



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

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 02-086

AN ORDER to repeal Trans 320.02 (1); to renumber Trans 320.02 (18) and 320.03 (7) and (9) to (13); to renumber and amend Trans 320.03 (7) and (8); to amend Trans 320.01 (2), 320.02 (intro.), (14) and (16) and 320.03 (1); and to create Trans 320.02 (18) and (19); 320.03 (8) (d), (13) and (16) and 320.06, relating to calculation of fees for special events, security, traffic enforcement and escort services.

Submitted by **DEPARTMENT OF TRANSPORTATION**

06-11-2002 RECEIVED BY LEGISLATIVE COUNCIL.

07-10-2002 REPORT SENT TO AGENCY.

RNS:DLS

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

The Wisconsin Department of Transportation proposes an order to repeal TRANS 320.02(1); renumber TRANS 320.02(18) and 320.03(7) and (9) to (13); renumber and amend TRANS 320.03(7) and (8); amend TRANS 320.01(2), 320.02(intro.), (14) and (16) and 320.03(1); and create TRANS 320.02(18) and (19), 320.03(8)(d), (13) and (16), and 320.06, relating to calculation of fees for special events, security, traffic enforcement and escort services.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.51(1) and (2), and 348.26(2), Stats., and interpreting s. 85.51(1) and (2), Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **16th** day of **July**, 2002, at **9:00 AM**, to consider the amendment of ch. Trans 320, Wisconsin Administrative Code, relating to calculation of fees for special events, security, traffic enforcement and escort services.

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 July 26, 2002, 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 Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912.

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: ss. 85.51(1) and (2), and 348.26(2), Stats.

STATUTES INTERPRETED: s. 85.51(1) and (2), Stats.

General Summary of Proposed Rule. The revision of ch. Trans 320 will enable the Division of State Patrol to implement changes that were included in 2001 Wis. Act 16 section 2339, related to the assessment of charges for security and traffic law enforcement services. Previously, the authority of the state patrol to assess charges for services provided at public events for which an admission fee is charged was limited to those public events that were sponsored by a private agency. 2001 Wis. Act 16 expanded this authority to assess charges for security and traffic enforcement services to include public events that are sponsored by public agencies, assuming that an admission fee is charged.

In addition, 2001 Wis. Act 16 section 2340 provides the Division of State Patrol with the authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway.

Fiscal Effect. Fees related to the provision of security and traffic law enforcement services at public events, and at roadside work sites, will be deposited in the appropriation account under s. 20.395(5)(dg). Funds deposited in this program revenue appropriation will be used to pay salary, fringe benefit, and non-salary expenses incurred during the provision of the service. It is estimated that total revenues and expenditures will increase by \$87,600 per year when this rule making becomes effective.

Initial Regulatory Flexibility Analysis. The revision of those provisions of ch. Trans 320 that are related to the assessment of charges for security and law enforcement services provided at public events for which an admission fee is required will not have an effect upon small businesses. Since a small business is considered to be a private agency, fees may be imposed under the existing provisions of ch. Trans 320.

The expansion of ch. Trans 320 to provide the state patrol with authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway may have an impact upon small businesses. The primary impact would be the assessment of charges for services provided by the state patrol. During the past two years, the state patrol has received one request from a private agency for utility facility project services. This request was submitted by TouchAmerica, Inc., which does not meet the definition of a small business.

Compliance with this rule making will not require small businesses to prepare any reports, and will not generate additional costs, except for the actual fee for services provided.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608)

267-7305. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. 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 ss. 85.51(1) and (2), and 348.26(2), Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 85.51(1) and (2), Stats., relating to calculation of fees for special events, security, traffic enforcement and escort services.

SECTION 1. Trans 320.01(2) is amended to read:

Trans 320.01(2) SCOPE. This chapter applies to all special of the following:

(a) Special events in which state traffic officers provide security and traffic enforcement services for which an admission fee is charged, and the special event is organized by a private or public organization.

(b) ~~This chapter also applies to motor~~ Motor carriers and private motor carriers who require escort services for oversize or overweight vehicles or loads.

(c) Projects involving the installation, inspection, removal, relocation or repair of a utility facility located on a highway if security and traffic law enforcement services are provided by state traffic officers.

SECTION 2. Trans 320.02(intro.) is amended to read:

Trans 320.02 Definitions. (intro.) The words and phrases defined in ss. 30.40(19) and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 320.02(1) is repealed.

SECTION 4. Trans 320.02(14) and (16) are amended to read:

Trans 320.02(14) "Special event" means a public event organized by a private or public organization for which an admission fee is charged for spectators.

(16) "Sponsor" means a private or public organization that organizes a special event.

SECTION 5. Trans 320.02(18) is renumbered Trans 320.02(20).

SECTION 6. Trans 320.02(18) and (19) are created to read:

Trans 320.02(18) "Utility facility project" includes activities related to the installation, inspection, removal, relocation or repair of a utility facility.

(19) "Utility facility project services" means security and traffic enforcement services provided at a utility facility project site by the division of state patrol.

SECTION 7. Trans 320.03(1) is amended to read:

Trans 320.03(1) Requests for escort ~~and~~ services, special event services and utility facility project services shall be submitted to the district commander of the division of state patrol district in which the special event or utility facility project shall take place, or in which the escort services shall originate.

SECTION 8. Trans 320.03(7) is renumbered Trans 320.03(8).

SECTION 9. Trans 320.03(8)(d) is renumbered Trans 320.03(8)(e) and amended to read:

Trans 320.03(8)(e) Identification of the anticipated starting and ending dates and times for any escort service, or identification of the starting and ending dates and times, including the number of days involved, for any special event or utility facility project for which security and traffic enforcement is to be provided.

SECTION 10. Trans 320.03(8)(d) is created to read:

Trans 320.03(8)(d) Identification of the location of the utility facility project.

SECTION 11. Trans 320.03(8) is renumbered Trans 320.03(9) and amended to read:

Trans 320.03(9) The district commander, in compliance with division of state patrol overtime policies, shall determine the number of, and authorize the use of, traffic officers or equipment to be used to provide special events security and traffic control, utility facility project security and traffic control or escort services with priority given to ensuring safe completion of the assignment.

SECTION 12. Trans 320.03(9) to (13) are renumbered Trans 320.03(10) to (12), (14) and (15), respectively.

SECTION 13. Trans 320.03(13) and (16) are created to read:

Trans 320.03(13) Fees for utility facility project services shall be reimbursed by the person or organization who requested the service no later than 30 days after the person or organization receives the bill. For payments not received within 30 days, the department may deny future requests for utility facility project services until payment is received.

(16) Notification of the cancellation of a request for utility facility project services shall be provided to the appropriate division of state patrol district commander as soon as possible, but no later than 24 hours before the scheduled project start. Failure to notify the district commander within 24 hours shall result in a surcharge of \$100.

SECTION 14. Trans 320.06 is created to read:

Trans 320.06 Formula for determining fees for utility facility project services. (1) The fee formula for utility facility project services shall include all of the following:

- (a) Duty hours.
- (b) Rate of pay.
- (c) Vehicle mileage.
- (d) Mileage rate.

- (e) Meal allowance.
- (f) Lodging allowance.
- (g) Number of days.
- (h) Inspection time.

(2) Utility facility project services assignments shall be given as regular duty hours or overtime hours as determined by the district commander in accordance with division of state patrol policy and collective bargaining agreement.

(3) The formula for utility facility project services fees shall be calculated as:

(a) $[(\text{Number of duty hours per traffic officer}) \times (\text{duty hour rate of pay})] + [(\text{vehicle mileage per traffic officer}) \times (\text{mileage rate for type of vehicle used})] + [(\text{meal allowance per traffic officer}) \times (\text{number of meals per traffic officer})] + [(\text{lodging allowance per day per traffic officer}) \times (\text{number of days of lodging per traffic officer})] = \text{cost per traffic officer and vehicle for utility facility project services.}$

(b) Total utility facility project services fee = cumulative costs per officer and vehicle.

(c) Total utility facility project services fee may not exceed the division of state patrol's reasonable and necessary costs.

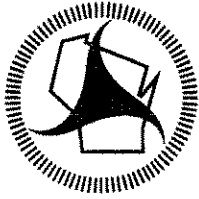
(END OF RULE TEXT)

Effective Date. 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)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of June, 2002.

Thomas E. Carlsen
Acting Secretary
Wisconsin Department of Transportation

Format
?
- ik



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Terrence D. Mulcahy, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

November 15, 2001

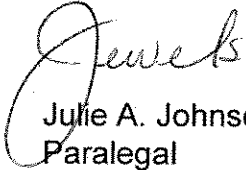
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 320**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 320. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Doug Van Buren
Dan McGuire

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend ch. Trans 320 which establishes a uniform method for the determination of fees that may be charged by the State Patrol for security and law enforcement services provided at public events, and for escort services provided to motor carriers who transport oversize/overweight loads. The authority of the State Patrol to charge for services was expanded by 2001 Wisconsin Act 16 section 2339. The State Patrol now has additional authority to charge for security and traffic control services provided at special events sponsored by public organizations. Previously, this authority to charge was limited to services provided at special events sponsored by private organizations.

2001 Wis. Act 16 section 2340 also provided the State Patrol with new authority to charge for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a public highway.

This rule making will enable the State Patrol to implement the additional authority to charge for services that was provided in Act 16.

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:

The State Patrol currently provides security and traffic control services to both private and public organizations that sponsor public events. Prior to the enactment of Act 16, the State Patrol could not charge for these services and deposit associated revenues in a program revenue appropriation that could be used to offset expenses, unless the sponsor was considered to be a private organization and an admission fee was charged for the event. In some instances, the Department of Administration has reluctantly approved the treatment of fees paid by public organizations for services provided at public events as refunds of expenditure. However, this approval was based upon the mutual understanding that this was an interim solution, pending approval of statutory changes included in Act 16.

The provision of security and traffic control services at certain public events sponsored by public organizations has involved the assignment of significant numbers of State Patrol officers and significant costs. Since these costs have not always been reimbursed, the ability of the State Patrol to meet other core obligations has been affected. In some instances, these public organizations have been willing and able to provide funding to offset these costs. For example, the University of Wisconsin-Madison agreed to reimburse the State Patrol for expenses resulting from the provision of security and traffic control services at home football games.

This rule making will enable the State Patrol to directly charge public organizations for these public event services and deposit associated revenues in a program revenue appropriation that will be used to offset related expenses.

The State Patrol presently charges motor carrier operators for costs related to the escort of oversize/overweight loads by State Patrol officers. The State Patrol has also received requests to provide traffic control services in situations involving the installation, inspection, removal or repair of utility facilities located in a highway right-of-way. The best example of this was the installation of fiber optic cable in the I 90/94 corridor by TouchAmerica. Before the enactment of Act 16, s. 85.51, Stats., and ch. Trans 320 did not provide a mechanism to facilitate the transfer of fees paid by TouchAmerica to a program revenue appropriation that could be used to offset State Patrol expenses. Refund of expenditure accounting was also used on an interim basis to resolve this problem.

This rule making will enable the State Patrol to directly charge utility companies for these services and deposit related revenues in a program revenue appropriation that will be used to offset related expenses.

There are no policy alternatives that are consistent with legislative intent as expressed in Act 16, and are also consistent with state accounting standards as defined by the Wisconsin Department of Administration.

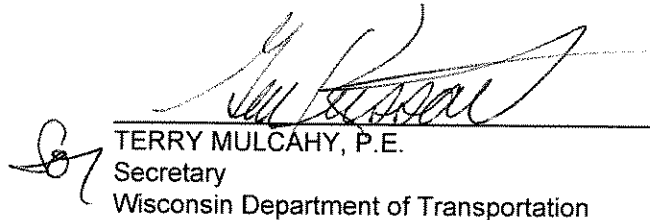
STATUTORY AUTHORITY AND STATUTES INTERPRETED FOR THE RULE:

The authority to charge for security and traffic control services at public events is included in s. 85.51(1), Stats. The authority to charge for security and traffic control services during the installation, inspection, removal, relocation or repair of a utility facility located on a highway is included in s. 85.51(2), Stats. The authority to charge for escort services provided during the transport of oversize/overweight loads is included in s. 348.26(2), Stats.

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

It is estimated that 100 hours of staff time will be required to revise ch. Trans 320.

Signed at Madison, Wisconsin, this 15 day of
November, 2001.



TERRY MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
Acting Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

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

June 11, 2002

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 **calculation of fees for special events, security, traffic enforcement and escort services**, Trans 320

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
Doug Van Buren
Dan McGuire

The Wisconsin Department of Transportation proposes an order to repeal TRANS 320.02(1); renumber TRANS 320.02(18) and 320.03(7) and (9) to (13); renumber and amend TRANS 320.03(7) and (8); amend TRANS 320.01(2), 320.02(intro.), (14) and (16) and 320.03(1); and create TRANS 320.02(18) and (19), 320.03(8)(d), (13) and (16), and 320.06, relating to calculation of fees for special events, security, traffic enforcement and escort services.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.51(1) and (2), and 348.26(2), Stats., and interpreting s. 85.51(1) and (2), Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **16th** day of **July**, 2002, at **9:00 AM**, to consider the amendment of ch. Trans 320, Wisconsin Administrative Code, relating to calculation of fees for special events, security, traffic enforcement and escort services.

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 July 26, 2002, 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 Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912.

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: ss. 85.51(1) and (2), and 348.26(2), Stats.

STATUTES INTERPRETED: s. 85.51(1) and (2), Stats.

General Summary of Proposed Rule. The revision of ch. Trans 320 will enable the Division of State Patrol to implement changes that were included in 2001 Wis. Act 16 section 2339, related to the assessment of charges for security and traffic law enforcement services. Previously, the authority of the state patrol to assess charges for services provided at public events for which an admission fee is charged was limited to those public events that were sponsored by a private agency. 2001 Wis. Act 16 expanded this authority to assess charges for security and traffic enforcement services to include public events that are sponsored by public agencies, assuming that an admission fee is charged.

In addition, 2001 Wis. Act 16 section 2340 provides the Division of State Patrol with the authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway.

Fiscal Effect. Fees related to the provision of security and traffic law enforcement services at public events, and at roadside work sites, will be deposited in the appropriation account under s. 20.395(5)(dg). Funds deposited in this program revenue appropriation will be used to pay salary, fringe benefit, and non-salary expenses incurred during the provision of the service. It is estimated that total revenues and expenditures will increase by \$87,600 per year when this rule making becomes effective.

Initial Regulatory Flexibility Analysis. The revision of those provisions of ch. Trans 320 that are related to the assessment of charges for security and law enforcement services provided at public events for which an admission fee is required will not have an effect upon small businesses. Since a small business is considered to be a private agency, fees may be imposed under the existing provisions of ch. Trans 320.

The expansion of ch. Trans 320 to provide the state patrol with authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway may have an impact upon small businesses. The primary impact would be the assessment of charges for services provided by the state patrol. During the past two years, the state patrol has received one request from a private agency for utility facility project services. This request was submitted by TouchAmerica, Inc., which does not meet the definition of a small business.

Compliance with this rule making will not require small businesses to prepare any reports, and will not generate additional costs, except for the actual fee for services provided.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608)

267-7305. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. 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 ss. 85.51(1) and (2), and 348.26(2), Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 85.51(1) and (2), Stats., relating to calculation of fees for special events, security, traffic enforcement and escort services.

SECTION 1. Trans 320.01(2) is amended to read:

Trans 320.01(2) SCOPE. This chapter applies to all special of the following:

(a) Special events in which state traffic officers provide security and traffic enforcement services for which an admission fee is charged, and the special event is organized by a private or public organization.

~~(b) This chapter also applies to motor~~ Motor carriers and private motor carriers who require escort services for oversize or overweight vehicles or loads.

(c) Projects involving the installation, inspection, removal, relocation or repair of a utility facility located on a highway if security and traffic law enforcement services are provided by state traffic officers.

SECTION 2. Trans 320.02(intro.) is amended to read:

Trans 320.02 Definitions. (intro.) The words and phrases defined in ss. 30.40(19) and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 320.02(1) is repealed.

SECTION 4. Trans 320.02(14) and (16) are amended to read:

Trans 320.02(14) "Special event" means a public event organized by a private or public organization for which an admission fee is charged for spectators.

(16) "Sponsor" means a private or public organization that organizes a special event.

SECTION 5. Trans 320.02(18) is renumbered Trans 320.02(20).

SECTION 6. Trans 320.02(18) and (19) are created to read:

Trans 320.02(18) "Utility facility project" includes activities related to the installation, inspection, removal, relocation or repair of a utility facility.

(19) "Utility facility project services" means security and traffic enforcement services provided at a utility facility project site by the division of state patrol.

SECTION 7. Trans 320.03(1) is amended to read:

Trans 320.03(1) Requests for escort ~~and~~ services, special event services and utility facility project services shall be submitted to the district commander of the division of state patrol district in which the special event or utility facility project shall take place, or in which the escort services shall originate.

SECTION 8. Trans 320.03(7) is renumbered Trans 320.03(8).

SECTION 9. Trans 320.03(8)(d) is renumbered Trans 320.03(8)(e) and amended to read:

Trans 320.03(8)(e) Identification of the anticipated starting and ending dates and times for any escort service, or identification of the starting and ending dates and times, including the number of days involved, for any special event or utility facility project for which security and traffic enforcement is to be provided.

SECTION 10. Trans 320.03(8)(d) is created to read:

Trans 320.03(8)(d) Identification of the location of the utility facility project.

SECTION 11. Trans 320.03(8) is renumbered Trans 320.03(9) and amended to read:

Trans 320.03(9) The district commander, in compliance with division of state patrol overtime policies, shall determine the number of, and authorize the use of, traffic officers or equipment to be used to provide special events security and traffic control, utility facility project security and traffic control or escort services with priority given to ensuring safe completion of the assignment.

SECTION 12. Trans 320.03(9) to (13) are renumbered Trans 320.03(10) to (12), (14) and (15), respectively.

SECTION 13. Trans 320.03(13) and (16) are created to read:

Trans 320.03(13) Fees for utility facility project services shall be reimbursed by the person or organization who requested the service no later than 30 days after the person or organization receives the bill. For payments not received within 30 days, the department may deny future requests for utility facility project services until payment is received.

(16) Notification of the cancellation of a request for utility facility project services shall be provided to the appropriate division of state patrol district commander as soon as possible, but no later than 24 hours before the scheduled project start. Failure to notify the district commander within 24 hours shall result in a surcharge of \$100.

SECTION 14. Trans 320.06 is created to read:

Trans 320.06 Formula for determining fees for utility facility project services. (1) The fee formula for utility facility project services shall include all of the following:

- (a) Duty hours.
- (b) Rate of pay.
- (c) Vehicle mileage.
- (d) Mileage rate.

- (e) Meal allowance.
- (f) Lodging allowance.
- (g) Number of days.
- (h) Inspection time.

(2) Utility facility project services assignments shall be given as regular duty hours or overtime hours as determined by the district commander in accordance with division of state patrol policy and collective bargaining agreement.

(3) The formula for utility facility project services fees shall be calculated as:

(a) $[(\text{Number of duty hours per traffic officer}) \times (\text{duty hour rate of pay})] + [(\text{vehicle mileage per traffic officer}) \times (\text{mileage rate for type of vehicle used})] + [(\text{meal allowance per traffic officer}) \times (\text{number of meals per traffic officer})] + [(\text{lodging allowance per day per traffic officer}) \times (\text{number of days of lodging per traffic officer})] = \text{cost per traffic officer and vehicle for utility facility project services.}$

(b) Total utility facility project services fee = cumulative costs per officer and vehicle.

(c) Total utility facility project services fee may not exceed the division of state patrol's reasonable and necessary costs.

(END OF RULE TEXT)

Effective Date. 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)(intro.), Stats.

Signed at Madison, Wisconsin, this 10 day of June, 2002.



Thomas E. Carlsen
Acting Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
Acting Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

August 16, 2002

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 315 North, State Capitol
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 320**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 02-086

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **02-086**, relating to **calculation of fees for special events, security, traffic enforcement and escort services**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

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

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson (Deputy Revisor of Statutes)/Senator Judy Robson/
Representative Glenn Grothman/Bob Young/Dan McGuire

CR 02-086

The Wisconsin Department of Transportation proposes an order to repeal TRANS 320.02(1); renumber TRANS 320.02(18) and 320.03(7) and (9) to (13); renumber and amend TRANS 320.03(7) and (8); amend TRANS 320.01(2), 320.02(intro.), (14) and (16) and 320.03(1); and create TRANS 320.02(18) and (19), 320.03(8)(d), (13) and (16), and 320.06, relating to calculation of fees for special events, security, traffic enforcement and escort services.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

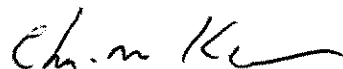
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



CHARLES M. KERNATS
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 267-7940

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.51(1) and (2), and 348.26(2), Stats.

STATUTES INTERPRETED: s. 85.51(1) and (2), Stats.

General Summary of Proposed Rule. The revision of ch. Trans 320 will enable the Division of State Patrol to implement changes that were included in 2001 Wis. Act 16 section 2339, related to the assessment of charges for security and traffic law enforcement services. Previously, the authority of the state patrol to assess charges for services provided at public events for which an admission fee is charged was limited to those public events that were sponsored by a private agency. 2001 Wis. Act 16 expanded this authority to assess charges for security and traffic enforcement services to include public events that are sponsored by public agencies, assuming that an admission fee is charged.

In addition, 2001 Wis. Act 16 section 2340 provides the Division of State Patrol with the authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway.

Fiscal Effect. Fees related to the provision of security and traffic law enforcement services at public events, and at roadside work sites, will be deposited in the appropriation account under s. 20.395(5)(dg). Funds deposited in this program revenue appropriation will be used to pay salary, fringe benefit, and non-salary expenses incurred during the provision of the service. It is estimated that total revenues and expenditures will increase by \$87,600 per year when this rule making becomes effective.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Dan McGuire, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 267-7305. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

PART 2

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.51(1) and (2), and 348.26(2), Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 85.51(1) and (2), Stats., relating to calculation of fees for special events, security, traffic enforcement and escort services.

SECTION 1. Trans 320.01(2) is amended to read:

Trans 320.01(2) SCOPE. This chapter applies to all special of the following:

(a) Special events in which state traffic officers provide security and traffic enforcement services for which an admission fee is charged, and the special event is organized by a private or public organization.

(b) ~~This chapter also applies to motor~~ Motor carriers and private motor carriers who require escort services for oversize or overweight vehicles or loads.

(c) Projects involving the installation, inspection, removal, relocation or repair of a utility facility located on a highway if security and traffic law enforcement services are provided by state traffic officers.

SECTION 2. Trans 320.02(intro.) is amended to read:

Trans 320.02 Definitions. (intro.) The words and phrases defined in ss. 30.40(19) and 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

SECTION 3. Trans 320.02(1) is repealed.

SECTION 4. Trans 320.02(14) and (16) are amended to read:

Trans 320.02(14) "Special event" means a public event organized by a private or public organization for which an admission fee is charged for spectators.

(16) "Sponsor" means a private or public organization that organizes a special event.

SECTION 5. Trans 320.02(18) is renumbered Trans 320.02(20).

SECTION 6. Trans 320.02(18) and (19) are created to read:

Trans 320.02(18) "Utility facility project" includes activities related to the installation, inspection, removal, relocation or repair of a utility facility.

(19) "Utility facility project services" means security and traffic enforcement services provided at a utility facility project site by the division of state patrol.

SECTION 7. Trans 320.03(1) is amended to read:

Trans 320.03(1) Requests for escort and services, special event services and utility facility project services shall be submitted to the district commander of the division of state patrol district in which the special event or utility facility project shall take place, or in which the escort services shall originate.

SECTION 8. Trans 320.03(7) is renumbered Trans 320.03(8).

SECTION 9. Trans 320.03(8)(d) is renumbered Trans 320.03(8)(e) and amended to read:

Trans 320.03(8)(e) Identification of the anticipated starting and ending dates and times for any escort service, or identification of the starting and ending dates and times, including the number of days involved, for any special event or utility facility project for which security and traffic enforcement is to be provided.

SECTION 10. Trans 320.03(8)(d) is created to read:

Trans 320.03(8)(d) Identification of the location of the utility facility project.

SECTION 11. Trans 320.03(8) is renumbered Trans 320.03(9) and amended to read:

Trans 320.03(9) The district commander, in compliance with division of state patrol overtime policies, shall determine the number of, and authorize the use of, traffic officers or equipment to be used to provide special events security and traffic control, utility facility project security and traffic control or escort services with priority given to ensuring safe completion of the assignment.

SECTION 12. Trans 320.03(9) to (13) are renumbered Trans 320.03(10) to (12), (14) and (15), respectively.

SECTION 13. Trans 320.03(13) and (16) are created to read:

Trans 320.03(13) Fees for utility facility project services shall be reimbursed by the person or organization who requested the service no later than 30 days after the

person or organization receives the bill. For payments not received within 30 days, the department may deny future requests for utility facility project services until payment is received.

(16) Notification of the cancellation of a request for utility facility project services shall be provided to the appropriate division of state patrol district commander as soon as possible, but no later than 24 hours before the scheduled project start. Failure to notify the district commander within 24 hours shall result in a surcharge of \$100.

SECTION 14. Trans 320.06 is created to read:

Trans 320.06 Formula for determining fees for utility facility project services. (1) The fee formula for utility facility project services shall include all of the following:

- (a) Duty hours.
- (b) Rate of pay.
- (c) Vehicle mileage.
- (d) Mileage rate.
- (e) Meal allowance.
- (f) Lodging allowance.
- (g) Number of days.
- (h) Inspection time.

(2) Utility facility project services assignments shall be given as regular duty hours or overtime hours as determined by the district commander in accordance with division of state patrol policy and collective bargaining agreement.

(3) The formula for utility facility project services fees shall be calculated as:

(a) $[(\text{Number of duty hours per traffic officer}) \times (\text{duty hour rate of pay})] + [(\text{vehicle mileage per traffic officer}) \times (\text{mileage rate for type of vehicle used})] + [(\text{meal allowance}$

per traffic officer) x (number of meals per traffic officer)] + [(lodging allowance per day per traffic officer) x (number of days of lodging per traffic officer)] = cost per traffic officer and vehicle for utility facility project services.

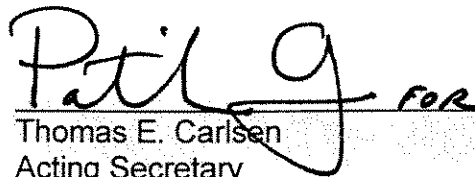
(b) Total utility facility project services fee = cumulative costs per officer and vehicle.

(c) Total utility facility project services fee may not exceed the division of state patrol's reasonable and necessary costs.

(END OF RULE TEXT)

Effective Date. 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)(intro.), Stats.

Signed at Madison, Wisconsin, this 16th day of August, 2002.



Thomas E. Carlsen
Acting Secretary
Wisconsin Department of Transportation

PART 4
CR 02-086

ANALYSIS OF FINAL DRAFT OF TRANS 320

(a) **Need for Amended Rule**. The revision of ch. Trans 320 will enable the Division of State Patrol to implement changes that were included in 2001 Wis. Act 16 section 2339, related to the assessment of charges for security and traffic law enforcement services. Previously, the authority of the state patrol to assess charges for services provided at public events for which an admission fee is charged was limited to those public events that were sponsored by a private agency. 2001 Wis. Act 16 expanded this authority to assess charges for security and traffic enforcement services to include public events that are sponsored by public agencies, assuming that an admission fee is charged.

In addition, 2001 Wis. Act 16 section 2340 provides the Division of State Patrol with the authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway.

(b) **Modifications as a Result of Testimony at Public Hearing**. The public hearing was held in Madison on July 16, 2002. No modifications were made to the proposed rule as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing**. No one appeared/registered at the public hearing.

(d) **Response to Legislative Council Recommendations**. The Legislative Council made no recommendations to the proposed rule.

(e) **Final Regulatory Flexibility Analysis**. The revision of those provisions of ch. Trans 320 that are related to the assessment of charges for security and law enforcement services provided at public events for which an admission fee is required will not have an effect upon small businesses. Since a small business is considered to be a private agency, fees may be imposed under the existing provisions of ch. Trans 320.

The expansion of ch. Trans 320 to provide the state patrol with authority to charge fees for security and traffic law enforcement services provided during the installation, inspection, removal, relocation or repair of a utility facility located on a highway may have an impact upon small businesses. The primary impact would be the assessment of charges for services provided by the state patrol. During the past two years, the state patrol has received one request from a private agency for utility facility project services. This request was submitted by TouchAmerica, Inc., which does not meet the definition of a small business.

Compliance with this rule making will not require small businesses to prepare any reports, and will not generate additional costs, except for the actual fee for services provided.