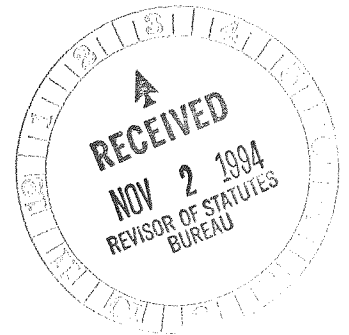


CR 90-61

CERTIFICATE

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **vegetation management on state trunk highway rights-of-way**, was duly approved and adopted by this Department on November 1st, 1994.

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 of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 1st day of November, 1994.

*James D. McLeary*  
CHARLES H. THOMPSON  
Secretary

The Wisconsin Department of Transportation adopts an order to **CREATE** ch. Trans 280, relating to Vegetation Management on State Trunk Highway Rights-of-Way.

**ORDER ADOPTING RULE**

**Analysis Prepared by the Wisconsin Department of Transportation**

STATUTORY AUTHORITY: ss. 84.01(29), 84.07(1), and 85.16(1), Stats.

STATUTES INTERPRETED: ss. 80.01(3), 84.01(29), and 84.07(1) and (3), Stats.

**General Summary of Rule.** The Wisconsin Department of Transportation hereby creates Chapter Trans 280. This rule establishes procedures for increasing the number of hardy and aesthetically-pleasing trees planted in state trunk highway rights-of-way, while maintaining highway safety. It also establishes goals of roadside vegetation management and requires the Department to create a vegetation management plan consistent with the goals in this chapter.

Section 227.01(13)(e), Stats., generally exempts statements of policy relating to the construction or maintenance of highways or bridges from the requirement of s. 227.10(1), Stats., that such a policy be adopted as a rule. 1989 Wisconsin Act 31 created s. 84.01(29), Stats., requiring the Department of Transportation to establish procedures by rule to increase the number of hardy and aesthetically-pleasing trees planted on state trunk highways while maintaining highway safety. Although the Department's ongoing responsibility for the maintenance of the state trunk highway system includes the care and protection of trees and other roadside vegetation and involves the interrelationship of roadside trees to other roadside vegetation, this rule primarily addresses the planting of trees on state trunk highway rights-of-way in the context of the management of all other vegetation in those locations.

This rule reflects policy recommendations from the roadside vegetation management committee convened in 1989, as well as the desire of outdoor advertising interests to avoid interference with visibility of signs and other legal adjacent land uses when planting trees.

**Authority for Rule.** The Department is specifically directed by s. 84.07(1), Stats., to prescribe rules for highway maintenance and may contract with counties or municipalities to have this work done, and by s. 84.01(29), Stats., to establish procedures by rule to increase the number of trees planted on state trunk highways in a manner consistent with highway safety. The Department is further authorized by s. 85.16(1), Stats., to adopt rules relating to programs administered by the Department. The Department's authority and responsibility to beautify highways and prevent soil erosion by protecting and planting vegetation in highways is found in ss. 80.01(3), 84.01(29), and 84.07(1), Stats.

**Fiscal Estimate.** It is not anticipated that this rule will have any fiscal impact. The Department anticipates that any costs associated with the program can be absorbed by reallocating funding within the existing maintenance budget and will not result in any appropriation increase.

**Final Regulatory Flexibility Analysis.** This rule is not expected to have an effect on small businesses.

**Contact Person.** The person to contact for further information on this rule is David Vieth, Director, Highway Maintenance Office, (608) 267-8999. A copy of the rule may be obtained upon request from the Wisconsin Department of Transportation, Central Office Maintenance and Bridge Maintenance Section, Room 601, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53707, (608) 261-6271.

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### **TEXT OF RULE**

Under the authority vested in the Wisconsin department of transportation by ss. 84.01(29), 84.07(1), and 85.16(1), Stats., the department of transportation hereby creates chapter Trans 280, Wis. Admin. Code, implementing s. 84.01(29), Stats., as follows:

**SECTION 1.** Chapter Trans 280 is created to read:

#### **CHAPTER TRANS 280**

#### **ROADSIDE VEGETATION MANAGEMENT**

**Trans 280.01 PURPOSE AND SCOPE.** As authorized by s. 84.01(29), Stats., the purpose of this chapter is to establish uniform procedures for increasing the number of hardy and aesthetically-pleasing trees planted on highway rights-of-way, while maintaining highway safety.

**Trans 280.02 DEFINITIONS.** In this chapter:

(1) "AASHTO" means the American Association of State Highway and Transportation Officials.

(2) "Clear zone" means a roadside area that is required to be free of woody plant growth over 4 inch caliper or that would impair highway safety.

(3) "Department" means the Wisconsin department of transportation.

(4) "Forb" means an herb other than grass.

(5) "Native vegetation" means plants and plant communities that were found in a given area of Wisconsin before 1840.

(6) "Rights-of-way" means lands used for highway purposes.

(7) "Roadsides" means all state highway rights-of-way, excluding the area required for roadways and bridge structures.

(8) "Roadways" means the highway pavement and shoulder structure.

(9) "Vegetation" means a plant or group of plants, including trees, present in any given area or region.

**Trans 280.03 GOALS.** The goals of roadside vegetation management include the following:

(1) Plant trees to enhance roadside aesthetics, maximize oxygen production and improve air quality.

(2) Promote the ecological integrity of the state's natural heritage through the planting of native trees on state highway roadsides.

(3) Tree planting should be consistent with a vegetation management plan to:

(a) Preserve and encourage the regeneration of native vegetation on roadsides.

(b) Promote highway safety by establishing and maintaining clear zones that are appropriate to any given highway location.

(c) Avoid interference with the visibility of legal adjacent land uses.

**Trans 280.04 GENERAL FEATURES AND ROADSIDE VEGETATION INVENTORY.** (1) The department shall conduct an inventory to identify and classify roadside vegetation, including trees, and other roadside and related features, as follows:

(a) Observed plants such as trees, shrubs, vines, grasses and forbs, and plant communities.

(b) Sites for potential enhancements, including reforestation, aesthetic improvement opportunities, erosion control improvement, and native vegetation opportunities.

(c) Adjacent land uses, including agriculture, natural areas, residential, business and cultural development.

(d) Other features necessary to effectively plan for increasing the number of trees.

(2) The department shall create a vegetation management plan consistent with the goals in this chapter.

**Trans 280.05 ROADSIDE TREE PLANTING.** (1) The department shall develop roadside tree planting plans based on the principles of landscape architecture as applied to highway design in accordance with AASHTO guidelines, the department's facilities development manual, and highway maintenance manual. All plantings should be consistent with the vegetation management plan.

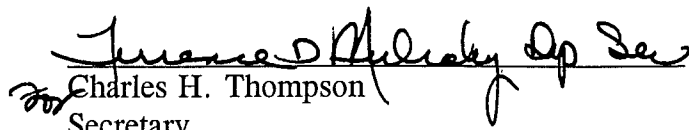
(2) The department shall tabulate and record the number of trees planted in each transportation district annually.

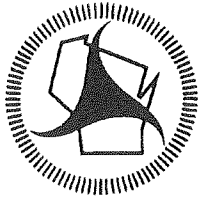
(END OF RULE TEXT)

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**Effective Date:** This rule shall take effect on the first day of the month following its publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this 1<sup>st</sup> day of November, 1994.

  
Charles H. Thompson  
Secretary  
Wisconsin Department of Transportation



## Wisconsin Department of Transportation

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

OFFICE OF GENERAL COUNSEL  
P. O. Box 7910  
Madison, WI 53707-7910

November 2, 1994

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


**RE: CLEARINGHOUSE RULE 90-61**

In the Matter of the Adoption of **TRANS 280**, Wisconsin Administrative Code, relating to **vegetation management on state trunk highway rights-of-way**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 90-61**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: Terry Mulcahy  
Tom Walker  
Dorothy Kapke  
Jim McDonnell  
Fred Ross  
David Vieth  
Tom Lorfeld

