to reach the high limbs on the mature oaks.

Bert Rowley, a DOT spokesman, said he hopes the sign pays off.

“In hopes that somebody did see something, we will put these signs up and hope that will jog their memory and that we will get some information on who did that,” he said.

► ON THE WEB: For more on this topic: Metro Online, H2

Recommendation #9



All “guidance definitions” should be concise and non-subjective to eliminate potential legal challenges and assure uniform applications by States.

Substantially destroyed/damaged?



Abandoned or Discontinued?



Some States yes! Other States no!

Questions for State ODA Managers Interviews



1. What are your current issues?
2. Do you have any hot topics?
3. What legislation is being proposed, if any for the next year?
4. Do you have any current litigation? What is the issue?
5. What types of decisions are you getting from your courts?
6. Do you have enough resources to adequately manage your control program?
7. Do you feel upper management understands the outdoor advertising control program?
8. Is outdoor advertising training an issue for your state?
9. Is outdoor advertising a collateral duty for your personnel? Does it affect your ability to monitor the program?
10. What recommendations would you make to make the program more efficient?
11. Do you have routine interaction with your FHWA Realty Officer?
12. Does FHWA provide support/guidance/training etc...to you and staff? Do you feel you need routine training for your staff on key issues
13. Do you have routine staff meetings to discuss outdoor advertising issues?

Questions and Responses

(Note: % are approximate)



1. What are your current issues?

39% indicated lighting/digital billboard issues. C/I zoning, exploitation of loopholes, staffing, vegetation etc...

2. Do you have any hot topics?

43% indicated lighting/digital billboards, problems with certified cities, 1st amendment issues, illegal cutting, new legislation, large signs in downtown urban areas, signs along scenic byways.

Questions and responses



3. Do you have any current litigation? What is the issue?

35% reported some legislation is being proposed. Several indicated it's too early to determine if any legislation would be introduced.

4. Do you have any current litigation? What is issue.

65% reported current litigation on a host of issues.

Questions and responses



5. What type of decisions are you getting from your courts?

Response were mixed. One state indicated a court decision that ruled a conversion of a nonconforming sign to LED was “substantial physical improvement” was disallowed?

6. Do you have enough resources to adequately manage your control program?

65% indicated they do not have enough to adequately manage the program.

Questions and responses



7. Do you feel upper management understands the Outdoor Advertising Program?

60% feel that upper management doesn't adequately understand program requirements. One state indicated upper management puts little priority on outdoor advertising.

8. Is outdoor advertising training an issue for your State?

62% indicated training is an issue to varying degrees.

Questions and responses



9. Is outdoor advertising a collateral duty for your personnel? Does that affect your ability to monitor the program?

78% responded that outdoor advertising is a collateral duty for all or field personnel. The majority felt that it has an impact on ability to monitor the program.

10. What recommendations would you make to make the program more efficient?

Responses varied from better pay for staff, new databases to streamline program, GPS, additional personnel, dedicated ODA staff, more training, etc..

Question and responses



11. Do you have routine interaction with your FHWA Realty Officer?

60% indicated they have routine interaction with FHWA counterpart.

12. Does FHWA provide support/guidance/training etc...to you and staff? Do you feel you need routing training for you staff on key issues?

47% reported training to various degrees.

Questions and responses



13. Do you have routine staff meetings to discuss outdoor advertising issues?

62% reported various types of meetings.

Interesting sidebar items!



- 1 State had never had a State Rules/Regulation ODA Manual!
- 1 State allows non-conforming permits to be re-issued after a one year penalty!
- 2 State have never done a statewide inventory (or doesn't remember if it was ever done)!
- Numerous States still do not have definitions for destroyed, discontinued or abandon!
- Not sure if we have good list of “landmark” sign!
- Several States define “customary maintenance” - Allow to exist!
- Scenic Byway Program issue of “segmentation” is not being uniformly addressed.

My observations



- We (as a group) don't have a good handle on the number/types of signs we have on the national level.
- We don't have the manpower/equipment/time to do routine statewide inventories as we should.
- Upper management doesn't realize what "effective control" actually means. Enforcement provisions are not stressed for various reasons.
- FHWA Division Offices don't always enforce "effective control" provisions when problems are noted.

Lesson's learned!



- There is no “silver bullet”.
- Historical review indicates key provisions that were “contentious” at the time the HBA was debated/passed did result in some of the “control issues” we have today.
- Lack of national standards as they relate to key “effective control” issues have created many of the current problems we have.
- Must have support of “Upper Management” at State and Federal level. Especially FHWA Division Offices.
- Must involve “all” stakeholders to move the program forward.
- Need to take immediate steps to implement recommendations and eliminate all the time/money being spent by all parties on the same “control issues”.

What's next?



This is the first step in the process that the AASHTO Subcommittee on Real Estate and Utilities, Outdoor Advertising Technical Committee has outlined to address HBA issues. The next step will involve taking the findings and recommendation, as a foundation, to determine future research and/or program initiatives.

Contact information



Clyde B. Johnson, SR/WA, R/W-RAC
515 Wellspring Court
Alpharetta, GA 30004

clydebjohnson@comcast.net

(C) 678-350-3675



Questions?