

The Wisconsin Department of Transportation adopts an order to repeal TRANS 1.035(2)(intro.), (a) and (b)1. to 5., 1.05(2)(g), 1.06(4) and 1.08(1)(e); renumber and amend TRANS 1.035(1), (2)(b)(intro.) and (c); amend TRANS 1.015(1), 1.02(1), (2)(b) and (3), 1.03(3)(intro.), (b) and (4), 1.035(3), 1.04, 1.05(1), (2)(b), (e) and (f), (3), (7) and (8), 1.06(2), (3), (5) and (6), 1.08(1)(a) to (d), (2)(a) and (3), and 1.09(2) and (3), and create TRANS 1.015(4m) and 1.035(1)(a), relating to the elderly and disabled transportation assistance to counties.

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

STATUTORY AUTHORITY: s. 85.21, Stats.

STATUTES INTERPRETED: s. 85.21, Stats.

Plain Language Analysis: Chapter Trans 1 establishes the Department's administrative interpretation of s. 85.21, Stats., and prescribes administrative policies and procedures for implementing the elderly and disabled transportation assistance to counties authorized under s. 85.21, Stats. The purpose of this rule making is to cap the amount counties can keep in trust funds, update language regarding program procedures and report requirements and allow counties more flexibility in meeting trip purpose priorities.

The current rule allows a county to establish a trust fund and deposit all or part of its allocation into this fund. Trust funds can only be used for the purchase or maintenance of transportation equipment or to make grants to other governments and private non-profit organizations, which provide specialized transportation services. When the rules governing trust funds were established, counties were not eligible applicants under the Section 5310 Capital Assistance program for specialized transportation. (The 5310 Program provides grants to cover 80% of the cost of vehicles with the grantee paying the remaining 20%). In the past, trust funds provided a means for counties to save the significant amounts of money needed for the purchase of vehicles. Counties are now eligible applicants for the 5310 Program and can also contract with successful 5310 Program grantees in their county. The need to save large

amounts of program dollars for vehicles no longer exists. Currently, a few counties have amassed considerable sums of money in their trust funds. The rule places a cap on trust funds at \$80,000.

DOT's District offices currently have a front-door role in this program, providing basic program information and referring interested parties to the program expert in the Central Office. The changes update ch. Trans 1 to reflect this current business practice.

Currently, the rule prescribes ways a county can meet trip purpose requirements. The rule increases flexibility in how counties administer trip purpose requirements to meet each county's individual need.

The current rule requires that all passenger revenue received in a given year be applied to transportation expenses incurred in that same year. This is difficult to apply in reality as bills for expenditures may now come in for several months after the end of the calendar year. The changes keep the intent of the original rule—applying passenger revenues to transportation expenses—but don't define a timeline.

Providing more flexibility to counties and limiting the amount of aid that may be held in trust should result in higher levels of service to Wisconsin's elderly and disabled population.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: There are no federal dollars or programs involved.

Comparison with Rules in Adjacent States:

Michigan: Michigan does not have a comparable program.

Minnesota: Minnesota does not have a comparable program.

Illinois: Illinois does not have a comparable program.

Iowa: Iowa does not have a comparable program.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: Counties have the option of establishing trust funds with unused program dollars (or they would need to return these funds to the State). Fifty-seven counties have established trust funds. These funds were analyzed regarding their use and the amount of money retained. Monies placed in trust funds are funds that were not used to provide service. Only five counties will be affected by this change (four of these minimally as they will need to spend down approximately \$2,000-\$5,000). DOT believes this change will mean more

transportation service for the elderly and disabled population of Wisconsin since more funds will be used for service instead of being retained in trust (as a “rainy day” account).

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This rule will have no adverse impact on small businesses. Counties are the only eligible program recipients.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities. The only private sector involvement in this program comes through counties contracting with private sector entities. The changes will not affect these contracts.

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

Copies of Rule. Copies of the rule may be obtained upon request, without cost, by writing to David Lowe, Department of Transportation, Division of Transportation Investment Management, Specialized Transit Section, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-9476, or via e-mail: david.lowe@dot.state.wi.us. 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.

TEXT OF RULE

SECTION 1. Trans 1.015(1) is amended to read:

Trans 1.015(1) "Allocated aid" means a county's proportionate share of state financial aid as defined in s. [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%282%29%28b%29&softpage=Document - JUMPDEST 85.21\(2\)\(b\)85.21\(2\)\(b\), Stats](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%282%29%28b%29&softpage=Document - JUMPDEST 85.21(2)(b)85.21(2)(b), Stats).

SECTION 2. Trans 1.015(4m) is created to read:

Trans 1.015(4m) "Priority trips" means trips for elderly and disabled persons to medical, nutritional and work-related activities as required in s. 85.21(4)(a), Stats.

SECTION 3. Trans 1.02(1), (2)(b) and (3) are amended to read:

Trans 1.02(1) In accordance with the statutory direction in s. [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%282%29%28b%29&softpage=Document - JUMPDEST 85.21\(2\)\(b\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%282%29%28b%29&softpage=Document - JUMPDEST 85.21(2)(b)) 85.21(2)(b), Stats., the department shall determine the amount of each county's proportionate share of moneys ~~moneys~~ moneys-aid appropriated in each year for the operation of this program. The amount of ~~money~~ moneyaid available for allocation in any calendar year shall be the amount appropriated for the fiscal year in which that calendar year begins.

(2)(b) For the purposes of determining a county's proportionate share, the department shall include all elderly and disabled persons who reside ~~in institutions in~~ institutions within that county.

(3) Subject to adjustments that ensure that each county receives not less than 0.5% of the total annual appropriation for the program, the amount of aids allocated to each county shall equal the total amount available for allocation for the calendar year multiplied by the ratio of the number of elderly and disabled persons in the county to the total number of elderly and disabled persons in Wisconsin. ~~(The~~

NOTE: The final aids allocation figures for each county and the data and statistics used in making the aid allocations are available for inspection at the department upon request.

SECTION 4. Trans 1.03(3)(intro.), (b) and (4) are amended to read:

Trans 1.03(3)(intro.) A county shall may not use its allocated aid and matching contribution to:

(b) Pay expenses for general administration, not specifically related to approved transportation projects, or pay expenses of advisory committees to transportation projects, except where such committees are required by approved planning or management studies.

(4) Allocated aid shall be used by a county to pay only for eligible expenses incurred ~~during the calendar year in which the aid was allocated, unless the aid is held in trust for expenditure at a later date under s. Trans 1.05(2).~~ ~~incurred during the calendar year in which the aid was allocated, unless the aid is held in trust for expenditure at a later~~ ~~date~~ ~~under~~ [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%282%29&softpage=Document - JUMPDEST_Trans_1.05\(2\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%282%29&softpage=Document - JUMPDEST_Trans_1.05(2)Error! Hyperlink reference not valid.) **Error! Hyperlink reference not valid.** ~~Any~~ Any aid which is not expended or held in trust shall be refunded to the department by June 30 following the end of the calendar year in which the aid was allocated.

SECTION 5. Trans 1.035(1) is renumbered Trans 1.035(1)(a) and amended to read:

Trans 1.035(1)(a) ~~Effective July 31, 1987, counties~~ Counties may establish the transportation of elderly and disabled persons to medical, nutritional and work-related activities as the priority for the specialized transportation services receiving program aid, as allowed under s. 85.21(4)(a), Stats. ~~These priorities need not be established~~

~~on a project-by-project basis if the combined services of 2 or more projects give priority to the specified trip purposes. These priorities need not be established on a project-by-project basis if the combined services of 2 or more projects give priority to the specified trip purposes.~~

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~~Trans 1.035(2)~~

~~(2) A county may adopt any of the following approaches to prioritizing services for the activities under s. **Error! Hyperlink reference not valid.****Error! Hyperlink reference not valid.** Stats.:~~

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~~Trans 1.035(2)(a)~~

~~(a) A county may limit the use of its allocated aid to subsidize only those trips which are made for one or more of the purposes specified under s. **Error! Hyperlink reference not valid.****Error! Hyperlink reference not valid.** Stats. A county may limit the use of its allocated aid to subsidize only those trips which are made for one or more of the purposes specified under s. 85.21(4)(a), Stats.~~

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SECTION 6. Trans 1.035(2)(intro.) and (a) are repealed.

SECTION 7. Trans 1.035(2)(b)(intro.) is renumbered Trans 1.035(1)(b) and amended to read:

Trans 1.035(1)(b) If other than priority trips for ~~purposes other than those specified~~ in ~~s.~~ [Priority trips shall have the highest priority in whatever order the county determines. ~~Priority according to trip purpose may be established by the following means:~~](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%284%29%28a%29&softpage=Document - JUMPDEST 85.21(4)(a)85.21(4)(a), Stats., are to be subsidized with the allocated aid and the amount of trip requests exceed the capacity of subsidized services, then a county may establish service priority according to trip purposes. The trip purposes specified in s. <a href=)

~~Priority according to trip purpose may be established by the following means:~~

SECTION 8. Trans 1.035(2)(b)1. to 5. are repealed.

SECTION 9. Trans 1.035(2)(c) is renumbered Trans 1.035(1)(c) and amended to read:

Trans 1.035(1)~~Trans 1.035(2)(b)1.~~

~~1. Dispatching or advance reservation procedures which defer or deny requests for non-prioritized trips when the total requests for trips exceed available transportation capacity.~~

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Trans 1.035(2)(b)2.

~~2. Preferential rates of copayment which favor the prioritized trip purposes.~~

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Trans 1.035(2)(b)3. _____

~~3. Reserved capacity which insures service for the prioritized trip purposes. A county may operate part of its transportation capacity under this paragraph without trip purpose prioritization, if it reserves sufficient other capacity to satisfy requests for prioritized trips which cannot be met by the non-prioritized service.~~

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Trans 1.035(2)(b)4. _____

~~4. Transportation service which is operated according to regular routes and schedules shall be designed primarily to serve persons and activities which generate and attract trips for the prioritized trip purposes.~~

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Trans 1.035(2)(b)5. _____

~~5. Any other technique such that if demand for service exceeds its capacity, then service is discouraged, deferred or denied for those trips not having priority.~~(c) A county need not employ techniques to impose service prioritization according to trip purpose, if the transportation projects receiving allocated aid have enough capacity to satisfy all of the demand placed on them.

SECTION 10. Trans 1.035(3) is amended to read:

Trans 1.035(3) A county shall may not discriminate on the basis of age against passengers requesting service for the purposes specified in s. <http://folio.legis.state.wi.us/cgi->

[bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%284%29%28a%29&softpage=Document - JUMPDEST 85.21\(4\)\(a\)85.21\(4\)\(a\), Stats priority trips](http://bin/om_isapi.dll?clientID=77075&infobase=stats.nfo&jump=85.21%284%29%28a%29&softpage=Document - JUMPDEST 85.21(4)(a)85.21(4)(a), Stats priority trips). This

requirement may be met by each individual project receiving allocated aid or by the combined services of 2 or more projects receiving allocated aid.

SECTION 11. Trans 1.04 is amended to read:

Trans 1.04 Accessibility. A county application for aids shall address the issue of the need for transportation services that are accessible to the developmentally and physically disabled population of that county. A county shall ~~either make~~ either ~~make~~ describe its efforts to make accessible transportation available to ~~the~~ the all elderly and disabled individuals or ~~demonstrate~~ prove that accessible transportation services are currently available. ~~A county shall also propose specific steps to improve accessible transportation services for a 3-5 year p~~ ~~A county shall also propose specific steps to improve accessible transportation services for a 3-5 year period following the project year.~~

SECTION 12. Trans 1.05(1), (2)(b), (e) and (f) are amended to read:

Trans 1.05(1) A county applying for its allocated aid shall make a matching cash contribution equal to 20% of the aid for which it applies. No in-kind services, no federal or state categorical financial aids and no passenger revenue shall be allowed as part of the matching contribution. The matching contribution shall be an auditable item in the county's system of accounts. The matching contribution shall be expended in an amount equal to 20% multiplied by the sum of ~~the amount of the~~ amount of aids which have been expended plus the amount of any aids retained under sub. (2) county's annual aids.

~~which have been expended plus the amount of any aids retained under~~
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[&softpage=Document - JUMPDEST Trans 1.05\(2\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%282%29&softpage=Document - JUMPDEST Trans 1.05(2))**Error! Hyperlink reference not valid.**

(2)(b) All of the assets in a county's trust fund shall be expended; a county may not establish a permanent minimum balance. The balance of aid held in trust shall be consistent with the plan established under par. (f), but may not exceed an average daily balance on a quarterly basis of \$80,000. Any balance exceeding this allowance shall be refunded to the department 30 days after the end of the quarter.

(e) Aid may be held in trust only ~~only~~ for the purpose of acquiring or maintaining transportation equipment used in services covered by this chapter. ~~Individual bills for maintenance or repairs costing less than \$300 and the cost of repairs covered by warranties are not eligible for payment with aid held in trust.~~ of acquiring or maintaining transportation equipment used in services covered by this chapter. Individual bills for maintenance or repairs costing less than \$300 and the cost of repairs covered by warranties are not eligible for payment with aid held in trust.

(f) Expenditures of aid from a county's trust fund shall be made according to a plan approved by the department. A county's plan for the use of its trust fund shall indicate for what purpose the fund is being accumulated; ~~identify what pieces of equipment the county proposes to acquire, replace or maintain with aids held in trust; identify who is or will be the owner of the equipment; and indicate the dates and~~

~~amounts of planned expenditures; identify what pieces of equipment the county proposes to acquire, replace or maintain with aids held in trust; identify who is or will be the owner of the equipment; and indicate the dates and amounts of planned expenditures.~~ A plan may be amended with the department's approval at any time.

SECTION 13. Trans 1.05(2)(g) is repealed.

SECTION 14. Trans 1.05(3), (7) and (8) are amended to read:

Trans 1.05(3) ~~Trans 1.05(2)(g)~~ —

~~(g) A county may make grants from its trust fund to other local governments and private nonprofit organizations which provide specialized transportation services. No grants may be made to private individuals. The grants may not exceed the amount of eligible expenses actually incurred.~~ All revenue received from passengers for transportation service in a given year ~~in a given year~~ shall be applied to approved elderly and disabled transportation expenses incurred in that same year ~~projects expenses incurred in that same year~~. Counties may solicit revenue from passengers for non-transportation purposes if the solicitation indicates the intended use of the revenue.

(7) A county shall reimburse the department for its share of the value of equipment purchased under this chapter which is sold or removed from specialized transportation service unless the sales proceeds are spent for specialized transportation projects approved by the department.

(8) A county shall have in place a competitive, public bidding bidding procurement process for the procurement procurement purchase of specialized transportation services or equipment with aids allocated under this chapter. All requests for ~~bids~~ bids

or proposals from transportation providers interested in providing the specialized transportation ~~service~~ services to be purchased shall be by published, public notice. Request for bids or proposals shall be made for all procurement of specialized transportation goods or services subject to competitive, public ~~bidding~~ procurement bidding under this chapter. A county's ~~bidding~~ bidding procurement process shall include a procedure for resolving ~~bid proposal~~ bid proposal complaints and conflicts. A county's decision to reject a proposal may be appealed to the ~~department's bureau of transit~~ department's bureau of transit, but the appeal shall be limited to procedural complaints and the ~~bureau~~ bureau department may not review the substance of a county's decision.

SECTION 15. Trans 1.06(2) and (3) are amended to read:

Trans 1.06(2) Applications for grants of allocated aids shall be submitted to the department no later than December 4 431 of the year immediately preceding the project year. ~~Counties may request up to a 30-day extension of this due date and the department may grant such requests.~~ Counties may request up to a 30-day extension of this due date and the department may grant such requests. No application received after January 1 of the project year shall be funded unless the ~~ss~~ secretary of transportation ~~transportation~~ the department determines that a later date is appropriate in order to properly respond to an emergency situation. ~~in order to properly respond to an emergency situation.~~

(3) Applications shall be made in a form and manner prescribed by the department and signed by the county board chair, county executive or county

administrator, or the county position authorized in writing each year by this person.

Applications shall include, but not be limited to, a project description, a project budget, a plan for allocated aid held in trust, and such other relevant information as the department may require to effectively evaluate the proposal. In addition, the application shall include formal comments on the proposed project(s) by appropriate county agencies such as committees or commissions on aging and boards created under ss.

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SECTION 16. Trans 1.06(4) is repealed.

SECTION 17. Trans 1.06(5) and (6) are amended to read:

Trans 1.06(5) A county shall submit the original of its application to the ~~department's appropriate transportation district office~~ department.

(6) A county applicant shall submit a copy of its application for review and comment ~~purposes~~ ~~purposes~~ to the appropriate regional planning commission, to the appropriate ~~to the appropriate~~ area agency on aging and to the appropriate ~~to the appropriate~~ dd department of ~~h~~ health and social ~~social~~ social ~~family~~ family ~~ss~~ services' ~~ed~~ division of ~~ec~~ community ~~ss~~ services' regional office. In order to be considered by the department, comments by such agencies must be submitted to the ~~department's appropriate transportation district office~~ within 30 days of submission of the county's application to

the department's ~~appropriate transportation district office within 30 days of submission of the county's application to the department by February 1 of the grant year.~~

SECTION 18. Trans 1.08(1)(a) to (d) are amended to read:

Trans 1.08(1)(a) Total number of one-way passenger trips per ~~quarter~~ quarter-reporting period by passenger type for each project;

(b) Total number of one-way passenger trips per ~~quarter~~ quarter-reporting period by trip purpose for each project;

(c) Total number of service hours per ~~quarter~~ quarter-reporting period for each project;

(d) Total number of service miles per ~~quarter~~ quarter-reporting period for each project; and.

SECTION 19. Trans 1.08(1)(e) is repealed.

SECTION 20. Trans 1.08(2)(a) and (3) are amended to read:

Trans 1.08(2)(a) A financial report indicating the total annual cost of transportation by ~~budget line-item~~ for each project by budget line-item and the sources and amounts of revenue which offset the annual cost of transportation for each project.

(3) The department may withhold the distribution of all or part of a county's allocation under this chapter if the county fails to furnish timely and satisfactorily the information required under this section. The information to be furnished by counties under [http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%281%29&softpage=Document - JUMPDEST Trans 1.08\(1\)sub. \(1\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%281%29&softpage=Document - JUMPDEST Trans 1.08(1)sub. (1) shall be submitted to the) shall be submitted to the

appropriate ~~appropriate~~ department ~~district office by~~ district office by August 4 15 of the project year and by ~~February 3~~ February 3 ~~March 1~~ of the calendar year following the end of the project year. The information to be furnished by counties under [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%282%29&softpage=Document)

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appropriate ~~appropriate~~ department ~~district office~~ ~~district office~~ by March 4 ~~5~~ 15 ~~31~~ of the calendar year following the end of the project year. If a due date for submitting information to the department under [http://folio.legis.state.wi.us/cgi-](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%281%29&softpage=Document)

[bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%281%29](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.08%281%29&softpage=Document)
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&softpage=Document - JUMPDEST Trans 1.08(2) (2) falls on a Saturday, Sunday or holiday, that due date shall be the first business day following the Saturday, Sunday or holiday.

SECTION 21. Trans 1.09(2) and (3) are amended to read:

Trans 1.09(2) ~~Effective July 1, 1989, no~~ No third-party contract for transportation services purchased by a county with allocated aids may include a prohibition against further subcontracting for the provision of the services unless the contract is awarded through a competitive, public bidding procurement bidding process established in full accordance with [15](http://folio.legis.state.wi.us/cgi-</p></div><div data-bbox=)

[bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%288%29
&softpage=Document - JUMPDEST Trans 1.05\(8\)](http://www.wisconsin.gov/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%288%29&softpage=Document - JUMPDEST Trans 1.05(8)) s. Trans 1.05(8) or the total amount of the contract is \$500 or less.

(3) ~~Effective January 1, 1989,~~ a A third party contract for transportation services purchased by a county with allocated aids shall, at least once every 5 years, be subject to and awarded through a competitive, public bidding biddingprocurement process established in full accordance with [http://folio.legis.state.wi.us/cgi-
bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%288%29
&softpage=Document - JUMPDEST Trans 1.05\(8\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77075&infobase=code.nfo&jump=Trans%201.05%288%29&softpage=Document - JUMPDEST Trans 1.05(8)) s. Trans 1.05(8) when the total amount of the contract is \$10,000 or more.

(END OF RULE TEXT)

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

The treatment of ch. Trans 1.05(2)(b) takes effect on January 1, 2006.

Signed at Madison, Wisconsin, this ____ day
of **July**, 2004.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation