

 **05hr\_SC-NRT\_Misc\_pt03**



 Details: Miscellaneous reports

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2005-06**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on Natural Resources and  
Transportation...**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

# **A**GRICULTURAL **I**MPACT **S**TATEMENT



**STH 146: CTH "Z" to STH 33  
Columbia County**

**Published March 4, 2005**

**Wisconsin Department of Agriculture,  
Trade and Consumer Protection  
DATCP #3273**



# Agricultural Impact Statement

Wisconsin Department of Agriculture,  
Trade and Consumer Protection

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## MAILING LIST

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## AGRICULTURAL IMPACT STATEMENT

### STH 146: CTH "Z" to STH 33 Columbia County Wisconsin Department of Transportation Project ID#: 6707-00-74, 75, and 76

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#### I. INTRODUCTION

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) has prepared this agricultural impact statement (AIS) in accordance with §32.035, *Wisconsin Statutes*. The AIS is an informational and advisory document that describes and analyzes the potential effects of the project on farm operations and agricultural resources, but cannot stop a project.

The DATCP is required to prepare an AIS when the actual or potential exercise of eminent domain powers involves an acquisition of interest in more than 5 acres of land from any farm operation<sup>1</sup>. The DATCP may choose to prepare an AIS if an acquisition of 5 or fewer acres will have a significant impact on a farm operation. Significant impacts could include the acquisition of buildings, the acquisition of land used to grow high-value crops, or the severance of land. The DATCP should be notified of such projects regardless of whether the proposing agency intends to use its condemnation authority in the acquisition of project lands. The proposing agency may not negotiate with or make a jurisdictional offer to a landowner until 30 days after the AIS is published.

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<sup>1</sup>The term *farm operation* includes all owned and rented parcels of land; buildings and equipment; livestock; and personnel used by an individual, partnership, or corporation under single management to produce agricultural commodities.

The DATCP is not involved in determining whether or not eminent domain powers will be used or the amount of compensation to be paid for the acquisition of any property. The AIS reflects the general objectives of the DATCP in its recognition of the importance of conserving important agricultural resources and maintaining a healthy rural economy.

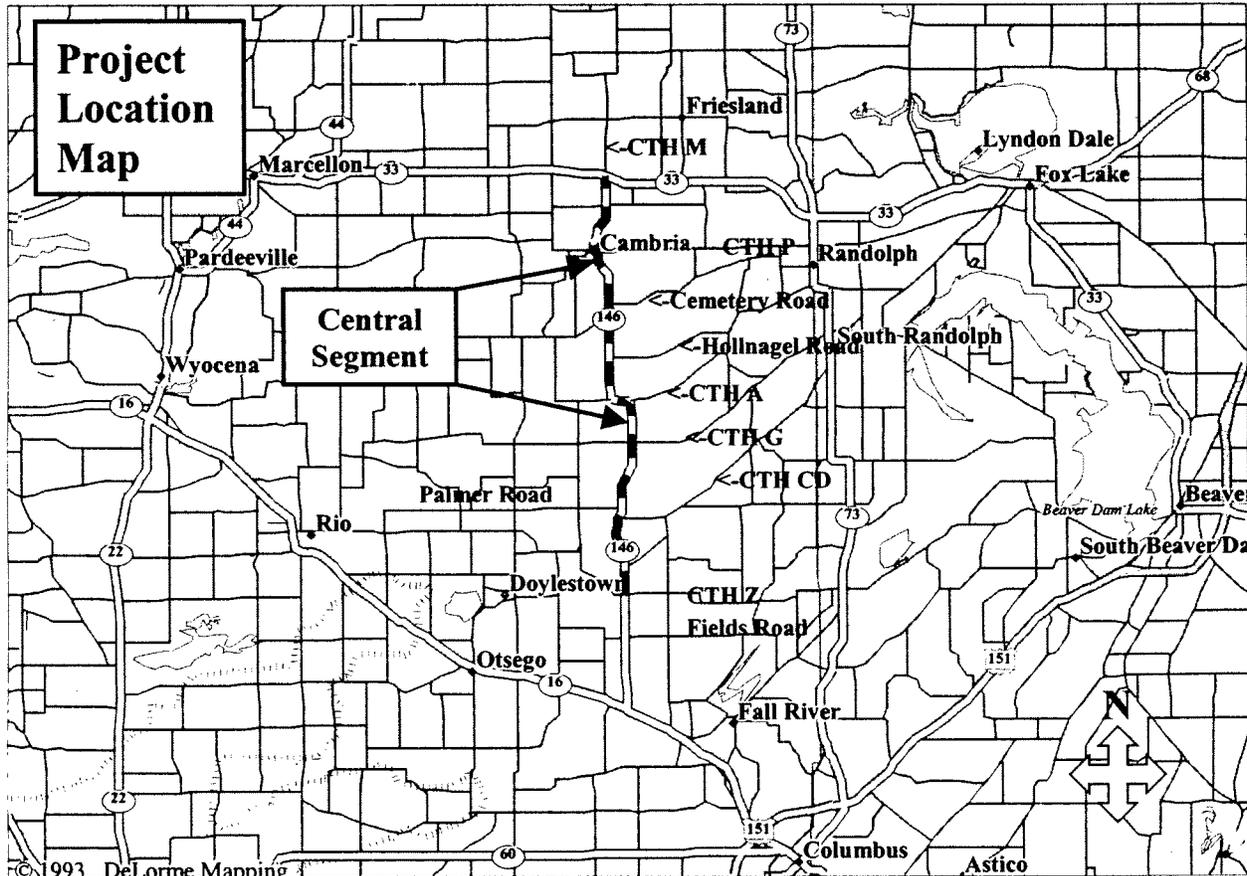
Sources of information used to prepare this statement include the *Wisconsin 2004 Agricultural Statistics* and other yearly issues; the *2002 Census of Agriculture*; the *Columbia County Farmland Preservation Plan*; the *Soil Survey of Columbia County*; the Wisconsin Department of Transportation; and the owners and operators of the affected farmland.

#### II. DESCRIPTION OF THE PROJECT

The Wisconsin Department of Transportation (WisDOT) is proposing to resurface and recondition a 10.5-mile segment of State Trunk Highway (STH) 146 from County Trunk Highway (CTH) "Z" to STH 33. This project is located in the towns of Fountain Prairie T11N-R12E, Courtland, T12N-R12E, and Randolph T13N-R12E in Columbia County. Refer to the Project Location Map on the next page. The project will require the fee-simple<sup>2</sup> acquisition of 18.7 acres of land from ten farmland owners. Acquisitions of the needed land are expected to begin in May

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<sup>2</sup>A fee-simple acquisition means that the buyer purchases exclusive rights to the property. This is in contrast to an easement where a buyer purchases partial rights to property.



of 2005 and construction is expected to start in the fall of 2007 or the spring of 2008.

There are actually three projects that will be combined and constructed as one project. The South Segment runs from CTH "Z" to just south of CTH "A." The Central Segment runs from just south of CTH "A" to the Wisconsin and Southern Railroad in the village of Cambria. The North segment runs from the Wisconsin and Southern Railroad to STH 33.

WisDOT is proposing to resurface the Southern Segment of the project. Shoulders will be added as well as ditches for improved drainage. The Northern Segment of the project will be resurfaced. The highway will

remain on its current alignment within the existing right-of-way in these areas.

In the Central Segment, WisDOT proposes to shift the highway alignment at three existing curves, two 90-degree curves where it intersects with CTH "A" and the curve just south of the village of Cambria. WisDOT also plans to level the grade of the highway to improve stopping sight distances.<sup>3</sup> The Central Segment changes will include new asphalt pavement, shoulders, and drainage

<sup>3</sup> Stopping sight distance is the minimum distance required by a driver traveling at a given speed to bring the vehicle to a stop after sighting an object in the path.

features. A climbing lane will also be constructed. WisDOT anticipates purchasing 17-foot wide strip acquisitions along the existing right-of-way. This will make the final right-of-way in the Central Segment 100 feet wide.

### Existing Highway

STH 146 is a two-lane rural highway in the Southern and Central Segments of the proposed project. The roadway consists of two 11-foot driving lanes and unpaved shoulders of 0 to 6 feet. North of the Wisconsin and Southern Railroad, STH 146 is a two-lane urban roadway with curb and gutter, 12-foot driving lanes, and paved shoulders that are 4 to 8 feet wide. North of Cambria to STH 33, the highway is a rural two-lane highway with 11-foot driving lanes and 0 to 6-foot wide shoulders. Two feet of each shoulder is paved. The existing right-of-way is mostly 66 feet wide throughout all three segments.

### Project Need

WisDOT has indicated that the profile in the Central Segment contains numerous crests and sags. As a result, the sight distances<sup>4</sup> throughout the project area are well below design standards. The substandard alignment

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<sup>4</sup> Sight distance is considered in terms of stopping sight distance and passing sight distance. These are the minimum distance needed for a driver to safely stop the vehicle after sighting an object in the path and the distance needed for one vehicle to pass another safely and comfortably without interfering with the speed of an oncoming vehicle traveling at the design speed of the roadway.

has created hidden driveways, intersections, and isolated curves throughout the project.

### Alternatives

WisDOT considered and rejected the following alternatives.

*No build:* No improvements would be made to the existing roadway except routine maintenance. WisDOT rejected this alternative because it would not improve the condition of the pavement, improve the horizontal or vertical alignment, or widen the shoulders.

*Other alignments:* WisDOT considered other alignments for the 90-degree curves where STH 146 intersects CTH "A." WisDOT considered curves with a 35-mph, 45-mph, and 55-mph design speeds. The 45-mph alignment was selected because it met the safety needs of the highway with the least damage to adjacent property. The existing curves have a 25-mph design speed.

## III. AGRICULTURAL SETTING

### Agricultural Productivity<sup>5</sup>

In 2003, Columbia County ranked fifth out of Wisconsin's 72 counties in the production of corn for grain and in tobacco, sixth in soybeans, and seventh in snap beans for

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<sup>5</sup>Wisconsin 2004 Agricultural Statistics, Wisconsin Agricultural Statistics Service, National Agricultural Statistics Service USDA, Wisconsin Department of Agriculture, Trade and Consumer Protection, 2004, pp. 18 through 70.

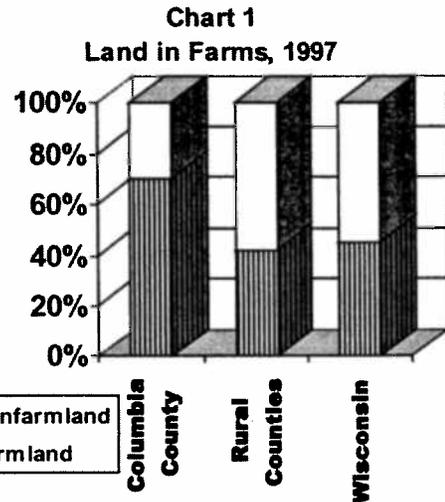
processing. In that same year, farmers in the county harvested 106,600 acres of corn for grain, 52,100 acres of soybeans, 40,300 acres of forage, 15,300 acres of corn for silage, and 5,600 acres of winter wheat. They also raised 57,000 head of cattle and calves, and 16,000 hogs and pigs.

Fifteen years earlier, Columbia County farmers harvested 84,000 acres of corn for grain, 47,200 acres of hay, 28,600 acres of corn for silage, 13,900 acres of soybeans, and 6,200 acres of winter wheat. They also raised 73,000 head of cattle and calves, and 63,000 hogs and pigs.

#### Land in Farms, Number of Farms, and Average Size of Farms

Columbia County is classified as a rural county, which is defined as having an average of less than 100 residents per square mile. According to the *2002 Census of Agriculture*, Columbia County has 348,369 acres of land in farms,<sup>6</sup> which represents 70.3 percent of the total land area. The average for rural counties is 225,217 acres of land in farms or 42.0 percent of the total land area. These can be compared to the average of 219,008 acres or 45.4 percent of land in farms among all Wisconsin counties. Refer to Chart 1 for a graphic comparison of the percentage of land in farms in Columbia County, rural counties, and all Wisconsin counties.

<sup>6</sup>Land in farms consists primarily of agricultural land used for crops, pasture, or grazing. It also includes woodland and wasteland not actually under cultivation or used for pasture or grazing, providing it was part of the farm operator's total operation.



According to the *Census of Agriculture*, Columbia County gained 13 farms (a 0.9 percent increase) between 1987 and 2002 as the total number rose from 1,513 to 1,526. Wisconsin as a whole gained 2,000 farms (a 2.7 percent increase) as the total number of farms in the state increased from 75,131 to 77,131 during the same period. The amount of land in farms increased from 335,056 to 348,369 acres (a 4 percent increase) in Columbia County. It declined from 16.6 to 15.7 million acres (a 5.2 percent loss) in Wisconsin during this fifteen-year period. The average size of farms rose from 221 to 228 acres in Columbia County. In the state as a whole, it declined from 221 to 204 acres.

#### Size Distribution of Farms<sup>7</sup>

Table 1 shows the percentage of farms in each size category for Columbia County, rural

<sup>7</sup>2002 *Census of Agriculture*, U.S. Department of Agriculture, Wisconsin Agricultural Statistics Service, 2004.

counties, and all Wisconsin counties. Proportionately, Columbia County has more farms that are smaller than 50 acres in size or larger than 500 acres in size compared to the averages for rural counties and all Wisconsin counties.

**Table 1**  
**Percent of Farms Per Size Category**

Acres per Farm	% of Columbia County Farms	% of Rural County Farms	% of all Wisconsin Farms
0-49	29.0%	23.7%	27.6%
50-179	36.7%	39.9%	38.2%
180-500	23.0%	28.0%	26.0%
More than 500	11.3%	8.4%	8.2%

### Property Taxes and Values

Table 2 lists the average property tax, assessed value, and sale price per acre of farmland in Columbia County, rural counties, and all Wisconsin counties. In 2000/01, average property taxes<sup>8</sup> on Columbia County farmland were 36.4 percent higher than the average for rural counties and 29.9 percent higher than the average for all counties.

<sup>8</sup>Wisconsin Department of Revenue, Division of Research and Analysis, Bureau of Local Fiscal Policy.

**Table 2**  
**Farmland Taxes and Assessed Value**

	2000/2001 Dollars per acre of Farmland		
	Average Tax	Assessed Value	Sale Value
Columbia County	\$10.24	\$521	\$2,320
Rural Counties	7.51	379	1,337
All Counties	7.88	409	1,867

On average, the assessed value<sup>9</sup> of farmland in Columbia County was 37.5 percent higher than the average for all rural counties and 27.4 percent higher than the average for all Wisconsin counties.

The average sale price<sup>10</sup> of farmland in Columbia County was 73.5 percent higher than the average for rural counties and 24.3 percent higher than the average for all counties. These values do not include land sold for nonfarm purposes.

### Soils<sup>11</sup>

In general, the southern half of the Central Segment of this project passes through the Grellton-Gilford-Friesland soil association.

<sup>9</sup> Ibid.

<sup>10</sup> Wisconsin 2003 Agricultural Statistics, Wisconsin Agricultural Statistics Service, National Agricultural Statistics Service USDA, Wisconsin Department of Agriculture, Trade and Consumer Protection, August 2003, pp. 10 and 11.

<sup>11</sup> Soil Survey of Columbia County, USDA Soil Conservation Service in cooperation with the Research Division of the College of Agricultural and life Sciences, University of Wisconsin, July 1978, Sheet 51, pp. 3-8, 27, 28, 54, and 55.

Continuing north, it passes through about 1/3 of a mile of the St. Charles-Ossian-Dodge soil association, about 1/2 of a mile of the Plano-Griswold-Saybrook soil association, and about 1/4 of a mile of the St. Charles-Ossian-Dodge soil association.

The Grellton-Gilford-Friesland soil association has well drained to poorly drained loamy soils that have a dominantly loamy subsoil. They are underlain by sandy loam glacial till, stratified silt and sand, or silty sediment. This association is mostly found on nearly level and gently sloping undulating ground moraines. It consists of about 18 percent Grellton soils, 15 percent Gilford soils, 12 percent Friesland soils, and 55 percent minor soils. Friesland and Grellton soils are prime where their slopes are 6 percent or less. Gilford soils are prime where drained and where their slopes are 3 percent or less. Refer to Appendix V for a definition of prime farmland.

The St. Charles-Ossian-Dodge association has well drained to poorly drained silty soils that have a silty subsoil. They are underlain by sandy loam glacial till or silty sediment. This association consists of about 25 percent St. Charles soils, 16 percent Ossian soils, 12 percent Dodge soils, and 47 percent minor soils. The St. Charles and Dodge soils are prime where their slopes are 6 percent or less. The Ossian soils are prime where drained.

The Plano-Griswold-Saybrook association has well drained to moderately well drained silty soils that have a silty or loamy subsoil. They are underlain by sandy loam glacial till. This association is found on glaciated uplands. It

consists of about 50 percent Plano soils, 14 percent Griswold soils, 10 percent Saybrook soils, and 26 percent minor soils. All of the major soils in this association are prime where their slopes are 6 percent or less.

Most of the soils that will be removed from production are located at two curves where STH 146 and CTH "A" intersect. These soils are Friesland fine sandy loam with 1 to 6 percent slopes and Plano silt loam with 2 to 6 percent slopes.

Friesland fine sandy loam with 1 to 6 percent slopes has slow runoff and the hazard of water erosion is slight. It is prime farmland and is included in capability class IIe-1. Refer to Appendix VI for descriptions of capability classes.

Plano silt loam with 2 to 6 percent slopes has slow runoff and a generally slight hazard of erosion. It is prime farmland and is included in capability class IIe-1.

### **Farmland Preservation**

The Columbia County Farmland Preservation Plan was certified in 1978. The plan identifies farmland preservation areas in the county and provides tax credit eligibility to farmers who wish to participate in the Farmland Preservation program. The purposes of the program are to encourage local governments to develop farmland preservation policies through land use planning and zoning, provide tax relief in the form of tax credits to eligible farmers, and to conserve soil and water resources. The tax credit is provided to owners of farmland protected by a

preservation agreement or an exclusive agricultural zoning ordinance.

The town Courtland, where the acquisitions of farmland for this project will occur, has adopted the county's exclusive agricultural zoning ordinance. Therefore, eligible farmland owners in this town can receive 100 percent of the available tax credit.

Farmland owners who participate in the Farmland Preservation program do not have to pay back any of the tax credits they have received through the program on land that would be acquired for this project. However, the loss of any farmland enrolled in the federal government's various commodity programs could affect a farmer's base acreage resulting in lower revenue from these programs.

#### IV. AGRICULTURAL IMPACTS

An Agricultural Impact Statement (AIS) is required by law when more than 5 acres from any farm operation will be acquired for a public project. Thirty days after the publication date of the AIS, the purchasing agency may begin negotiating with the affected farmland owners.

The following table lists the farmland owners who will be directly affected by the proposed project and the approximate acreage to be acquired from each of them.

**Table 3**  
**Acres of Farmland to be Acquired**

<b>Farmland Owners</b>	<b>Acres Acquired in Fee-Simple</b>
Seneca Foods Corp.	1.5
Kirby E. Moldenhauer	1.5
Duwayne F., Shelby J., Michael, & Sherrie Heller	1.1
Donald W. & Joann M. Wingers	9.2
Dennis M. & Kathie A. Wingers	1.3
19 acquisitions each less than one acre	4.1
<b>TOTAL</b>	<b>18.7</b>

WisDOT has indicated that the proposed project will not affect access to the adjacent agricultural property and no farm operations will be severed. The proposed project will not require the acquisition of any farm buildings.

The following farmland owners will lose more than one acre of land as a result of the proposed project and they responded to requests for information about the proposed project's impacts on their property.

**Farmland Owner:** Seneca Foods Corp.  
**Operators:** Dennis Jones and Donald Wingers  
**Proposed Acquisition:** Fee-simple acquisition of 1.5 acres

Seneca Foods Corp. owns 164.7 acres of land consisting of 80 acres of cropland, 40 acres of wetland, 4.7 acres for the buildings, and 40 acres in other use. They rent 40 acres of cropland to Dennis Jones and 40 acres to

Donald Wingers. Mr. Wingers will also lose 9.2 acres of his own land as a result of this project. He did not respond to DATCP's request for information about the project's potential impacts on his farm operation.

The owners are concerned that the project may affect a pivot irrigation system and its holding tanks and collection pit.

**Farm Owner/Operator:** Kirby E. Moldenhauer

**Proposed Acquisition:** Fee-simple acquisition of 1.5 acres

Mr. Moldenhauer owns 162.84 acres of land consisting of 148 acres of cropland, 3 acres of pasture, 7.24 acres of wetland, and 4.6 acres for the buildings. This land is zoned for exclusive agricultural use. In an average year, he grows 68 acres of corn, 7 acres of hay, 7 acres of oats, 63 acres of soybeans, and 3 acres of other crops. He also raises 300 hogs.

Mr. Moldenhauer indicated that the proposed project will affect a portable hog coop, which will need to be moved. It will also affect fencing along the existing right-of-way.

**Farm Owners/Operators:** Duwayne F., Shelby J., Michael, and Sherrie Heller

**Proposed Acquisition:** Fee-simple acquisition of 1.1 acres

The Hellers own 257 acres of land consisting of 223 acres of cropland, 32 acres of wetland, and 2 acres for the buildings. This land is zoned for exclusive agricultural use. In an average year, the Hellers grow 80 acres of corn, 25 acres of hay, and 40 acres of

soybeans. They also run a 35-cow dairy operation with 25 replacement dairy cattle and 25 beef cattle.

The owners indicated that their driveway is blacktopped and that they just put up a new farm sign at the end of their driveway with a flowerbed.

### **Drainage**

The proposed project does not appear to affect any drainage districts in Columbia County. It is located just west of Drainage District Number 23.

Proper field drainage is vital to a successful farm operation. Highway construction can disrupt improvements such as drainage tiling, grassed waterways, ditches, and culverts, which regulate the drainage of farm fields. In addition, construction of impervious paved surfaces can also impede drainage and increase runoff. If drainage is impaired, water can settle in fields and cause substantial damage, such as harming or killing crops and other vegetation, concentrating mineral salts, flooding farm buildings, or causing hoof rot and other diseases that affect livestock. Where salt is used on road surfaces, runoff water can increase the content of salt in nearby soils.

Section 88.87 of the *Wisconsin Statutes* requires highways to be built with adequate ditches, culverts, and other facilities to prevent obstruction of drainage, protect property owners from damage to lands caused by unreasonable diversion or retention of surface water, and maintain, as nearly as possible, the

original drainage flow patterns. Refer to Appendix IV for the statutes pertaining to drainage rights. Landowners whose property is damaged by improper construction or maintenance of highway facilities and highway drainage structures may file a claim with WisDOT within three years after the damage occurs.

### **Obliterated Roadbed**

Existing roadbed will be obliterated at the two 90 degree curves where STH 146 intersects CTH "A." It is possible that some of these areas could revert back to the adjacent landowners. WisDOT currently owns an easement on the existing right-of-way in this area.

According to WisDOT's *Standard Specifications for Highway and Structure Construction*,<sup>12</sup> when an old roadbed is obliterated, surfacing material shall be removed and disposed of, and ditches shall be filled in. The area will then be graded to a contour that will merge with the adjoining contour. After rough grading is completed, these areas shall be covered with topsoil, harrowed, smoothed, fertilized, and seeded in accordance with WisDOT guidelines. Topsoil is usually spread to a depth of four inches.

The agricultural value of any obliterated roadway depends on the use and quality of adjoining land and on the depth and quality of

the restored area's subsoils and topsoil. Soils beneath the obliterated roadway have been compacted by roadway traffic. This may adversely affect plant growth for several years until plowing and the natural freezing and thawing process have loosened the compacted soil.

### **Fencing**

If fencing or other improvements are damaged outside of the right-of-way, the owner could receive damages, or the improvement will be restored, repaired, or replaced to a condition similar or equal to that existing before the damage was done.

### **Appraisal Process**

WisDOT will provide an appraisal of the affected property to the landowners. This will be the basis for their offer. The landowners have the right to obtain their own appraisal of their property. They will be compensated for the cost of this appraisal if the following conditions are met.

1. The appraisal must be submitted to WisDOT within 60 days after the landowner receives WisDOT's appraisal.
2. The appraisal fee must be reasonable.
3. The appraisal must be complete.

The amount of compensation is based on these appraisals and is established during the negotiation process between WisDOT and the individual landowners. An appraisal is an estimate of fair market value. WisDOT is

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<sup>12</sup>*Standard Specifications for Highway and Structure Construction*, State of Wisconsin Department of Transportation, 2003, sections 214 and 625.

required to provide landowners with information about their rights in this process before negotiations begin.

## **V. RECOMMENDATIONS**

The DATCP recommends the following as ways to mitigate the potential adverse impacts associated with the proposed project:

1. WisDOT should avoid or minimize as much as possible the negative impacts on Seneca Foods' irrigation system and the Hellers' blacktopped driveway, flowerbed, and farm sign. If Kirby Moldenhauer's hog coop must be moved, WisDOT should compensate him for that relocation.
2. The county conservationist should be consulted to ensure that construction proceeds in a manner that minimizes drainage problems, crop damage, soil compaction, and soil erosion on adjacent farmland.
3. All farmland owners and operators should be given advance notice of acquisition and construction schedules so that farm activities can be adjusted accordingly. To the extent feasible, the timing of the acquisitions and construction should be coordinated with them to minimize crop damage and disruption of farm operations.

## **APPENDICES**

The information provided in this section summarizes and is an interpretation of some of the statutes associated with the acquisition of farmland for public projects. It serves as a reference and should not be considered an exhaustive summary of the statutes or your rights. It is not a substitute for legal advice. In the event of any conflict between the information summarized below and the statutes, the statutes are controlling.

## Appendix I: Agricultural Impact Statements

*The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is required to prepare an Agricultural Impact Statement (AIS) whenever more than five acres of land from at least one farm operation will be acquired for a public project if the agency acquiring the land has the authority to use eminent domain for the acquisition(s). The DATCP has the option to prepare an AIS for projects affecting five or fewer acres from each farm. An AIS would be prepared in such a case if the proposed project would have significant effects on a farm operation. The agency proposing the acquisition(s) is required to provide the DATCP with the details of the project and acquisition(s). After receiving the needed information, DATCP has 60 days to analyze the project's effects on farm operations, make recommendations about it and publish the AIS. DATCP will provide copies of the AIS to affected farmland owners, various state and local officials, local media and libraries, and any other individual or group who requests a copy. Thirty days after the date of publication, the proposing agency may begin negotiating with the landowner(s) for the property.*

### **Section 32.035 of the Wisconsin Statutes: Agricultural impact statement.**

(1) Definitions. In this section:

(a) "Department" means department of agriculture, trade and consumer protection.

(b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 (1), for sale and home use, and customarily producing the commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(2) EXCEPTION. This section shall not apply if an environmental impact statement under s. 1.11 is prepared for the proposed project and if the department submits the information required under this section as part of such statement or if the condemnation is for an easement for the purpose of constructing or operating an electric transmission line, except a high voltage transmission line as defined in s. 196.491(1)(f).

(3) PROCEDURE. The condemnor shall notify the department of any project involving the actual or potential exercise of the powers of eminent domain affecting a farm operation. If the condemnor is the department of natural resources, the notice required by this subsection shall be given at the time that permission of the senate and assembly committees on natural resources is sought under s. 23.09(2)(d) or 27.01(2)(a). To prepare an agricultural impact statement under this section, the department may require the condemnor to compile and submit information about an affected farm operation. The department shall charge the condemnor a fee approximating the actual costs of preparing the statement. The department may not publish the statement if the fee is not paid.

(4) IMPACT STATEMENT. (a) When an impact statement is required; permitted. The department shall prepare an agricultural impact statement for each project, except a project under ch. 81 or a project located entirely within the boundaries of a city or village, if the project

involves the actual or potential exercise of the powers of eminent domain and if any interest in more than 5 acres from any farm operation may be taken. The department may prepare an agricultural impact statement on a project located entirely within the boundaries of a city or village or involving any interest in 5 or fewer acres of any farm operation if the condemnation would have a significant effect on any farm operation as a whole.

(b) *Contents.* The agricultural impact statement shall include:

1. A list of the acreage and description of all land lost to agricultural production and all other land with reduced productive capacity, whether or not the land is taken.
2. The department's analyses, conclusions and recommendations concerning the agricultural impact of the project.

(c) *Preparation time; publication.* The department shall prepare the impact statement within 60 days of receiving the information requested from the condemnor under sub. (3). The department shall publish the statement upon receipt of the fee required under sub. (3).

(d) *Waiting period.* The condemnor may not negotiate with an owner or make a jurisdictional offer under this subchapter until 30 days after the impact statement is published.

(5) **PUBLICATION.** Upon completing the impact statement, the department shall distribute the impact statement to the following:

- (a) The governor's office.
- (b) The senate and assembly committees on agriculture and transportation.
- (c) All local and regional units of government which have jurisdiction over the area affected by the project. The department shall request that each unit post the statement at the place normally used for public notice.
- (d) Local and regional news media in the area affected.
- (e) Public libraries in the area affected.
- (f) Any individual, group, club or committee which has demonstrated an interest and has requested receipt of such information.
- (g) The condemnor.

## Appendix II: Eminent Domain

*Fair compensation for a partial taking of property under eminent domain is the larger of two figures: (1) the fair market value of the acquired property or (2) the fair market value of the entire parcel before the acquisition minus the fair market value of the remaining parcel.*

*Compensation will be paid for the land acquired, any improvements acquired (structures, fencing, etc.), loss of access, loss of a use of this property, and damages resulting from severance of the property (including land and improvements). The condemnor may provide compensation for increased travel distances.*

*In addition to other compensation, a condemnor is required to make a payment of \$50,000 or less to any displaced farm or business owner who has owned the property for at least one year and who purchases a comparable replacement farm or business within two years of the acquisition. The amount of this payment would include any additional amount of money needed to equal the reasonable cost of a replacement farm or business, any increased interest or debt service charges, and closing costs. Displaced renters may also receive compensation if they rent or lease a comparable replacement farm or business within two years of the acquisition. If the displaced tenant rents or leases a comparable farm or business, the payment would include the amount needed to rent the replacement property for four years. This payment would not exceed \$30,000. If the renter decides to purchase a comparable farm or business, the payment would be equal to the rental or lease of that property for four years plus closing fees.*

*If a project would displace any person, business, or farm operation, the condemnor must file and have approved a written relocation payment plan and a relocation assistance service plan with the Department of Commerce. The condemnor must determine the relocation payment, assist displaced persons, businesses and farm operations to find comparable replacement properties, provide information about any government assistance to displaced persons, and coordinate the displacement with other project activities in a timely manner to avoid causing hardship*

### **Section 32.09 of the Wisconsin Statutes describes the compensation provided for property acquisition and certain damages:**

(6) In the case of a partial taking of property other than an easement, the compensation to be paid by the condemnor shall be the greater of either the fair market value of the property taken as of the date of evaluation or the sum determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the following items of loss or damage to the property where shown to exist:

- (a) Loss of land including improvements and fixtures actually taken.

(b) Deprivation or restriction of existing right of access to highway from abutting land, provided that nothing herein shall operate to restrict the power of the state or any of its subdivisions or any municipality to deprive or restrict such access without compensation under any duly authorized exercise of the police power.

(c) Loss of air rights.

(d) Loss of a legal nonconforming use.

(e) Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.

(f) Damages to property abutting on a highway right-of-way due to change of grade where accompanied by a taking of land.

(g) Cost of fencing reasonably necessary to separate land taken from remainder of condemnee's land, less the amount allowed for fencing taken under par. (a), but no such damage shall be allowed where the public improvement includes fencing of right of way without cost to abutting lands.

**Section 32.19 of the *Wisconsin Statutes* outlines payments to be made to displaced tenant-occupied businesses and farm operations.**

**(4m) BUSINESS OR FARM REPLACEMENT PAYMENT.** (a) *Owner-occupied business or farm operation.* In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment, not to exceed \$50,000, to any owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies, and who actually purchases a comparable replacement business or farm operation for the acquired property within two years after the date the person vacates the acquired property or receives payment from the condemnor, whichever is later. An owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies may elect to receive the payment under par. (b) 1. in lieu of the payment under this paragraph, but the amount of payment under par. (b) 1. to such an owner displaced person may not exceed the amount the owner displaced person is eligible to receive under this paragraph. The additional payment under this paragraph shall include the following amounts:

1. The amount, if any, which when added to the acquisition cost of the property, other than any dwelling on the property, equals the reasonable cost of a comparable replacement business or farm operation for the acquired property, as determined by the condemnor.

2. The amount, if any, which will compensate such owner displaced person for any increased interest and other debt service costs which such person is required to pay for financing the acquisitions of any replacement property, if the property acquired was encumbered by a bona fide mortgage or land contract which was a valid lien on the property for at least one year prior to the initiation of negotiations for its acquisition. The amount under this subdivision shall be determined according to rules promulgated by the department of commerce.

3. Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement property, but not including prepaid expenses.

(b) *Tenant-occupied business or farm operation.* In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any tenant displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to initiation of negotiations for the acquisition of the real property on which the business or operation lies or, if displacement is not a direct result of acquisition, such other event as determined by the department of commerce, and who actually rents or purchases a comparable replacement business or farm operation within 2 years after the date the person vacates the property. At the option of the tenant displaced person, such payment shall be either:

1. The amount, not to exceed \$30,000, which is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years. The payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the department of commerce and the monthly rent of a comparable replacement business or farm operation and multiply the difference by 48; or

2. If the tenant displaced person elects to purchase a comparable replacement business or farm operation, the amount determined under subd. 1 plus expenses under par. (a) 3.

(5) EMINENT DOMAIN. Nothing in this section or ss. 32.25 to 32.27 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages.

**Section 32.25 of the *Wisconsin Statutes* delineates steps to be followed when displacing persons, businesses, and farm operations.**

(1) Except as provided under sub.(3) and s. 85.09 (4m), no condemnor may proceed with any activity that may involve the displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the department of commerce.

(2) The relocation assistance service plan shall contain evidence that the condemnor has taken reasonable and appropriate steps to:

(a) Determine the cost of any relocation payments and services or the methods that are going to be used to determine such costs.

(b) Assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms.

(c) Assist displaced owners or renters in the location of comparable dwellings.

(d) Supply information concerning programs of federal, state and local governments which offer assistance to displaced persons and business concerns.

(e) Assist in minimizing hardships to displaced persons in adjusting to relocation.

(f) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the implementation of the relocation program.

(g) Determine the approximate number of persons, farms or businesses that will be displaced and the availability of decent, safe and sanitary replacement housing.

(h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished, housing meeting the standards established by the department of commerce for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such displaced families or individuals and reasonably accessible to their places of employment.

(i) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable dwelling.

(3)(a) Subsection (1) does not apply to any of the following activities engaged in by a condemnor:

1. Obtaining an appraisal of property.

2. Obtaining an option to purchase property, regardless of whether the option specifies the purchase price, if the property is not part of a program or project receiving federal financial assistance.

### Appendix III: Access

*WisDOT must reconstruct any entrance to property abutting a highway if there is a change in the highway alignment affecting that entrance. If a new highway severs property, WisDOT must provide an entrance to both parcels of land. The landowner is responsible for the maintenance of these access points after construction is completed.*

*WisDOT has the authority to limit the number of access points to and from rural segments of the state trunk system serving more than 2,000 vehicles per day. Access to a road or private property may be taken away if WisDOT determines a need for access control. A controlled-access highway is one where the entrance to and departure from the highway is limited. Access controls can be placed on a new or existing highway and WisDOT can limit access by providing a grade separation, service roads or closing access to an intersecting road. Additional access to a controlled-access highway will not be provided without WisDOT's written permission. When a controlled-access highway severs a parcel, WisDOT may provide a crossover point for the owner to travel between the severed parcels. The access in these cases is removed when the parcels are no longer owned by the same party.*

**Section 86.05 of the Wisconsin Statutes states that access shall be provided to land which abuts a highway:**

Entrances to highway restored. Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements, and if the premises are divided by the highway, then one such entrance shall be constructed on each side of the highway. Thereafter, each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

**Section 84.25 of the Wisconsin Statutes describes access restrictions concerning a controlled-access highway:**

(3) CONSTRUCTION; OTHER POWERS OF DEPARTMENT. In order to provide for the public safety, convenience and the general welfare, the department may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the department deems necessary or desirable. The department may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into

separate roadways or lanes by raised curbing, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

(4) **CONNECTIONS BY OTHER HIGHWAYS.** After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

(5) **USE OF HIGHWAY.** No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the department.

(6) **ABUTTING OWNERS.** After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

(7) **SPECIAL CROSSING PERMITS.** Whenever property held under one ownership is severed by a controlled-access highway, the department may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

#### Appendix IV: Drainage

*Roads and railroad grades must be constructed and maintained so they do not impede the general flow of surface water in an unreasonable manner. Roads and railroad grades must be constructed with adequate ditches, culverts and other facilities to maintain a practical drainage pattern.*

*The following specifications and statutes cited address some of the impacts which could potentially occur during and after the proposed highway project. The statutes cited can be found in full in the following: Orlan L. Prestegard (ed.), Wisconsin Statutes, State of Wisconsin, 2000-01. WisDOT's specifications can be found in Standard Specifications for Highway and Structure Construction, State of Wisconsin, Department of Transportation, 2003. DATCP recommends that farmland owners concerned about drainage should consult these texts for further information.*

**Section 88.87(2) of the *Wisconsin Statutes* describes regulations concerning rights of drainage:**

- (a) Whenever any county, town, city, village, railroad company or the department of transportation has heretofore constructed and now maintains or hereafter constructs and maintains any highway or railroad grade in or across any marsh, lowland, natural depression, natural watercourse, natural or man-made channel or drainage course, it shall not impede the general flow of surface water or stream water in any unreasonable manner so as to cause either an unnecessary accumulation of waters flooding or water-soaking uplands or an unreasonable accumulation and discharge of surface water flooding or water-soaking lowlands. All such highways and railroad grades shall be constructed with adequate ditches, culverts, and other facilities as may be feasible, consonant with sound engineering practices, to the end of maintaining as far as practicable the original flow lines of drainage. This paragraph does not apply to highways or railroad grades used to hold and retain water for cranberry or conservation management purposes.
- (b) Drainage rights and easements may be purchased or condemned by the public authority or railroad company having control of the highway or railroad grade to aid in the prevention of damage to property owners which might otherwise occur as a result of failure to comply with par. (a).
- (c) If a city, village, town, county, or railroad company or the department of transportation constructs and maintains a highway or railroad grade not in accordance with par. (a), any property owner damaged by the highway or railroad grade may, within 3 years after the alleged damage occurred, file a claim with the appropriate governmental agency or railroad company. The claim shall consist of a sworn statement of the alleged faulty construction and a description, sufficient to determine the location of the lands, of the lands alleged to have been damaged by flooding or water-soaking. Within 90 days after the filing of that claim, the governmental agency

or railroad company shall either correct the cause of the water damage, acquire rights to use the land for drainage or overflow purposes, or deny the claim. If the agency or company denies the claim or fails to take any action within 90 days after the filing of the claim, the property owner may bring an action in inverse condemnation under ch. 32 or sue for such other relief, other than damages, as may be just and equitable.

**WisDOT specification 205.3.3 further describes its policies concerning drainage:**

During construction, maintain roadway, ditches, and channels in a well-drained condition at all times by keeping the excavation areas and embankments sloped to the approximate section of the ultimate earth grade. Perform blading or leveling operations when placing embankments and during the process of excavation except if the excavation is in ledge rock or areas where leveling is not practical or necessary. If it is necessary in the prosecution of the work to interrupt existing surface drainage, or under drainage, provide temporary drainage until completing permanent drainage work.

If storing salvaged topsoil on the right-of-way during construction operation, stockpile it to preclude interference with or obstruction of surface drainage.

Seal subgrade surfaces as specified for subgrade intermediate consolidation and trimming in 207.3.9.

Preserve, protect and maintain all existing tile drains, sewers, and other subsurface drains, or parts thereof, that the engineer judges should continue in service without change. Repair, with no expense to the department, all damage to these facilities resulting from negligence or carelessness of the contractor's operations.

## **Appendix V: General Criteria for the Classification of Important Farmlands**

The following discussion summarizes the USDA Natural Resources Conservation Service's written criteria for classifying farmlands, greater detail can be obtained from the Natural Resources Conservation Service office located at 6515 Watts Road, Suite 200, Madison, WI 53719-2726.

### **Prime Farmland**

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

### **Unique Farmland**

Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

### **Additional Farmland of Statewide Importance**

This is land, in addition to prime and unique farmland, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate state agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some states, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by state law.

### **Additional Farmland of Local Importance**

In some local areas there is concern for certain additional farmland for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

## Appendix VI: NRCS Soil Capability Classes

The following discussion summarizes the USDA Natural Resources Conservation Service's written criteria for land capability classification, greater detail can be obtained from the Natural Resources Conservation Service office located at 6515 Watts Road, Suite 200, Madison, WI 53719-2726.

Land suited to Cultivation and Other Uses:

**Class I** soils have few limitations that restrict their use.

**Class II** soils have some limitations that reduce the choice of plants or require moderate conservation practices.

**Class III** soils have severe limitations that reduce the choice of plants or require special conservation practices, or both.

**Class IV** soils have very severe limitations that restrict the choice of plants , require very careful management, or both.

Land Limited in Use-Generally Not Suited to Cultivation

**Class V** soils have little or no erosion hazard but have other limitations impractical to remove that limit their use largely to pasture, range, woodland, or wildlife food and cover.

**Class VI** soils have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture or range, woodland, or wildlife food and cover.

**Class VII** soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to grazing, woodland, or wildlife.

**Class VIII** soils and landforms have limitations that preclude their use for commercial plant production.

### Soil Capability Subclasses

A subclass is a group of capability units within a class which has the dominant soil or climatic limitations for agricultural use. Capability Class I has no subclasses. There are four subclasses, designated by letter symbols and defined as follows:

- e** Erosion susceptibility is the dominant problem or hazard. Both erosion susceptibility and past erosion damage are major soil factors for placement in this subclass.
- s** Soil limitations within the rooting zone, such as shallowness of rooting zones, stones, low moisture-holding capacity, low fertility that is difficult to correct, and salinity or sodium, are dominant.
- w** Excess water is the dominant hazard or limitation. Poor soil drainage, wetness, high water table, and overflow are the criteria for placing soils in this subclass.
- c** Climate (temperature or lack of moisture) is the only major hazard or limitation.

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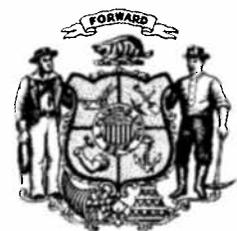
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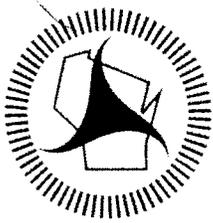
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## Wisconsin Department of Transportation

www.dot.wisconsin.gov

REFER  
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December 30, 2005

Telephone: 608-266-0402  
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Robert Marchant  
Senate Chief Clerk  
Room 401 Risser Justice Center  
P. O. Box 7882  
Madison, WI 53707-7882

Dear Mr. Marchant:

I am pleased to present to you, for distribution to the Wisconsin Senate, the annual evaluation report on the Pretrial Intoxicated Driver Intervention Grant Program. It is also available on our website [www.dot.wisconsin.gov/library/publications/topic/safety.htm](http://www.dot.wisconsin.gov/library/publications/topic/safety.htm). The program, created by section 8<sup>5</sup>.53 Wis. Stats., was established by the legislature in 1997 with the requirement that the Department study its impact and report on its findings.

The Pretrial Intoxicated Driver Intervention Grant Program is intended for offenders who are arrested for their second or subsequent OWI (Operating While Intoxicated) offense. Offender participation may be voluntary or court ordered. It is an intervention model designed to get offenders into counseling, treatment and supervision as soon as possible after the arrest. The program is individual to each community.

As you will see in the report, no community that has begun a program has dropped it. Overall, offenders who successfully completed the program were less likely than non-participants to be re-arrested for subsequent OWI violations. Those who were re-arrested went significantly longer between arrests than non-participants. Currently there are seven counties on a waiting list for funding to begin programs.

I commend those people who have dedicated themselves to making this innovative program a success. There are no "silver bullets" in eradicating impaired driving, but I feel this effort is a vital piece in the total transportation safety effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel W. Lonsdorf".

Major Daniel W. Lonsdorf, Director  
Bureau of Transportation Safety

Enc:

**Wisconsin's  
Pretrial Intoxicated Driver Intervention Grant Program  
Annual Report**

**December 2005**

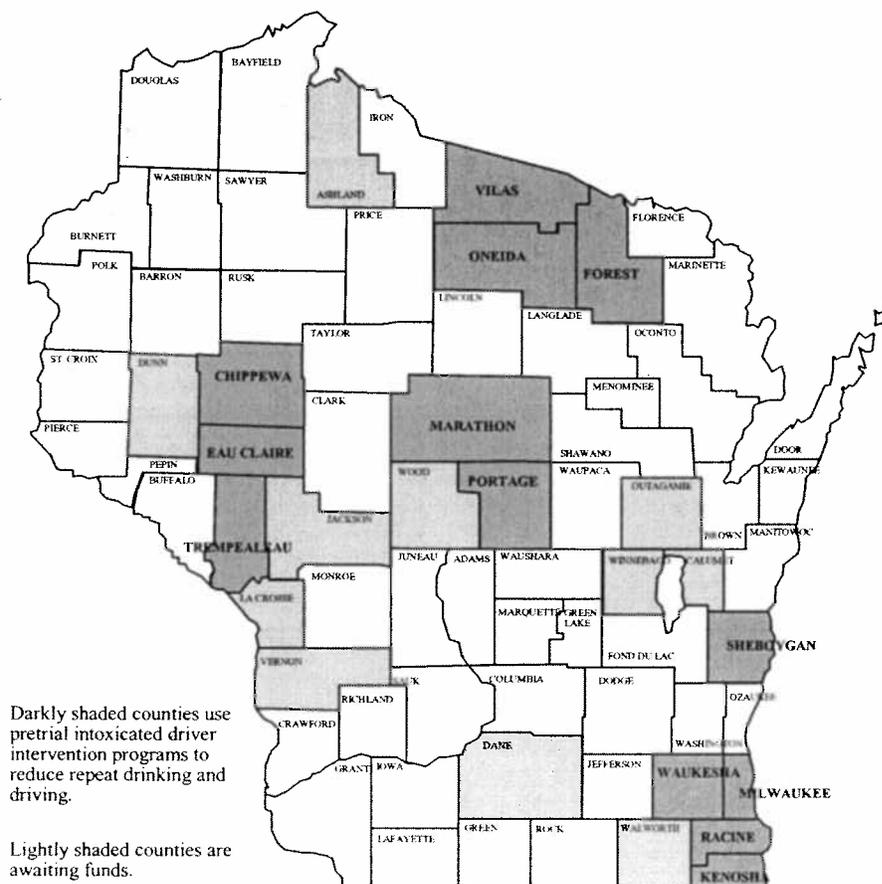


*Prepared by:* Wisconsin Department of Transportation, Division of State Patrol, Bureau of Transportation Safety

## Executive Summary

Pretrial intoxicated driver intervention programs, more commonly known as intensive supervision programs (ISPs), aim to rehabilitate drinking drivers as soon as possible after arrest and before conviction, reducing the likelihood of future drinking and driving.

- ISPs include similar strategies in their operational models, but tailor their programs to fit local court requirements and available resources.
- ISPs have operated in Wisconsin since 1993, and supporting state grant funding has been available since the 1997-1999 state budget.
- During fiscal year October 1, 2004 – September 30, 2005, 4,702 drivers arrested for Operating While Intoxicated (OWI) received services from the 11 ISPs serving 13 Wisconsin counties, with a successful client completion rate of 82%.
- Successful client completion of ISPs can reduce pressure on county jails.
- Multi-year analysis of recidivism by ISP clients demonstrates that clients who complete their program are less likely to be re-arrested for drinking and driving than are drivers who did not go through an ISP. Thirty-three percent of the ISP clients from July-December 1998 have been re-arrested, while 41% of the non-clients have.
- For those few ISP clients who are re-arrested, the elapsed time to a subsequent offense is longer. July-December 1998 ISP clients went an average of over 2½ years until their next OWI re-arrest; non-ISP clients did not make it two years.
- Nine additional Wisconsin communities have indicated willingness to start up new ISPs that would serve OWI offenders in 11 additional counties should state funds become available.



## **Background**

Historically, Wisconsin has used fines, license sanctions and incarceration as consequences to drivers convicted of repeated Operating While Intoxicated (OWI) or a related offense. Experience suggests that incarceration alone does not alter the drinking and driving behavior of individuals with alcohol-related problems. In the last two decades, public policies have been designed that attempt to use education and rehabilitation to change the drinking and driving behavior of persons convicted of OWI. The more successful of these efforts build on the theory that intervention efficacy decreases as time passes between proscribed behavior and resultant consequences. In other words, they emphasize intervention as early as possible in an individual's drinking and driving experience.

The pretrial intensive supervision program (ISP) concept was introduced to Wisconsin in 1993, with startup funding made available via a federal Section 410 Alcohol Incentive Grant. In response to the great promise shown in reducing OWI recidivism among drivers convicted of more than one OWI offense in the Milwaukee pilot ISP, the Wisconsin Legislature authorized state funding to support ISP efforts in the 1997-1999 budget. Continued federal Section 410 funding and state ISP grant funds continue to be administered by the Wisconsin Department of Transportation (WisDOT) Bureau of Transportation Safety (BOTS).

Wisconsin State Statute Section 85.53 codifies the management of the formally named Pretrial Intoxicated Driver Intervention Grant Program and requires WisDOT to biennially submit reports on the program's effectiveness to the legislature. What follows is the *2005 Pretrial Intoxicated Driver Intervention Grant Program Annual Report*. It summarizes the 11 pretrial intoxicated driver intervention programs that were operating in Wisconsin between October 1, 2004 and September 30, 2005.

## **Introduction**

Pretrial ISPs are court intervention programs that aim to connect the repeat OWI offender with assessment and treatment as soon as possible after arrest and before conviction. Offenders are monitored and allowed to live in the community while awaiting their court dates, as long as they comply with their court-ordered bond conditions.

Each Wisconsin Intensive Supervision Program includes three core elements, which are:

- Centralized supervision, structured participant program monitoring, uniform data collection, standardized review of program compliance, and professional evaluation of program progress in coordination with the criminal justice system.
- Provision for community supervision and monitoring of repeat OWI offenders from the time of arrest and formal charging through final adjudication.
- Development and coordination of an array of interventions for the offender while under community supervision which may include: referrals for substance abuse treatment; referrals to the county selected assessor to develop a Driver Safety Plan, including the completion of the state-required assessment; random alcohol tests and drug screens; and attendance at such relevant activities as victim impact panels.

While each ISP incorporates these operational processes into its program model, each county designs and implements a model that fits within its criminal justice system and can be supported through its community resources.

## Funding

To qualify for state ISP funding county level supporters must be willing and able to underwrite a portion of the program's costs. Client fees, funding from county or municipal budgets, or funding from other local public or private sources are appropriate local revenue sources for ISPs. Local investment is augmented by the WisDOT BOTS via a cost-sharing formula designed to move the program toward self-sufficiency as it matures.

**Table 1: Annual ISP Funding Source Allocation Schedule**

	Local Funding Share	Funded with Federal or State Money	
		Federal Section 410 Funding	State ISP Grant Program Funding
Year 1	25%	67%	33%
Year 2	30%	50%	50%
Year 3	35%	33%	67%
Year 4	50%	0%	100%

As shown in Table 1, the local share of ISP funding must be at least 25% of the total program costs during the first year. The remaining 75% non-local funding share is provided via two-thirds federal Section 410 funds and one-third Wisconsin ISP Grant Program funds. In the second year of funding, the local share increases to 30%, while the remaining 70% non-local share is split 50/50 between federal and state sources. By the fourth year of operation, there is no federal funding involved, and the local and non-local shares are split 50/50, with 100% of the non-local share coming from available Wisconsin Pre-Trial Intoxicated Driver Intervention Grant Program funds authorized in Wis.Stats. 85.53. At the close of the most recent fiscal year, each of the 11 ISPs were funded at the *Year 4* level. State funds authorized in the statutes are not sufficient to cover program needs and do not allow for the replication of the ISP model in any new counties.

## Wisconsin's Intensive Supervision Programs

The first ISP in Wisconsin, which grew out of the Milwaukee county pilot in 1993, continues to operate. In 1998, ISPs were established in Kenosha, Eau Claire and Marathon counties. Additional ISPs started in Waukesha County (1999), Chippewa, Forest, Vilas, Oneida, and Racine counties (2000), and Portage, Trempealeau and Sheboygan counties (2002).

Private interests, whether non-profit social service agencies (9 total) or for-profit (2 total) consulting firms, operate all of the programs. One agency oversees four ISPs; two other agencies oversee two programs.

The following brief descriptions of each of Wisconsin's eleven existing ISPs illustrate similarities and differences between the programs. The ISPs are described in order of their origination dates.

## **Milwaukee County**

Wisconsin Community Service (WCS), a private non-profit social service agency, has administered the Milwaukee County Pretrial Intoxicated Driver Intervention Program since the program began in 1993. In 2004, administration of the funding for the ISP was transferred to the Milwaukee County Circuit Court.

Participants enter the Milwaukee ISP by court referral or court order. In the early years of program operation, all client admissions were voluntary participants, but now the majority of participants are mandated by the courts to participate in the program as a condition of release from custody. A few defendants per year enter the program upon referral from their attorney.

Offenders who have committed a second or subsequent OWI offense, who have been released on bail or on personal recognizance, and who have not been charged with other more serious offenses, are permitted in the program.

Participants remain in the program until final adjudication of their OWI case. Program length is based on the time it takes for the case to reach final adjudication. This is normally around 90 to 120 days following arrest, but may be shorter or longer depending on the circumstances of the case and the court calendar.

Once admitted to the ISP, an alcohol and drug abuse (AODA) needs assessment must be conducted with the local state-designated agency, IMPACT, to generate a Driver Safety Plan. If the AODA assessor recommends outpatient therapy, defendants who are covered by private insurance are referred to their healthcare provider to access those services. If the person has no insurance and qualifies, treatment is provided through a county voucher.

ISP clients are required to attend a Victim Impact Panel. VIPs are co-sponsored by WCS and the AODA Prevention Program at Milwaukee Area Technical College and are held every quarter.

Defendants are initially scheduled for two office visits per week with their case manager. They are subject to random drug/alcohol testing, and they receive referrals to community based alcohol and drug related support groups and any other supportive services that will minimize behavior that could lead to re-arrest or failure to appear at a scheduled court hearing. If the client is compliant, the required office visits are reduced to once a week.

Should program clients miss a scheduled office visit with their case manager, they are telephoned to determine the reason the appointment was missed. If the phone call does not lead to contact, then clients are mailed a letter advising them to contact their caseworker immediately. If appointments are not kept or program conditions are not met, program staff may ask the court to admonish and warn the client. Reports on program compliance are filed with the court of jurisdiction at every scheduled event. Missed appointments and positive drug tests are reported as they occur. Milwaukee County allows for the possibility of issuing a bench warrant if the participant fails to appear for a scheduled court hearing or for other violations of the conditions of release.

The ISP maintains a client database that records all client-related activity, cases, court appearances and arrests as they occur. Case dispositions are entered as well as referrals and treatment outcomes. The cases are closed shortly after sentencing. If a subsequent arrest for OWI occurs, the client's new charge is added to his/her history in the database.

In April 2004, the ISP started a pilot project with 15 secure continuous remote alcohol monitor (SCRAM) bracelets. To date, 37 clients have used SCRAMs. The bracelets are for high-risk OWI pretrial clients. The criteria to be a candidate for a bracelet are:

- Any 5<sup>th</sup> OWI
- Any 4<sup>th</sup> OWI
- An aggravated 3<sup>rd</sup> OWI (if Blood Alcohol Concentration is .16 or higher; or there are other pending OWIs, or it is within 24 months of conviction for second offense)
- Any defendant currently in the OWI program who is arrested for another OWI during pretrial supervision
- Current client who has two or more consecutive positive preliminary breath tests, missed office visits, and is not attending treatment

The criteria for bracelet removal after 40-45 days are:

- Compliant with office visits/supervision
- No violations (with bracelet)
- No re-arrest for ANY offense
- Attending treatment

First violations are handled internally by the ISP. A second violation is reported to the court, and the court decides what action may or may not be taken. There have been very few violations to date. Offenders report that the bracelet serves as a constant reminder that relapse will be detected and the court will be notified. This assists them to avoid relapse.

The ISP continues to enjoy support from the Milwaukee Circuit Court judges, who cite the program as one of the most important resources the courts have for dealing with repeat OWI offenders. *For more information, contact JanMarie Lambert, (414) 343-3592, [jlambert@wisconsin.org](mailto:jlambert@wisconsin.org).*

### **Kenosha County**

Since April 1998, under the direction of the Kenosha County Sheriff Department, Wisconsin Community Services, Inc. (WCS) has administered the county's Pre-Trial Intensive Supervision Program (ISP).

Prior to the end of 2004, WCS also operated a general pretrial supervision program in addition to the Intoxicated Driver ISP. At that time, defendants were ordered by the Court to WCS pretrial general supervision, at which time program staff explained the benefits of being in the ISP. The defendant was not mandated but chose to enroll in the ISP. The Court's position was that it should not mandate a program that requires a fee. Therefore, if defendants chose not to be in the ISP, typically because they did not want to pay the fee, they were still required to report to WCS. However, those defendants then were not required to access treatment and were not entitled to any sentencing consideration as a result.

Now, most, if not all, repeat offenders are directed to participate in the ISP. The pattern appears to be that, except in special circumstances, such as Illinois residency, all defendants are ordered to participate. Current employees include one full-time supervisor/caseworker, a second full-time caseworker, and one part-time caseworker.

At the intake interview, staff collects information regarding the defendant's employment background, use of alcohol and drugs, treatment history, and family information. Information is also gathered on the individual's past driving record and prior contacts with the criminal justice system. A supervision plan is then developed based on the background and assessment information.

Defendants who participate in the ISP are strongly encouraged to complete a Driver Safety Plan assessment. All participants are expected to enroll in formal AODA treatment of some type, regardless of whether or not they complete a Driver Safety Plan assessment. Self-help programs, such as Alcoholics Anonymous (AA) and Self-Management and Recovery Training (SMART), generally do not qualify as treatment per se. In nearly all cases where a defendant participates in and completes primary AODA treatment, the judge takes program participation into consideration at the time of sentencing, and will very often deviate significantly downward from the sentencing guidelines for the particular offense and blood alcohol concentration. Completion of a Driver Safety Plan assessment and entry into treatment prior to sentencing allows a defendant earlier insight into his or her alcohol use.

In Kenosha County, the bond condition states that ISP participants must report once a week for a supervision meeting with the caseworker. While in the program, participants are subject to random drug and alcohol tests and are encouraged to attend a Victim Impact Panel organized by Mothers Against Drunk Driving (MADD).

Each workday, ISP staff track repeat offenders with newly recorded OWI offenses in Kenosha County. The program supervisor reviews the daily intake court calendar and the jail booking list, and cross-references them with Wisconsin's Consolidated Court Automation Program (CCAP). This keeps track of all repeat OWI arrests and determines whether offenders have been stipulated to participate in the ISP. This also allows for prompt identification of program participants who have re-offended.

The length of program participation is largely determined by the time it takes for an individual to be established in treatment. The judges typically keep the case open until the defendant has significantly completed the recommended treatment program. The average length of the program is approximately six months from entry into the program until final disposition.

The Kenosha ISP, via the caseworkers, has daily interaction with the Kenosha County Circuit Court system. Caseworkers submit compliance and non-compliance reports to judges, assistant district attorneys, and defense attorneys. At the time of sentencing, everything that the offender has undergone, in terms of AODA treatment, is presented in a report to the Court. The same holds true when a defendant has refused to cooperate with the recommended treatment plan.

Because the objective of the ISP is to produce lower rates of OWI recidivism and related traffic offenses, the community has a favorable opinion of the program. The daily interaction with the judicial system has given the courts greater assurance that any pretrial misconduct will be detected and that the individual's efforts to address his/her substance abuse problems will be documented. The alcohol-treatment community supports the program by providing timely AODA assessments and treatment services. *For more information, contact Holly Patzer, (262) 544-5431, hpatzer@wisconsin.org.*

### **Eau Claire County**

The not-for-profit social services agency Triniteam Inc. (Triniteam) has administered Eau Claire's ISP, known locally as the Intoxicated Driver Intervention Program (IDIP), since its June 1998 inception. Alleged second, third, and fourth OWI offenders in Eau Claire County may volunteer to participate in Triniteam's IDIP by agreeing to plead "guilty" or "no contest" to her/his OWI charge.

Triniteam's IDIP participants may receive a reduction in jail time if they successfully complete the program. This frees up needed and overcrowded jail space while giving individuals the opportunity to address issues that impact their drinking and driving behavior. In addition to helping repeat offenders "turn their lives around," the outcomes of IDIP include significant savings in county expenditures on jail days, increased community service hours (a requirement for all IDIP participants), and increased public safety.

Triniteam provides case management services for IDIP participants, coordinating services and providing appropriate referrals to other community resources. Case managers help assure that each participant completes her/his required AODA assessment, follows through on Driver Safety Plan requirements, and meets any treatment recommendations.

Triniteam also coordinates the Victim Impact Panel (VIP), which all IDIP participants are required to attend. The VIP helps participants more clearly understand the possible tragic results of drinking and driving. Panel members can include individuals who have had family members killed by a drunk driver or who themselves have been injured by a drunk driver as well as individuals who themselves have killed or injured someone as a result of driving drunk.

Potential program participants are informed of Triniteam's IDIP at their initial court appearance. Those who decide to take advantage of IDIP are scheduled for an initial meeting with a case manager before their pretrial conference. The typical duration of service is three to six months. Final sentencing of IDIP participants is deferred until the participant completes or is otherwise discharged from the program. The 2005 program fee for participants was \$150, with an additional 20% discount given to participants who paid-in full within two weeks of their initial meeting.

Each IDIP participant is required to:

- Meet with her/his case manager as scheduled (typically once per week)
- Call in as scheduled every week (currently Monday, Wednesday and Fridays) to determine if she/he has been selected for random urinalysis/breath analysis
- Cooperate with completing requested urinalysis/breath analysis

- Attend a Victim Impact Panel
- Complete assigned community service hours
- Complete appropriate assessments and fulfill requirements of her/his Driver's Safety Plan
- Plead "guilty" or "no contest" when she/he appears in court on the OWI charge

If a participant does not successfully complete the program s/he will not be eligible for reduced sentencing. Those that do successfully complete IDIP are given a reduced sentence according to locally established judicial sentencing guidelines. *For more information contact Rob Peitzman, (715) 836-8106, triniteam@discover-net.net.*

## **Marathon County**

Since its inception in July 1998, the Marathon County Intensive Supervision Program (MCISP) has functioned within Marathon County's Community Corrections Project. ATTIC Correctional Services, Inc. is the service provider. The objectives of the Marathon County Community Corrections Project are to reduce recidivism, alcohol-related motor vehicle crashes, and taxpayer costs associated with prosecution and incarceration.

This program provides services to a larger population than just OWI repeat offenders. ATTIC also provides the MCISP pretrial/post-adjudication supervision and services to repeat Operating After Revocation (OAR) and Operating After Suspended (OAS) offenders. The inclusion of OAR and OAS offenders makes the Marathon county program unique among ISP efforts in Wisconsin. The population in the MCISP consists of approximately 60% OWI offenders and 40% OAR/OAS offenders. Approximately 30% of all OAR/OAS offenders referred were also arrested for OWI.

The program recognizes that there is a group of drivers in the community who are not effectively deterred by public awareness messages and existing sanctions. These offenders continue to drive even after suspension or revocation of their licenses. MCISP is designed to intervene and monitor the offender's compliance with judicial orders and to connect the individual with appropriate program/treatment services.

The MCISP population consists of 82% pretrial and 18% post-sentence offenders. Judges, the district attorney's office, the public defender's office, and the Department of Corrections refer offenders to MCISP. Repeat OWI, OAR and OAS offenders enter the program as a condition of bond, on a voluntary basis, as an alternative to revocation, as a deferred entry of judgment or as a post-sentence Electronic Monitoring Program (EMP) participant.

The program averages 47 referrals each month. In Marathon County, individuals must meet certain eligibility requirements to enter the program, including:

- Have one or more prior OWI convictions and/or have two or more prior OAR or OAS convictions
- Be charged in Marathon County
- Have no current pending charges for violent offenses
- Must be physically/mentally able and demonstrate a willingness to comply with expectations of the program.

After referral, ATTIC Correctional Services follows up with the potential participant at one of the following points:

- At court intake (approximately 78%)
- In conjunction with the EMP program (17%)
- At the pre-trial conference (4%)
- Voluntary (1%)

After the offender is referred, an initial screening interview is scheduled within seven days. At the interview, a need/risk screening is conducted. This may include the following screening tools: the Adult Substance Use Survey, the University of Rhode Island Change Assessment, the Level of Service Inventory-Revised (short version) and AODA pre-test.

Once the screening is completed, an individual case plan is designed based on the offender's needs and willingness to participate. Participants may be assigned to urinalysis and breathalyzer testing, relapse prevention and corrective thinking groups and referrals are made to local agencies to provide individual and group counseling as needed. ATTIC works in conjunction with Marathon County Justice System, as well as with Mothers Against Drunk Driving for Victim Impact Panels. In September 2002, breath analysis and urinalysis tests went from scheduled to random in order to serve the increased population as well as hold the offenders more accountable.

MCISP provides continued case management services, such as employment assistance, financial budgeting, and court liaison services. On average, participating offenders are in the program for 120 days (pretrial), and then continue in the program as post-sentence offenders for two to nine months. The average length of stay in the program is 169 days. Program length varies based on individual factors of each case. Factors include identified needs, case status and length of EMP sentence. Post-tests are given at completion of the program to gauge changes in attitudes and beliefs, thinking patterns, and AODA knowledge.

Tracking repeat offenders in the MCISP is done through self-reporting of new offenses, coordination with the EMP case manager and Department of Corrections agent, Wisconsin Circuit Court Access Project, and WisDOT driver record checks.

ATTIC provides one-to-one case management, weekly/daily check-ins, coordination with intervention (outlined above), and progress reports to the Marathon County judicial system. Interaction with the judicial system is via regular written/verbal communication. The program coordinator attends and assists the district attorney's office with program referrals at initial traffic court appearances, which are held weekly.

Marathon County's ISP has received a positive response from the county judiciary and system stakeholders, based on the number of referrals received monthly. *For more information, contact Laura Yarie, (715)261-1191, [layarie@mail.co.marathon.wi.us](mailto:layarie@mail.co.marathon.wi.us).*

### **Waukesha County**

Since its beginning in February 1999, Pre-Trial Intensive Supervision Program (ISP) administration and services in Waukesha County have been provided through Wisconsin

Community Services, Inc. (WCS). The program began with mandatory participation of third or more offenders. In March of 2001, the program was expanded to include mandatory participation of all second or more offenders, which tripled the client caseload. The Waukesha ISP now has four full-time and one part-time caseworkers, in addition to some prorated supervisor time. The program receives an average of 65-75 new clients each month and maintains an active caseload of 350 to 425 clients.

The Waukesha County District Attorney has implemented a fast track charging system, whereby all repeat offenders are charged and must appear in court within seven days of arrest. As a condition of bail, all offenders are then ordered to the ISP and must report to WCS within 24 hours of the initial court hearing or within 24 hours of release from custody if cash bail was ordered. The district attorney's office contributes cash match to the funding of the program to accommodate the increased caseloads due to the inclusion of all second offenders.

A caseworker meets with the defendant, completes an intake interview, and orients the individual to the program. At this time, they explain bail conditions and discuss treatment options. The needs assessment consists of the defendant's present situation, past juvenile and adult arrest record, work history, family situation, alcohol/substance abuse history and treatment history.

All defendants are informed that if convicted an AODA Driver Safety Plan assessment (DSP) will be ordered so they are encouraged to try to complete it prior to adjudication. All third and greater offenders are ordered at sentencing to attend a Victim Impact Panel. ISP staff also strongly encourages those offenders to complete this obligation prior to conviction. Even if offenders do not complete the DSP at this time, they are required to receive an AODA assessment to ensure a referral to the proper treatment level. Treatment is not the same for all participants. Some attend education classes, and some receive as much as residential or inpatient treatment. Everyone is treated on an individual basis based on needs. The average time required to complete the program is approximately six months or until the case is adjudicated.

Supervision is conducted by requiring the defendant to come into the office twice a week until established in the program and the program fee is paid in full. Contacts are then reduced to once weekly. Random breath tests and drug screens are conducted at office visits. Caseworkers also monitor the defendant's progress in treatment. Since all repeat OWI offenders are mandated to the ISP in Waukesha County, recidivism for these repeat offenders is easily tracked if an offender gets re-arrested in Waukesha County.

Interaction with the judicial system is done through progress reports filed with the court at each court appearance, and if any non-compliance occurs the court is notified immediately. Non-compliance is defined as continuously missing appointments, having a positive drug screen or breath test, or not complying with treatment requirements. Offenders who are compliant and successfully complete the program receive consideration at sentencing, typically an average reduction of 30 days in their jail sentence. This is of particular interest on a local level due to the jail overcrowding issue in Waukesha County. By reducing the jail sentence of OWI offenders who comply with treatment at the pretrial stage, the program saves an estimated 14,000-18,000 jail days a year.

This program receives tremendous support from the judicial system and alcohol treatment community. The courts review non-compliance reports submitted by the program and may review the bail situation if non-compliance continues. WCS has a collaborative working relationship with the Addiction Resource Council for the Driver's Safety Plan assessments, the local treatment providers, and the Waukesha County Department of Human Services for treatment of indigent clients. WCS is a member of the steering committee and plays an active roll in facilitating Victim Impact Panels in Waukesha County.

WCS also works closely with the Waukesha County Criminal Justice Collaborating Council to enhance and improve services in this area. The council plans to implement a special Alcohol Treatment Court to address the serious issue of drunk driving in Waukesha county. This will follow the Drug Treatment Court model, which utilizes a holistic approach to the offender, celebrating and rewarding successes and providing immediate judicial consequences for noncompliance. The current ISP will be integrated with this drug treatment court. ***For more information, contact Holly Patzer, (262) 544-5431, hpatzer@wiscs.org.***

### **Chippewa County**

Chippewa County began its pretrial intensive supervision program in January 2000. Clients are referred to the ISP by local law enforcement at the time of arrest. Referrals also come from the district attorney's office and the judge. Clients are accepted into the program anytime between the time of arrest and 14 days past the day the client enters a plea. Cost to the client is \$135. This is a voluntary program with 1½ caseworkers serving clients.

Requirements for participation in this program are that the client must:

- Complete an extensive intake, including biographic and AODA history. Clients complete a goal sheet and sign an agreement to follow the components of the program. Releases are signed for agencies that will assist in client's program.
- Total abstinence from alcohol/other drugs and participation in random alcohol/drug testing.
- Attend weekly meetings at the office to ensure the client is following requirements of the program.
- Be involved in AODA assessment and recommended programming to prove s/he has reduced the risk of further OWI involvement.
- Attend monthly meetings that focus on the irreversible consequences of drinking and driving.
- Complete any community service required.

The program targets all repeat offenders. Participation in the program lasts three to six months, depending on the length of the client's driver safety plan, the number of offenses, and whether or not the client is able to remain abstinent while participating. Failure to remain abstinent will require that the client attend a more structured or intense treatment, attend additional meetings at the Community Counseling Services office, and be tested daily for alcohol/drug use.

If the client meets the requirements of the program, the court will reduce jail time and substitute community service hours. Usually, clients give back 25 to 200 hours of their time to the

community. In the past year, program clients worked 8,000 hours of community service and saved over 4,000 days of jail space by participating in the program. *For more information, contact Arlene Eslinger, (715)723-1221.*

### **Forest, Vilas and Oneida Counties**

The Human Service Center in Rhinelander is the central location for the Intensive Supervision Program, which began in July 2000 for Forest, Oneida, and Vilas Counties. Initially there was one full time case manager and one half time case manager/coordinator for the program. Recently, staff levels have increased to include three full time case managers/OWI assessors. Program oversight now lies with The Human Service Center AODA Administrator. This change has allowed the program to expand out over the three county areas more, have more frequent contact with the county court systems, and be more readily available to clients.

Due to the large area of these three counties the ISP case managers travel to offer the program. Many clients live in very rural areas, are without a driver's license, have limited resources for travel, and have little or no access to public transportation. These factors impede client compliance with the program and are the reasons it is important that the program travel to meet the client. Local AODA providers willingly offer space for the case managers to meet with the participants.

The program initially served second and subsequent OWI offenders. The number of participants was too large for limited staff, so the program was scaled back to serve only third and subsequent OWI offenders. Now, with added staff, the program will revert to serving second and subsequent offenders. Occasionally, the judicial systems will also refer first time offenders who have substantially high blood alcohol levels or were also involved in crashes. While many clients involved in the program have never received alcohol and drug treatment services, others have been involved in both alcohol and drug services, as well as mental health services, for long periods of time. The focus of the program remains on intervention no matter which type of client is participating.

Admissions procedures have remained unchanged since the inception of the program. Participants volunteer or are encouraged to participate by judges or attorneys. The goal is for the case manager to have contact with the client as soon after arrest as possible because this is when the client appears most willing to evaluate his or her situation. An individual session is scheduled and an evaluation is completed. The client could be referred to AODA outpatient or residential treatment or to mental health counseling. In the past, participants have been forced to wait to engage in formal treatment services. In response, the case managers developed support groups in Oneida and Vilas counties. These support groups have allowed clients to stay connected and focused until formal treatment services can begin.

Case managers follow clients until they are fully engaged in services and/or they have been convicted and sentenced; whichever comes last. The average length of involvement with the program is four months. This period may be extended depending on the court schedule and programming the client is engaged in. The case manager works closely with service providers as well as other professionals or family members in the client's life. Recently the program began

working with the county jails to allow clients to continue their involvement while incarcerated. The case manager also does the court-ordered OWI assessment, when timing is appropriate. This encourages the client to continue analyzing personal use of chemicals and makes for a smooth transfer of services at the time of discharge from the program. The program does not do drug testing, as the focus remains on intervening on the abuse or dependency the client has. Initially the program did not charge a fee for this service; however, a client fee of \$150 began being assessed to each participant in October 2004.

Judges and district attorneys in Forest, Vilas and Oneida counties support the ISP. Prior to sentencing, the court reviews participation status, progress and treatment recommendations submitted by the ISP case manager. At the time of sentencing, the court may reduce the sentence or stay the sentence depending on the client's status in the ISP. When sentences are stayed, the client is required to follow through with all the recommendations; failure to do so results in the maximum sentence being imposed on the individual.

A Victim Impact Panel was developed in the tri-county area and has become an adjunct to the ISP. The VIP does not address many second and subsequent offenders; however, it does provide an avenue early on to deter individuals from drinking and driving. ***For more information, contact Tamara Feest at the Human Service Center, (715) 369-2215, tf@thehumanservicecenter.org.***

### **Racine County**

In August 2000, the Racine County Sheriff's Department received funding from WisDOT to begin operating a Pretrial Intensive Supervision Program. Zimmerman Consulting, Inc. administers the ISP on a daily basis.

The Racine County Court Commissioner orders all defendants charged with second or subsequent OWI to participate in the ISP. The conditions of bond may also include other requirements, such as curfews, community service, and electronic monitoring. After the initial bond hearing, the defendant and his or her attorney are given a brochure outlining the ISP.

Admission to the program begins with an interview with a case manager, who reviews the defendant's criminal history, current case status, and social and family history. The case manager reviews the requirements of the program with the participant and develops a plan of intervention. A urine specimen is collected to test for use of controlled substances, and a breathalyzer test is given to determine breath alcohol concentration.

Participants are expected to comply with all program requirements and their plan of intervention until the final disposition of their case, which generally ranges between three and six months. Specifically, participants are required to comply with the following:

- Attend all scheduled court hearings and appointments.
- Cooperate with all program plans according to their plans of intervention, which includes attending AODA meetings or self-help groups.
- Abstain from the use of alcohol and illegal drugs.
- Be available for random drug and alcohol testing.
- Contribute \$150 to the cost of the program (program fee ordered as a condition of the bond).

Once enrolled in the ISP, an AODA assessment is completed so that a Driver Safety Plan can be developed. Participants are required to pay the vendor for this assessment. The case manager uses the assessment results to develop a plan of intervention. Program requirements include at least one weekly on-site visit in addition to other in-person, telephone, or collateral contacts. During the weekly on-site visits, the case manager reviews progress, compliance, and activity level. During these sessions, the case manager:

- Collects attendance slips to verify participant presence at self-help groups and other required meetings.
- Assesses overall progress.
- Updates address, employment status, and other information as necessary.
- Conducts alcohol and drug tests.

Participants who violate ISP rules are sanctioned. These sanctions range from increases in case management contacts to revocation of bail, depending on the rule violation. Case managers provide written reports to the court detailing program requirements that the defendant complied with and those that were violated.

Any program violation that includes a positive test for alcohol or illegal substances causes a report to be written immediately by the ISP case manager and submitted to the appropriate court. A bond review hearing is scheduled within two to four days. The commissioner or judge determines the appropriate response. *For more information, contact Jerry Solum, (262) 632-1780.*

### **Portage County**

Since 2002, the Portage County Intensive Supervision Program has functioned within the County's Community Justice Programs Project. The Justice Systems Administrator, who is housed within the Portage County Department of Planning and Zoning, oversees the program; services are provided through a contract with ATTIC Correctional Services. The project is guided by the Portage County Justice Coalition, which is a group of system stakeholders, county board members, service providers, and private citizens.

The ISP is ordered for all third time (and above) OWI offenders as a bond condition. In 2005, the ISP encouraged stakeholders to examine those with a pending second OWI conviction who appear to have greater service needs based on past behaviors or dynamics related to the immediate offense. This has increased the number of persons with second OWIs placed in the program. There are some exceptions for defendants who do not live near Portage County or in proximity to another OWI Intensive Supervision Program. In these cases, efforts are made to increase structure and accountability through local services. Defendants are aware that program involvement is a key consideration in the options available to them at sentencing. In 2006, program administrators hope to increase the number of repeat operating after revocations (OAR) which are OWI-related, as this population is considered to be high risk for repeat drinking/driving behaviors.

Referrals to the program increased in 2005, and the program averages 55-60 participants. Not all offenders are released from custody and allowed to participate in the program prior to

sentencing. Sentenced offenders can be allowed to continue in the program from jail if Huber privileges have been granted. All offenders who participate in the Home Detention Program must continue to comply with the OWI-ISP requirements/treatment plan. Jail and program staff meet weekly to discuss program issues and offenders who have been referred to the Home Detention Program. Decisions regarding placement and programming are made collaboratively and designed to reduce the probability of non-compliant behavior. The Department of Corrections continues to refer probationers/parolees who have violated probation by committing an OWI offense.

The project's objectives are to reduce non-compliant behaviors, reduce repeat offenses and reduce taxpayer costs related to criminal prosecution and incarceration. This is accomplished through offender screening, supervision, case management, programming and referrals to community agencies. The OWI case manager collects data about these strategies, documents them in an in-house program, and is working with a consultant to profile their impact in terms of recidivist behaviors and offender progress. The consultant is expected to format a design which will be supported by the County's mainframe system and allow for more efficient retrieval and analysis.

The project continues to enjoy broad support and is increasing its collaboration with other community agencies. The ISP coordinated with peer organizations in two other counties to host a two-day *Evidence Based Practices for Correctional Programs* session and now meets with representatives from the OWI service delivery system to discuss how to better incorporate these practices into the county's work with OWI offenders. That ongoing discussion is expected to play a significant role in local planning for AODA services in general.

The ISP modifies its program material, including new resources. Staff have recently included the *Transitioning into the Community* material from a private coaching firm. Offenders have demonstrated a positive response to this material. They report weekly for case management and 3-14 times per week for chemical testing. Impact Panels, supported by Mothers Against Drunk Driving (MADD), are held 3-4 times per year; all offenders are required to attend at least one session. The completion rate for 2005 (10-1-04 to 9-30-05) includes 70 successful completions and 10 unsuccessful completions. This results in a successful completion rate of 87.5%.

This ISP is preparing a standard program report to be used in the sentencing process of felony offenders. The judges appreciate the additional detail of the offender's performance in the program. The ISP is also considering expanding its intensive supervision services for other chemically-involved defendants/offenders. Such an effort would be funded by Portage County resources. *For more information, contact Kathy King, (715) 346-1342, [kingk@co.portage.wi.us](mailto:kingk@co.portage.wi.us).*

### **Sheboygan County**

The Sheboygan County Pre-Trial Intoxicated Driver Intervention Program was initiated in June 2002 and became fully operational in September 2002. The Sheboygan County Sheriff's Department is the recipient of the grant, and the services are delivered through Wisconsin Community Services, Inc (WCS).

At the direction of the Sheboygan County judges, most defendants are court-ordered, with participation being mandatory for most second or more repeat offenders. Approximately 250 to 300 offenders are admitted to the program annually. Since most repeat offenders are mandated to the program, recidivism for these repeat offenders will be tracked if an offender gets re-arrested in Sheboygan County.

At the initial appearance, the judge or court commissioner orders offenders to the program as a condition of bail. They must report to WCS within 24 hours of the initial court appearance, or within 24 hours of release from custody if cash bail was ordered.

Caseworkers meet with the defendant, complete intake interviews, and orient the individual to the program. At this time, they explain bail conditions and discuss treatment options. The intake evaluation consists of the defendant's present situation, past criminal history, family situation, alcohol/substance abuse history and treatment history.

All defendants are informed that upon conviction a Driver Safety Plan assessment will be ordered; however, they are encouraged to complete this prior to conviction. If offenders do not complete a Drivers Safety Plan assessment at this point, they are still required to receive an AODA assessment to ensure a referral to the proper treatment level. Treatment is not the same for all defendants. Options for treatment include AODA education classes, individual/group treatment sessions, or as much as residential or inpatient treatment. All defendants are treated on an individual basis based on needs.

Supervision is conducted by requiring the defendant to come into the office twice a week. These contacts allow for random breath tests to monitor compliance with the absolute sobriety stipulation in their signature bond. Once defendants are established in the program, have begun AODA treatment, and paid the program fee, weekly contacts may be reduced to once a week.

Interaction with the judicial system is done through written reports regarding program compliance and treatment progress. A copy of this report is given to the judge, the district attorney and the defendant / defense attorney at each court appearance. Non-compliance is defined as continuously missing appointments, having a positive alcohol breath test or failure to comply with treatment requirements. In the case of positive breath test, a report is immediately given to all respective parties. Defendants who are compliant and successfully complete the program receive consideration at sentencing, typically a reduced jail sentence.

WCS has a collaborative working relationship with Sheboygan County Health and Human Services for the Driver Safety Plan assessments, as well as with the local treatment providers. Beginning January 2005, Sheboygan County was participating in a Tri-County Victim Impact Panel with Manitowoc and Calumet counties. All second offenders are ordered to attend as part of their Driver Safety Plan. The Sheboygan ISP staff has been actively involved with this implementation and will be tracking ISP participants to insure attendance at the panel as part of pretrial supervision. ***For more information, contact Holly Patzer, (262) 544-5431, [hpatzer@wiscs.org](mailto:hpatzer@wiscs.org).***

## **Trempealeau County**

The Trempealeau County Unified Board began its Intoxicated Driver's Intervention Program (IDIP) in July 2002. IDIP is an intensive community-based program designed to provide appropriate intervention and monitoring that will help individuals stop their pattern of drinking and driving. This program is also designed to save jail costs and help participants address any alcohol abuse problems they may have.

Any person charged in Trempealeau County with a second, third or fourth OWI is eligible for IDIP, unless s/he has a pending felony at the time of the OWI arrest or if the OWI was associated with a traffic crash in which someone was injured. At the initial court appearance, those eligible are given a program brochure and sign a form acknowledging the receipt of information regarding IDIP. The case manager is present to answer any questions and schedule appointments. Via a condition of bond, the court orders all those eligible to make an initial appointment with the IDIP case manager. After meeting with the case manager, the eligible person makes an informed choice, deciding whether or not to participate in the program. Some decide not to participate in the program due to work schedule, not having transportation to all the scheduled activities, or living out of state. However, most eligible individuals do participate in IDIP due to the program's incentives (e.g., reduced jail time, possible reduced fines).

The typical duration of service for each participant in IDIP is three to six months. Final sentencing is deferred until the participant completes or is otherwise discharged from the program. The cost to each participant is \$200, but the amount is reduced to \$175 if full payment is made within two weeks.

IDIP participants are required to:

- Meet with the case manager as scheduled, usually weekly.
- Call in every Tuesday and Thursday to determine if she/he has been selected for a random urinalysis/breath analysis test.
- View a Victim Impact movie.
- Attend a meeting with the community service program staff to set-up hours and sites for community service.
- Complete a driver safety plan and follow through with all treatment recommendations.
- Plead guilty or no contest when appearing in court for the OWI charge.

If a participant does not successfully complete the program s/he will not be eligible for reduced sentencing. Those that do successfully complete IDIP are given a reduced sentence and fine, according to locally established judicial sentencing guidelines. ***For more information, contact Connie Herman, (715) 538-2311, ext. 272, [tcub@trempealeaucounty.com](mailto:tcub@trempealeaucounty.com).***

## Data Point Comparisons

For a better understanding of the diverse counties in which Wisconsin's 11 ISPs operate, this section compares and contrasts the 13 ISP counties with each other and with the state as a whole. Data are presented, in Table 2, for the most recent calendar year available. For each county with an active ISP, this section summarizes the square miles encompassed, resident population, number of licensed drivers, vehicle miles of travel, alcohol availability, alcohol-related crashes, OWI arrests, OWI citations, and adjudicated outcomes for OWI citations. As in the previous section, the ISPs are displayed in order of inception date. Residents of Forest, Vilas and Oneida Counties are served by one program, so data for these three counties are shown as a single entry.

**Licensed Drivers** The number of persons and of licensed drivers residing in a county may be correlated to the number of alcohol-related traffic crashes and OWI caseload. Wisconsin has more than 5.5 million residents and nearly 4 million licensed drivers. About 39% of the state's licensed drivers reside in counties served by ISPs.

**Vehicle Miles of Travel** Travel volume is a measure of exposure that may help explain the total number of alcohol-related traffic crashes and OWI caseload. Wisconsin public roadways carried more than 60 billion vehicle miles of travel (VMT) in 2004. About one-third of the state's total VMT occurred in the ISP-served counties.

**Alcohol Availability** The availability of alcohol may be a contributing factor to a county's total number of alcohol-related traffic crashes and OWI caseload. Eight of the ISP-served counties (Marathon, Chippewa, Forest/Vilas/Oneida, Portage, Sheboygan and Trempealeau) had fewer residents per liquor license than the 2003 state average of 336. One-third of all liquor licenses issued in Wisconsin were held in the ISP counties.

**Alcohol-Related Traffic Crashes** Some repeat OWI offenders are arrested as a result of their involvement in traffic crashes. On the whole, the counties served by ISPs in Wisconsin have a ratio of alcohol-related crashes that is below the state average. Six of the ISP-served counties have ratios that are below the state average, four have ratios that are above the state average, including one county with a ratio that is fourth highest in the state.

**Drinking Drivers Involved in Crashes** Of the more than 212,252 drivers involved in crashes during 2004, just over 4% had been drinking. The rate of crashed drivers who had been drinking in the counties served by ISPs is slightly lower, 3.4%. The average hides the great range among the individual counties, however. The rates ranged from 2.4% in Milwaukee to 10.6% in Trempealeau and 61.0% in Forest, Vilas, and Oneida counties.

**OWI Arrests** Most OWI arrests do not arise from traffic crashes. Most of them result from a motorist being stopped by a law enforcement officer who has reasonable suspicion that a traffic offense has been committed. Markedly different patterns of OWI arrests are demonstrated among the ISP counties.

**Table 2: Descriptive data for ISP counties and state**

	Square Miles <sup>1</sup>	2004 Population Estimate <sup>2</sup>	2004 Population per Square Mile	2004 Licensed Drivers <sup>3</sup>	2004 Vehicle Miles of Travel <sup>4</sup>	2003 Population Per Liquor License <sup>5</sup>	2003 Liquor License Per Square Mile	2004 Alcohol Related Crashes as a Portion of Total Reported Crashes <sup>6</sup>	2004 Drinking Drivers Involved in Crashes <sup>6</sup>	2004 OWI Arrests <sup>7</sup>
Milwaukee	241	939,358	3,898	577,695	7,993	485	8.1	4.7%	1,042	4,218
Kenosha	273	156,082	572	112,503	1,497	475	1.2	8.8%	329	856
Eau Claire	638	96,214	151	66,649	1,065	408	0.4	5.8%	145	688
Marathon	1,559	129,962	83	96,064	1,537	318	0.3	6.8%	226	953
Waukesha	554	373,339	674	294,779	4,172	685	1.0	5.7%	435	2,794
Chippewa	1,017	59,466	58	43,480	695	283	0.2	7.3%	98	422
Forest /Vilas /Oneida	3,008	69,890	23	57,382	941	121	0.2	10.4%	189	711
Racine	334	191,853	574	136,854	1,684	458	1.2	7.1%	310	1,001
Portage	810	68,935	85	48,177	823	300	0.3	6.5%	120	514
Sheboygan	515	115,447	224	84,156	1,032	333	0.7	5.9%	156	1,328
Trempealeau	736	27,765	38	21,058	420	217	0.2	14.7%	80	176
ISP Counties	9,685	2,228,311	230	1,538,797	21,859	416	0.6	6.0%	3,130	13,661
Wisconsin	54,424	5,532,955	102	3,992,890	60,398	336	0.3	7.0%	8,939	42,959

**Adjudicated OWI Cases<sup>8</sup>** OWI arrests lead to formal action by a prosecuting attorney and a judge. Thirty-three percent of OWI cases adjudicated during 2002 were in counties served by ISPs.

**OWI Case Outcomes** Ninety-two percent of the 38,214 OWI cases adjudicated statewide in 2002 resulted in a guilty plea or verdict. Four of the ISP counties exceeded the statewide OWI conviction rate.

**OWI Convictions by Repeat Offender Status** More than one-third (35.8%) of the 2002 OWI convictions in Wisconsin went to repeat offenders. The statewide repeat offender rate was exceeded in six of the ISP counties.

<sup>1</sup> Square miles reported by the U.S. Census Bureau.

<sup>2</sup> Population estimates from the Wisconsin Department of Administration's Demographic Services Center.

<sup>3</sup> Licensed drivers as counted by the Wisconsin Department of Transportation's Division of Motor Vehicles.

<sup>4</sup> Million vehicle miles of travel as estimated by the Wisconsin Department of Transportation's Bureau of Planning and Economic Development.

<sup>5</sup> The Wisconsin Department of Revenues assembles counts of liquor licenses issued by municipalities.

<sup>6</sup> Motor vehicle crash information is maintained by the Wisconsin Department of Transportation's Division of Motor Vehicles.

<sup>7</sup> Arrest data as collected by the Office of Justice Assistance for the Federal Bureau of Investigation.

<sup>8</sup> Information about adjudicated OWI cases, OWI case outcomes, OWI convictions by repeat offender status, and resident drivers with prior OWI convictions comes from the Wisconsin Department of Transportation's Bureau of Transportation Safety's *Wisconsin Alcohol Traffic Facts* book.

**Resident Drivers by Repeat OWI Offender Status** As of January 2003, 335,850 Wisconsin drivers had at least one prior OWI conviction on their driving record (dating from January 1, 1990 for persons with one or two prior OWI convictions and from January 1, 1989 for drivers with three or more prior convictions)<sup>9</sup>. Most of these drivers (269,439) had only one prior OWI conviction and would become repeat offenders on their next conviction. The remaining drivers (66,411) were already repeat offenders. The resident driver population with one or more prior OWI convictions on record in eight of the ISP counties exceeded the statewide repeat OWI offender rate.

**Table 3: OWI citations and convictions**

	2002 Adjudicated OWI Citations <sup>10</sup>	2002 Portion of Adjudicated OWI Citations Found Guilty <sup>10</sup>	2002 Portion of Convictions to Repeat Offenders <sup>10</sup>	2002 Resident Drivers with One or More Prior OWI Convictions <sup>9</sup>
Milwaukee	3,240	95.5%	28.2%	16.9%
Kenosha	941	91.6%	28.8%	18.5%
Eau Claire	715	90.6%	36.6%	23.9%
Marathon	837	89.4%	43.2%	21.3%
Waukesha	2,867	92.7%	34.2%	18.6%
Chippewa	464	83.4%	31.7%	22.7%
Forest /Vilas /Oneida	796	86.4%	47.2%	25.1%
Racine	1,069	93.8%	29.1%	17.8%
Portage	506	92.3%	32.9%	23.4%
Sheboygan	847	90.2%	37.0%	20.7%
Trempealeau	216	89.4%	32.4%	19.8%
ISP Counties	12,498	95.7%	38.1%	20.8%
Wisconsin	38,214	92.0%	35.8%	19.8%

## Demographic Profile of Intensive Supervision Program Participants

For a better understanding of the populations served by Wisconsin's 11 ISPs, this section compares and contrasts the ISP counties with each other. For each county with an active ISP, this section describes the most recent fiscal year's program participants by age, gender, education, and marital status. Data counts in this section have been supplied by the administrators of the separate ISPs for FY04-05. As in the previous section, the ISPs are displayed in order of inception date. Residents of Forest, Vilas and Oneida Counties are served by one program, so data for these three counties are shown as a single entry.

**Age** These counts are of OWI defendants who participated in ISPs by age at the time that the offender made his or her initial court appearance. Sixty percent of ISP participants are between the ages of 25 and 44.

<sup>9</sup> Wisconsin Department of Transportation driver history records on prior OWI convictions only go back to January 1, 1989, for purposes of "lifetime" record keeping.

<sup>10</sup> From the Wisconsin Department of Transportation's *Wisconsin Alcohol Traffic Facts* book.

**Table 4: ISP participants by age**

	< 20	21-24	25-29	30-34	35-44	45-54	>55
Milwaukee	1.5%	6.4%	13.3%	14.0%	33.8%	22.2%	8.8%
Kenosha	0.9%	11.0%	13.7%	17.9%	32.1%	17.9%	6.5%
Eau Claire	1.4%	13.3%	21.3%	18.5%	27.0%	14.7%	3.8%
Marathon	4.3%	27.1%	17.4%	12.9%	24.6%	11.3%	2.5%
Waukesha	2.3%	15.7%	19.8%	13.1%	27.6%	15.9%	5.7%
Chippewa	1.5%	8.1%	11.9%	17.8%	38.5%	19.3%	3.0%
Forest /Vilas /Oneida	0.7%	7.2%	11.4%	24.5%	26.5%	21.2%	8.5%
Racine	0.6%	8.0%	15.3%	16.1%	27.8%	24.7%	7.6%
Portage	2.9%	8.1%	8.8%	11.8%	30.9%	24.3%	13.2%
Sheboygan	1.5%	13.6%	19.4%	14.4%	28.2%	17.6%	5.3%
Trempealeau	5.1%	15.2%	11.4%	11.4%	27.8%	17.7%	11.4%
All ISP Participants	1.9%	12.6%	16.4%	15.2%	29.1%	18.4%	6.4%

**Gender** Over 80% percent of all drivers convicted of OWI in 2002 were male. This pattern is repeated in the ISP client population.

**Table 5: ISP participants by gender**

	Male	Female	% Male
Milwaukee	643	92	87.4%
Kenosha	374	72	83.9%
Eau Claire	167	44	79.1%
Marathon	351	92	79.2%
Waukesha	1,030	225	82.1%
Chippewa	140	38	78.7%
Forest /Vilas /Oneida	235	71	76.7%
Racine	445	70	86.4%
Portage	115	21	84.6%
Sheboygan	337	60	84.9%
Trempealeau	69	10	87.3%
All ISP Participants	3,906	795	83.1%

**Education** Of the ISP clients for whom highest education level was known, most had a minimum of a high school diploma. Only one-quarter had pursued a course of study after high school, and not quite two-tenths lacked a high school diploma or its equivalent.

**Table 6: ISP participants by highest educational achievement**

	Less than High School	High School Graduate	General Equivalency Degree	Post High School Training	Some College or Tech School	College Graduate	Unknown
Milwaukee	20.1%	31.8%	10.2%	34.0%	-	-	3.9%
Kenosha	21.3%	42.2%	7.0%	18.6%	-	-	11.0%
Eau Claire	11.4%	34.1%	5.2%	-	26.1%	21.8%	1.4%
Marathon	20.3%	58.5%	6.1%	-	13.1%	2.0%	-
Waukesha	13.2%	44.2%	10.9%	27.9%	-	-	3.8%
Chippewa	9.0%	59.0%	7.9%	-	19.7%	4.5%	-
Forest /Vilas /Oneida	11.1%	50.3%	-	-	12.1%	3.6%	22.9%
Racine	23.3%	29.3%	15.7%	-	22.3%	7.4%	1.9%
Portage	23.5%	41.9%	10.3%	-	22.8%	1.5%	-
Sheboygan	24.2%	50.6%	9.1%	15.4%	-	-	0.8%
Trempealeau	7.7%	41.0%	10.3%	-	7.7%	30.8%	2.6%
All ISP Participants	17.7%	42.7%	9.2%	15.8%	7.2%	2.7%	4.6%

**Marital Status** More than 80% of the ISP clients, for whom marital status is known, were not currently married.

**Table 7: ISP participants by marital status**

	Divorced	Never Married	Married	Widowed	Separated	Unknown
Milwaukee	26.2%	45.1%	18.8%	1.0%	5.0%	3.9%
Kenosha	21.5%	42.4%	21.3%	1.3%	4.3%	9.2%
Eau Claire	21.8%	59.7%	16.6%	-	0.9%	0.9%
Marathon	20.5%	59.1%	12.0%	2.0%	3.2%	3.2%
Waukesha	23.6%	50.8%	18.2%	0.5%	3.1%	3.9%
Chippewa	34.3%	47.2%	14.6%	2.2%	1.7%	-
F/V/O	18.6%	34.3%	13.4%	-	-	33.7%
Racine	15.1%	0.4%	21.9%	0.8%	43.1%	18.6%
Portage	38.2%	41.2%	19.9%	-	0.7%	-
Sheboygan	22.2%	53.7%	19.6%	0.3%	3.3%	1.0%
Trempealeau	17.7%	49.4%	24.1%	1.3%	1.3%	6.3%
All ISP Participants	22.8%	43.5%	18.1%	0.8%	7.5%	7.3%

### **Recidivism by Intensive Supervision Program Participants**

Under Wisconsin Statutes 85.53(4)(a), the Wisconsin Department of Transportation is required to provide information to the legislature that addresses five questions, as follows:

**Question #1: How many individuals were arrested for a second or subsequent offense of operating while intoxicated?**

Currently there is no statewide data source that tabulates arrests for second and subsequent OWI offenses. The OWI arrest data available for analysis is limited to:

- Office of Justice Assistance arrest data, which provides the number of OWI arrests reported to the agency by local law enforcement agencies, but which does not indicate whether the person arrested, if convicted, would be a repeat offender. Counts for ISP-served counties are displayed in Table 2.
- WisDOT Driver Record File information, which provides the number of OWI convictions on record since January 1, 1989 for each driver, but which does not record the prior OWI arrests that resulted in a dismissal, amendment, or finding of not guilty.

**Question #2: How many individuals completed a local pretrial intoxicated driver intervention program?**

**Question #3: What percent of individuals who commenced a program successfully completed their program?**

Table 8 summarizes the status of ISP participants and the program completion rates for the 11 areas with active ISPs in October 2005 (end of FY04-05) as reported to the Wisconsin Department of Transportation. Several programs enjoyed greatly improved success rates this year, in comparison to prior years. In Marathon county, for example, administrators report that this stems from offenders recently being offered reduced jail sentences for successful completion of the program. In Forest, Vilas and Oneida counties, streamlined recordkeeping procedures have improved the integrity of available data.

**Table 8: ISP participation status, October 2005 (end of FY04-05)**

	Participants	Participant Status			Completion %	
		Dropped Out or Non-Compliant	In Progress	Completed	Successful	Unsuccessful
Milwaukee	736	78	185	473	85.8%	14.2%
Kenosha	446	40	191	215	84.3%	15.7%
Eau Claire	211	61	57	93	60.4%	39.6%
Marathon (a) <sup>11</sup>	275	8	145	122	93.8%	6.2%
Marathon (b) <sup>11</sup>	168	6	84	78	92.9%	7.1%
Waukesha	1,255	143	442	670	82.4%	17.6%
Chippewa	178	33	43	102	75.6%	24.4%
Forest / Vilas / Oneida	306	52	32	222	81.0%	19.0%
Racine	515	65	184	266	80.4%	19.6%
Portage	136	10	56	70	87.5%	12.5%
Sheboygan	397	62	125	210	77.2%	22.8%
Trempealeau	79	14	25	40	74.1%	25.9%
All ISP-Served Counties	4,702	572	1,569	2,561	81.7%	18.3%

**Question #4: How many individuals who, after completing a program, are re-arrested for a third or subsequent offense of operating while intoxicated?**

For long-term analysis of OWI recidivism rates, Wisconsin Department of Transportation staff identified 199 drivers who successfully completed an ISP after being arrested for a second or subsequent OWI offense in July-December 1998 in the four counties that had active ISPs at that time. Table 9a summarizes the OWI re-arrest experience of these drivers. The definition of *re-arrested* in this context simply means the cohort has been again convicted of OWI or a related offense after being in the ISP, since they already have had multiple OWI arrests to qualify for ISP admission. As of December 1, 2005, 33% had been re-arrested (and convicted) of OWI; 19% had been re-arrested (and convicted) twice. Three individuals had been re-arrested (and convicted) three times.

**Table 9a: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 1998 Who Completed an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Milwaukee	128	37	29%	1,087	7	5%	725
Kenosha	39	14	36%	926	3	7%	1,296
Eau Claire	18	6	33%	674	4	22%	1,048
Marathon <sup>13</sup>	14	8	57%	887	4	28%	1,278
Four Program Total	199	65	33%	989	18	9%	1,015

Table 9b summarizes the OWI re-arrest experience of drivers who successfully completed an ISP after being arrested for a second or subsequent OWI offense in April-December 1999 in Waukesha County. [It is necessary to have separate tables due to the different time frames

<sup>11</sup> Marathon county serves repeat OWI, OAR and OAS offenders. (a) = OWI clients; (b) = OAR/OAS clients.

<sup>12</sup> Recidivism for this analysis means re-arrested and convicted of a third or subsequent OWI or related offense by December 1, 2005.

<sup>13</sup> Marathon county served repeat OWI, OAR and OAS offenders. Only OWI offenders were included in this group.

referenced.] As of December 1, 2005, 33% had been re-arrested (and convicted) of OWI, and 4% had been re-arrested (and convicted) more than once.

**Table 9b: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in April-December 1999 Who Completed an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Waukesha	211	69	33%	1,090	8	4%	865

Table 9c summarizes the OWI re-arrest experience of drivers who successfully completed an ISP after being arrested for a second or subsequent OWI offense in July-December 2000 in Chippewa, Forest/Vilas/Oneida counties. As of December 1, 2005, 40% had been re-arrested (and convicted) of OWI, and no persons had been re-arrested (and convicted) more than once.

**Table 9c: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 2000 Who Completed an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Chippewa	14	6	43%	870	0	0%	0
Forest / Vilas / Oneida	11	4	36%	931	0	0%	0
Two Program Total	25	10	40%	894	0	0%	0

Table 9d summarizes the OWI re-arrest experience of drivers who successfully completed an ISP after being arrested for a second or subsequent OWI offense in August-December 2000 in Racine County. As of December 1, 2005, 23% had been re-arrested (and convicted) of OWI, and 5% had been re-arrested (and convicted) more than once.

**Table 9d: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in August-December 2000 Who Completed an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Racine	73	17	23%	698	6	8%	759

Table 9e summarizes the OWI re-arrest experience of drivers who successfully completed an ISP after being arrested for a second or subsequent OWI offense in July-December 2002 in Portage, Sheboygan and Trempealeau counties. As of December 1, 2005, 20% had been re-arrested (and convicted) of OWI, and 6% had been re-arrested (and convicted) more than once.

**Table 9e: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 2002 Who Completed an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Portage	19	1	5%	908	0	0%	0
Sheboygan	28	9	32%	238	4	14%	275
Trempealeau	23	4	17%	552	0	0%	0
Three Program Total	70	14	20%	334	4	6%	275

**Question #5: How many individuals eligible to participate in a program, who did not complete a program and who, after becoming eligible to participate in the program, are arrested for a 3<sup>rd</sup> or subsequent offense of operating while intoxicated?**

Wisconsin Department of Transportation staff identified a group of 219 drivers who were arrested for a second or subsequent OWI offense in July-December 1998 in the four counties that had active ISPs at that time, but who did NOT participate in an ISP. Their reasons for non-participation are unknown, but most likely these individuals simply did not meet the eligibility criteria defined by each county's ISP providers.

Table 10a summarizes the OWI re-arrest experience of these drivers. The definition of *re-arrested* in this context simply means the cohort has been arrested again after being in the ISP since they already have had multiple OWI arrests to qualify for ISP admission. As of December 1, 2005, forty-one percent had been re-arrested (and convicted) of OWI, and 13% had more than one OWI re-arrest (and conviction).

**Table 10a: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 1998 Who Did NOT Participate in an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Milwaukee	121	49	40%	714	12	10%	870
Kenosha	24	9	38%	1319	4	17%	553
Eau Claire	38	18	47%	997	7	18%	410
Marathon	36	14	38%	871	4	11%	884
Four County Total	219	90	41%	885	27	12%	706

Table 10b does not exist because Waukesha county's ISP is mandatory for repeat OWI offenders. There is no control group with which to compare the April-December cohort portrayed in Table 9b.

Table 10c summarizes the OWI re-arrest experience of 11 drivers who were arrested for a second or subsequent OWI offense in July-December 2000 in Forest, Vilas and Oneida counties, but who did NOT participate in an ISP. As of December 1, 2005, 64% had been re-arrested (and convicted) of OWI, and three persons had more than one OWI re-arrest (and conviction). Chippewa County did not have an adequate sample group to form a comparison group.

**Table 10c: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 2000 Who Did NOT Participate in an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Forest / Vilas / Oneida	11	7	64%	470	3	27%	393

Table 10d does not exist because Racine county's ISP is mandatory for repeat OWI offenders. There is no control group with which to compare the August-December 2000 cohort portrayed in Table 9d.

Table 10e summarizes the OWI re-arrest experience of 15 drivers who were arrested for a second or subsequent OWI offense in July-December 2002 in Trempealeau County, but who did NOT participate in an ISP. As of December 1, 2005, 26% had been re-arrested (and convicted) of OWI, and no persons had more than one OWI re-arrest (and conviction). Portage and Sheboygan Counties did not have control groups for inclusion in Table 10e.

**Table 10e: Recidivism Rates for Repeat OWI Offenders Who Had OWI Violations in July-December 2002 Who Did NOT Participate in an ISP<sup>12</sup>**

	Number in Cohort	Re-arrested Once for OWI			Re-arrested Twice for OWI		
		Number	Percent	Average Days to First Re-arrest	Number	Percent	Average Days to Second Re-arrest
Trempealeau	15	4	26%	552	0	0%	0

A comparison of the recidivism data in Tables 9a, 9c, 9e, 10a, 10c and 10e reveals the following:

- Repeat OWI offenders who successfully completed an ISP were less likely to be re-arrested for OWI than were repeat offenders who did not participate in an ISP.
- Repeat OWI offenders who successfully completed an ISP and were re-arrested once for OWI had a longer average elapsed time (from their previous OWI arrest) than repeat offenders who did not participate in an ISP.
- Repeat OWI offenders who successfully completed an ISP were less likely to be re-arrested more than once for OWI than were repeat offenders who did not participate.

### **Other Community Benefits of Intensive Supervision Programs**

ISPs could alleviate pressure on incarceration facilities in two ways. First, in most counties with ISPs, those arrested for OWI can reduce their jail sentences for the offense that brought them to the ISP by successfully completing the ISP. This reduces overcrowding among the jail population at the county level. Second, as shown in tables 9a through 9e, drivers arrested for multiple OWI offenses who complete ISPs tend to not re-offend. When the behavior of an offender can be changed to keep the person from re-offending, the number of repeat offenders (at fifth offense or greater) serving time in state prison could be reduced as well.

Such scenarios, however, are multi-factorial and systems to track and count the jail day savings are not universally in place. Indeed, most ISPs are not able to reliably estimate jail days saved by the operation of their program. Two of the providers that run ISPs do estimate jail days saved: Wisconsin Community Services and Chippewa Counseling Services. Their estimates are shown in Table 11.

**Table 11: Jail days saved**

	Jail Days Saved
Milwaukee	-
Kenosha	13,140
Eau Claire	-
Marathon	> 3,592
Waukesha	13,265 to 18,000
Chippewa	> 4,000
Forest /Vilas /Oneida	-
Racine	-
Portage	-
Sheboygan	2,290
Trempealeau	-

## Conclusion

Penalties such as fines, license sanctions and incarceration have been used to deter persons from repeatedly drinking and operating motor vehicles while intoxicated. These punishments have had some success but, as demonstrated by the periodic presence of some of the same impaired drivers on our roadways, have not been completely effective. Public programs that incorporate education and rehabilitation components can make more potent the consequences meted out to habitual drinking drivers.

Wisconsin's Pretrial Intoxicated Driver Intervention Grant Program, for offenders who are arrested for their second or subsequent OWI is one such program. Its broad supervisory and educational approach toward voluntary or mandated clients has been individualized by 13 very different Wisconsin counties and made to work.

No community that has conceived a program has abandoned it. Communities have tended to strengthen their internal operations and to raise their client completion rates each year, as their programs have matured and as program administrators have benefited from consultation with peers.

Overall, OWI offenders who have successfully completed an ISP have been less likely than non-participants to be re-arrested for subsequent OWI violations. Those who have been re-arrested went significantly longer between arrests than non-participants.

Twelve counties (nine communities) have petitioned the Wisconsin Department of Transportation for information about and seed money for their own, local ISP. These counties include Outagamie, Winnebago, Calumet, Dunn, Wood, Vernon, LaCrosse, Dane, Ashland, Jackson, and Walworth. However, demand exceeds available funds. These counties look forward to replicating the success of the earlier ISPs, as soon as the Wisconsin Legislature appropriates additional funds to the Wisconsin Pretrial Intoxicated Driver Intervention Grant Program.