

Vegetation Control in State R/W By Outdoor Advertising Companies (OAC)

Breakout Session 24; May 2, 2012

2012 AASHTO Subcommittee on Right of Way and Utilities Conference

*Marriott Waterfront Hotel – Portland, Oregon
April 29 to May 3, 2012*



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FHWA Memo - Dec. 30, 1976

- Adoption of rules and regs guaranteeing visibility of OAS would be an adverse effect on highway beautification and contrary to FHWA policy.
- State promulgated rules and regs which guarantee OAS visibility cannot be approved by FHWA.
- No mention of distinguishing between conforming and nonconforming OAS.

FHWA Memorandum – Mar. 15, 1977

- Since Dec. 30, 1976 memo, question arose whether State Hwy Dept could enter into agreements with OAC to maintain specified areas for the purposes of visibility for OAS.
- FHWA anticipated similar requests for selective maint. in areas adjacent to nonconforming signs until they are acquired, or in areas adjacent to signs in commercial or industrial areas on a more permanent basis.
- Decision whether to enter into such agreement must be made by State as part of it's overall maintenance responsibility

FHWA Memo – Feb. 8, 1979

- Mississippi embarked on project to clear vegetation for OAS visibility.
- States that previous Mar. 15, 1977 FHWA memo did not prohibit States from entering into agreements with OAC to maintain specific areas if it is consistent with State maintenance policies, good landscaping practice and guidance provided by the AASHTO Maintenance manual.

FHWA Memo – Feb. 8, 1979 *(continued)*

- Different question when vegetation is in place from Fed involvement in a landscape project.
- State cannot relieve itself of the obligations to maintain or cause to be maintained.
- Where project included landscape elements or where the project was exclusively a landscape project, Fed concurrence is required prior to the removal of any such landscaping.

FHWA Memo – June 13, 1984

Policy requires States to obtain consent from FHWA prior to permitting the cutting of any vegetation except for purposes of maintaining health of the areas planted on projects with Fed funds were used for specific landscaping project

or

When Fed funds were used for acquisition of special areas for the purpose of preserving vegetation such as for noise control or esthetic reasons.

FHWA Memo – June 13, 1984 *(continued)*

- FHWA authority to control or limit vegetation clearance where Fed funds were used for construction or acquisition project facilities.
- FHWA could impose as part of general authority to control activities with ROW.
- Encourages responsible maintenance and permits States to make reasonable accommodations with OAC suffering hardships because of vegetation.
- FHWA has little authority to control vegetation cutting on portions where no Fed funds have been expended on any project.

FHWA Memo – May 18, 1990

- President's policy goal of improving the environment required FHWA to reevaluate role in protecting and enhancing the highway environment.
- This memo rescinded March 15, 1977 memo.
- Statement - To clear vegetation solely to improve the visibility of signs subject to removal under the HBA is not environmentally responsive and vegetation clearance can no longer be endorsed.
- New initiative encourages States to retain, rather than dispose of excess property that could be used to restore, preserve, or enhance scenic beauty of highways.

FHWA Memo – May 24, 1990

■ Announces two initiatives;

1. Rescinding May 18, 1990 guidance memo.
2. Retain excess lands that could be used to restore, preserve or enhance scenic beauty and quality of the highway environment.

FHWA Memo – June 1, 1990

- While the gist of the previous memorandums regarding vegetation control is directed toward OAS, the policy has equal significance to clearing vegetation from the R/W for the purpose of exposing another improvement or development.
- Statement – “In a sense, such clearance also represents the clearing of vegetation for outdoor advertising purposes.”

FHWA Memo – Nov. 24, 1992

- Re-states the 1977 guidance had been rescinded and that no longer endorsed practice of clearing trees and vegetation to improve visibility of signs are that subject to removal under the HBA.
- However, the overall maintenance of the R/W is clearly the responsibility of the State. Whether foliage and trees growing up in front of a billboard can be removed by the billboard owner or by the DOT can best be answered by the State.

FHWA Memo – Nov. 24, 1992 *(continued)*

- FHWA is not involved in authorizing vegetation clearance. However, they do not endorse vegetation clearance for the purpose of visibility for an OAS.
- More particularly, they believe it to be inappropriate for nonconforming signs as Fed-aid funds are now available for the acquisition and removal of nonconforming OAS.
- FHWA does not have a “vegetation clearance policy”.

Industry Standards for Visibility

- Space Position Value System – developed by the American Assoc. of Advertising Agencies and used before the 1990's.
- Outdoor Visibility Rating System – promulgated by the OAAA in the 1990's.
- TAB - developed by the Traffic Audit Bureau for Media Measurement Inc.

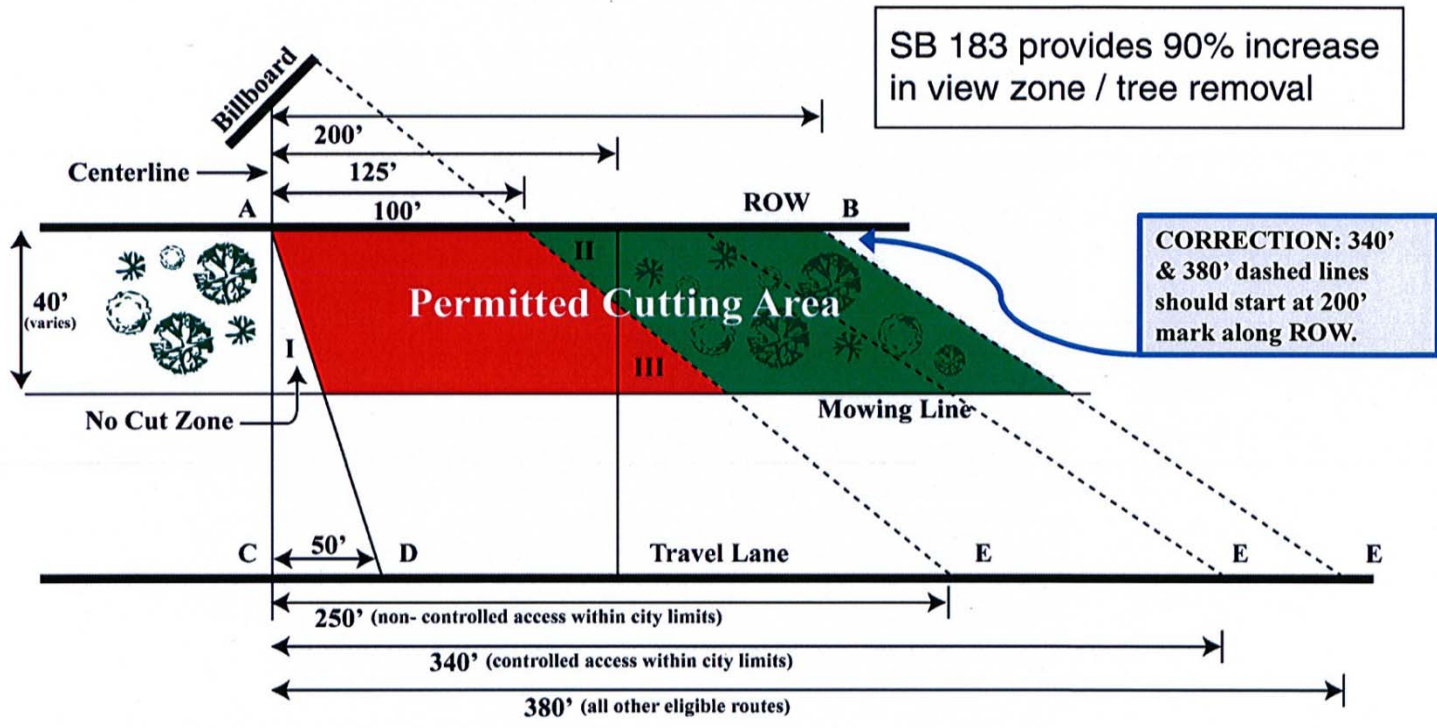
Display Panels

- Display panel (face) typically has 3 standard types with typical overall sizes of:
 - Bulletins (10'6"x36' to 14'x48')
 - 30 sheet (12'3"x24'6")
 - 8 sheet posters (5'4"x11'4" to 6'2"x12'2")

TAB Approach Standard

- Unobstructed Approach Visibility when facing traffic at 55 MPH and above is:
 - 300 feet for bulletins
 - 100 feet for 30-sheet posters
 - 50 feet for 8-sheet posters
- Optimal exposure time is 8 seconds.
- Reduced to 150 feet for traffic less than 55 MPH for bulletins, but is unchanged for 30-sheet and 8-sheet.

North Carolina Senate Bill - SB183 - Enacted 2011
Selective Vegetation Removal For Outdoor Advertising



	Max. Cutting Zone Length	View Time	Permitted Cutting Area	Fees*	Permit Time	Multiple Cuts Allowed Per Permit	Cut 200' Along Fence Line W/O Permit
Current Since 2000	250'	2.6 Sec.	4970 Sq. Ft.	\$200 + Appraisal	60 days	No	No
2011- SB183	380'	4.15 Sec.	9456 Sq. Ft.	\$200 + Appraisal	1 year	Yes	Yes

* Current appraisal is net value loss of all trees 4" diameter and larger, and no "existing" trees removed from 125' zone.
 * SB 183 appraisal is value of only "existing" trees (compensated monetarily or relinquish 2 nonconforming signs). Also includes replanting and maintenance options.

Resources

The National Alliance of Highway Beautification Agencies (NAHBA)

www.nahba.org/conference/2011/presentations.html

The Appraisal Institute

www.appraisalinstitute.org

“The Valuation of Billboards”

ISBN: 0-922154-90-2

D.R. Stoops, MAI, SRA and M.L. Wolverton, PhD, MAI