

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-152

AN ORDER to repeal Trans 201.02 (3) and 201.13; to renumber Trans 201.02 (4); to amend Trans 201.01, 201.07 (1), 201.10 (2) (intro.) and 201.19 (2); and to create Trans 201.02 (intro.) and (3) to (12), 201.035 and 201.075, relating to outdoor advertising sign annual fees.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-31-00 RECEIVED BY LEGISLATIVE COUNCIL.
11-29-00 REPORT SENT TO AGENCY.

RNS:WF:jal;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 00-152

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. Trans 201.01, "This chapter shall" should replace "These rules are intended to." Also, "under those acts" should replace "thereunder." Finally, in this provision and elsewhere, the U.S. Code citation should replace the name of the federal act or the public law number. If the department wishes to use those also, they could be included in a note.

b. In s. Trans 201.035 (4), "the" should replace "such."

c. In s. Trans 201.035 (11) (b) (intro.), "all of the following" should be inserted before the colon.

4. Adequacy of References to Related Statutes, Rules and Forms

The correct reference in s. Trans 201.035 (11) (b) 3. is to sub. (3) (d).

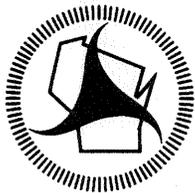
5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section Trans 201.035 (10) (b) should be drafted in a manner that specifies a fee for signs of all sizes. As currently drafted, signs which are greater than eight square feet but less than nine square feet, greater than 32 square feet but less than 33 square feet, etc., do not have a fee specified for them. It is suggested that the rule paragraph be drafted to cover signs of eight

square feet or less, signs that are more than eight square feet and less than or equal to 32 square feet, signs that are greater than 32 square feet and less than or equal to 200 square feet, etc., so that signs of all sizes have a fee specified for them.

b. Section Trans 201.035 (11) (c) would be more clear if drafted in a manner similar to the following: "Payment in the amount of the annual fee assessed by the department shall be included with a notice of appeal. The department shall hold the payment in trust pending the outcome of the appeal."

NOV 02 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

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October 31, 2000

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **outdoor advertising sign annual fees**, Trans 201

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Dave Vieth
Deb Brucaya

The Wisconsin Department of Transportation proposes an order to repeal TRANS 201.02(3) and 201.13; renumber TRANS 201.02(4); amend TRANS 201.01, 201.07(1), 201.10(2)(intro.) and 201.19(2); and create TRANS 201.02(intro.) and (3) to (12), 201.035 and 201.075, relating to outdoor advertising sign annual fees.

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to s. 84.30, Stats., and interpreting s. 84.30, Stats., the Department of Transportation will hold a public hearing in **Room 501** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **30th** day of **November**, 2000, at **9:00 AM**, to consider the amendment of chapter Trans 201, Wisconsin Administrative Code, relating to outdoor advertising sign annual fees.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on December 5, 2000, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Deborah Brucaya, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: 84.30, Stats.

STATUTES INTERPRETED: 84.30, Stats.

General Summary of Proposed Rule. 1999 Wisconsin Act 9 directed the Department to assess annual fees to the owners of outdoor advertising signs in order to recoup a portion of the costs of the state's regulatory program governing outdoor advertising structures. The state has regulated outdoor advertising since the 1960's in compliance with the requirements of the Federal Highway Beautification and Bonus Acts, the regulations promulgated by the U.S. Department of Transportation interpreting those acts, and the 1961 and 1972 agreements between the State of Wisconsin and U.S. DOT.

This proposed rule making establishes fees for outdoor advertising structures based upon two criteria: the size of the sign, and the regulatory burden created by the sign. Larger signs tend to generate more income and are less consistent with the stated objective in s. 84.30, Stats., to "preserve the natural beauty" of Wisconsin. Therefore, this rule proposes to create annual fees that increase based upon sign size that range from \$10 per year for signs of 9 to 32 square feet in area to a maximum fee of \$100 per year for signs 1200 square feet in size and above.

Directional and nonconforming signs are assessed a fee of \$100 per sign regardless of size, because regulating those classes of signs requires significantly more resources than regulating other types of permitted signs.

The proposed rule would define some commonly used terms in ch. Trans 201 and this proposed rule making for clarity.

This rule creates s. Trans 201.075 to replace the substantive provisions of current s. Trans 201.02(3) which is repealed. Current drafting standards call for that provision to be moved from the definition portion of ch. Trans 201.

Finally, this proposed rule spells out what happens if sign permit fees are not timely paid and a process for sign owners to appeal a fee assessment. Nonpayment of a fee for a permitted sign results in the expiration of the permit, subjecting a sign to potential removal. Nonpayment of the fee for a nonconforming sign is considered abandonment subjecting the sign to removal. s. 84.30(10m), Stats.

Persons wishing to appeal the amount of an assessment need to pay the proposed fee and state particularly the facts regarding the appeal. Because the only issue involved would usually be the size of the sign, the Department believes that any disputes regarding the assessment should be easily resolved by remeasuring the sign. If that does not resolve a dispute, further appeal to the Division of Hearings and Appeals may be sought.

Fiscal Effect. The proposed rule implements a provision of 1999 Wisconsin Act 9, the biennial budget, which requires the Department to charge annual fees for outdoor advertising sign owners. The Act limits revenue raised from the program to \$510,000 during Fiscal Year 2001 and provides appropriation authority for \$510,000 to improve the sign inventory information system.

This proposed rule implements the fee provision of the budget and proposes to set annual revenues after FY01 at a rate that covers a larger portion of the program costs through a combination of annual fees, a nonrefundable application fee, and changes to the applicability of the sign company license requirement. The application fee replaces the current one-time fee refundable that has been in effect since 1972.

Under the current program, the following fees are charged generating annual revenue shown:

- A one-time \$5 to \$100 fee based on sign size collected only upon approval of a permit application generates approximately \$25,000 of revenue per year.
- Annual outdoor advertising license fees of \$250 from companies that erect more than two signs per year generates approximately \$7,500 per year.

Under the proposed rule, only nonconforming and grandfathered signs will be assessed a fee for fiscal year 2001. This approach to structuring the applicability of the fee is designed to ease implementation of the fee process by only addressing a portion of the total signs in the first year. Collecting a fee only on nonconforming signs will allow the Department to direct their first billing efforts toward a more manageable number of signs, rather than the entire 15,000 to 20,000 signs in the state.

The approach also works well with the limitation on generating fees for the fiscal year 2001, yet allowing for the fees to generate a more substantial portion of the total program costs in subsequent years. Approximately 5,075 nonconforming signs have been identified in Wisconsin. Collecting a flat \$100 fee on only nonconforming signs should generate approximately \$507,500 in revenue in fiscal year 2001, in accordance with the requirements of s. 9150(3m) of 1999 Wis. Act 9.

The revenue expected to be generated from annual fees after fiscal year 2001 is \$1,015,280, estimated as shown in the following schedule:

Square Footage		Proposed Fee	Est. # of Signs	Est. Revenue FY 2002
Business Area Signs				
8 or less		\$ 0		
9-32		\$ 10	411	\$ 4,110
33-200		\$ 20	1,646	\$ 32,920
201-600		\$ 25	2,880	\$ 71,975
601-800		\$ 50	823	\$ 41,150
801-1200		\$ 75	823	\$ 61,725
1201 and above		\$ 100	1,234	\$ 123,400
Other (all sizes)				
Directional		\$ 100	1,725	\$ 172,500
Nonconforming or Grandfathered		\$ 100	5,075	\$ 507,500
TOTALS			17,652	\$1,015,280

Fees to be generated by the application fee for new signs is difficult to predict, since fewer applications may be submitted primarily since the fee will be nonrefundable, and to a lesser degree because of the fee increase. For FY01 it is expected that very few new applications would be received subject to the new application fee. The revenue generated by the application fee may approximate or perhaps be slightly less than the fees currently generated from issuance of the one time permits.

Initial Regulatory Flexibility Analysis. The Department expects that the fee schedule established in this rule revision will have a negligible adverse impact on small businesses that use outdoor advertising as a method of advertising. They will now be required to pay between \$5 and \$100 each year for each sign they erect or maintain. The types of small businesses that erect their own outdoor advertising signs are often resorts, campgrounds, antique stores, automotive shops, etc., the majority of which build smaller signs than the standard industry signs. Small business signs are frequently smaller than 150 square feet, which will have an annual fee of \$20. Because the majority of small businesses typically own only two to six outdoor advertising signs, the annual impact is expected to be minimal. For those small businesses that are more reliant on outdoor advertising signs, the costs aspects of choosing this advertising medium will not be significantly impacted by the fees, which are relatively modest in relation to the cost of erecting an maintaining a sign or leasing sign space.

The annual sign fees that would be paid under this proposed rule, both small, independent sign companies that own approximately 20-75 billboards and large, industry sign companies that own hundreds of signs, are expected to be passed on to the advertisers. This new fee should not significantly affect the monthly lease rental rates charged by these companies for outdoor advertising and is not expected to have

an effect on sign companies that are considered "small businesses" under s. 227.114, Stats.

Because the Department does not compile or maintain records reflecting the number of employees or annual income of sign companies, establishing less stringent requirements for small businesses, as defined in s. 227.114(1)(a), Stats., is not feasible. Chapter Trans 201 does exempt businesses that erect 2 or fewer signs from the requirements of obtaining a sign company license, and this rule making would not alter that law.

This rule making proposes to exempt official, service club, religious notice signs and signs under 8 square feet in area from an annual fee requirement. Applicants for these types of signs will be required to pay the one-time \$50 sign permit application fee. The Department does not anticipate that this one-time fee will adversely affect small businesses.

Because the rule application process and annual fee billing and payment processes are relatively straightforward and simple, and because DOT district sign permit coordinators are available to assist small businesses in completing permit applications and determining whether a proposed sign site is acceptable under s. 84.30, Stats., the Department concluded further simplifying the permit process or creating different deadline dates for small businesses is unwarranted.

Preparation and Copies of Proposed Rule. Preparation of this proposed rule was done by Attorney John Sobotik. Copies of the rule may be obtained upon request, without cost, by writing to Deborah Brucaya, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-3813. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 84.30, Stats., the department of transportation hereby proposes to amend a rule interpreting s. 84.30, Stats., relating to outdoor advertising sign annual fees.

SECTION 1. Trans 201.01 is amended to read:

Trans 201.01 General. Pursuant to authority contained in ss. 84.30 and 86.19, Stats., the department of transportation adopts the following rules to apply to signs along

and visible from the controlled highways in Wisconsin. Section 84.30, Stats., and these rules apply to the interstate and federal aid primary systems and the Great River Road established under 23 USC 148, which are referred to herein as "controlled highways". These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to s. 84.30, Stats., that it is essential to refer to both these rules and the law in order to apply the controls. These rules are intended to be interpreted consistently with the requirements of the Federal Bonus Act, P.L. 85-381, and the Federal Highway Beautification Act, 23 U.S.C. s. 131, regulations promulgated thereunder by the U. S. department of transportation, and the agreements between the state of Wisconsin and the U.S. federal highway administration dated June 9, 1961 and March 28, 1972.

SECTION 2. Trans 201.02(intro.) is created to read:

Trans 201.02 Definitions. (intro.) The words and phrases defined in s. 84.30(2), Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 201.02(3) is repealed and recreated to read:

Trans 201.02(3) "Display" or "sign display" means the area of a sign on which a message, trademark, logo, or other advertising material appears.

SECTION 4. Trans 201.02(4) is renumbered Trans 201.02(13).

SECTION 5. Trans 201.02(4) to (12) are created to read:

Trans 201.02(4) "Grandfathered sign" means a sign that lawfully existed in a business area on March 18, 1972, and that does not conform to the size, spacing or lighting restrictions of s. 84.30(4), Stats.

(5) "Illegal sign" means a sign erected after March 18, 1972, without a permit, a sign that is erected or maintained in a manner that violates any requirement of a permit, this chapter, or s. 84.30, Stats., a non-conforming sign that has lost its nonconforming status, or a grandfathered sign that has lost its grandfathered status.

(6) "License" means a license to engage in the business of outdoor advertising.

(7) "Nonconforming sign" means any of the following:

(a) A sign that lawfully existed on March 18, 1972, outside of a business area.

(b) A sign that was lawfully erected after March 18, 1972, that subsequently did or does not conform to the requirements of s. 84.30, Stats., or this chapter.

(8) "Off-premises" or "off-property sign" means a sign that is not an on-premises sign.

(9) "On-premises" or "on-property sign" means a sign at a business location advertising a business that is conducted on the property and that is located in the immediate vicinity of the business. "Immediate vicinity" in this subsection means the sign is within the area bounded by the buildings, driveways and parking areas in which the activity is conducted. "Immediate vicinity" does not include any area across a street or road from the area where the business is conducted or any area developed for the express purpose of erecting a sign.

(10) "Permit" means a permit issued by the department to erect or maintain a sign at a defined location under a specific paragraph of s. 84.30(3), Stats.

(11) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system or national

highway system by the department and approved by the appropriate authority of the federal government.

NOTE: See 23 U.S.C. s. 131(t). The DOT Bureau of Planning, P. O. Box 7913, Madison, WI 53717 maintains a list of highways that are primary highways as defined herein. Information regarding which highways are primary highways under this section may also be obtained from the sign permit coordinator in any DOT district office.

(12) "Visible" means the sign, or any part of the sign structure, can be seen from the main-traveled way of a highway by a person of normal visual acuity, regardless of whether the sign is designed, erected or intended to be read from the main-traveled way.

SECTION 6. Trans 201.035 is created to read:

Trans 201.035 Annual sign fees. (1) SIGN IDENTIFIER. The department shall assign a unique identifier to each off-premises sign in the state of Wisconsin. The identifier shall be assigned to a sign upon any of the following occurrences:

(a) Approval of a permit to erect the sign.

(b) First payment of an annual fee for a sign erected before the effective date of this chapter [revisor insert date].

(c) Addition of the sign to the sign database of signs maintained by the department.

(2) DATABASE OF SIGN OWNERS. The department shall maintain a sign database to track the name and address of the owner of each sign, and such other information related to the sign as the department considers appropriate.

NOTE: All correspondence from the Department to the sign owner shall be done using the address of record in this database.

(3) CHANGE OF SIGN OWNERSHIP. Any person who acquires a sign shall provide the department with a notice containing all of the following information for each display on the sign:

(a) The unique identifier assigned to the sign by the department.

(b) The name and address of the sign owner.

(c) The location of the sign, listing the name of the primary or interstate highway to which it is adjacent, the county and town in which the sign stands, the section number of the township in which the sign is located, the name of the person owning the real property upon which the sign is located, and the approximate distance of the sign from the nearest crossroad or intersection.

(d) The height and width of the display. In cases where signs are not rectangular in shape, the height and width shall be the height and width of the smallest imaginary rectangle parallel to the ground which would entirely encompass the display, including any edge or border.

(e) The height of the bottom edge of the display or any border to the display above ground level.

(4) ANNUAL FEE NOTICE. The department shall mail an annual fee notice to the owner of every off-premises sign within the state of Wisconsin that is subject to the requirement of paying a fee under sub. (10). All annual fee notices shall be considered delivered upon mailing to the owner of record indicated in the department's database of sign owners as of the first day of the month in which such notices are mailed.

(5) DUE DATE. Payment of annual permit fees are due 60 days from the date of mailing of notices by the department, or on such other date as indicated in the fee notice.

(6) NONCONFORMING SIGNS. Nonconforming signs for which no annual fee is timely paid shall be removed as abandoned signs. Payment of an annual fee may not be considered in determining whether a sign is subject to removal under the federal highway beautification act, the regulations promulgated thereunder, or s. Trans 201.10.

NOTE: See s. 84.30(10m), Stats.

(7) PERMITTED SIGNS. The permit for a sign shall expire upon the due date for payment unless the annual fee for the sign has been paid. Signs with expired permits are subject to removal. New permit applications for the area in which a sign with an expired permit exists may be accepted by the department.

(8) LATE PAYMENT. Late payment of annual fees may be accepted by the department, and an expired permit renewed, except where another person has applied for and been granted a permit for the area in which the sign is located.

(9) REFUNDS. Permit fees are non-refundable and may not be prorated.

(10) FEE SCHEDULE. Permit fees shall be assessed as follows:

(a) On-property signs, official signs and notices as defined in s. Trans 201.05(1)(d) and service club and religious notices as defined in s. Trans 201.05(1)(f), may not be assessed an annual fee.

Note: Service club and religious notices are limited to 8 square feet or less by s. Trans 201.05(1)(f).

(b) Except as provided in par. (c), off-property permitted signs shall be assessed fees based upon the total area of all displays on the sign determined by using the height and width of the sign as measured under sub. (3)(d), calculated as follows:

1. 8 square feet or less: no fee.
2. 9 to 32 square feet: \$10.
3. 33 to 200 square feet: \$20.
4. 201 to 600 square feet: \$25.
5. 601 to 800 square feet: \$50.
6. 801 to 1200 square feet: \$75.
7. 1201 square feet and greater: \$100.

(c) Directional signs as defined in s. Trans 201.05(1)(c) shall be assessed an annual fee of \$100 per sign.

(d) Nonconforming and grandfathered signs shall be assessed an annual fee of \$100 per sign.

(11) APPEAL OF ANNUAL ASSESSMENT FEE. (a) Any person may appeal the assessment of an annual fee under sub. (10) by mailing a notice of appeal to the address provided on the notice of fee assessment within 15 days of the date the assessment is mailed.

(b) A notice of appeal shall particularly state:

1. The error or mistake alleged by appellant in the fee calculation made by the department.

2. Whether appellant contends the sign is an official, religious, service club notice, directional, nonconforming, grandfathered or other legally permitted sign.

3. The exact size of the sign, measured in accordance with sub. (3)(c).

(c) Payment representing the annual fee shall be included with a notice of appeal. All funds so paid shall be held in trust by the department pending the outcome of the appeal.

(d) Upon receipt of a notice of appeal with the required fee, the department shall investigate the matter and, if appropriate, amend the annual fee assessment for the sign and return any balance due appellant from the fees deposited under par. (c) or impose any additional assessment required.

(e) Appeals of decisions issued under par. (d) may be made to the department of administration, division of hearings and appeals.

SECTION 8. Trans 201.07(1) is amended to read:

Trans 201.07(1) Requests may be submitted to the department for permits to erect or maintain specific signs at defined locations in a manner to be visible from a travel lane of a controlled highway. A separate application shall be presented to describe each such sign proposed, to change the classification of the sign, or to add displays to an existing sign, shall be presented on forms furnished by the department, and shall include a \$50 nonrefundable application fee and all information and exhibits which the application form requires.

SECTION 9. Trans 201.075 is created to read:

Trans 201.075 Signs outside the adjacent area. (1) No person may maintain a sign that was erected after March 18, 1972, or erect a sign outside the adjacent area if a person with normal visual acuity travelling at the speed limit on that highway can do any of the following:

(a) Read any message on the sign.

(b) See and recognize any trademarks, logos, or other symbols associated with a business or business product or service displayed on the sign.

(2) A sign outside the adjacent area that is changed in a manner that creates a violation of sub. (1) is subject to removal.

(3) No person may erect a sign outside the adjacent area for the purpose of being seen or read from the main traveled way of an interstate or primary highway or the Great River Road.

(4) This section does not apply in urban areas.

NOTE: Signs are considered outside the adjacent area if they are more than 660 feet from the nearest edge of the right-of-way of the Great River Road, an interstate or a primary highway. s. 84.30(2).

SECTION 10. Trans 201.10(2)(intro.) is amended to read:

Trans 201.10(2)(intro.) In order to lawfully maintain and continue a nonconforming sign, or a ~~so-called~~ grandfathered sign under s. 84.30(3)(d), Stats., the following conditions apply:

SECTION 11. Trans 201.13 is repealed.

SECTION 12. Trans 201.19(2) is amended as follows:

Trans 201.19(2)(title) ~~DEFINITION~~ OFF PROPERTY ADVERTISING NOT PERMITTED. ~~"On-property~~ An on-property sign" ~~means a sign advertising may~~

advertise only activities conducted on the property on which it is located. This includes
a sign which consists solely of, the name of an the establishment and a sign which
identifies the establishment's principal product or services offered on the premises. A
permit for an off-property sign is required for any sign violating the content restrictions
of this subsection.

(END OF RULE TEXT)

Effective Date. (1) Except as provided in (2), this rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

(2) Trans 201.035(10)(b) shall take effect on November 1, 2001.

Signed at Madison, Wisconsin, this 30 day of
October, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation

SEP 18 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
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September 15, 2000

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 201**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 201. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Deb Brucaya

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend ch. Trans 201 as required by the biennial budget bill, 1999 Wis. Act 9, to provide for annual sign permit fees in lieu of the existing one-time outdoor advertising sign permit issuance fee and to modify the license requirements for persons engaged in the business of outdoor advertising.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Currently, fees are charged to outdoor advertisers for erecting outdoor advertising signs which are visible from any place on the main-traveled way of any portion of an interstate highway or primary highway. These one time fees are based on the square footage of the proposed sign, and range from \$5.00 to \$100.00. Further, an annual license to engage in the business of outdoor advertising is required with a fee of \$250.00 except for those persons who erect two or less signs yearly. Because these fees were set in 1972 and have not increased since then, the costs of administering outdoor advertising regulations has exceeded the revenues generated by those fees. The exclusion based on number of signs creates a gap in licensing for persons actively engaged in the business and owning or controlling significant numbers of signs.

The biennial budget calls for the Department to replace the old fee structure with an annual permit fee for each sign that falls under Department control. 1999 Wis. Act 9 s. 1824f. The money generated will fund the administration of this fee collection portion of the outdoor advertising program, and will fund improvements to the statewide sign inventory. Wisconsin will join forty-four other states that currently impose an annual sign permit fee. In fiscal year 2000-2001, the fee is expected to raise no more than \$510,000. 1999 Wis. Act 9 s. 9150(3m).

The policy alternatives are to implement a new annual sign permit fee system, or to maintain the existing fee schedule. By maintaining the existing fee schedule, the state would continue to underwrite the costs of regulating the outdoor advertising industry with funds intended to be used for the construction and maintenance of state highways.

The Department's current regulatory program dates to 1972 and is obsolete. Records are largely maintained in paper files and inventory records from across the state are inconsistent. The funds generated by a fee will be used to modernize and update the Department's inventory and regulatory systems to take advantage of the efficiencies available through the use of computers to manage large amounts of data, and to contribute toward the annual costs of complying with the outdoor advertising regulatory system required by federal law.

Section 84.30(10), Stats., requires the Department to license all persons engaged in the business of outdoor advertising. The Department, when drafting the current rule in 1972, excluded persons who erected 2 or fewer signs in a calendar year. Since 1972, industry practices have led to the sale of large numbers of signs between entities for the express purpose of renting the structures for outdoor advertising. Some purchasers in such transactions avoid licensing under the current rule by not erecting new signs. This rule amendment will clarify that any person or entity that maintains more than 2 signs is subject to the licensing requirement unless the signs advertise only the person's business.

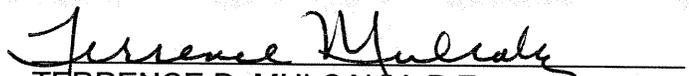
STATUTORY AUTHORITY FOR THE RULE:

Section 84.30(10m), Stats., as created by 1999 Wis. Act 9.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

Approximately 80 hours, which represents the collective time expected to be spent by the statewide outdoor advertising program coordinator, the Office of General Counsel, and the Bureau of Highway Operations Manager.

Signed at Madison, Wisconsin, this 14 day
of September, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation