

CR 81-94

RECEIVED

C E R T I F I C A T E

JUN 14 1983
10:05
Revisor of Statutes
Bureau


STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the regulation of outdoor advertising signs were duly approved and adopted by this Department on June 13th, 1983.

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 hereonto set my hand and affixed the official seal of the Department at the Hill Farms State Office Building in the City of Madison, Wisconsin, this 13th day of June, 1983.


LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Department of
Transportation

8-1-83

IN THE MATTER OF THE AMENDING OF :	
SECS. TRANS 201.06 AND 201.07 AND :	
CREATING SECS. TRANS 201.08(3) :	ORDER
AND 201.15 TO 201.22, WIS. ADMIN. :	ADOPTING
CODE, RELATING TO THE REGULATION :	RULES
OF OUTDOOR ADVERTISING SIGNS :	

Analysis Prepared by the Department of Transportation

General summary of rule. This rule adds a number of provisions to the rules of the DOT which regulate outdoor advertising signs located along interstate and federal-aid primary highways. The more significant additions include:

- Standards for the operation of electronic signs;
- Provisions exempting political signs, real estate signs and farm signs from the requirement of obtaining a permit when these signs meet certain conditions;
- Standards for DOT certification of local sign control ordinances to be applied in lieu of state controls;
- Rules for the acquisition of nonconforming signs by local governments when compensation is required by state and federal law.

Minor provisions concern permit issuance, permit fees for seasonal directional signs, regulation of agricultural test plot signs and criteria for on-property signs on properties flanked by two controlled highways.

Authority for rule. Section 84.30(14), Stats., provides the DOT with the authority to promulgate rules deemed necessary to implement and enforce s. 84.30, Stats.

Fiscal estimate. The exemption of certain political, real estate and farm signs may have a slight fiscal impact on the state in the form of fewer permit fees. This effect should be small, however, because few permits are now applied for in these categories. The provisions concerning local certification and local acquisition would protect the state against fiscal liability for sign removals initiated by local governments. These provisions would not require local governments to spend money, but they would require local governments to choose between maintaining the status quo and taking actions that could require the expenditure of local funds to compensate for the acquisition of a lawful nonconforming

sign. The size of the fiscal impact would vary³ depending upon the number and value of the signs acquired.

Forms. The DOT will change its permit application forms as necessary to reflect the provisions of this rule. Copies of these forms may be obtained from the DOT Division of Highways and Transportation Facilities, P.O. Box 7916, Madison, Wisconsin 53707.

This analysis has been prepared by Philip Peterson, Office of General Counsel, Wisconsin Department of Transportation, P.O. Box 7910, Madison, Wisconsin 53707 [(608)-266-8810].

Pursuant to authority vested in the Department of Transportation by s. 84.30(14), Stats., the Department of Transportation hereby proposes to adopt rules interpreting s. 84.30, Stats., as follows:

SECTION 1. TRANS 201.06 and 201.07 are amended to read:

TRANS 201.06 SIGN CRITERIA. (1) Signs visible from the main-traveled way of a controlled highway shall conform to the requirements of s. 84.30(4), 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.

(2) In addition to the spacing criteria of s. 84.30(4)(c), Stats., s. TRANS 201.05(2)(d), Wisconsin Administrative Code, and sub. (1), a permit may not be issued for an otherwise eligible sign location if the erection of a sign at that location would obstruct motorists' view of another lawfully erected sign.

TRANS 201.07 SIGN PERMIT REQUIREMENTS. (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, shall be presented on forms furnished by the department, and shall include all information and exhibits which the application form requires.

(2) A new sign permit shall automatically expire one year after issuance if the sign permitted has not been erected and the permit holder has not received an extension from the department. The department may for good cause grant one 6-month extension of a new sign permit.

SECTION 2. TRANS 201.08(3)(a) and (b) are created to read:

TRANS 201.08(3)(a) The department may permit directional signs to be changed on a seasonal basis to identify alternate attractions or activities. If all of the attractions or activities are listed on the initial permit application, only a single permit fee shall be charged. If additional attractions or activities are listed on a later application, an additional permit fee shall be charged under s. TRANS 201.13, Wisconsin Administrative Code.

(b) Approval of the department is required in advance of any message change on a directional sign that involves a different attraction or activity than originally approved. Message change applications under this paragraph are subject to the permit fees set by s. TRANS 201.13, Wisconsin Administrative Code.

SECTION 3. TRANS 201.15 is created to read:

TRANS 201.15 ELECTRONIC SIGNS. (1) PURPOSE. The purpose of this section is to set standards for the use of electronic signs in accordance with 23 U.S.C. ss. 131(c)(3) and (j) and s. 84.30(4)(b), Stats.

(2) DEFINITIONS. In this section:

(a) "Electronic sign" means an outdoor advertising sign, display or device whose message may be changed by electronic process, and includes the device known in the outdoor advertising industry as a commercial electronic variable message sign.

(b) "Message" means anything displayed on an electronic sign, including copy, art animations and graphics.

(c) "Public service information" means a message on an electronic sign which provides the time, date, temperature, weather, or information concerning civic, charitable or other noncommercial activities.

(d) "Segmented message" means any message or distinct subunit of a message presented by means of at least one display change on an electronic sign.

(e) "Traveling message" means a message which appears to move across an electronic sign.

(3) RESTRICTIONS. (a) Electronic signs may be used only to advertise activities conducted or goods and services available on the property on which the signs are located or to present public service information.

(b) No message may be displayed for less than one-half of a second.

(c) No message may be repeated at intervals of less than 2 seconds.

(d) No segmented message may last longer than 10 seconds.

(e) No traveling message may travel at a rate slower than 16 light columns per second or faster than 32 columns per second.

(f) No electronic sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be too bright shall be adjusted in accordance with the instructions of the department.

(g) As on-property signs, electronic signs are subject to s. 84.30(3)(c), Stats.

SECTION 4. TRANS 201.16 is created to read:

TRANS 201.16 POLITICAL SIGNS. (1) DEFINITION. "Political sign" means a sign erected for the purpose of soliciting support for or opposition to a candidate or a political party or relating to a referendum question in an election held under the laws of this state.

(2) EXEMPTION. A political sign which would otherwise be subject to the permit requirement of s. TRANS 201.07, Wisconsin Administrative Code, is exempted if all of the following conditions are satisfied:

(a) The sign does not exceed 32 square feet in surface area.

(b) The sign is erected entirely on private property with the property owner's consent.

(c) The sign is erected less than 45 days before the election for which it is intended and is removed within 7 days after the election except that a sign erected before a primary election may

remain in place until 7 days after the next^x following general election if the sign solicits support for a candidate, political party or referendum question that is before the electorate in both the primary and the general election.

(d) The sign does not contain flashing lights or moving parts or in any other way fail to conform with s. 84.30(4)(b), Stats.

(e) The sign is not erected adjacent to an interstate highway or a freeway or in a location where it constitutes a traffic hazard.

SECTION 5. TRANS 201.17 is created to read:

TRANS 201.17 REAL ESTATE SIGNS. (1) DEFINITION. "Real estate sign" means a sign advertising the sale or lease of land upon which it is located or of a building on that land.

(2) APPLICABILITY. A real estate sign that is erected along an interstate highway is subject to the permit requirement of s. TRANS 201.07, Wisconsin Administrative Code.

(3) EXEMPTION. A real estate sign that is erected along a controlled highway other than an interstate highway is exempted from the permit requirement of s. TRANS 201.07, Wisconsin Administrative Code, if all of the following conditions are satisfied:

(a) The sign does not exceed 32 square feet in surface area.

(b) There is no more than one real estate sign on the property facing each direction of travel for each controlled highway from which a sign on the property is visible.

(c) The sign does not contain flashing lights or moving parts or in any other way fail to conform with s. 84.30(4)(b), Stats.

(d) The sign is not erected in a location where it constitutes a traffic hazard.

(e) The sign is not erected until the property is actually offered for sale or lease, and is removed within 7 days after the property has been sold or leased.

[Note: The term "controlled highway" as used in sub. (3) is found in sec. TRANS 201.01 and has the meaning set forth therein.]

SECTION 6. TRANS 201.18 is created to read:

TRANS 201.18 FARM AND AGRICULTURAL TEST PLOT SIGNS. (1)

DEFINITIONS. (a) "Agricultural test plot sign" means a sign used to mark test plot areas on a farm and includes a sign identifying the manufacturer of the seed being tested.

(b) "Farm sign" means a sign located on farm property which identifies the farm or advertises a farm product produced on that farm.

(2) FARM SIGN EXEMPTION. A farm sign that would otherwise be subject to the permit requirement of s. TRANS 201.07, Wisconsin Administrative Code, is exempted if all of the following conditions are satisfied:

(a) The sign conforms with the on-property sign criteria contained in s. 84.30(3)(c), Stats.

(b) The sign does not contain flashing lights, moving parts, or in any other way fail to conform to s. 84.30(4)(b), Stats.

(c) The sign is not erected in a location where it constitutes a traffic hazard.

(3) AGRICULTURAL TEST PLOT SIGNS. Agricultural test plot sign displays are subject to the permit requirement of s. TRANS

201.07, Wisconsin Administrative Code, and the following provisions:

(a) One permit shall cover all the signs in an agricultural test plot sign display. Permit fees shall be based on the total surface areas of all signs in the display.

(b) There may be no more than one sign facing traffic in each direction that identifies the test plot and the seed manufacturer. Such a sign must be located within 50 feet of the test plot that it identifies.

(c) Signs shall be permitted only during the growing season and shall be removed within 7 days after harvest of the test plot crop is completed and in any event shall be removed prior to November 1 of each year.

(d) Row markers and variety markers may not contain identification of the seed manufacturer.

SECTION 7. TRANS 201.19 is created to read:

TRANS 201.19 ON-PROPERTY SIGNS. (1) PURPOSE. The purpose of this section is to interpret the provisions of s. 84.30(3)(c), Stats., relating to on-property signs.

(2) DEFINITION. "On-property sign" means a sign advertising activities conducted on the property on which it is located. This includes a sign which consists solely of the name of an establishment and a sign which identifies the establishment's principal product or services offered on the premises.

(3) NARROW STRIPS. Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on

which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes.

(4) PROPERTIES FLANKED BY 2 CONTROLLED HIGHWAYS. (a) When a property may contain signs visible from 2 controlled highways, the department interprets s. 84.30(3)(c)1, Stats., to allow up to 4 single-faced or 2 double-faced signs on the property, with one sign exposure visible and designed to be read from each of 4 different directions of travel.

(b) Whether or not a property may contain signs visible from 2 controlled highways, the department interprets s. 84.30 (3)(c)2, Stats., to allow only one extra on-property sign exposure.

SECTION 8. TRANS 201.20 is created to read:

TRANS 201.20 LOCAL CERTIFICATION. (1) PURPOSE. The purpose of this section is to set out the standards employed by the department in making determinations of customary use under s. 84.30(4) (intro.), Stats., which are used for certifying local sign control ordinances to the federal highway administration under 23 U.S.C. 131(d).

(2) APPLICABILITY. This section applies to local certification applications filed by counties, cities, villages or towns after (effective date of rule), and to applications for the re-certification of previously certified ordinances filed after that date.

(3) DEFINITION. "Local certification" means the department's acceptance, under s. 84.30(4)(intro.), Stats., of a local zoning

authority's determination of customary use as to the size, lighting and spacing of outdoor advertising signs in the zoned commercial or industrial areas of the locality.

(4) INVENTORY. An application for local certification must include a copy of the local zoning ordinance and an inventory of all existing signs within the area to be certified.

(5) ORDINANCE. The local determination of customary use shall be in the form of an ordinance. The department shall accept for certification an ordinance that meets the other requirements of this section, that includes provisions ensuring effective enforcement and that conforms to and complies with the following:

(a) The local zoning authority's controls shall include the regulation of size, of lighting and of spacing of signs, in all commercial and industrial zones.

(b) Unless a Wisconsin statute or administrative rule requires otherwise, the local zoning authority's controls may be either more or less restrictive than the appropriate controls set forth in the agreement in effect between the department and the secretary of transportation of the United States entered pursuant to s. 84.30 (12), Stats.

(c) If a local zoning authority has extraterritorial zoning jurisdiction under s. 62.23(7a), Stats., and exercises control of signs in commercial and in industrial zones within this extraterritorial zoning jurisdiction, sign control by that local zoning authority may be accepted in lieu of the otherwise applicable control within the extraterritorial zoning jurisdiction.

(d) The department shall notify the federal highway administration in writing of those zoning jurisdictions wherein a local zoning authority's controls apply and shall periodically assure itself that the size, lighting and spacing control provisions of each applicable local zoning ordinance certified under this section are actually being enforced by the appropriate local zoning authority.

(e) Nothing in this section shall diminish the department's authority or relieve the department from responsibility to limit signs within controlled areas of commercial and industrial zones.

[Note: Each of the provisions in sub. 5(a) through (e) are based upon the provisions of 23 C.F.R. s. 750.706(c).]

(6) NONCONFORMING SIGNS. The ordinance shall commit the local government to pay the full costs of removing any signs erected after local certification is granted which acquire non-conforming status under state law. This shall include any liability of the state or federal government under s. 84.30(6), Stats., or 23 U.S.C. 131(g). The department shall require a bond or insurance policy to cover this commitment as a condition of local certification.

SECTION 9. TRANS 201.21 is created to read:

TRANS 201.21 LOCAL ACQUISITION OF SIGNS. (1) PURPOSE. The purpose of this section is to interpret s. 84.30(6) and (15), Stats., as these provisions affect the removal of signs along controlled highways under local ordinances.

(2) COMPENSATION. (a) This section applies to local government sign acquisitions in which s. 84.30(6), Stats., requires

compensation for the removal of a lawful nonconforming sign under a local ordinance. This section does not attempt to address the validity of local sign amortization ordinances adopted before the enactment of the "just compensation" amendments to the state and federal sign control laws (s. 84.30(6), Stats., as amended by ch. 253, laws of 1979, effective May 10, 1980; 23 U.S.C. 131(g) as amended by P.L. 95-599, s. 122, effective November 6, 1978) or the validity of the application of such local ordinances after the enactment of these amendments.

(b) A local government may not remove a lawful nonconforming sign for which compensation is required under s. 84.30(6), Stats., unless at the time of removal the department certifies that sufficient funds are available to pay just compensation for the sign. If sufficient funds are not available from state or federal sources, or both, the department may certify that availability of sufficient funds upon deposit of the required amount with the department from any source. The department shall determine the availability of state and federal funds by evaluating overall state obligations under the sign control program and the priority requirements of s. TRANS 201.14. The department shall determine the required amount for deposit by evaluating the local governments appraisal and conducting any further appraisal or investigation that appears to be necessary to ensure that the estimated compensation requirement is accurate.

(3) REVIEW. The department may periodically review a deposit required under sub. (2) and for good cause may raise or lower the amount required.

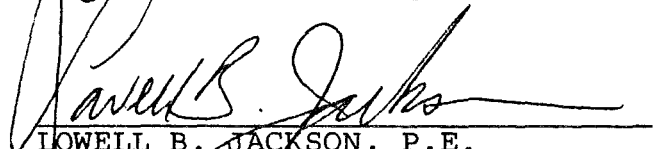
SECTION 10. TRANS 201.22 is created to read:

TRANS 201.22 EFFECT OF RULE. Nothing in ss. TRANS 201.20 or 201.21 creates any new obligations upon any local unit of government to pay compensation for the removal of a lawful nonconforming sign beyond any obligations to compensate that may already be in effect under other state or federal laws.

(End)

This rule shall take effect upon publication as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin, this
13th day of June, 1983.



LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Dept. of Transportation



State of Wisconsin \

DEPARTMENT OF TRANSPORTATION



PLEASE REPLY TO:

OFFICE OF GENERAL COUNSEL

4802 Sheboygan Avenue

P. O. Box 7910

Madison, WI 53707

Telephone: (608) 266-8810

June 13, 1983

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702

RECEIVED

JUN 14 1983

Revisor of Statutes
Bureau

RE: Clearinghouse Rule 81-94

Dear Mr. Prestegard:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats., is a certified copy of CR 81-94, an administrative rule relating to the regulation of outdoor advertising signs. An additional, uncertified copy of CR 81-94 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

Philip Peterson
Deputy General Counsel

PP:ck

Enclosures

cc: Sue Mattka

Harold Fiedler

C.E. Aten

Donald Jorgensen

Ben Mullen

William Brinkley

Howard Bernstein