

Report From Agency

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

CR 06-103

The Wisconsin Department of Transportation proposes an order to amend TRANS 200.015(2)(m) and (n)1., 200.06(2) and (7)(c)1., 200.08(2)(e)5.b. and c., (3) and (7)(a); and create TRANS 200.06(2g), (2r) and (12) relating to Specific Information Signs

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

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

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

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

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

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PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 84.02(4)(e) and 86.195, Stats.

Statutory authority: ss. 86.19(2), 86.195(1)(d), 86.195(3), 86.195(4)(b), 86.195(8), and 227.11, Stats.

Explanation of agency authority: Under s. 86.19(2), the Department is authorized and required to prescribe regulations with respect to the erection of signs on public highways that have the full force of law. The Department has the authority to regulate the number and types of Specific Information Sign structures and sign panels near interchanges and intersections. These types of signs are only used on highways statutorily designated in s. 86.195(2)(ag), currently involving 36 highway segments. 2005 Wis. Act 136, effective October 1, 2006, amended s. 86.195, Stats., to add the "Attractions" category to the Specific Information Sign [SIS] program and authorizes the Department to amend ch. Trans 200 to include specific criteria addressing the qualifications of an "Attraction." This allows the Department to add a new category of businesses to this signing program that may not have had the chance to be included in any other directional or guidance signing programs or where those other available signs may not have been as effective or desirable for both motorists and the "Attractions" themselves.

Related statute or rule: The primary significant related statute and complementary rule is the tourist-oriented directional sign [TODS] program under s. 86.196 and Trans 200.08, Wis. Admin. Code. This TODS program allows tourist-oriented attraction signing outside urban areas on any highway, other than those 36 highway segments designated by statute for the SIS program, including county trunk highways and town roads. There is another significant related group of general directional or destination guide signs authorized by the federal Manual on Uniform Traffic Control Devices [MUTCD] including Sections 2H.08 and 2H.09 and some parts of Sections 2D and 2E adopted by the Department pursuant to s. 84.02(4)(e), Stats., with further explanations and guidance provided in the Department's Traffic Guidelines Manual. Section Trans 200.03 is an additional source of direction for guidance signing. For convenience, this group of alternative on-highway signs will be referred to generally as Traffic Generator signs.

Plain language analysis: The current administrative rule allows four types of motorist services to be displayed on a Specific Information Sign structure, i.e., Gas, Food, Lodging, and Camping. This proposal will amend the rule to include the 5th category of "Attractions" within the specific information sign program and will establish criteria that a business must meet to qualify for display as an "Attraction" sign.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Chapter 2F of the federal MUTCD authorizes the "Attractions" category of display on Specific Information Sign structures. It sets the following standards and guidance for "Attractions" in Section 2F.01 and 2F.02:

“The attraction services shall include only facilities which have the primary purpose of providing amusement, historical, cultural, or leisure activities to the public.”

“To qualify for an ATTRACTION logo panel, a facility should have:

1. Regional significance; and
- ~~2.~~ Adequate parking accommodations.”

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“In the direction of traffic, successive Specific Service signs shall be for attraction, camping, lodging, food, and gas services, in that order.”

Section 2F.02 of the federal MUTCD continues to limit the total number of Specific Information Sign structures along an approach to an interchange or intersection to a maximum of four, while allowing the new 5th category of “Attractions” to be displayed on one of those sign structures that is farthest away from the interchange or exit. Hence, although there is a new 5th category of “Attractions” that are eligible, the total number of SIS structures on which such signs may be installed remains limited to a maximum of four.

The Wisconsin statute limits these signs to 36 currently designated highway segments and excludes their use in the County of Milwaukee. The federal MUTCD is not as restrictive; it states the signs should be limited to areas primarily rural in character and provides that where an engineering study determines a need, they may be used on any highway.

The Wisconsin statute also limits these signs to those “Attractions” that are within 3 miles of the intersection/exit, or a maximum of 5 miles if no “Attraction” exists within 3 miles. The federal MUTCD is not as restrictive; it states the distances to eligible attractions should not exceed 3 miles in either direction but does provide an option to allow extending the eligible distance when a type of service is not available or chooses not to participate in the 3 mile limit. The distances may be extended in 3-mile increments until one or more facilities for the type of service chooses to participate, or until 15 miles is reached, whichever comes first.

Comparison with Rules in the Following States:

Michigan: No “Attractions” category found in Michigan MUTCD.

Minnesota: Includes “Attractions” in its program, although reported in survey as not extensively allowed.

Illinois: Has initiated an “Attractions” program.

Iowa: Includes “Attractions” in its program. If an “Attraction” is not available within a 3-mile limit, Iowa will consider additional increments of 3 miles, with a maximum limit of 15 miles.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The federal MUTCD and Wisconsin’s law, s. 86.195(3)(e), Stats., contain identical general criteria for qualification of a facility as an “Attraction” – having (1) a “primary purpose of providing amusement, historical, cultural, or leisure activities to the public,” (2) “regional significance” and (3) “adequate parking accommodations,” but without any further elaboration. The difference is that only the federal “primary purpose” criterion is mandatory; whereas all three criteria are mandatory under Wisconsin law.

Those attending the public hearing on this rule and providing written comments recognized a difference of opinion as to what “Attraction” facilities might be considered as having a primary purpose of providing amusement, historical, cultural or leisure activities to the public. For example, Convention & Visitors Bureau and Wisconsin Department of Tourism leaders felt that a shopping mall, or downtown/business area might be considered as having regional significance, and having a primary purpose of providing leisure activities to the public, but also appeared to acknowledge that such an area might be better identified by a different type of Traffic Generator signing in the absence of a readily recognized primary or dominant attraction or regionally well known identifying logo for the mall or area.

There also was general recognition that what is of “regional significance” in more rural regions of Wisconsin can be quite different than what is considered of “regional significance” in a more densely populated region or a region with many competing tourism attractions. Similarly, a maximum distance of 3 to 5 miles to an “Attraction” in more densely populated regions might be warranted and reasonable, whereas motorists may be more willing to travel further to an “Attraction” in rural regions and would like to be advised by signing before appropriate intersections and exits. “Attractions” are also more likely to be pre-planned ultimate destinations than are such in progress, convenient access and reentry “Gas” and “Food” facilities. Motorists probably are more willing to go further out of their way for an “Attraction” that catches their interest. Moreover, some “Attractions” such as caves, wildlife refuges and other natural features obviously cannot be moved to be within the current maximum statutory distance. The Department is aware that motorists do not like to be led very far away from an intersection or interchange for convenient Gas, Food and other services. The Department knows this concern motivated the present statutory limitation on maximum distances with supplemental signing showing distances to facilities. Within the constraints of the federal MUTCD and state law, the distance limitations may not fit well with the location of regionally significant attractions.

All concerned recognized the limited opportunities for “Attraction” signing due to physical and legal limitations on the spacing and number of SIS signs on the 36 designated highway segments. All recognized the geographic differences in what may be considered regionally significant or primarily serving one of the eligible primary purposes. In all probability, a single rural amusement park, winery, brewery, gallery, museum or

agricultural facility is more likely to meet the eligibility threshold as an “Attraction” in many less dense rural areas than in more densely populated regions with more potentially eligible “Attractions.” “Regional significance” indicators such as annual attendance, evidence of geographic market, gross revenue, regional advertising budget, bidding, and increased fees depending on highway traffic and number of competing “Attractions” desiring signs were discussed, but all had practical administrative and uniform applicability and small business impact shortcomings. Accordingly, the consensus was the Department should remove absolute restrictions on “Attraction” eligibility in the proposed rule to the extent possible and substitute more general guidelines to be used by an advisory council that could take these variations into account in making recommendations to the Department. In addition, the Department proposes to allow for future advances in changeable electronic sign technology for the SIS program to the extent permitted by federal laws and regulations that may serve to make the limited number of spaces available to more “Attractions” and other permitted categories.

Analysis and supporting documentation used to determine effect on small businesses: The public hearing was well attended with many positive and constructive verbal and written comments as summarized in Part IV. An advisory group including the AAA and Department of Tourism had helped prepare the initial rule for the hearing. The rule change is being requested by the large and small businesses that sought the enabling legislation and others that may qualify for “Attractions” signing. As there is no statutory limitation or minimum size or annual patronage requirement for what is an eligible “Attraction,” this rule could have an adverse or restrictive effect on some smaller “Attractions” businesses if the Department is too restrictive in determining what qualifies as having “regional significance.” The Department has elected to make the determination of “regional significance” flexible enough to take into account the geographic and opinion variations that may be accommodated by the proposed advisory council. The advisory council is the same one already in existence for the tourist-oriented directional sign program under Section Trans 200.08(3) with a more flexible opportunity for selection of “Attraction” interest representation on the council.

Effect on small business: The Small Business Ombudsman from the Department of Commerce pointed out that a first come first served basis for granting the limited number of “Attraction” signage available may well have an adverse effect on small businesses, especially if joined with any minimum annual attendance or similar requirement. As an alternative the suggestion was made that priority or first opportunity be given to those “Attractions” closest to the intersection or exit. If an “Attraction” chooses not to participate, the next closest would be given the opportunity or priority. This method would have a neutral impact and not be adverse to smaller “Attractions.” The Department has included language that will permit this type of evaluation where it may be practical to have an application deadline for initial “Attractions” signage or a similar means of concurrent comparison by the proposed advisory council. The Department of Commerce representative will be a member of the advisory council. Other members of the advisory council may balance this small business interest with the need to consider the “regional significance” of the applicant’s “Attraction.” The consensus was that bumping would not be allowed, i.e., a new “Attraction” applicant closer to the intersection or exit could not bump an existing “Attraction” that had received a sign. The proposed rule does provide

additional participation opportunities for small businesses that are “Attractions” that do not presently have that opportunity. Since businesses request that they be identified on state-installed signs, the sign application process will enforce the rule and any costs incurred for the signage are voluntarily incurred. The Department’s Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: The Department estimates that there will be no net fiscal impact on Department revenues or liabilities. There is a probable positive net impact on private sector revenues to the extent the new signage promotes Wisconsin “Attractions.” Added Department administrative costs will be recovered through participant’s fees. The private sector presumably will only choose to incur the costs when they anticipate the signs will generate a net benefit to the “Attraction” business. The outdoor advertising industry did not state any opposition to the proposed rule, as the new “Attraction” owner is not required to choose between outdoor advertising and this newly eligible SIS “Attraction” signage. They are complementary.

Contact person and Copies of Proposed Rule: Copies of the proposed rule can be obtained, without cost, by writing to John Noll, Department of Transportation System Development, Traffic Engineering Section, Room 501, and P. O. Box 7986, Madison, WI 53707-7986. You may also contact Mr. Noll by phone at (608) 266-0318.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 200.015(2)(m) and (n)1 are amended to read:

Trans 200.015(2)(m) “Motorist service sign” means an official traffic sign that includes one or more of the words “GAS,” “FOOD,” “LODGING” ~~or~~ “CAMPING” or “ATTRACTION” and directional information, but does not identify the business offering the service or the name of the brand of products offered.

(n)1. One or more of the words, “GAS,” “FOOD,” “LODGING” ~~or~~ “CAMPING” or “ATTRACTION”;

SECTION 2. Trans 200.06(2) is amended to read:

Trans 200.06(2) SERVICES PERMITTED. The motorist services for which the department may authorize the erection and maintenance of business signs on specific

information signs within a highway are limited to "GAS," "FOOD," "LODGING" and "CAMPING," or "ATTRACTION" in accordance with s. 86.195(3), Stats.

Note: The 36 highway segments currently (2005-06) designated as eligible for these signs are shown on the map in Appendix A.

SECTION 3. Trans 200.06(2g) and (2r) are created to read:

Trans 200.06(2g) GENERAL REQUIREMENTS FOR "ATTRACTION" ELIGIBILITY. To qualify for display on a specific information sign as an "ATTRACTION," a business shall meet the following criteria:

(a) Have the primary purpose of providing amusement, historical, cultural or leisure activities to the public.

(b) Be of regional significance.

(c) Provide adequate parking to accommodate normal traffic volumes for the facility.

(d) Not be identified on any supplemental signing under sub. (1)(f) or guidance sign on the same route as the specific information sign.

(e) Be located within 3 miles of the interchange and have adequate signage to direct motorists to their location after exiting the highway. If no business, facility, or activity in the category of "ATTRACTION" is available or chooses to participate in the specific information sign program within the 3-mile limit, the limit may be extended to a maximum distance of not more than 5 miles from the highway, unless the distance limit for the category of "ATTRACTION" is increased by a statutory enactment of the Wisconsin Legislature that is consistent with federal law.

(f) Comply with laws concerning the provisions of public accommodations without regard to race, religion, color, age, sex, or national origin, and laws concerning the licensing and approval of service facilities.

(g) Have adequate supplemental signage under sub. (1)(f) to direct motorists to their location after exiting the highway.

Note: The 3 to 5-mile distance to services limitation in par. (2g)(e) is required by s. 86.195(5)(a), Stats. (2005-06). The public accommodations requirement in par. (2g)(f) is required by Section 2F.01 of the 2003 Manual on Uniform Traffic Control Devices (Rev. 1 included) that reads: "Eligible service facilities shall comply with laws concerning the provisions of public accommodations without regard to race, religion, color, age, sex, or national origin, and laws concerning the licensing and approval of service facilities."

(2r) ADVISORY COUNCIL. The advisory council appointed by the department under ss. 15.04(1)(c) and 15.09, Stats., for the tourist-oriented directional sign program under s. Trans 200.08(3) shall also serve as the advisory counsel to review applications for the display of business signs on specific information signs in the "ATTRACTION" category. The department shall make the final decision on applications. The department may act on any application not acted upon by the advisory council within 60 days of forwarding of the application to the council. Members of the advisory council will not be compensated for their services or reimbursed for their expenses, except the department may reimburse private citizen members in hardship cases for actual and necessary expenses incurred in the performance of their duties.

(a) *Amusement, historical, cultural or leisure activities.* In making its recommendations regarding whether an applicant's business qualifies as an "ATTRACTION," the advisory council may consider the following non-exclusive list of business facilities that presumptively provide amusement, historical, cultural or leisure activities to the public:

~~1~~.1. Agri-tourism businesses such as breweries, gardens, cheese factories, vineyards, and wineries.

~~2~~.2. Aquariums, wildlife facilities, wildlife preserves, wildlife sanctuaries, and zoo facilities.

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~~3~~-3. Cultural, historic or scientific sites, galleries, halls of fame, museums, and performing arts facilities.

~~4~~-4. Nature or scenic areas such as beaches, gorges, nature facilities, nature preserves, nature sanctuaries, observation points, observation towers, parks, scenic areas, trails, lakes, waterfalls, waterways, and bluffs.

~~5~~-5. Recreation facilities such as amusement parks, casinos, racetracks, speedways, and theme parks.

~~6~~-6. Religious sites or shrines. Religious sites or shrines, typically not including cathedrals, churches, chapels, synagogues, temples, or mosques, and only when the site or shrine is readily recognized regionally.

~~7~~-7. Scenic rides or sightseeing tours such as balloon, boat, helicopter, lift, airplane, train, and trolley rides are more likely to qualify in more rural less densely populated areas or where there is a large selection of such activities in one place.

~~8~~-8. Sport arenas, sport facilities or sport stadiums.

~~9~~-9. Shopping mall, or downtown/business area only if it has a readily regionally recognized and dominant attraction and regionally well-known identifying logo for the mall or downtown/business area and is not better identified by alternative directional signing.

(b) *Primary purpose.* In making its recommendations regarding whether an applicant's business qualifies as an "ATTRACTION," the advisory council may consider the following factors to determine whether a business facility has the primary purpose of providing one or more of the above qualifying activities to the public:

~~1~~-1. Percent of business and land area devoted to the eligible activity.

~~2~~-2. Percent of business gross and net revenue derived from the eligible activity.

~~3~~-3. Focus of any business advertising primarily for the eligible activity.

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4.4. Percent of annual attendance attributable to the eligible activity.

(c) *Regional significance.* In making its recommendations regarding whether an applicant's business qualifies as an "ATTRACTION," the advisory council may recognize or consider the following in determining whether a business facility has regional significance:

1. Regional significance generally is demonstrated by a market presence or significant public awareness of the attraction beyond the local community. While the concept of regional significance is consistent around the state, the significance of a given attraction should be considered relative to other attractions in the area. Areas of the state that are more heavily tourism oriented and those areas that are more rural and less densely populated may result in different determinations of regional significance.

2. Regionally significant attractions are more likely to be pre-planned ultimate destinations than convenience stops.

3. Annual attendance, typically over 5,000 at minimum, size of geographic market, percent of customers or visitors from beyond 50-mile radius, existence and size of a regional advertising budget, the number of parking spaces, accommodations to handle large groups such as transit or tour bus facilities, the number of seats in performing arts facilities, the percentage of out-of-state plates, the number of hours and days of continuous operations, the availability and number of tours, and the expected contribution to the success of regional tourism may also be considered indicators of regional significance.

(d) *Changeable electronic signs.* Due to spacing requirements, geographic and other limitations on the number of "ATTRACTION" category sign opportunities that may be available, the department may allow changeable electronic sign technology for the specific

information sign program to the extent permitted by federal laws and regulations, and subject to the ability to meet contractual and cost provisions acceptable to the department. Changeable electronic signs may serve to make the limited number of spaces available to more “ATTRACTIONS” and other permitted categories.

(e) *Permissive alternative recommendations when appropriate.* If the advisory council recommends against allowing an “ATTRACTION” category sign to an applicant, the council may recommend:

1. Alternative signing under the tourist-oriented directional sign program under s. 86.196 and s. Trans 200.08 when appropriate on any highway, other than those designated by the state for the specific information sign program.

2. Alternative directional or destination guide signs authorized by the federal Manual on Uniform Traffic Control Devices 2003 Edition, Revision 1, including Sections 2H.08 and 2H.09 and some parts of Sections 2D and 2E as adopted by the department pursuant to s. 84.02(4)(e), Stats., when appropriate, with further explanations and guidance provided in the department’s traffic guidelines manual. Section Trans 200.03 is an additional source of direction for guidance signing.

Note: Appendix B is an illustration of a Specific Information Sign and associated business sign. Appendix C is an illustration of a Tourist-Oriented Directional Sign. Appendix D is an illustration of other directional or guidance signs generally known as Traffic Generator Signs.

SECTION 4. Trans 200.06(7)(c)1. is amended to read:

Trans 200.06(7)(c)1. ‘Business sign size.’ Each business sign displayed on a “GAS” specific information sign shall be contained within a 48-inch-wide and 36-inch-high rectangular background area, including border. Each business sign displayed on a “FOOD,” “LODGING,” or “CAMPING” or “ATTRACTION” specific

information sign shall be contained within a 60-inch-wide and 36-inch-high rectangular background area, including border. If 2 business signs are displayed for 3 different types of motorist services on one specific information sign, the business sign size shall be contained within a 48-inch-wide and 36-inch-high rectangular background area, including border.

Note: After the effective date of this section ... [revisor inserts date], the Department may require all newly-erected or replacement specific information signs to contain business signs within a 48-inch wide and 36-inch high rectangular background area, including border, in order to accommodate the newly added ATTRACTIONS category of signs.

SECTION 5. Trans 200.06(12) is created to read:

Trans 200.06(12)(a) *Priority*. The department will establish an initial application period for "ATTRACTION" category signs ending the first day of the second month commencing after the effective date of this chapter. If, after review by the advisory committee, there are more eligible applicants than spaces available at any one location, priority will be given to those eligible "ATTRACTIONS" recommended by the advisory committee and closest to the intersection or exit. When there is any eligible attraction within the first 3 miles from the intersection or exit that has applied, no applicants outside the 3-mile distance may be approved. Remaining applications will be retained for consideration when space becomes available for attractions at that location. Following the initial application period when opportunities arise to replace or add an attraction to a specific information sign, the applications on file for that sign location will be referred to the advisory council for review of current eligibility. The advisory council report will be used by the department in determining which applicant will be approved. The department will select the eligible attraction closest to the intersection or exit. When 2 or more eligible attractions exist at the same distance from the intersection or interchange, the date the

application was received may be used as a tiebreaker. After the sign has been erected, attractions cannot be removed from a sign based on distance alone.

(b) *Distance*. If the attraction is greater than 3 miles but less than the 5-mile limit from the highway interchange, the ramp sign shall include the number of miles to that location as part of the business logo. The ramp sign shall also include the number of miles to the location if the distance limit for the category of "ATTRACTION" is increased by a statutory enactment of the Wisconsin Legislature that is consistent with federal law.

(c) *Seasonal attractions*. If the attraction is seasonal, the attraction business sign will be removed or covered with a closed plaque during the off-season. If a waiting list exists, the department may offer the spot temporarily, but the seasonal business will go back on the sign during the next "open" season.

NOTE: A different rate may be necessary to accommodate seasonal businesses due to the increased maintenance necessary.

SECTION 6. Trans 200.08(2)(e)5.b. and c., (3) and (7)(a) are amended to read:

Trans 200.08(2)(e)5.b. Be open a minimum of 8 hours per day, and 5 days per week, if the highway on which the tourist-oriented directional sign is located is a state trunk highway;

c. Be in operation the greater part of 3 consecutive months, if the highway on which the tourist-oriented directional sign is located is a state trunk highway; and

(3) **ADVISORY COUNCIL.** The department may appoint an advisory council under ss. 15.04 (1) (c) and 15.09, Stats., to review applications for tourist-oriented directional signs on the state trunk highway system in the tourist attraction category and for "ATTRACTION" category signs under s. Trans 200.06. This 7 member council shall include representatives from the tourism industry, department of ~~development-tourism~~

~~division, department of commerce,~~ and other organizations as determined by the department and shall make recommendations to the department to approve or deny applications. The department shall make the final decision on applications. The department shall furnish to the advisory council minimum criteria and requirements for the uniform evaluation and assessment of applications. The department, in collaboration with the advisory council, may make revisions to the application evaluation criteria if at any time it is apparent that the criteria or implementation process are inequitable to the applicants or that the signing itself creates operational or safety concerns. The advisory council shall meet ~~not less than once each month, unless otherwise directed by the department,~~ as needed to consider and make recommendations on applications received by the department. The department may act on any application not acted upon by the advisory council within 60 days of forwarding of the application to the council. Members of the advisory council ~~shall~~ will not be compensated for their services or reimbursed for their expenses, except the department may reimburse private citizen members in hardship cases for actual and necessary expenses incurred in the performance of their duties.

(7)(a) *Distance to tourist-oriented business, service or activity.* A tourist-oriented business, service or activity may not be located in excess of the 5-mile distance specified in s. 86.196 (5), Stats. (2005-06), from the highway intersection at which tourist-oriented directional signs are to be located to qualify for a tourist-oriented directional sign, unless the distance limit is increased by a statutory enactment of the Wisconsin Legislature that is consistent with federal law. Distance to a business, service or activity will be measured from the near edge of the main travelled way to the

center line extended of the closest business driveway of the business, service or activity.

APPENDIX A

Wisconsin Specific Information Sign Highways

<http://www.dot.wisconsin.gov/business/rules/docs/sis-highways.pdf>

APPENDIX B

Specific Information Sign Structures

http://mutcd.fhwa.dot.gov/HTM/2003r1/part2/fig2f-01_longdesc.htm

<http://www.dot.wisconsin.gov/business/rules/property-signs-directional.htm>

APPENDIX C

Tourist-Oriented Directional Signs

http://mutcd.fhwa.dot.gov/HTM/2003r1/part2/fig2g-01_longdesc.htm

APPENDIX D

General Directional and Other Guidance Signs

http://mutcd.fhwa.dot.gov/HTM/2003r1/part2/fig2h-02_longdesc.htm

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
April, 2007.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

PART 4
CR 06-103

ANALYSIS OF FINAL DRAFT OF TRANS 200

(a) **Basis and Purpose of Rule**. This proposal amends the current rule to include the 5th category of “attractions” within the specific information sign program and establishes criteria that a business must meet to qualify for display on an “attractions” specific information sign. The current administrative rule allows four types of motorist services to be displayed on a specific information sign structures.

(b) **Modifications as a Result of Testimony at Public Hearing and Written Comments Received**. The public hearing was held in Madison on November 14, 2006. In addition, numerous written and email comments were received.

The qualifications for ATTRACTION signing were changed to be significantly less rigid based upon more flexible criteria for determining a facility’s primary attraction purpose, regional significance and adequate parking for an ATTRACTION sign. Examples of potentially qualifying ATTRACTIONS were expanded.

The existing advisory council for tourist-oriented directional signs was charged with considering these criteria in reviewing applications and making recommendations to the Department. The make up of the advisory council was changed to include a representative of the Department of Commerce, primarily to reflect small business interests in ATTRACTION signing. The advisory council is also called upon to recommend alternative signing if ATTRACTION signing is not available to an applicant.

Although the testimony strongly favored increasing the mileage allowed to an ATTRACTION, the Department was bound by statute to the existing mileage limits. In order to accommodate any future expansion of these limits, the rule was changed to allow for greater distances for ATTRACTIONS if increased by statutory enactment consistent with federal law. A parallel change was made for distances for tourist-oriented directional signs if permitted by future changes in the controlling Wisconsin Statutes. Criteria for hours and months of operation for tourist-oriented directional signing were made less restrictive for highways other than state trunk highways.

The priority for ATTRACTION signing was changed to provide a more equal opportunity for small businesses to qualify for the signs based on distance.

In order to expand the availability of ATTRACTION signing, the rule authorizes changeable electronic signs to the extent permitted by federal law and contractual and cost provisions acceptable to the Department.

Paragraph (d) below provides more Department responses to testimony and written comments and any changes made.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following persons attended/registered at the hearing:

Chet Gerlach, Executive Director, Association of Wisconsin Tourism Attractions, 44 East Mifflin, Suite 900, Madison, WI 53703—spoke for information.

Joe Klimczak, General Manager, Cave of the Mounds & Southwest Wisconsin Visitors Bureau, P. O. Box 148, Blue Mounds, WI 53517--spoke in opposition and for information.

Jeannie Place Cunningham/Blaze Cunningham, Owners, Crystal Cave, W965 State Road 29, Spring Valley, WI 54767—spoke in opposition and for information.

Carl Nolen, President, Capital Brewery/Wisconsin Brewers Guild, Middleton, WI 53562—spoke in favor of the proposed rule, but with some suggested amendments.

Buck Martin, Consulting, Stockbridge-Munsee Community, 4901 Waukesha Street, Madison, WI 53705—spoke for information.

Jim Holperin, Secretary, Wisconsin Department of Tourism, P. O. Box 8690, Madison, WI 53708—spoke in favor the proposed rule, with modifications.

Anna Maenner, Executive Director, Wisconsin Agricultural Tourism Association, Wisconsin Apple Growers Association, Wisconsin Berry Growers Association, and the Wisconsin Fresh Market Vegetable Growers Association, 211 Canal Road, Waterloo, WI 53594—spoke in favor of the proposed rule, with suggested amendments.

Charles Maenner, Wisconsin Agricultural Tourism Association, 211 Canal Road, Waterloo, WI 53594—registered in favor of the proposed rule with suggested amendment.

Rich Gotz, Representative of the Mukwonago Chamber of Commerce—spoke for information.

Heather Field Sweet, General Manager, Tanger Outlet Center, 833 Hwy. H #6, Baraboo, WI 53913—spoke in favor of the proposed rule.

Dave Blank, Executive Director, Racine County Convention and Visitors Bureau, 14015 Washington Avenue, Sturtevant, WI 53177—spoke in favor of the proposed rule, with some suggested amendments.

Andy Franken, Wisconsin Association of Convention & Visitors Bureau, 10 East Doty Street, Madison, WI 53703—spoke in favor of the proposed rule, with some suggested amendments.

Marion J. Weglarz, Owner, Wisconsin Winery Association & Weggy Winery, 39940 Oak Ridge Drive, Muscoda, WI 53573—spoke for information.

Elly M. Pick, Director, Museum of Wisconsin Art, 300 S. Sixth Avenue, West Bend, WI 53095—registered for information.

Kyle Gomen, Owner, Mason Creek Winery, N47 W28270 Lynndale Road, Pewaukee, WI 53072—spoke in favor of the proposed rule.

Representative John Steinbrink, 8640 88th Avenue, Pleasant Prairie, WI 53158—spoke in favor of the proposed rule.

Tom Jackson, Aide to Senator Dale Schultz (also representing Rep. Sheryl Albers), P. O. Box 7882, Madison, WI 53707—spoke in favor of the proposed rule.

Dawn Roe, Manager, Wisconsin Cheese Makers Association, 8030 Excelsior Drive, Suite 305, Madison, WI 53717—registered in favor of the proposed rule.

Janet Swandby, Executive Director, Outdoor Advertising Association of Wisconsin, 44 East Mifflin, Suite 101, Madison, WI 53703—spoke for information in support of the proposed rule.

Mark Rognsvoog, Program Manager, Derse Wisconsin Highway Signs, 1234 N. 62nd Street, Milwaukee, WI 53213—registered for information.

Richard Landsehr, Sales Manager, Kerrigan Brothers Winery, N2269 County Road N, Appleton, WI 54913—registered for information.

Carol Dunn, Small Business Ombudsman, Department of Commerce, 200 West Washington, Madison, WI 53707—registered in opposition, in part, to the proposed rule.

Barb Gade, Assistant Manager, Nancy's Notions, 333 Berchl Avenue, Beaver Dam, WI 53916—registered in favor of and for information on the proposed rule.

(d) **Summary of Public Comments and Agency Response to those Comments:** The following comments were received at the public hearing:

Chet Gerlach—supports the proposed rule making but with some suggestions:

1.a. The definition of “attraction” should be amended. The rule attempts to be too specific. There could be difficulty in addressing what is actually an attraction. Also, “regional significance” should also be expanded. In determining what constitutes regional significance, the following criteria should be considered: yearly attendance; attendance from outside a 50-mile radius; and evidence of advertising to a regional audience.

DOT Response: Corresponding changes made.

b. Would like to add shopping malls/areas to the list of eligible attractions.

DOT Response: Allow, but only if it has a readily regionally recognized dominant attraction and regionally well known identifying logo for the mall or downtown/business area and is not better identified by alternative directional signing.

c. The 3-mile limit does not work for attractions and would like to see that restriction eliminated.

DOT Response: Allow greater distance if the statutory limit is increased consistent with federal law.

2. Supports a 7-person advisory council: 4 of the 7 to be represented by the industry; the other 3 by representatives of DOT, Department of Tourism and Department of Commerce.

DOT Response: Change make up of advisory council to include representatives from the tourism industry, Department of Tourism, Department of Commerce, and other organizations as determined by the Department.

Joe Klimczak—Supports the suggestions of Chet Gerlach for amending the rule. It's important to expand signage so the people feel welcomed to the state. Supports the advisory council.

Jeannie Place Cunningham/Blaze Cunningham—Would like the 3-mile limit restriction eliminated, as she cannot move her business. Out-of-state travelers are confused enough in rural areas. Crystal Cave is 8 miles from the interstate. Also, the number of tours is excessive. Supports the suggested amendments of Chet Gerlach.

DOT Response: Allow greater distance if the statutory limit is increased consistent with federal law. Eliminate number of tours requirement.

Carl Nolen—Would like to see breweries considered as an attraction, but amend the rule to eliminate the requirement that breweries provide regularly scheduled or self-guided tours no less than 4 times per day and providing tour opportunities through the majority of the hours open to the public. This is prohibitive for the smaller and regional craft breweries and would suggest the rule be amended to require breweries to provide tours no less than 2 times per day on at least 2 days per week during normal business hours, and to require them to provide public access to the breweries' gift shops, and/or tasting room during normal business hours. This would avoid production interruptions and delays, and provides the public with greater opportunities to visit by scheduling the tours on weekends.

DOT Response: Allow breweries to be considered as attraction. Eliminate number of tours requirement.

Buck Martin—Stated a concern that there are no state highways going through the reservation, so would like to see the 3-5 mile limit restriction eliminated. There is a museum outside of that 5-mile limit.

DOT Response: Allow greater distance if the statutory limit is increased consistent with federal law.

Jim Holperin—Supports the suggested amendments of Chet Gerlach. He recommends amending the 5-mile limit to 15 miles. Also suggests that “regional significance” be defined—either reduce or eliminate the several specific, quantity driven measures and substitute more general, subjective, qualifying criterion, or provide an appeal process to an advisory council. Supports a 7-member advisory council, with 4 members representing the industry.

DOT Response: Allow greater distance if the statutory limit is increased consistent with federal law. Provide regional significance indicators that are more general. Change make up of advisory council to include representatives from the tourism industry, Department of Tourism, Department of Commerce, and other organizations as determined by the Department. Recognize attractions are more likely to be destinations. Allow business district/mall type of signing, but only if it has a readily regionally-recognized and dominant attraction and regionally well known identifying logo for the mall or district and is not better identified by alternative directional signing.

Anna and Charles Maenner—Is in favor of the proposed rule, but would suggest amending the 3-5 mile limit. Also suggests having one member of the advisory council represent the agricultural tourism industry.

DOT Response: Allow greater distance if the statutory limit is increased consistent with federal law. Change make up of advisory council to include representatives from the tourism industry, Department of Tourism, Department of Commerce, and other organizations as determined by the Department.

Rich Gotz—Indicated he was denied an SIS sign. Also asked what the time period is for removing businesses off SIS signs after they go out of business.

DOT Response: DOT and its contractor may not know company is out of business if it is paid up to date for sign; please report observation to DOT or its contractor.

Heather Field Sweet—Would like the Tanger Outlet Mall to be considered as an attraction. It has 262,000 sq. ft. and projects to bring in 3 million visitors per year. The mall is located 1.5 miles off Interstate 90/94. A \$4 million annual sales tax is projected, as well as \$600,000 local property tax annually.

DOT Response: Regardless of eligibility determination, insufficient spacing is available for any additional SIS signs at Tangier Outlet Mall exit on Interstate at Wisconsin Dells.

Dave Blank—Proposes a threshold of 5,000 visitors rather than 2,500. The 2,500 figure seems low if the attraction is of regional significance. Also requests that downtown shopping districts be included as attractions. Racine's renovated downtown goes hand in hand with the museums and attractions and a third of visitor expenditures are spent on shopping. The 3-5 mile restriction should be amended to 15 miles as many attractions are located more than 3 miles off the highway. Racine features the Racine Art Museum, the Racine Heritage Museum, Reefpoint Marina, the Racine Zoo and the award-winning North Beach. All of these are 10-11 miles from the closest exit.

DOT Response: Annual attendance is an indicator of regional significance and 5,000 or greater attendance is preferable minimum, but not mandatory. Allow business district/mall type of signing, but only if it has a readily regionally-recognized and dominant attraction and regionally well known identifying logo for the mall or district and is not better identified by alternative directional signing. Allow greater distance if the statutory limit is increased consistent with federal law.

Andy Franken—Would like to see the eligibility requirements extended to large commercial shopping malls and commercial districts, as research shows that 32% of traveler expenditures are made while shopping. Also, the minimal attendance threshold is too low. Suggests that it be raised to 5,000+ annual attendance. The 3-mile limit also needs to be amended and will be seeking a legislative change to increase the distance to 15 miles from the interchange.

DOT Response: Annual attendance is an indicator of regional significance and 5,000 or greater attendance is preferable minimum, but not mandatory. Allow business district/mall type of signing, but only if it has a readily regionally-recognized and dominant attraction and regionally well known identifying logo for the mall or district and is not better identified by alternative directional signing. Allow greater distance if the statutory limit is increased consistent with federal law.

Marion Weglarz—Indicated he was a victim of an advisory council that denied him a TODS sign due to the mile limitation. Feels that food/gas/lodging be categorized separately from camping on signs. Also feels the distance to attractions should be identified on the signs. His winery offers tram rides to the public but can't advertise due to federal rules.

DOT Response: Presently there is a 5-mile statutory TODS limit. Federal law does not require the precise limit, but states the maximum distance should be 5 miles. This rule will allow greater distance for TODS attractions if the statutory limit is increased in the future consistent with federal law. Gas, food, lodging, camping and attractions are separate categories, but there can be only 4 SIS

structures and generally not more than 2 categories per structure. Distance to attractions will be identified on ramp signs. Eliminates fixed tour requirement and substitutes the availability and number of tours as possible indicators of regional significance.

Kyle Gomen—Suggests that it would be more reasonable if the number of tours per day were reduced.

DOT Response: Eliminates fixed tour requirement and substitutes the availability and number of tours as possible indicators of regional significance.

Representative John Steinbrink—Indicated he was willing to work with DOT to get the statute amended to change the 3-5 mile limit.

Tom Jackson—Represents the Necedah National Wildlife Refuge bringing in 160,000 visitors annually to see endangered and threatened species including the whooping crane, Karner Blue butterfly, timber wolf and oak savanna restoration. Has, in the past, requested signage for the refuge but has been denied. The refuge satisfies the criteria for an attraction but does not meet the distance criteria (20 miles from the interstate). Requests the distance criteria be amended.

DOT Response: Allow greater distance if the statutory mileage limit for SIS “ATTRACTION” signing is increased consistent with federal law. Consider other directional signing options.

Carol Dunn—Feels that the proposed rule creates more barriers for small businesses. Suggests exploring alternatives to provide equal access to participation in the SIS program to attraction-related businesses by (1) tiering the mileage requirement; providing a different annual attendance requirement for seasonal businesses; and (3) considering alternative methods to address priority selection that does not rely on past year’s attendance.

DOT Response: Provide Department of Commerce representation on advisory council. Initial application for “ATTRACTION” signing period will provide priority to those recommended by the advisory council and closest to intersection/exit. This achieves a balance between convenience to the motorist while allowing smaller businesses a more even and neutral opportunity to obtain an “ATTRACTION” sign. Annual attendance is also changed to be an indicator of regional significance rather than a fixed requirement.

The written comment period was held open until close of business the day of the hearing. Comments were received from the following:

Alice Parr, Executive Director, Adams County Chamber of Commerce & Tourism, 252 South Main Street, P. O. Box 576, Adams, WI 53910—Suggests signs for high school locations for school games and events in addition to chamber of commerces/tourism information centers.

DOT Response: Some other types of general directional signing may be available to identify exits and intersections for schools but not specific events.

Lynn R. Peters, Executive Director, Fox Cities Convention & Visitors Bureau, 3433 W. College Avenue, Appleton, WI 54914—Requests that signs also be available in both rural and urban areas; that the three-mile distance from interchanges be increased for participating attractions; and allow shopping districts and malls to be added to the list of allowable attractions.

DOT Response: State statutes identify the highway segments on which these SIS signs may be located and prohibit their use in Milwaukee County. The federal Manual on Uniform Traffic Control devices provides guidance that the use of Specific Service signs should be limited to areas primarily rural in character or to areas where adequate sign spacing can be maintained. This proposed rule allows greater distance IF statutory mileage limits are increased consistent with federal law.

Gary Olson, Plant Manager, The Joseph Huber Brewing Company, 1208 14th Avenue, Monroe, WI 53566—Supports the changes allowing brewery tours to be added to the signs.

DOT Response: Breweries may qualify if they meet other criteria such as primary purpose and regional significance.

Joe Katchever, Pearl Street Brewery, LaCrosse, WI—In favor of allowing breweries on the list of eligible attractions.

DOT Response: Breweries may qualify if they meet other criteria such as primary purpose and regional significance.

Dorrie Hipschman, Executive Director, The Building for Kids—Fox Cities Children's Museum—Recommends non-rural attractions to participate and increase the distance from the highway.

DOT Response: State statutes identify the highway segments on which these SIS signs may be located and prohibit their use in Milwaukee County. The federal Manual on Uniform Traffic Control devices provides guidance that the use of Specific Service signs should be limited to areas primarily rural in character or to areas where adequate sign spacing can be maintained. This proposed rule allows greater distance IF statutory mileage limits are increased consistent with federal law.

Ruth Skeie, Executive Director, Spooner Area Chamber of Commerce—Requests that the excursion train ride, fish hatchery with visitor center and tours, and the Ag Research Station be on the list of eligible attractions.

DOT Response: May qualify if they meet other criteria such as primary purpose and regional significance.

Sally Sieber, School House Co-owner, Ashwaubenon Independent Business Association President, 770 Willard Drive, Green Bay, WI 54304—In favor of the proposed rule changes. Small businesses that rely on tourists should get a needed boost to their profits with a hopeful “trickle-down effect” for small businesses such as ours that don’t meet the criteria. These rule changes should subsequently strengthen the economy of Wisconsin.

Shane McVey, President, Wisconsin Renaissance Faire, 2224 Maren Court, Eau Claire, WI 54703—In favor of adding the “Attractions” category to highway signs to help his business. Located at the junction of I-94, USH 53 and USH 29, his business is bypassed by the vast majority of tourists heading north. The signs would provide additional means to attract tourists into the community and significantly impact economic growth.

Ty Baumann, Sanctuary Director, Bay Beach Wildlife Sanctuary and Bay Beach Amusement Park, Green Bay, WI—Supports the proposed rule seeing it as an opportunity to make his facilities and exceptional programs open to a wider traveling audience.

Steve J. DeBaker, Trout Springs Winery (brchrivr@execpc.com)—Would like to see fewer restrictions for businesses to be recognized as attractions for the signs. Suggests that each special business be given case-by-case consideration. Would like to include “WEEKENDS ONLY” on the signs.

DOT Response: Rule is amended to allow the advisory council to look at applications on a more case-by-case basis.

Mike Brenner, Director/Curator, Hotcakes Gallery, 3379 North Pierce Street, Milwaukee, WI 53212—Supports adding art galleries as attractions on highway signs.

DOT Response: Galleries may qualify if they meet criteria such as primary purpose and regional significance.

Jessica St. John, Duncan Entertainment, 777 North Jefferson Street, Milwaukee, WI 53202—Supports adding art galleries as attractions on highway signs.

DOT Response: Galleries may qualify if they meet criteria such as primary purpose and regional significance.

Joe Shakula, Layer One Media, Inc.—In favor of the proposed changes.

Jeremie Slagle, Victorian Village Resort, Elkhart Lake, WI—In favor of adding museums and facilities with performing arts to the highway signs. Attractions that specialize in music and art are crucial.

DOT Response: Museums and facilities with performing arts may qualify if they meet criteria such as primary purpose and regional significance

Patricia Oblatz, Studio 1008, 2147 N. 53rd Street, Milwaukee, WI 53208—In favor of the proposed rule.

Bird Ross, 2826 Lakeland Avenue, Madison, WI 53704—Supports the proposed rule changes especially if the attractions are non/not-for profit organizations such as museums and educational/information type facilities.

DOT Response: Not-for profit or non-profit was not chosen as a criteria for priority although may make them eligible for other types of directional signing. Museums and other facilities may qualify as “ATTRACTIONS” if they meet other criteria.

Tom Linfield (www.tomlfield.com)—Supports adding art galleries as eligible attractions. It's good for local economies and the state as a whole.

DOT Response: May qualify if fulfill other criteria.

Sarah Bradley, Administrative Assistant, NCO, 975 Observatory Drive, Madison, WI 53706. She supports adding galleries as attractions. Driving around to see the fall colors would easily turn into a gallery tour, stopping to grab coffee and browse a unique gallery.

DOT Response: Galleries may qualify if fulfill other criteria.

Charles McGonegal, Cidermaker/President, AeppeITreow Winery, Burlington, WI—Supports the proposed rule changes. Being able to participate in the SIS program may not be a big, flashy, marketing promotion, but it is a modest sign that fits into existing standards and may be critical if a business has no other options.

Helen Klebesadel, 2017 Jenifer, Madison, WI 53704 (www.klebesadel.com)—Supports adding the arts organizations to the signs. It will contribute to our economy in ways not well recognized.

DOT Response: Arts may qualify if fulfill other criteria.

Sally Nez, Phillips Farmer's Market, Market Manager, Phillips, WI—Would support the signs advertising her farmer's market on each end of town during the summer.

DOT Response: STH 13 is a designated highway for SIS signs and Phillips farmer's market may qualify if it fulfills other criteria.

D. L. Barkstrom (abark@pctcnet.net)—the Barkstroms operate a small honey, maple syrup, garden produce business and helped start and participate in the Phillips Farmers Market. Their concerns are with the difficulty in obtaining signage in Wisconsin

for their business. Visitors complain that they don't know where they are located. They feel Wisconsin makes it too hard to obtain signage.

DOT Response: STH 13 is a designated highway for SIS signs and Phillips farmer's market may qualify if it fulfills other criteria.

Jay J. Schumerth, Senior General Manager, Radisson Paper Valley Hotel, Appleton, WI—Mr. Schumerth has two concerns he'd like the Department to reconsider: the first being the designation of eligible attractions "only in rural areas." He would like to see them in urban areas also. The other concern is the exclusion of shopping districts or malls. The Fox Cities has created a brand destination as "Wisconsin's Shopping Place" and a tourism assessment concurred that the Fox River Mall area, downtown Appleton and downtown Neenah all represent exceptional shopping destinations.

DOT Response: These signs are available on 36 designated highway segments and prohibited in Milwaukee County. USH 41 is a designated highway. The advisory council may consider whether the this proposal is an eligible "ATTRACTION." It may not. There may be a significant limitation on availability due to sign spacing and availability.

Mike Van Asten (mikevan@centurytel.net)—Supports the proposed rule, however, feels it a mistake to limit to rural areas only as urban traffic needs directions even more. Please also reconsider the exclusion of shopping centers as they are the #1 tourist and traffic draw in many areas.

DOT Response: More flexibility has been incorporated in the rule.

Bobbie Beckman, Heart of the Valley Chamber of Commerce, 101 East Wisconsin Avenue, Kaukauna, WI 54130—Suggests allowing large regional shopping malls and/or districts to be eligible as attractions. They draw hundreds of thousands of people every year to the area and having the highway signs will help our drivers/visitors reach their destination safely and timely.

Jack von Rutenberg, Betty Lou Cruises, Madison, WI—Supports adding boat tour operations as an attraction for tourist signage.

Gail Nordlof, 8844 North Dix Drive, Milton, WI 53563—Supports the proposed rule as Ms. Nordlof is in the process of starting a business that would qualify as an attraction in Wisconsin.

Pam Cashman, 5082 Reeve Road, Black Earth, WI 53515—Supports the proposed rule as it can help boost local economies by leading more travelers to attractions that might not otherwise get noticed, and awareness of cultural and historic attractions, such as galleries and museums, creates a richer environment for Wisconsin.

Mary Schnobrich, Leinie Lodge Director, Leinenkugel's Leinie Lodge (schnobrich.mary@mbco.com)—In support of the proposed rule and is interested in

participating in the program and requests information about any fees that may apply for participation.

Alan R. Wildman II, Administrator/Clerk-Treasurer, City of Elroy, 225 Main Street, Elroy, WI 53929—Supports the proposed rule but states the distance from the interchange should be expanded to at least 30 miles.

Jim Geving, Owner, Middleton Antiques Mall, 1819 Parmenter Street, Middleton, WI 53562—Supports the proposed rule. The sign would help customers to navigate more efficiently and safely to the business as it's located off the highway. The division of categories for attractions is reasonable and fair.

Vince Tranchita and Robert Hudson, Co-Chairmen of the Village of Cassville Harbor Commission, and Eleanor Mumm, Cassville Tourism Coordinator (via e-mail)—the Cassville Car Ferry is an important tourism attraction as well as a necessary link between the Wisconsin Great River Road and the Iowa Great River Road. The Cassville Harbor Commission supports this rule making, as it can be an important tool in providing directional information to potential car ferry users and to also stress the importance of being able to continue to maintain the current signage.

Gail Zastrow, Administrative Secretary, Jefferson County Fair Park, 503 North Jackson Avenue, Jefferson, WI 53549 (via e-mail)—The Jefferson County Fair Park is a year round facility, located approximately 5 miles south of IH 94, and is interested in participating in the signage on the interstate. The park draws over 250,000 people from all over the country for events ranging from fair, car shows, flea markets and festivals. The signage would help direct people to the park and increase the economic impact to both Jefferson County and the state of Wisconsin.

Zohrab Khaligian, Vice Chairperson, Kenosha Lakeshore BID, 712-55th Street, Suite 108, Kenosha, WI 53140 (via e-mail)—In support of including public museums under the definition of “attractions” and allowing attractions to be up to 15 miles from a highway to be eligible for the program.

SunAnt Technologies, LLC, 11 South Main Street, Mayville, WI 53050 (via e-mail)—Would like the Horicon Marsh to be considered as an attraction as it is filled with so much wildlife, bike trails, horse trails, and a lot of small businesses such as yarn shops and bookstores.

Janet E. Crosby, President, Friends of Necedah National Wildlife Refuge, 937 North 35th Street, Milwaukee, WI 53208—The wildlife refuge is conveniently located on STH 21 and connects to STHs 80 and 173, and IH 90/94 and requests that it receive “attraction” signs under the nature business type allowed under the proposed rule. The refuge consists of 43,000 acres of wetlands, restored savanna and woodlands and is home to many endangered species including the Karner Blue butterfly, bald eagle, gray wolf and the reintroduction of migrating whooping cranes. Visitors to the refuge can observe spectacular waterfowl migrations, displays of wildflowers, white tailed deer and other wild game. Hunting and fishing is also available on the refuge.

Gary T. Pemrich, Owner, Spirits of Gillett, LLC, Sportsman's Lodge & Grill (via e-mail)—Would like the ATV industry to be included in the recreational category for the “attractions” signs. The ATV industry has grown exponentially in the past 10 years (208%, based on Department of Tourism figures) and small communities throughout northeastern Wisconsin are now relying on those dollars as a major part of their economy.

Kim Bates, Columbus Main Street Manager (via e-mail)—Supports the proposed rule.

Marion Weglarz (via e-mail)—questions how the rule can be in compliance with the intent of the MUTCD if signs are limited to rural areas.

DOT Response: The federal MUTCD provides guidance that the signs should be used in rural areas but does not prohibit them in transitional areas.

Representative Mary Hubler, 75th Assembly District—would like to see the proposed rule amended to include museums as eligible attractions. Museums are a valuable part of the tourist economy. A great many of them do not operate 8 hours a day and/or 5 days a week. Travelers ought to be able to use signs to make them aware of these attractions and to help them locate them.

Bill G. Smith, State Director, NFIB, 10 East Doty Street, Suite 201, Madison, WI 53703—Disagrees with the Department's analysis that the rule would have “minimal cost impact on small businesses.”

DOT Response: Rule was modified to provide additional consideration to small businesses.

Scott Van Pee, Castle Rock Golf Course (via e-mail)—supports the proposed rule. Has been looking for ways to advertise on the interstate, but the cost of billboards is too expensive, having to compete with large companies with big advertising budgets in Wisconsin Dells. Advertising for “attractions” on the interstate will bring more people to our business and this program would be a solution that would be affordable. The community needs to bring more tourists into town and this is a method that is sure to be successful.

Linda Welbes, Brigadoon Winery, 2170 Clifford Road, Tripoli, WI 54564—questions why rural businesses are not eligible for the signs.

DOT Response: They are eligible.

John Louis, Oakwood Fruit Farm, 31128 Apple Ridge Road, Richland Center, WI 53581—Would like to see the elimination of the 3-mile distance requirement. Would also like to see the program include a group to make decisions on an appeal if the DOT rejects a sign request.

DOT Response: Advisory council makes recommendations to DOT.

Connie Van Sluys, Spooner Farmers Market Manager, Spooner, WI—supports the proposed rule.

Bob Duffy, Economic Development Director, City of Oconomowoc, 174 East Wisconsin Avenue, P. O. Box 27, Oconomowoc, WI 53066—supports the proposed rule.

Bonnie de Arteaga, 340 South Parkway Drive, Brillion, WI 54110—would be interested in an attractions sign for the Main Street Art Works in Hilbert, WI as the existing rest stop information centers do not serve that area.

DOT Response: Hilbert is not on one of the highways designated by statute for this type of sign. Might explore TODs sign alternative.

Angela Delf, Rice Lake Chamber of Commerce—supports the proposed rule. The Chamber of Commerce requests they be allowed to place a sign for their kiosk system as an attraction. The kiosk system provides people with maps to shopping, services and attraction sites, is located within 3 miles of the interchanges, and meets much of the criteria mentioned in the proposed rule.

DOT Response: Kiosks do not fit into this SIS signing program.

Ashley McMahon, Pilch & Barnet, 2317 International Lane, Suite 215, Madison, WI 53704—would like to nominate the Old Feed Mill in Mazomanie as a candidate for the attractions sign.

DOT Response: Mazomanie is not on a designated highway segment for the SIS program. Might consider TODs alternative.

Mary S. Smith, President, Kenosha Area Convention & Visitors Bureau, 812 56th Street, Kenosha, WI 53140—requests that the mileage allowance be extended to 10 miles from the interstate. The lakefront has gone through extensive revitalization and they have 4 museums, which are publicly funded and are free, that would be excluded if the mileage allowance weren't changed. These museums can be accessed via an electric streetcar system that draws thousands of visitors each year.

Scott M. Henke, Mayor, City of Hartford, City Hall, 109 North Main Street, Hartford, WI 53027—supports the proposed rule making especially in regard to signage promoting the Schauer Arts and Activities Center.

Thomas J. Robbins, Executive Director, Schauer Arts and Activities Center, Inc., Hartford, WI—supports the proposed rule making for non-profit community arts venues/facilities such as his (a comprehensive performing and visual arts center complete with 571-seat auditorium, art gallery and more).

Christopher Bagniet, Director, RiverEdge Galleries, Mishicot, WI—supports including galleries as attractions. Art galleries support local artists by providing a venue for their work.

Kathy Kelsey Foley, Director, Leigh Yawkey Woodson Art Museum, 700 North 12th Street, Wausau, WI 54403—supports the proposed rule and requests attraction signage for Wausau’s Woodson Art Museum on the exit ramp on Hwy. 39/51 and Hwy. 29. The museum is compliant with the rule’s criteria. Would like to move forward quickly for the sign so that as the Wausau-area construction on Hwy. 39/51 and Hwy. 29 is completed and signs are re-installed/newly-installed, that the signage for the museum can be included.

Dawn Roe, Manager, Wisconsin Cheese Makers Association, 8030 Excelsior Drive, Suite 305, Madison, WI 53717—requests that cheese factories be included in the “agri-tourism” category. Wisconsin has 23 cheese factories in 17 different counties offering tours of their facilities. The cheese factories are an important factor in making sure agriculture is well represented in Wisconsin.

DOT Response: Cheese factories may qualify if they meet other criteria.

Christopher R. Paulson, Executive Director, Racine Heritage Museum, 701 Main Street, Racine, WI 53403—supports the proposed rule making with some concerns. Would like the 5 mile limit increased and the language of “rural in character” is confusing.

Susan Noble, Assistant Director, Juneau County Economic Development Corporation, 122 Main Street, Camp Douglas, WI 54618—Suggests amending the allowance made for attractions be greater than 5 miles. Up to 30 miles in this rural area would be more realistic and appreciated.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** The Plain Language Analysis is the same, but the analysis that follows that heading was expanded substantially to account for the many constructive comments made at the public hearing and in follow up written suggestions to the Department. The changes are explained at length in the analysis itself.

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained numerous recommendations and are addressed as follows:

All Legislative Council recommendations were followed except that the prohibition on discrimination on “age” in public accommodations was retained, as it is a required standard in the federal Manual on Uniform Traffic Control Devices for this type of signage as mentioned in the note following s. Trans 200.06(2g).

(g) **Final Regulatory Flexibility Analysis.** The proposed rule provides additional participation opportunities for small businesses. There is a probable positive net impact on private sector revenues to the extent the new signage promotes Wisconsin “Attractions.” The private sector presumably will only choose to incur the costs when they anticipate the

signs will generate a net benefit to the “Attraction” business. The outdoor advertising industry did not state any opposition to the proposed rule, as the new “Attraction” owner is not required to choose between outdoor advertising and this newly eligible SIS “Attraction” signage. They are complementary. The most complained about restrictions are those contained in the mileage limitations for the distance of “ATTRACTIONS” from the interchange exit or intersection on the 36 highway segments identified by statute. The language of this proposed rule will extend the mileage limitation if the statutory limitations are adjusted consistent with the mileage requirements of the MUTCD. ~~The same is true of the TODS sign mileage limitations. Some restrictions on TODS signs on local roads are removed by limiting their application to TODS signs on State Trunk Highways.~~ Fixed and absolute eligibility criteria were replaced with more generic criteria allowing an advisory council to take into consideration many other reasonable factors in its discretion. Additional flexibility is provided for the TODs program at local option on highways under the jurisdiction of local governments and allows the extension of the mileage limitation on TODs attractions if statutory limits are adjusted consistent with the MUTCD.