

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

**ORDER ADOPTING RULE****Analysis Prepared by the Wisconsin Department of Transportation**

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

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

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

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

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

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

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

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

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

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### **TEXT OF RULE**

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

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

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

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

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

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

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

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

**SECTION 3.** Trans 320.02(1) is repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 14.** Trans 320.06 is created to read:

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

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

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

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

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

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

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

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

Signed at Madison, Wisconsin, this \_\_\_\_ day of September, 2002.

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Thomas E. Carlsen  
Acting Secretary  
Wisconsin Department of Transportation