



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 02-093

AN ORDER to repeal DOC 328.043; and to amend DOC 328.045 (1) and (2) (intro.) and (c), relating to adult field supervision.

Submitted by **DEPARTMENT OF CORRECTIONS**

06-27-2002 RECEIVED BY LEGISLATIVE COUNCIL.

07-02-2002 REPORT SENT TO AGENCY.

RS:AS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO



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CLEARINGHOUSE RULE 02-093

Comments

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

1. Statutory Authority

a. Under s. 304.073 (2), Stats., for an offender on administrative or minimum supervision, the department must charge the offender a fee that is sufficient to cover the cost of the offender's supervision. Other offenders on supervision are required to pay a fee that is based on the offender's ability to pay in order to partially reimburse the costs of supervision. [s. 304.074 (2), Stats.] The proposed rule eliminates this distinction and requires all offenders on supervision to pay a fee that is based upon their gross income. How does this change meet the current statutory fee requirements for offenders on administrative or minimum supervision?

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

In the analysis, Assembly Bill 1 should be referred to as 2002 January Special Session Assembly Bill 1.

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

a. In current s. DOC 328.045 (2) (a), "fee" is bracketed. This could be corrected in the proposed rule.

b. In Table DOC 328.045, "800.00" could be replaced with "799.99" and "801.00" could be replaced with "800.00" so that the income guidelines are more specific. If this change is made, it should also be made for the next income level.

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF CORRECTIONS
REPEALING AND AMENDING RULES**

The Wisconsin department of Corrections proposes an order repealing DOC 328.043, and amending DOC 328.045(1), (2) (intro) and (2)(c), relating to adult field supervision.

Statutory Authority: ss.301.02, 301.03 (1) (2), and 227.11(2), Stats.
Statutes Interpreted: ss.304.073 and 304.074, Stats.

Analysis Prepared by the Department of Corrections...

Jan 2002
Pursuant to sec. 304.074(2) Stats., the department has authority to collect "at least \$1 per day, if appropriate" from offenders on supervision. However, the current proposed budget reform bill, Assembly Bill 1, directs the department to amend supervision fees and provides, in relevant part, the following:

"...the department of corrections shall promulgate the rules that are required under section 304.074(5) of the statutes and that set rates under section 304.074(2) of the statutes. The rules shall take effect on July 1, 2002."

"...the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in section 304.74(1)(a) of the statutes, or minimum supervision, as defined in section 304.74(1)(b) of the statutes."

The department published an emergency rule on July 1, 2002 in anticipation of the fore-mentioned statutory requirements. This permanent rule proposal follows.

While the language and potential requirements of Assembly Bill 1 doubles the amount the department may collect in supervision fees, the current Administrative Code limits the department's efforts to do so. The current DOC 328 establishes a set fee schedule with a maximum collection of \$45 per month.

This rule:

- Raises the department's supervision fee goal to at least \$2 per day, if appropriate, from all offenders under supervision by the department.

- Eliminates the distinction between offenders supervised by the department on administrative and minimum supervision and offenders who are deemed medium, maximum and high risk as it relates to supervision fees. All offenders under supervision by the department will pay, based on their ability, according to one supervision-fee scale.

SECTION 1. DOC 328.043 is repealed.

SECTION 2. DOC 328.045(1) ^{and} (2) (intro) and (A)(c) are amended to read:

DOC 328.045 ~~Medium, maximum and high risk~~ Offenders under supervision by the department.

- (1) OFFENDER PAYMENT. An offender ~~on medium supervision as defined under s. DOC 328.04(4)(b) or maximum supervision as defined under s. DOC 328.04(4)(a) or high risk~~ who is under supervision by the department shall pay a supervision fee.
- (2) SUPERVISION FEE. The department shall set a supervision fee for an offender based on the offender's ability to pay with the goal of receiving at least \$1-2 per day, if appropriate, and shall do all of the following:
 - (c) Charge a supervision fee according to the following table:

Table DOC 328.045

Category	Gross Monthly Income	Supervision Fee	Maximum Rate
I	\$0-599.99 800.00	\$10.00 20.00	\$30.00
II	\$600.00 or more 800.00-1,500.00	\$30.00 40.00	\$45.00
III	\$1,500.00 or more	\$60.00	

none of these sets to goal

301.073(2) but not for charges

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) Stats

Dated: _____

Agency: _____
Jon E. Litscher, Secretary

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF CORRECTIONS
REPEALING AND AMENDING RULES**

1
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3 amending DOC 328.045(1), (2) (intro) and (2)(c), relating to adult field supervision.

Statutory Authority: ss.301.02, 301.03 (1) (2), and 227.11(2), Stats.
Statutes Interpreted: ss.304.073 and 304.074, Stats.

Analysis Prepared by the Department of Corrections...

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5 Pursuant to sec. 304.074(2) Stats., the department has authority to collect "at least \$1 per day, if
6 appropriate" from offenders on supervision. However, the current proposed budget reform bill,
7 Assembly Bill 1, directs the department to amend supervision fees and provides, in relevant part,
8 the following:

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10 "…the department of corrections shall promulgate the rules that are required under
11 section 304.074(5) of the statutes and that set rates under section 304.074(2) of the
12 statutes. The rules shall take effect on July 1, 2002."

13
14 "…the rules shall require the department to have a goal of receiving at least \$2 per day, if
15 appropriate, from each person who is on probation, parole, or extended supervision and
16 who is not under administrative supervision, as defined in section 304.74(1)(a) of the
17 statutes, or minimum supervision, as defined in section 304.74(1)(b) of the statutes."

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20 The department published an emergency rule on July 1, 2002 in anticipation of the fore-
21 mentioned statutory requirements. This permanent rule proposal follows.

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23 While the language and potential requirements of Assembly Bill 1 doubles the amount the
24 department may collect in supervision fees, the current Administrative Code limits the
25 department's efforts to do so. The current DOC 328 establishes a set fee schedule with a
26 maximum collection of \$45 per month.

27
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- 29
30 • Raises the department's supervision fee goal to at least \$2 per day, if appropriate, from all
31 offenders under supervision by the department.
32

- 33 • Eliminates the distinction between offenders supervised by the department on administrative
34 and minimum supervision and offenders who are deemed medium, maximum and high risk
35 as it relates to supervision fees. All offenders under supervision by the department will pay,
36 based on their ability, according to one supervision-fee scale.
-

1
2 **Effective date.** This rule shall take effect on the first day of the month following
3 publication in the Wisconsin administrative register as provided in s.227.22 (2) Stats

Dated: _____ Agency: _____
Jon E. Litscher, Secretary

Scott McCallum
Governor

Jon E. Litscher
Secretary



Mailing Address

3099 E. Washington Ave.
Post Office Box 7925
Madison, WI 53707-7925
Telephone (608) 240-5000
Fax (608) 240-3300

State of Wisconsin Department of Corrections

June 28, 2002

Members of the Legislature

Dear Members of the Legislature:

Enclosed is a copy of the Department of Corrections' emergency rule promulgated by the Department of Corrections. The emergency rule will be published in the Wisconsin State Journal on July 1, 2002.

If you have any questions about this rule, please contact Julie Kane of the Department's Office of Legal Counsel at (608) 240-5015.

Sincerely,

A handwritten signature in cursive script that reads "Jon E. Litscher".

Jon E. Litscher
Secretary

Enclosure

ORDER OF THE
DEPARTMENT OF CORRECTIONS
REPEALING AND AMENDING RULES

FINDING OF EMERGENCY

The department of corrections finds that an emergency exists and that rules included in this order are necessary for preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is: Pursuant to sec. 304.074(2) Stats., the department has authority to collect "at least \$1 per day, if appropriate" from offenders on supervision. However, the current proposed budget reform bill, Assembly Bill 1, directs the department to amend supervision fees and provides, in relevant part, the following:

"...the department of corrections shall promulgate the rules that are required under section 304.074(5) of the statutes and that set rates under section 304.074(2) of the statutes. The rules shall take effect on July 1, 2002."

"...the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in section 304.74(1)(a) of the statutes, or minimum supervision, as defined in section 304.74(1)(b) of the statutes."

While the language and potential requirements of Assembly Bill 1 doubles the amount the department may collect in supervision fees, the current Administrative Code limits the department's efforts to do so. The current DOC 328 establishes a set fee schedule with a maximum collection of \$45 per month.

As proposed, the budget reform bill requires the department to rely upon the collection of an increased amount of supervision fees. If the department remained without administrative rule authority to collect the increased fees on July 1st, the department, and clearly the public, would be significantly impacted by the loss of revenue. The proposed budget has anticipated and relied upon such increase in establishing budgetary guidelines for the department of corrections.

This situation requires the department to effect an emergency rule rather than complying with the notice, hearing, legislative review and publication requirements of the statutes. Complying with the standard promulgation procedures for a permanent rule could easily delay the department's ability to collect the necessary fees by seven months to one year. This delay would have a substantial impact on the department because more than 85% of the department's supplies and services budget will be funded by program revenue generated from supervision fees collected in the next fiscal year. This revenue provides for a variety of essential departmental functions, including rent for approximately 114 probation and parole offices, vehicles that enable probation and parole agents to conduct

home visits on offenders, extradition of absconders, and computers that enable agents to conduct such critical functions as pre-sentence investigation reports. If the department were somehow hindered in the attempt to perform these functions it would obviously affect the department's ability to adequately supervise offenders and ultimately result in a breakdown in the department's ability to help protect the public.

This order:

- Raises the department's supervision fee goal to at least \$2 per day, if appropriate, from all offenders under supervision by the department.
- Eliminates the distinction between offenders supervised by the department on administrative and minimum supervision and offenders who are deemed medium, maximum and high risk as it relates to supervision fees. All offenders under supervision by the department will pay, based on their ability, according to one supervision-fee scale.

ORDER

Under the authority vested in the Department of Corrections by ss.301.02, 301.03 (1) (2), and 227.11(2), Stats., the Department of Corrections hereby repeals and amends rules relating to adult field supervision, interpreting ss.304.073 and 304.074, Stats.

SECTION 1. DOC 328.043 is repealed.

SECTION 2. DOC 328.045(1), (2) (intro) and (2)(c) are amended to read:

DOC 328.045 ~~Medium, maximum and high risk~~ Offenders under supervision by the department.

- (1) OFFENDER PAYMENT. An offender ~~on medium supervision as defined under s. DOC 328.04(4) (b) or maximum supervision as defined under s. DOC 328.04(4)(a) or high risk~~ who is under supervision by the department shall pay a supervision fee.
- (2) SUPERVISION FEE. The department shall set a supervision fee for an offender based on the offender's ability to pay with the goal of receiving at least \$~~1~~2 per day, if appropriate, and shall do all of the following:
 - (c) Charge a supervision fee according to the following table:

Table DOC 328.045

Category	Gross Monthly Income	Supervision Fee	Maximum Rate
I	\$0- 599.99 <u>800.00</u>	\$10.00 <u>20.00</u>	\$30.00
II	\$600.00 or more <u>801.00-1,500.00</u>	\$30.00 <u>40.00</u>	\$45.00
III	\$1,501.00 or more	\$60.00	

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

Wisconsin Department of Corrections

Date:

6/26/02

By

Jon E. Litscher

Jon E. Litscher
Secretary

Seal:

Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number DOC 328.043, 328.045(1)&(2)

Subject
Supervision Fees

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs

- | | |
|--|---|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations
§20.410(1)(gf)

Assumptions Used in Arriving at Fiscal Estimate

The Department of Corrections (DOC), under §304.074(2), is required to set supervision fee rates for probationers, parolees, or persons on extended supervision with the goal of receiving at least \$1 per day, if appropriate, from each probationer, parolee, and person on extended supervision. In addition, §304.074(2) requires that DOC promulgate rules establishing supervision fee rates and providing the procedure and timing for collecting fees charged. In response to this directive, DOC Administrative Code 328.043, 328.045(1) and 328.045(2) were established which set a fee schedule of \$10 to \$45 per month depending upon an offender's monthly income. DOC may exempt offenders from the fee schedule if the offender meets certain criteria.

In FY01, the DOC collected \$5,884,800 in supervision fees. This revenue is used to provide a variety of essential Division of Community Corrections (DCC) services including rent, vehicles for home visits, extradition of absconders, and upgrading computers utilized by DCC staff.

The proposed budget reform bill (AB 1) directs DOC to increase the amount collected from supervision fees from at least \$1 per day to at least \$2 per day. In the bill, DOC is required to promulgate emergency rules by July 1, 2002 in order to increase the supervision fee rate. Although AB 1 has not yet passed the Legislature, the provision is included in all versions of AB 1. The Department needs to change the administrative rule immediately in order that supervision fee collections can reach the levels estimated in AB 1.

According to the new rule, offenders at all supervision levels will pay according to one supervision-fee scale. The new fee schedule will range from \$20 to \$60 per month depending on an offenders monthly income. DOC may exempt offenders from the fee schedule if the offender meets certain criteria. It is estimated that the new fee schedule will generate an additional \$5,884,800 annually in supervision fee revenue.

Long-Range Fiscal Implications

Increase supervision fee revenue annually by \$5,884,800.

Prepared By:	Telephone No.	Agency
Jason Gherke	240-5423	DOC
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
<i>Robert M. Mangel</i>	240-5056	06/27/02

Fiscal Estimate Worksheet — 2001 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number DOC 328.043, 328.045(1)&(2)

Subject
 Supervision Fees

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(FTE)
State Operations — Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category		\$	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS		5,884,800	-
SEG/SEG-S			-
Total State Revenues		\$ 5,884,800	\$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$	\$
Net Change in Revenues	\$ 5,884,800	\$

Prepared By: Jason Gherke	Telephone No. 240-5423	Agency DOC
Authorized Signature <i>Alta Mowri</i>	Telephone No. 240-5056	Date (mm/dd/ccyy) 06/27/2002

Scott McCallum
Governor

Jon E. Litscher
Secretary



Mailing Address

3099 E. Washington Ave.
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Madison, WI 53707-7925
Telephone (608) 240-5000
Fax (608) 240-3300

State of Wisconsin Department of Corrections

June 25, 2002

Senator Judith Robson
Joint Committee for Review of Administrative Rules
Room 15 South
State Capitol
Madison, Wisconsin 53707

Representative Glenn Grothman
Joint Committee for Review of Administrative Rules
Room 15 North
State Capitol
Madison, Wisconsin 53708

Re: Emergency Rule Relating to Adult Field Supervision

Dear Senator Robson and Representative Grothman:

The Department of Corrections plans to promulgate an emergency rule regarding adult field supervision. The Department anticipates that this emergency rule will be published in the Wisconsin State Journal on July 1, 2002.

A copy of the most recent draft of this proposed emergency rule is enclosed.

If you have questions regarding this rule, please contact Julie Kane of the Department's Office of Legal Counsel at 240-5015.

Sincerely,

A handwritten signature in black ink that reads "Jon E. Litscher".

Jon E. Litscher
Secretary

Enclosures

Cc: JCRAR Members

ORDER OF THE
DEPARTMENT OF CORRECTIONS
REPEALING AND AMENDING RULES

FINDING OF EMERGENCY

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"...the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in section 304.74(1)(a) of the statutes, or minimum supervision, as defined in section 304.74(1)(b) of the statutes."

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III	\$1,501.00 or more	\$60.00	

The rules contained in this order shall take effect as emergency rules upon publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

Wisconsin Department of Corrections

Date: 6/26/02

By Jon E. Litscher
Jon E. Litscher
Secretary

Seal:

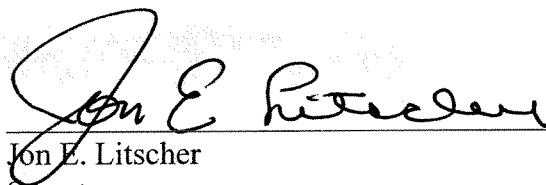
STATE OF WISCONSIN)
) SS
DEPARTMENT OF CORRECTIONS)

I, Jon E. Litscher, Secretary, Department of Corrections, and custodian of the official records, certify that the annexed emergency rules, relating to adult field supervision, were duly approved and adopted by the Department on June 25, 2002.

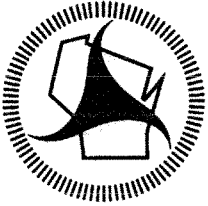
I further certify that this copy has been compared by me with the original on file in this Department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Corrections
3099 East Washington in the City of
Madison, this 25th day of June, 2002.

SEAL



Jon E. Litscher
Secretary



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 26, 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 **tourist-oriented directional signs**, Trans 200

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,


Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
John Noll

The Wisconsin Department of Transportation proposes an order to amend TRANS 200.08(1)(m)9. and (3); and create TRANS 200.08(2)(e)6. and (f), relating to tourist-oriented directional signs.

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

NOTICE IS HEREBY GIVEN that pursuant to s. 86.196(2), Stats., and interpreting s. 86.196(2), Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **30th** day of **July**, 2002, at **1:00 PM**, to consider the amendment of ch. Trans 200, Wisconsin Administrative Code, relating to tourist-oriented directional signs.

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 August 2, 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 John Noll, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: 86.196(2), Stats.

STATUTES INTERPRETED: 86.196(2), Stats.

General Summary of Proposed Rule. This proposed rulemaking will amend ch. Trans 200, relating to Tourist-Oriented Directional Signs (TODS), to include agricultural produce stands and Christmas tree farms in the TODS program qualifications as "seasonal attractions." The proposed amendments will establish criteria for signing the seasonal attraction types of businesses and provide minimum criteria for the advisory council for uniform evaluation and assessment of applications to make their recommendations to the Department to approve or deny applications.

Currently there is nothing covering "seasonal attractions" for the TODS program as far as agricultural produce stands and Christmas tree farms. The rule does cover seasonal tourist attractions but they must be open 3 consecutive months to qualify. The agricultural produce stands and Christmas tree farms would only be open less than 60 consecutive days. The Department of Agriculture would like the Department to help the people who have produce stands along the highway on premises to be able to put up some sort of temporary or permanent signage.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis. This proposed rule will have no adverse impact on small businesses.

Copies of Proposed Rule. Copies of the rule may be obtained upon request, without cost, by writing to John Noll, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986, or by calling (608) 266-0318. Hearing-impaired individuals may contact the Department using TTY (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 s. 86.196(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 86.196(2), Stats., relating to tourist-oriented directional signs.

SECTION 1. Trans 200.08(1)(m)9. is amended to read:

Trans 200.08(1)(m)9. To direct to a business, service or activity that is located on the same highway on which tourist-oriented directional signs are requested, except for seasonal attractions which may be located on the same highway.

SECTION 2. Trans 200.08(2)(e)6. is created to read:

Trans 200.08(2)(e)6. Seasonal attractions. Seasonal attractions include agricultural produce stands and Christmas tree farms.

SECTION 3. Trans 200.08(3) is amended to read:

Trans 200.08(3) ADVISORY COUNCIL. The department may appoint an advisory council under ss. 15.04(1)(c) and 15.09, Stats., to review applications for tourist-oriented directional signs on the state trunk highway system in both the tourist attraction category and seasonal attractions categories. This 7 member council shall include representatives from the tourism industry, department of ~~development-tourism~~ tourism, and other organizations as determined by the department and shall make recommendations to the department to approve or deny applications. The department shall make the final decision on applications. The department shall furnish to the advisory council minimum criteria and requirements for the uniform evaluation and assessment of applications. The department, in collaboration with the advisory council, may make revisions to the application evaluation criteria if at any time it is apparent that the criteria or implementation process are inequitable to the applicants or that the signing itself creates operational or safety concerns. The advisory council shall meet not less than once each month, unless otherwise directed by the department, to consider and make recommendations on applications received by the department. The department may act on any application not acted upon by the advisory council within 60 days of forwarding of the application to the council. Members of the advisory council shall may not compensated for their services or

reimbursed for their expenses, except the department may reimburse private citizen members in hardship cases for actual and necessary expenses incurred in the performance of their duties.

SECTION 4. Trans 200.08(g) is created to read:


Trans 200.08(g) Temporary structures for seasonal attractions shall use signs and supports conforming to the crash worthiness standards of the department's standard specifications for highway and structure construction.

NOTE: Crash worthiness standards can be found in s. 643.2.12.1(5)2. of the Standard Specifications for Highway and Structure Construction published by the Wisconsin Department of Transportation. Copies of the crash worthiness standards may be obtained by writing to or calling the Division of Transportation Infrastructure Development, Bureau of Highway Operations, P. O. Box 7986, Madison, WI 53707-7986, (608) 266-0318.

(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 26 day of June, 2002.


THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation