

Committee Name:
Assembly Committee – Rural Affairs
(AC–RA)

Appointments

97hr_AC–RA_Appt_pt00

Committee Hearings

97hr_AC–RA_CH_pt00

Committee Reports

97hr_AC–RA_CR_pt00

Clearinghouse Rules

97hr_AC–RA_CRule_97–

Executive Sessions

97hr_AC–RA_ES_pt00

Hearing Records

97hr_ab0000

97hr_sb0000

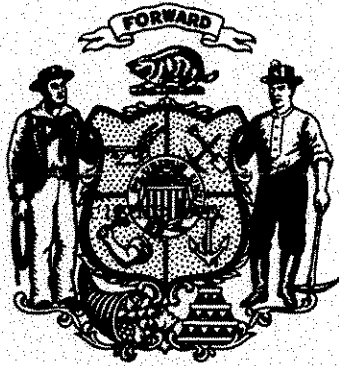
Misc.

97hr_AC–RA_Misc

Record of Committee Proceedings

97hr_AC–RA_RCP_pt00

ja



**1996 ANNUAL REPORT
ON THE LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

WISCONSIN LEGISLATIVE COUNCIL STAFF

One East Main Street, Suite 401
P.O. Box 2536
Madison, Wisconsin 53701-2536
(608) 266-1304

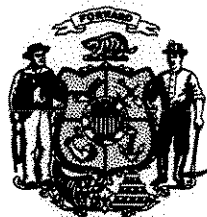
January 1997

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

January 1997

TO: THE HONORABLE TOMMY G. THOMPSON, GOVERNOR,
AND THE WISCONSIN LEGISLATURE

This Report is submitted to you pursuant to s. 277.15 (5), Stats. Under that statute, the Legislative Council Staff is directed to submit an annual report "summarizing any action taken and making recommendations to streamline the rule-making process and eliminate obsolete, duplicative and conflicting rules."

This Report covers calendar year 1996.

We believe that the Report will be informative.

Respectfully submitted,

David J. Stute
David J. Stute
Director

DJS:kjf;kja

JOINT LEGISLATIVE COUNCIL

s. 13.81, Stats.

OFFICERS

Cochairperson

FRED A. RISSER
Senate President
5008 Risser Road
Madison 53705-1365

Cochairperson

BEN BRANCEL
Assembly Speaker
R.R. 1, Box 229
Endeavor 53930-0229

SENATORS

BRIAN BURKE
2029 North 51st Street
Milwaukee 53208-1747

ROBERT JAUCH
Route 1, Box 635
Poplar 54864-0635

CHARLES J. CHVALA
1 Coach House Drive
Madison 53714-2718

RODNEY C. MOEN
18775 Dewey St., PO Box 215
Whitehall 54773-0215

ROBERT L. COWLES
300 W. Saint Joseph St., #23
Green Bay 54301-2048

GWENDOLYNNE MOORE
4043 North 19th Place
Milwaukee 53209-6806

GARY DRZEWIECKI
419 Washington Street
Pulaski 54162-0313

KEVIN SHIBILSKI
381 Mill Street
Amherst 54406-9394

MICHAEL G. ELLIS
1752 County Road GG
Neenah 54956-9730

DAVID ZIEN
1716 63rd Street
Eau Claire 54703-6857

REPRESENTATIVES

MARC DUFF
1811 S. Elm Grove Road
New Berlin 53151-2605

CAROL KELSO
416 E. Le Capitaine Circle
Green Bay 54302-5153

STEVEN FOTI
1117 Dickens Drive
Oconomowoc 53966-4316

JUDITH KLUSMAN
7539 Green Meadow Road
Oshkosh 54904-9403

STEPHEN FREESE
1121 Professional Drive
Dodgeville 53533-0001

WALTER KUNICKI
1550 South 4th Street
Milwaukee 53204-2961

MARY HUBLER
PO Box 544
Rice Lake 54868-0544

BARBARA J. LINTON
Route 1, PO Box 299
Highbridge 54846-9713

SCOTT JENSEN
850 South Springdale Road
Waukesha 53186-1402

MARLIN D. SCHNEIDER
3820 Southbrook Lane
Wisconsin Rapids 54494-7548

**WISCONSIN
LEGISLATIVE COUNCIL STAFF**

Director

David J. Stute

Deputy Director

Jane R. Henkel

Research Staff

Senior Staff Attorneys

Dan Fernbach
Shaun Haas
Gordon A. Anderson
Russ Whitesel
Richard Sweet
Ronald Sklansky
Mark C. Patronskey
Don Dyke
William Ford
Don Salm
Pam Shannon
Laura D. Rose
Mary Matthias

Staff Attorneys

Joyce L. Kiel
Robert J. Conlin
Anne L. Sappenfield

Consulting Attorney

Barbara Heaney

Staff Scientist

John Stolzenberg

Senior Analyst

David L. Lovell

Fiscal Staff

Accounts & Payroll Assistant

Janet L. Berge

Fiscal Assistant

Patricia K. Coakley

Support Staff

Supervisor

Kathy J. Annen

Assistant Supervisor

Wendy B. Ulrich

Assistants

Jane M. Miller
Lisa A. Hiebing
Kathy J. Follett
Julie A. Terry
Roberta J. Lund
Kelly S. Mautz
Barbara L. Vlasak

WISCONSIN LEGISLATIVE COUNCIL STAFF

**1996 ANNUAL REPORT ON THE
LEGISLATIVE COUNCIL RULES CLEARINGHOUSE***

CONTENTS

	<u>Page</u>
<u>Part I:</u> Function of the Legislative Council Rules Clearinghouse	3
<u>Part II:</u> 1996 Activities of the Rules Clearinghouse	7
<u>Appendix 1:</u> Sample Clearinghouse Report	13
<u>Appendix 2:</u> Processing Instructions to Agency Heads	21

* This Report was prepared by Ronald Sklansky, Director, and Richard Sweet, Assistant Director, Rules Clearinghouse, Legislative Council Staff.

PART I

FUNCTION OF THE LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

A. REVIEW OF RULES

Legislative review of proposed administrative rules begins with the submission of a rule to the Legislative Council Rules Clearinghouse. Section 227.15, Stats., requires that, prior to any public hearing on a proposed rule or prior to notification of the presiding officer of each house of the Legislature if no hearing is held, an agency must submit the proposed rule to the Legislative Council Rules Clearinghouse for review by the Council Staff. [See the Administrative Rules Procedures Manual, October 1994, prepared by the Legislative Council Staff and the Revisor of Statutes Bureau, for more information on drafting, promulgating and reviewing administrative rules.]

The Legislative Council Staff is provided 20 working days, following receipt of a proposed rule, within which to prepare a report on its review of the rule. However, with the consent of the Director of the Legislative Council Staff, the review period may be extended for an additional 20 working days.

Upon receipt of a proposed administrative rule, the Legislative Council Staff assigns the rule a Clearinghouse rule number, records the submission of the rule in the Bulletin of Proceedings of the Wisconsin Legislature and prepares two numbered rule jackets, one for the Assembly and one for the Senate.

The Director of the Rules Clearinghouse assigns the rule to a Legislative Council attorney or analyst for review and preparation of the statutorily required report. The staff member generally prepares the report within 10 working days and transmits the report to the Director or Assistant Director for final review. When the report on the proposed rule is completed, the staff returns to the agency the rule, the rule jackets and the Clearinghouse report containing the results of the review. [See Appendix 1 for a sample Clearinghouse report.]

In accordance with s. 227.15, Stats., the Clearinghouse report is structured to:

1. Review the statutory authority under which the agency intends to adopt the rule.
2. Review the proposed rule for form, style and placement in the Administrative Code.
3. Review the proposed rule to avoid conflict with, or duplication of, existing rules.
4. Review the proposed rule to ensure that it provides adequate references to related statutes, rules and forms.

5. Review the language of the proposed rule for clarity, grammar and punctuation and to ensure the use of plain language.

6. Review the proposed rule to determine potential conflicts and to make comparisons with related federal regulations.

7. Review the proposed rule to determine whether the agency has specified the number of business days within which the agency will review and make a determination on an application for a business permit.

As part of this review process, the Legislative Council Staff is directed to ensure that procedures for the promulgation of the rule are followed, as required by ch. 227, Stats., and to streamline and simplify the rule-making process.

B. OTHER RELATED RESPONSIBILITIES

Other primary rule review responsibilities of the Legislative Council Staff include the following:

1. Working with and assisting the appropriate legislative committees throughout the rule-making process.

2. Notifying the Joint Committee for Review of Administrative Rules (JCRAR) and appropriate committees of the Legislature whenever the rule-making authority of an agency is eliminated or significantly changed by the repeal, amendment or creation of a statute, by the interpretive decision of a court of competent jurisdiction or for any other reason.

3. Assisting the public in resolving problems related to administrative rules. This function includes providing information, identifying agency personnel who may be contacted in relation to rule-making functions, describing locations where copies of rules, proposed rules and forms are available and encouraging and assisting participation in the rule-making process.

The final responsibility of the Legislative Council Staff is the submission of an annual report to the chief clerk of each house of the Legislature and to the Governor summarizing any action taken by the Staff and making recommendations to streamline the rule-making process and eliminate obsolete, duplicative and conflicting rules. This document is the 17th Annual Report submitted by the Legislative Council Staff and covers the Staff's activities during calendar year 1996. This Report has been preceded by an initial report to the 1979 Legislature, which covered the Staff's activities from November 2, 1979 to April 1, 1980 (i.e., from the effective date of Ch. 34, Laws of 1979, which initiated the omnibus rule review process, to the end of Floorperiod IV of the 1979 Session) and Annual Reports for calendar years 1980 to 1995.

C. RECORDKEEPING SYSTEM

The Legislature's Bulletin of Proceedings is used for recording actions relating to the review of administrative rules. The Legislative Council Staff, the Senate and Assembly Chief Clerks and the Legislative Reference Bureau cooperate in a computerized recordkeeping system. Commencing with the 1979 Session, action on administrative rules has been shown in a separate part of the Bulletin of Proceedings.

Under this system, each proposed rule is assigned a number and entered in the computer by the Legislative Council Staff. A copy of the Clearinghouse report is placed in a Senate and Assembly rule jacket (similar to bill jackets), and the rule is then transmitted to the agency promulgating the rule for its review. After that, all legislative actions taken on the rule are entered on the face of the jacket and are reported to the Chief Clerks of each house. The Clerks enter the actions in the computerized system, thereby compiling a history of all legislative actions taken on a rule.

At the beginning of each biennial session, the administrative rule portion of the Bulletin of Proceedings is updated by deletion of all records relating to rules which, in the preceding session, have become effective, have been withdrawn or have been permanently objected to by law. Also removed from the Bulletin annually and withdrawn from the rule-making process is any proposed rule that, in accordance with s. 227.14 (6) (c), Stats., has been pending for at least four years, but no more than five years, after the date of its receipt by Legislative Council Staff under s. 227.15 (1), Stats. The final Bulletin printed for the preceding session then serves as the permanent record of the disposition of those rules. The remaining rules, which are still in the promulgation process, are carried over into the new Bulletin of Proceedings for the following biennial session.

The Council Staff cooperates with a private reporting service that reports on recent actions taken on all proposed administrative rules moving through the legislative review process.

PART II

1996 ACTIVITIES OF THE RULES CLEARINGHOUSE

A. LEGISLATIVE COUNCIL STAFF REVIEW OF PROPOSED ADMINISTRATIVE RULES

During 1996, 194 proposed administrative rules were submitted to the Legislative Council Staff by 32 state agencies. One proposed rule did not require a report, since the substance of the rule-making order was originally part of a proposed order previously reviewed by the Clearinghouse. Consequently, 193 submittals were subject to the Clearinghouse report requirement.

As of December 31, 1996, Legislative Council Staff reports had been completed on 181 of the 193 proposed rules and 12 rules were in the process of review. In addition to the 181 rule reports completed on 1996 rules, reports were prepared in 1996 on 20 rules received in late 1995. Of the 201 reports completed in 1996, no rule required an extension of the review process by the Director of the Legislative Council Staff. Clearinghouse activities in 1996 are summarized below:

Rules Received in 1996		194
Withdrawn	0	
No report required	1	
Pending	12	
		-13
1996 Reports Completed		181
1995 Reports Completed in January 1996		+20
Total Reports in 1996		201

The table below shows that, from November 2, 1979 (the beginning of the omnibus rule review process) through December 31, 1996, the Clearinghouse has received 3,963 rule submissions and completed reviews on 3,873 proposed rules. Of the total rule submissions, 78 were exempt from the reporting process for various reasons and 12 were under review at the end of 1996.

<i>Year</i>	<i>Received</i>	<i>Completed</i>	<i>Exempt</i>
1979	70	45	12
1980	252	227	24
1981	252	234	9
1982	251	254	3
1983	222	220	4
1984	255	247	2
1985	213	206	4
1986	251	252	4
1987	182	186	1
1988	219	216	5
1989	212	208	1
1990	264	254	3
1991	199	205	2
1992	225	228	0
1993	241	232	1
1994	225	234	0
1995	236	224	2
1996	194	201	1
Total	3,963	3,873	78

In 1996, rules were received from the following 32 state agencies:

Number of Proposed Rules, by Submitting Agency

Administration	3	Labor, Industry and Review Commission	1
Agriculture, Trade and Consumer Protection	10	Natural Resources	45
Banking, Office of the Commissioner	2	Public Defender Board	4
Commerce	1	Public Instruction	5
Corrections	10	Public Service Commission	1
Educational Approval Board	1	Railroads, Office of the Commissioner	1
Elections Board	6	Regulation and Licensing	19
Emergency Response Board	2	Revenue	8
Employee Trust Funds	6	Savings and Loan, Office of the Commissioner	3
Employment Relations	1	Securities, Office of the Commissioner	1
Financial Institutions	3	Tourism	1
Gaming Commission	1	Transportation	18
Health and Family Services	4	University of Wisconsin System	1
Health and Social Services	8	Veterans Affairs	1
Industry, Labor and Human Relations	10	Workforce Development	5
Insurance, Office of the Commissioner	10		
Justice	2	TOTAL	194

Although the statistics presented in this Report give some indication of the work load of the Legislative Council Staff in reviewing proposed administrative rules, it should be noted that some proposed rules are only a few sentences long while others exceed 50 pages in length. Similarly, Legislative Council Staff reports vary from completion of a simple checklist to reports of multiple pages. In summary, for all rule reports completed in 1996:

1. The Legislative Council Staff commented on the *statutory authority* of a proposed administrative rule on 38 occasions.

2. The Legislative Council Staff commented on the *form, style and placement* of proposed administrative rules in the Administrative Code on 161 occasions.

3. The Legislative Council Staff commented on a *conflict* with, or *duplication* of, existing rules on six occasions.

4. The Legislative Council Staff commented on the *adequacy of references* of proposed administrative rules to related statutes, rules and forms on 66 occasions.

5. The Legislative Council Staff commented on *clarity, grammar, punctuation and use of plain language* in proposed administrative rules on 129 occasions.

6. The Legislative Council Staff commented on the *potential conflicts* of proposed administrative rules with, and their comparability to, related federal regulations on three occasions. In addition, the Council Staff has adopted a policy of noting when proposed rules are based on federal "*guidelines*," which do not have the force of law, as opposed to rules based on federal "*regulations*," which do have the force of law and with which the state may have a legal obligation to comply.

7. The Legislative Council Staff commented on one *permit action deadline requirement*.

B. WORKING WITH AND ASSISTING COMMITTEES

Each standing committee of the Legislature, other than the Joint Committee on Finance, has a Legislative Council Staff attorney or analyst regularly assigned to it. At the time that a committee has a proposed rule referred to it by the presiding officer of the house, the assigned attorney or analyst will participate in whatever level of oversight is chosen to be exercised by the committee.

During 1996, legislative committees held hearings or requested meetings on 31 proposed rules. Modifications to rules were either requested or received in the legislative review of 19 proposed rules. One proposed rule was objected to by a committee.

As a result of committee activities, one rule objection was subject to JCRAR jurisdiction in 1996. The JCRAR also objected to the proposed rule.

The table below reviews legislative committee activity in the review of proposed administrative rules beginning on November 2, 1979 and ending on December 31, 1996.

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 1996)*						
<i>Year</i>	<i>Rules Submitted</i>	<i>Rules Subject to Modification</i>	<i>Committee Review Objections</i>	<i>JCRAR Rule Objections</i>	<i>Enacted Laws Following Rule Objections</i>	<i>Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections</i>
11/2/79-80	322	18	5	1	0	No bill introduced, rule withdrawn
1981	252	29	10	4	4	Chapters 20 (SEC. 1561), 26, 31 and 180, Laws of 1981
1982	251	31	4	1	1	1983 Wisconsin Act 94
1983	222	30	5	0	0	--
1984	255	26	2	2	2	1983 Wisconsin Act 310 and 1985 Wisconsin Act 29 (SEC. 826)
1985	213	37	8	3	2	◆ 1985 Wisconsin Act 29 (SECS. 1059r and 2238ng to 2238or) ◆ 1985 Assembly Bill 460, passed and vetoed; override failed
1986	251	30	1	0	0	--
1987	182	30	5	0	0	--
1988	219	38	4	0	0	--
1989	212	22	6	2	0	◆ 1989 Senate Bill 89 and 1989 Assembly Bill 171 (failed to pass) ◆ 1989 Senate Bill 248 and 1989 Assembly Bill 457 (failed to pass)
1990	264	29	2	1	0	◆ 1991 Senate Bill 24 and 1991 Assembly Bill 71 (failed to pass)
1991	199	19	5	1	0	◆ 1991 Senate Bill 442 and 1991 Assembly Bill 840 (failed to pass after rule objected to withdrawn by agency)
1992	225	33	3	2	1	◆ 1993 Wisconsin Act 9 ◆ 1993 Senate Bill 3 and 1993 Assembly Bill 17 (failed to pass)
1993	241	24	1	0	0	--
1994	225	29	3	0	0	--
1995	236	19	0	0	0	--
1996	194	19	1	1	0	Late introduction in 1995 Session; bills pending in 1997 Session.
TOTAL	3,963	463	65	18	10 (PLUS ONE BILL PASSED AND VETOED; VETO NOT OVERRIDDEN)	

* The general system of legislative review of proposed administrative rules, primarily embodied in ss. 227.15 and 227.19, Stats., took effect on November 2, 1979, as part of Ch. 34, Laws of 1979.

C. NOTICE OF CHANGE IN RULE-MAKING AUTHORITY

To date, no court decisions or changes in legislation have been brought to the attention of the Legislative Council Staff that would require notification of the JCRAR or appropriate standing committees of a change in, or the elimination of, agency rule-making authority.

D. ASSISTING ADMINISTRATIVE AGENCIES

The Legislative Council Staff has responded to numerous questions from agency personnel, relating to both the process and the law governing legislative review of proposed rules.

The Director of the Rules Clearinghouse described the process of rule drafting and legislative review of administrative rules to the staff of the Department of Corrections dealing with juvenile offenders. The presentation took place on August 29, 1996 in Madison, Wisconsin.

E. REVISION OF STATUTES DEALING WITH ADMINISTRATIVE RULE-MAKING

1995 Wisconsin Act 308 created s. 227.115, Stats. This statute provides that if a proposed rule prepared by the Department of Administration directly or substantially affects the development, construction, cost or availability of housing in Wisconsin, the Department, through the Division of Housing, must prepare a report on the proposed rule before it is submitted to the Legislative Council Staff under s. 227.15, Stats. The report must contain information about the effect of the proposed rule on housing in Wisconsin, including information on the effect of the proposed rule on all of the following:

1. The policies, strategies and recommendations of the state housing plan.
2. The cost of constructing, rehabilitating, improving or maintaining a single-family or multifamily dwelling.
3. The purchase price of housing.
4. The cost and availability of financing to purchase or develop housing.
5. Housing costs.

The report also must analyze the relative impact of the effects of the proposed rule on low- and moderate-income households.

The provisions of s. 227.115, Stats., do not apply to the emergency rule-making process.

F. PUBLIC LIAISON

To date, the Legislative Council Staff has received minimal requests from the public. These infrequent questions have either concerned aspects of the rule review procedure or have related to the status of specific rules.

RS:RNS:kjf;kja

[Faint, illegible text]

[Faint, illegible text]

LEGISLATIVE COUNCIL STAFF

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

[Faint, illegible text]

APPENDIX 1
SAMPLE CLEARINGHOUSE REPORT

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 96-171

AN ORDER to renumber Trans 152.02 (4) (a) to (c), (5) to (9), (12), (13), (15) to (17) and (19) to (22) and 152.03 to 152.09; to renumber and amend Trans 152.01 (3), 152.02 (2), (4) (intro.), (10), (11), (14), (18) and (23) to (25), 152.04 (1), 152.10 and 152.11; to amend chapter Trans 152 (title), 152.01 (1) and (2), 152.02 (3), 152.13 (1), (2) (intro.), (3) and (4) (title) and 152.14 (2); and to create Trans 152.02 (2), (12), (21), (22) and (24), subchapter I (title), 152.095, subchapter II (title), 152.10, 152.105, 152.11, 152.12, 152.123 to 152.127, 152.14 (7), subchapter III (title) and 152.16, relating to the Wisconsin interstate fuel tax and the international registration plan.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-30-96 RECEIVED BY LEGISLATIVE COUNCIL.

11-26-96 REPORT SENT TO AGENCY.

RS:DLS:jt;kjf

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 96-171

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Section 341.405 (1), Stats., provides that the Secretary of Transportation, with approval of the Governor, must ratify and do all things necessary to effectuate the international registration plan. Section 341.45 (1g) (a), Stats., provides that certain persons must pay the Wisconsin motor vehicle fuel or alternate fuels tax and an oil inspection fee on gallons of fuel consumed by a qualified motor vehicle while operated on the highways of Wisconsin. Under s. 341.45 (1g) (b), Stats., the Department of Transportation may require an appropriate person to pay these taxes and fees in the manner specified by the department. A person who does not comply with the requirements of the rule regarding the international registration plan is subject to the penalties under s. 85.16, Stats. A person who fails to make a payment with respect to the international fuel tax agreement is subject to penalties under s. 341.45 (6) (b), Stats. In view of the specific statutory penalties set forth in the statutes, the department should more fully explain the statutory authority for s. Trans 152.16, which in effect says that before any tax or fee becomes due under ch. Trans 152, the department may ensure the payment of taxes or fees through physical attachment of the property of a licensee or registrant, using the procedure provided in s. 78.70, Stats.

2. Form, Style and Placement in Administrative Code

a. In s. Trans 152.01 (2), should "apportioned" be "apportionable"? See s. Trans 152.02 (2).

b. It appears that SECTIONS 7 and 8 can be deleted and SECTION 6 can be redrafted to read:

SECTION 6. Trans 152.02 (3) to (9) are renumbered 152.02 (4) to (10) and 152.02 (5) (intro.), as renumbered, is amended to read:

c. In s. Trans 152.02 (13), as renumbered, "a country" should be "another country."

d. In s. Trans 152.02 (20) (intro.), the stricken language "other than a recreational vehicle" should be restored and, in sub. (20) (c), the last sentence should be deleted.

e. The treatment clauses of SECTIONS 24 and 25 should be combined to read:

Trans 152.05 to 152.08 are renumbered 152.06 to 152.08 and 152.13 and Trans 152.13 (1), (2) (intro.), (3) and (4) (title), as renumbered, are amended to read:

f. It appears that ss. Trans 152.13, 152.14 and 152.15 are to appear in subch. III of ch. Trans 152. This can be clarified in SECTION 35 by the following treatment: "Subchapter III (title) of chapter Trans 152 [precedes Trans 152.13] is created to read:"

g. In s. Trans 152.13 (1), the stricken phrase "this chapter" should be restored and the underscored phrase "the applicable subchapter" should be deleted.

h. In s. Trans 152.13 (2) (intro.), the first sentence should begin: "If the records of an applicant, a licensee or a registrant are not made available"

i. In s. Trans 152.13 (3), the last sentence should be redrafted, perhaps along the lines of the following: "The determination by the department shall be presumed to be correct. If that determination is challenged, the burden of proving its invalidity shall be on the person challenging it."

j. The treatment clauses of SECTIONS 26 and 27 should be combined to read: "Trans 152.09 is renumbered 152.14 and Trans 152.14 (2), as renumbered, is amended to read:"

k. In s. Trans 152.095 (1), first sentence, substitute "sells the licensee's business, supplies or equipment" for "sells out the licensee's business, supplies or equipment or quits the business" and insert "licensee" after "former." Also, the phrase "valued in money" in the second sentence is not entirely clear; is there an alternative? Finally, since the term "successor" is defined in sub. (2) to include "assigns," it is unnecessary to include the phrase "or assigns" in the first sentence of sub. (1).

1. SECTION Trans 152.095 (2) should read as follows:

152.095 (2) DEFINITIONS. In this section:

(a) 1. "Successor" includes any of the following:

a. ...

2. "Successor" does not include:

3. A personal representative or special administrator.

(b) "Purchase price" includes all of the following:

... [Consequently, all of the material following the first sentence of s. Trans 152.095 (3) (b) should be deleted.]

m. In s. Trans 152.095 (3) (d), the word "Successor's" should be replaced by the phrase "A successor's."

n. The second sub. (3) of s. Trans 152.095 should be renumbered sub. (4) and sub. (4) should be renumbered sub. (5). In newly renumbered sub. (4) (c), the word "form" should be replaced by the word "former." In par. (c) 2., the phrase "purchaser and successor in business" should be replaced by the defined term "successor." Finally, in newly renumbered sub. (4) (d), the notation "d." should be replaced by the notation "(d)"; the word "department" should be replaced by the word "department's"; and the phrase "under par. (c)" should be inserted after the word "period."

o. In s. Trans 152.11 (1) (intro.), insert "all of" before "the following:". Paragraph (d) (intro.) should read: "Supporting information, which shall contain all of the following:".

p. In s. Trans 152.123 (intro.), the phrase "the required records" should be replaced by the phrase "the records required under s. Trans 152.11." Also, pars. (a) to (c) should be renumbered as subs. (1) to (3).

q. In s. Trans 152.124 (3) (b), insert "a" before the first "renewal."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Given the content of s. Trans 152.095 (2) (a) 1., what is the necessity of setting forth subd. 2.? An acquiring corporation can be included under the terms of subd. 1. Or, is subd. 2. a reference to a sole proprietor who incorporates? If so, the provision should so state.

b. In s. Trans 152.095 (2) (b) 3., it appears that the provision should be rewritten to clearly state that a successor does not exist upon the death of a sole proprietor, if that is what is intended by the provision.

c. In par. (b) of the second sub. (3) of s. Trans 152.095, what is the meaning of the phrase "real name"? Also, in par. (c) 2., the phrase "served and handled as a notice of action, including appeal rights and revocation actions" is unclear and should be rewritten. If this provision is referring to a procedure found elsewhere in the Administrative Code, a cross-reference should be used.

d. In s. Trans 152.095 (4) (a), the term "predecessor" should be replaced by the phrase "a licensee who sells the licensee's business, supplies or equipment."

e. In s. Trans 152.11 (1) (c), the phrase "or both" gives inadequate direction to a licensee. Also, sub. (2) appears to be either a title or an incomplete sentence. The subsection needs to be rewritten.

f. In s. Trans 152.12, the first sentence is very confusing and needs to be rewritten.

APPENDIX 2

PROCESSING INSTRUCTIONS TO AGENCY HEADS

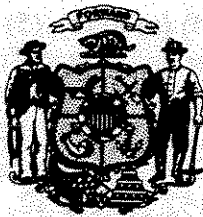
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 3

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

PROCESSING INSTRUCTIONS TO AGENCY HEADS

[ENCLOSED ARE THE SENATE AND ASSEMBLY RULE JACKETS CONTAINING THE LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT. AN ADDITIONAL COPY OF THE CLEARINGHOUSE REPORT IS ENCLOSED FOR YOUR FILES.]

PLEASE NOTE: Your agency must complete the following steps in the legislative process of administrative rule review:

1. On the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Report Received by Agency."
2. On the appropriate line or lines on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date or dates and, in column 2, "Public Hearing Held" OR "Public Hearing Not Required."
3. Enclose in both clearinghouse rule jackets, in triplicate, the notice and report required by s. 227.19 (2) and (3), Stats. [The report includes the rule in final draft form.]
4. Notify the presiding officer of the Senate and Assembly that the rule is in final draft form by hand delivering the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk. At the time of this submission, on the appropriate line on the face of the clearinghouse rule jacket, each Chief Clerk will enter, in column 1, the appropriate date and, in column 2, "Report Received from Agency." Each clearinghouse rule jacket will be promptly delivered to each presiding officer for referral of the notice and report to a standing committee in each house.
5. If the agency does not proceed with the rule-making process on this rule, on the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Rule Draft Withdrawn by Agency" and hand deliver the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk.

FOR YOUR INFORMATION: A record of all actions taken on administrative rules is contained in the Bulletin of Proceedings of the Wisconsin Legislature. The clearinghouse rule jackets will be retained by the Legislature as a permanent record.

[See reverse side for jacket sample.]

WLCS
DJS:kjf,kja
2/96

