

APPENDIX

Note: DOC 313.01. The purpose of corrections industries is twofold: 1) to provide a beneficial experience for the inmate and 2) to maintain self-supporting industries. These 2 elements are related since efficient and modern management of industries results in meaningful real-life working conditions that lead to marketable skills for the inmate upon release. Operating corrections industries on a business-like basis provides inmates with opportunities to use existing skills, to upgrade their skills and to learn new skills.

Historically, work in prisons served a variety of purposes that conflicted with each other. The National Advisory Commission on Criminal Justice Standards and Goals said the following about the historical role of work in institutions:

"Its functions have been to punish and keep the committed offender busy, to promote discipline, to maintain the institution, to defray some operating costs of the prison, and to provide training and wages for the offender. To accomplish any one function, it has been necessary to sacrifice one or more of the others. Unfortunately, the job training function has not had the highest priority." National Advisory Commission on Criminal Justice Standards and Goals, *Corrections* (1973), p. 387.

Wisconsin corrections industries departs from the historical model by making reintegration its purpose.

For discussion on prison industries, see: National Advisory Commission on Criminal Justice Standards and Goals, *Corrections* (1973), pp. 387-388; and American Bar Association, *Tentative Draft of Standards Relating to the Legal Status of Prisoners* (1977), pp. 468-465.

Note: DOC 313.02. This section requires industries to keep a written description of its operations. The description should fully explain the entire operation so inmates and staff can use the document to evaluate the various job positions available with reference to the particular needs of both the inmate and the program.

Note: DOC 313.03. Due to the popularity of the industries program, there is usually a waiting list of applicants for positions. When vacancies occur, the shop supervisor contacts the desired applicant and, if the applicant is still interested, hires that inmate subject to program review committee (PRC) approval.

Since industries creates an employer-employee relationship, the shop supervisor is given the power to recommend the person believed to be best suited for the job. PRC approval is also necessary for the specific program assignment, but no inmate can be assigned to a specific job without first being recommended and tentatively hired by the shop supervisor.

Generally, very few inmates have training for the jobs for which they apply. Selection does not usually depend upon the level of specific skill accomplishment an inmate has since developing new work skills, habits and training is a goal of the program under DOC 313.01 (1). Attitude, willingness to learn, physical strength or dexterity and medical history are likely to be more important than prior experience. Of course, prior experience may weigh heavily if the supervisor needs to fill a position quickly that is crucial to maintain efficient operations.

Note: DOC 313.04. The probationary period provides an opportunity for the inmate to see if the job suits him or her and for the supervisor to evaluate the inmate's capability in the job. Sometimes an inmate is not right for the job, and the probationary period permits a change to be made at the request of the inmate, the supervisor, or both, without the counseling sessions required under DOC 313.06. If the inmate is aggrieved by the decision, he or she may appeal under the inmate complaint review system (ICRS).

Subsection (2) prohibits sick leave pay and bonus pay for inmates during probation, as do many private and public employment contracts. It was adopted here because it provides incentive for inmates to earn the benefits. Since benefits are taken from the entire industries revenue generated by all employees, inmates are eligible to receive the benefits only after they have made a contribution to the program and are likely to continue to do so. After the probationary period is finished, the likelihood of continued stable employment is increased, and the inmate is entitled to share in benefits generated through the labor of all the employees in the industries program.

Subsection (3) requires the length of the probationary period to be established prior to interviewing any inmate. This prevents the period being adjusted for a particular inmate. The term is intended to relate to the position. The probationary term for any job must be written in the description of industries under DOC 313.02.

Appendix

Note: DOC 313.05. The monthly evaluation provides feedback to the employe on a regular basis concerning overall performance. The shop supervisor's discussion with the employe can be beneficial to both the supervisor and the employe as a means of maintaining a productive work environment. The supervisor can tell the employe that the work is satisfactory or, if not, can offer suggestions about how to improve.

The discussions and written evaluation enable the industries to work toward the goals under DOC 313.01 of improving inmate work skills, meeting the needs of individual inmates, paying a wage based upon productivity and running a productive industry. Wage increases are based upon productivity as reflected in the evaluation. (See: DOC 313.08, employe compensation in industry shops.) The inmate, therefore, has an incentive toward positive behavior resulting in a favorable evaluation. This section conforms to the American Correctional Association's *Manual of Standards for Adult Correctional Institutions* (1977), standard 4391, and to s. 303.01 (4), Stats.

The written evaluation, using an established set of criteria together with underlying facts, is of critical importance if the supervisor terminates the inmate under DOC 313.06. It also provides the inmate with a written record of positive program participation for later consideration by the PRC and the parole board.

Note: DOC 313.06. DOC 313.06 gives the shop supervisor the authority to terminate employes who are not satisfactory. If the cause for termination is not a serious one requiring immediate action as described in sub. (1) (b), the supervisor must first attempt to counsel the employe.

The counseling sessions are to be discussions during which the inmate and the supervisor exchange ideas about how to improve performance. Such discussions may reveal that minor adjustments are possible, and the employe will be retained. The discussions may also reveal that, in the supervisor's view, the employe is unsuited for the position, and the employe may, therefore, be terminated after 2 sessions.

Note: DOC 313.07. Disciplinary action by itself has no direct relevance to employment under this chapter. However, the underlying conduct of the employe is relevant if it affects job performance as evaluated using the criteria of DOC 313.05 (2). For example, an inmate who is disciplined for conduct elsewhere in the institution could not be terminated merely because the inmate was found guilty at a disciplinary proceeding. However, if the inmate is placed in segregation the resulting poor attendance at work (See DOC 313.05 (2) (d) may be cause for termination under DOC 313.06 (1) (c).

Note: DOC 313.08. Section 303.01 (4), Stats., requires wages to be based upon productivity. For several reasons the wages paid to inmates are not equal to wages paid for similar employment in the private sector. First, an inmate in an institution does not pay for room and board, but an employe in the private sector pays a major portion of his or her wages for these items. If the amount paid for room and board is added to the inmate's wages, the inmate's real income is much higher.

Second, training of employes is ongoing, many inmates are not skilled when they begin work and they do not stay on a job for as long as workers in the private sector due to transfers or other reasons. The cost of training inmates for a relatively short period of employment decreases the resources available for wages.

A third reason wages are lower than private industry is that s. 303.06, Stats., prohibits products, except farm machinery, farm implements and tools, cordage rope and plygoods and binder twine, manufactured in a penal institution, from being offered for sale in the open market. This statute prevents corrections industries from entering more profitable markets, thereby limiting the resources available for wages.

Fourth, the costs of security are higher for a correctional population than for private industry.

Finally, under s. 303.01 (4), Stats., the wages may not be set at a rate that would cause a deficit in operations. This restriction relates to all the previous points since the higher costs of training and security, the limitation on competition with private industry and the low profit items manufactured result in fewer resources for wages.

The fringe benefits provided by this section relating to overtime, second shift, sick leave, bonuses and employment-related injuries are considered an important part of inmate work programs by the American Correctional Association, *Manual of Standards for Adult Correctional Institutions* (1977), standard 4391. Most other commentators also recognize the significance of benefits being parallel to the private working world.

Note: DOC 313.09. This section sets the maximum and minimum number of hours of the regular work day for any job position in industries. Subsection (1) does not prevent an employe from working longer than 8 hours or the time established as regular working hours for Register, April, 1990, No. 412

the position if the supervisor desires it. However, the inmate working more than the number of hours set for the work day will receive overtime pay.

Subsection (3) was adopted so employe work days will not be continually interrupted. This subsection is in line with the purposes of DOC 313.01. If an industries program is to be beneficial, it should closely approximate private sector working experience. Numerous absences are not tolerated in the private sector, and sub. (3) sets the same policy for corrections industries. Passes for things that could be done at other times should not be given.

This section substantially conforms to the American Correctional Association's *Manual of Standards for Adult Correctional Institutions* (1977), standards 4387, 4388 and 4390.

Note: DOC 313.10. This section was established for 2 reasons: first, so industries can continue a relationship with employes with a good working record, and second, to discourage inmates from resisting transfers for monetary reasons.

Inmates who are transferred lose the jobs they have at the institution from which they are transferred. The decision to transfer an inmate is made by the program review committee as are all the programming decisions. Subsection (1) allows a policy of preference for applicants who have previous experience with industries. Subsection (2) permits an inmate who is transferred to begin employment at the same wage as the one he or she left. This section provides incentive for inmates to cooperate with and seek program changes that will benefit them.

Note: DOC 313.11. Inmate advisory committees are presently part of the industries program in Wisconsin. These committees are valuable for both inmate employes and staff. They have led to more informed management decisions benefitting the inmates and the program. The operation of these committees is beneficial in training inmates for work upon release to the community, and inmates develop a sense of responsibility about their work when they know they can participate in decisions.

Subsection (4) specifically prohibits unionization by inmates. However, the advisory committees become involved in many of the same issues that labor unions do relating to the workplace. The past willingness of high level management staff in industries to meet on a monthly basis with committees demonstrates the important contribution the committees make to Wisconsin corrections industries.

Note: DOC 313.12. In correctional institutions equal employment opportunities must be ensured for minority groups.

Because on-the-job training is provided in Wisconsin corrections industries, with prior skill not being required for employment, underrepresentation of minorities in skilled positions or overrepresentation in low-skilled positions may indicate discrimination.

In recent years awareness of the problems of discrimination has been growing and remedies have been adopted to deal with them. But despite these efforts, discrimination remains a problem, and this section provides remedial action.

This section conforms to the policy of the department of health and social services. (Policy Statement: Wisconsin Department of Health and Social Services, Donald E. Percy, Secretary, June 1978.) This section also conforms to standard 2.8—nondiscriminatory treatment—of the National Advisory Commission on Criminal Justice Standards and Goals, *Corrections* (1973), pp. 41-42.

Note: DOC 313.13. When managing a diversified business such as Wisconsin corrections industries, it may become necessary, as a last resort, to lay off employes. Cessation of production or reduction in the work force may result from, for example, a severe drop in sales, a supply shortage, equipment failure, transferring operations from one institution to another or combining operations to streamline production. At times, it may be necessary to reduce the work force as a sound business management practice in order to maintain a self-supporting industries program as described in DOC 313.01.