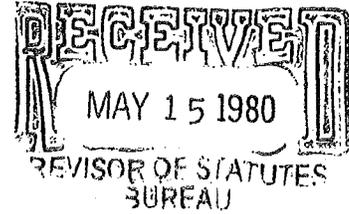


2:10 pm

CR 80-63

C E R T I F I C A T E



STATE OF WISCONSIN)
)
DEPARTMENT OF TRANSPORTATION) ss

TO ALL TO WHOM THESE PRESENTS COME:

I, Lowell B. Jackson, Secretary of the Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed rule relating to outdoor advertising signs along interstate and federal-aid primary highways (CR 80-63) was duly approved and adopted by this Department on May 14, 1980.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

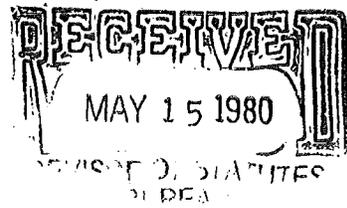
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Hill Farms State Office Building in the City of Madison, this 14th day of May, 1980.



Lowell B. Jackson

Lowell B. Jackson, P.E.
Secretary
Wisconsin Department of Transportation

Ret. effective date 5-1-80.



STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

CR 80-63

A RULE to repeal HY 19.01, 19.13 and 19.20; to renumber Hy 19; and to amend TRANS 201.01, 201.02(2), 201.03, 201.04, 201.05(intro.) and (2)(d)1, 201.06, 201.07, 201.08, 201.09, 201.10(1), (2)(intro.), (2)(f) and (3), 201.13 and 201.14(1)(a), (1)(b)(intro.), (2)(a)2 and 3, (2)(b), (3)(b), (3)(e), (4) and (5), all as renumbered, relating to outdoor advertising signs along interstate and federal-aid primary highways.

ORDER ADOPTING RULE

Analysis Prepared by the Department of Transportation

General summary of proposed rule. This rule renumbers the current Chapter Hy 19 to TRANS 201 and amends the current rule text. The renumbering is being done as part of a general restructuring of the Department of Transportation's administrative rules and has been coordinated with the Legislative Council staff and the Revisor of Statutes in accordance with secs. 227.024(1)(e), Stats.

The purpose of the amendments is solely to bring the language of the rule into conformity with statutes that have been changed or adopted since the adoption of the rule, or controlling judicial decisions. Section 84.30, Stats., which provides the primary authority for this rule, was amended by Chapter 29, Laws of 1977, to refer to the Department of Transportation rather than the former State Highway Commission. Accordingly, all references to the former commission in the rule are changed to the Department. In other changes, three provisions made obsolete by the statutes or controlling judicial decisions are repealed:

°Hy 19.01 purports to state an effective date. This is controlled by sec. 227.026, Stats.

°Hy 19.13 is a "severability clause." The concept of severability (that a ruling invalidating one portion of a rule or statute does not affect other portions which can be given independent effect) is established for the construction of statutes by sec. 990.001(11), Stats., Wisconsin courts have long since established the practice of applying the principles of statutory construction to administrative rules [see, for example, Loof v. Rural Mut. Casualty Ins. Co., 14 Wis. 2d 512, 111 N.W. 2d 583 (1961)]. Therefore, Hy 19.13 is unnecessary surplusage.

°Hy 19.20 sets out hearing procedures which were made obsolete by the enactment of sec. 84.30(18), Stats. (Chapter 29, Laws of 1977).

Hy 19.25 (renumbered TRANS 201.14) is amended to correct references to two legislative standing committees. Hy 19.04 (renumbered TRANS 201.06) is amended to bring it into accord with Chapter 340, Laws of 1975, which amended sec. 84.30(3) (intro.), Stats., to cover all signs visible from the main-traveled way of any interstate or federal-aid primary highway. Punctuation, abbreviation and spelling corrections are also made throughout the renumbered rules.

This rule has not been preceded by notice and public hearing because the changes it makes are either procedural (the renumbering and technical corrections) or designed solely to conform the rule to statutory changes or controlling judicial decisions as discussed above (sec. 227.02(1)(a) and (b), Stats.).

Authority for rule. Section 84.30(14), Stats., allows the Department of Transportation to "promulgate rules deemed necessary to implement and enforce the provisions of this section."

Fiscal estimate. The rule change will have no fiscal impact on the state or any other unit of government.

Forms. Existing sign permit forms will be revised to reflect the renumbering and reference changes if necessary. Copies of such forms may be obtained at no charge from the Division of Highways and Transportation Facilities, Department of Transportation, P. O. Box 7916, Madison, Wisconsin 53707.

This analysis has been prepared by Howard I. Bernstein, Assistant General Counsel, Department of Transportation, (266-8810).

Pursuant to authority vested in the Department of Transportation by secs. 84.30(14) and 227.014, Wis. Stats., the Department of Transportation hereby adopts rules interpreting sec. 84.30, Wis. Stats., as follows:

SECTION 1. Hy 19 (title) is renumbered TRANS 201 (title).

SECTION 2. Hy 19.001, 19.005, 19.006, 19.02, 19.03, 19.04, 19.07, 19.08, 19.09, 19.10, 19.11, 19.12, 19.14 and 19.25 are renumbered respectively TRANS 201.01 through 201.14.

SECTION 3. Hy 19.01, 19.13 and 19.20 are repealed.

SECTION 4. TRANS 201.01, 201.02(2), 201.03, 201.04, 201.05(intro.) and (2)(d)1, 201.06, 201.07, 201.08, 201.09, 201.10(1), (2)(intro.), (2)(f) and (3), 201.13 and 201.14(1)(a), (1)(b)(intro.), (2)(a)2 and 3, (2)(b), (3)(b), (3)(e), (4) and (5), as renumbered, are amended to read:

TRANS 201.01 General. Pursuant to authority contained in ~~sections~~ ss. 84.30 and 86.19, ~~Wis.~~ Stats., the ~~highway commission~~ department of transportation adopts the following rules to apply to signs along and visible from the controlled highways in Wisconsin. Section 84.30, ~~Wis.~~ Stats., and these rules apply to the interstate and federal-aid primary systems and the Great River Road established under 23 U.S.C. 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 section s. 84.30, Wis- Stats., that it is essential to refer to both these rules and the law in order to apply the controls.

TRANS 201.02(2) "~~Commission~~" "Department" means the highway commission department of transportation.

TRANS 201.03 Licensing. The licensing requirement under section s. 84.30(10), Wis- Stats., applies applies to persons who erect or maintain on-property signage signs as well as to persons who erect or maintain off-premise advertising signs. Persons who erect or maintain signs for the purpose of advertising their own business are not subject to the licensing requirement. The licensing requirement does not apply to persons who erect 2 or less signs during the calendar year. Any person who violates the licensing requirement shall be required to forfeit not less than \$500 nor more than \$1000. Violations shall be referred to the proper district attorney for prosecution.

TRANS 201.04 Clear vision areas. Requirements for the preservation of unobstructed driver vision are established by sections ss. 86.191, 84.30(4)(b), Wis- Stats., and by these rules. No sign shall exist or remain in ~~non-conformance~~ nonconformance with those requirements.

TRANS 201.05 Directional and official signs. (intro.) The following standards apply to directional and official signs and notices which are visible from the main-traveled way of a controlled highway. These standards do not apply

to directional and official signs erected on the highway right-of-way.

TRANS 201.05(2)(d)1 Each location of a directional sign must be approved by the **state highway** department.

TRANS 201.06 Sign criteria. Signs ~~within~~ the adjacent area visible from the main-traveled way of a controlled highway shall conform to the requirements of section s. 84.30(4), Wis. Stats., and to these rules. On non-freeway federal-aid primary highways outside of cities and villages, no sign may be adjacent to or within 300 feet of an interchange, intersection at grade, safety rest area, or wayside. Said 300 feet shall be measured along the highway from the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way of the primary highway.

TRANS 201.07 Sign permit requirements. Requests may be submitted to the commission 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, shall be presented on forms furnished by the commission department, and shall include all information and exhibits which the application form requires.

TRANS 201.08 Changes in permitted signs. State permitted signs may be changed in size, lighting, shape, color scheme or copy subject to compliance with the following criteria:

(1) No change shall result in signing which violates section s. 84.30, Wis- Stats., or these rules. Any sign which is found to be in noncompliance will be required to be altered to conform, or removed, at the expense of the owner thereof.

(2) Any proposal to change the location of any state permitted sign must be approved by the ~~commission~~ department in advance of the physical accomplishment of the change. To propose a change of this kind, the applicant shall submit a complete new permit application together with a request that the prior permit (identified by its number) be cancelled and superseded by the new application.

TRANS 201.09 Removal of illegal signs. Any sign erected after October 1, 1972, without a permit having been granted therefor, and any nonconforming sign which subsequently violates section s. 84.30, Wis- Stats., or these rules, shall be subject to removal as an illegal sign. Upon removal of an illegal sign, the owner of the sign shall be given 30 days in which to salvage the sign upon payment of actual reasonable costs incurred in removing the sign. If not salvaged, the sign may be disposed of as the ~~commission~~ department deems appropriate.

TRANS 201.10 Removal of nonconforming signs. (1) Nonconforming signs, as defined by section s. 84.30(5), Wis- Stats., shall be eliminated in accordance with section s. 84.30, Wis- Stats., and these rules. Compensation for removal of a nonconforming sign shall be paid in accordance

with ~~sections~~ s. 84.30(6) to (8), ~~Wis-~~ Stats., provided the sign has complied with the conditions in subsection (2).

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

TRANS 201.10(2)(f) The sign may continue as long as it is not destroyed, abandoned or discontinued. A sign shall be considered destroyed if it is damaged in excess of 50% of its replacement cost. Any sign destroyed by criminal or tortious acts may be replaced upon a showing by the sign owner that the sign was so destroyed and upon written approval from the district office. If the district office fails to send notice of its decision within 10 days after it receives an application, the sign owner may assume that replacement has been approved. As an alternative to replacement, the district office and sign owner may negotiate for the acquisition of the sign which was so destroyed. Approvals of replacements shall contain such terms and conditions as are necessary to ensure that the replacement sign is essentially the same as the sign destroyed. A sign is abandoned or discontinued if for a period of 12 months or longer it is composed of obsolete advertising matter or is without advertising matter or is in need of substantial repair, provided that any period of involuntary discontinuance which occurs during the period a highway is closed shall not be considered.

A sign is abandoned if the name of the owner does not appear thereon and if the name and address of the current owner are not readily ascertainable from records on file with the commission department.

TRANS 201.10(3) Since the provisions of subsection (2) reflect the law of this state with respect to the treatment of nonconforming uses and the derivative policy of the commission department with respect to nonconforming signs, the adoption of subsection (2) shall not be construed to affect the applicability or validity of such state law or derivative policy prior to the adoption of subsection (2).

TRANS 201.13 Permit fees. Signs erected after March 18, 1972 and found to comply with section s. 94.30, Wis. Stats., and with these rules, will be permitted upon payment of a permit issuance fee. This permit issuance fee schedule may be adjusted by the commission department as necessary to offset administrative costs, but is initially established as follows:

- (1) Signs 8 square feet & less.....\$ 5.
- (2) Signs 9 to 32 square fee,
Inclusive.....\$ 10.
- (3) Signs 33 to 150 square
feet, Inclusive.....\$ 20
- (4) Signs 151 to 1200 square
feet, Inclusive.....\$ 50.
- (5) Signs over 1200 square
feet.....\$100.

TRANS 201.14(1)(a) "~~Non-tourist oriented~~ Nontourist-oriented directional advertising sign" means any sign which is not covered by the definition in paragraph (b) or (c).

TRANS 201.14(1)(b) (intro.) "Tourist-oriented directional advertising sign" means any sign giving directional information related to any of the following types of business or activities:

TRANS 201.14(2)(a)2 Second, nontourist-oriented directional advertising signs.

TRANS 201.14(2)(a)3 Last, tourist-oriented directional advertising signs.

TRANS 201.14(2)(b) The priority system shall be implemented on a district-by-district basis. The ~~commission~~ department shall coordinate the priority system program to accomplish an equitable statewide progression from one priority category to the next; provided that signs in paragraph (a)3 may not be removed or relocated until all signs in paragraphs (a)1 and 2 are removed or relocated.

TRANS 201.14(3)(b) Signs may be acquired regardless of priority category in hardship and other cases where acquisition of the signs is voluntarily negotiated between the sign owner and the ~~commission~~ department.

TRANS 201.14(3)(e) If the removal or relocation of a sign is delayed because of a pending lawsuit or contested case under ~~chapter~~ Ch. 227, Wis. Stats., that sign shall not

be considered in determining whether the removal or relocation of signs in a priority category has been completed.

TRANS 201.14(4) Reports. (a) The commission department shall make reports to the assembly committee on tourism and the senate committee on commerce appropriate standing committees of the legislature at the completion of each priority category and before progressing from one priority category to the next, as provided in subsection (2)(b).

(b) The commission department shall make reports to the assembly committee on tourism and the senate committee on commerce appropriate standing committees of the legislature on June 1 and November 1 of each year until all signs have been removed under section s. 84.30, Wis. Stats.

TRANS 201.14(5) General provisions. The advertising message on signs may be changed so as to move a sign from one priority category to another; however, once an acquisition order for a sign project is approved by the commission department, signs covered by the order will be removed regardless of changes made in the advertising message after the acquisition order is approved.

(End)

The repeals, renumbering and amendments contained in this rule shall take effect upon publication as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin, this

14th day of May, 1980.



LOWELL B. JACKSON, P.E.

Secretary

Wisconsin Department of Transportation