

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

APR 26 1999

RULES CLEARINGHOUSE

Ronald Sklansky
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(608) 266-1946



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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 99-063

AN ORDER to repeal Trans 2.015 (1m) and (4), 2.045 (2) to (6), 2.05 (1) (e) to (i), 2.06 (2) (c) 2. and 2.08; to renumber Trans 2.10 (1) (a) 3. to 6.; to renumber and amend Trans 2.06 (2) (c) 3. and (d); to amend Trans 2.01, 2.015 (3), 2.02 (1) and (2), 2.04 (3), 2.045, 2.05 (1) (a) to (d) and (3), 2.06 (2) (c) 1. to 4., 2.09 and 2.10 (1) (a) and (b) 6. and (2) (a) (intro.) and (b) (intro.); to repeal and recreate Trans 2.07; and to create Trans 2.055, 2.06 (2) (c) 3. and (d) 2., 2.10 (1) (a) 3. and 2.11, relating to elderly and disabled transportation capital assistance program.

Submitted by **DEPARTMENT OF TRANSPORTATION**

03-29-99 RECEIVED BY LEGISLATIVE COUNCIL.

04-23-99 REPORT SENT TO AGENCY.

RS:DLS:jal;rv

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

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CLEARINGHOUSE RULE 99-063

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 September 1998.]

1. Statutory Authority

a. Section Trans 2.055 (6) provides in part that the formal contested case requirements in ch. 227, Stats., are not applicable to the review of an application for capital assistance. If, without this provision, a review would be subject to contested case requirements, the department should cite its statutory authority for this provision. However, if this is merely a statement that these proceedings do not meet the definition of a contested case, this information should be contained in a note to the rule.

b. Section Trans 2.055 (9) provides that the final decision of the department is not subject to judicial review. The department should cite its authority for this exemption to ch. 227, Stats.

c. Section Trans 2.09 provides that a recipient of assistance must maintain human service vehicle or school bus registration, except that a local public body owner or operator may maintain municipal registration in certain circumstances. If human service vehicle or school bus registration is a general requirement, what authority exists for the department to exempt a local public body owner or operator from maintaining that registration?

2. Form, Style and Placement in Administrative Code

a. In SECTION 8, the word "is" should be replaced by the word "are."

b. In s. Trans 2.06 (2) (c) 4., the word "shall" should be replaced by the word "will."

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

a. In s. Trans 2.055 (2) and (9), the commas should be deleted.

b. In s. Trans 2.10 (1) (a) 3., the comma should be deleted.

c. Section Trans 2.11 provides that assistance recipients must maintain records in the manner required by the department and prepare special reports as required by the department or by governing federal regulations. Can cross-references be provided to these requirements? If not, how will recipients discern the requirements and why are the requirements not placed in the Wisconsin Administrative Code?

The Wisconsin Department of Transportation proposes an order to repeal TRANS 2.015(1m) and (4), 2.045(2) to (6), 2.05(1)(e) to (i), 2.06(2)(c)2. and 2.08; renumber TRANS 2.10(1)(a)3. to 6.; renumber and amend TRANS 2.06(2)(c)3 and (d); amend TRANS 2.01, 2.015(3), 2.02(1) and (2), 2.04(3), 2.045, 2.05(1)(a) to (d) and (3), 2.06(2)(c)1. to 4., 2.09 and 2.10(1)(a), (b)6., (2)(a)(intro.) and (b)(intro.); repeal and recreate TRANS 2.07; and create TRANS 2.055, 2.06(2)(c)3. and (d)2., 2.10(1)(a)3. and 2.11, relating to elderly and disabled transportation capital assistance program.

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats., and interpreting s. 85.22, Stats., the Department of Transportation will hold public hearings at the following locations to consider the amendment of ch. Trans 2, Wisconsin Administrative Code, relating to elderly and disabled transportation capital assistance program:

Wednesday, May 12, 1999

Hill Farms State Transportation Building

4802 Sheboygan Avenue

Room 144-B

Madison, WI

10:00 AM

and

Thursday, May 13, 1999

State Patrol District 4

2805 Martin Avenue

Junction of Hwys. 51 & NN

Upper Conference Room

Wausau, WI

10:00 AM

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until May 27, 1999, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Ron Morse, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building, and at the south side of the State Patrol District 4 office.

NOTE: This hearing is being conducted at 2 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from both locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats.

STATUTES INTERPRETED: s. 85.22, Stats.

General Summary of Proposed Rule. Chapter Trans 2 establishes the Department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program (formerly sec. 16), and prescribes administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats. The purpose of this rule making is to clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.

This proposed rule:

Simplifies the requirements an applicant must satisfy to qualify for elderly and disabled transportation capital assistance. The proposed rule eliminates an applicant's requirement to give private transportation providers the opportunity to submit proposals to

provide service. The proposed rule merely requires applicants to give private transportation providers the opportunity to comment on the applicant's decision to seek capital assistance from the Department.

Establishes a simplified process for the Department to review challenges to an application for elderly and disabled capital assistance.

Revises and clarifies criteria, relative weights, and minimum point totals for evaluating applications for elderly and disabled transportation capital assistance.

Provides the Department with greater discretion to determine the types of vehicles that may be provided under the elderly and disabled capital assistance program.

Eliminates the option of allowing applicants awarded capital assistance to purchase vehicles. The proposed rule will continue to authorize the Department to procure vehicles on behalf of applicants awarded capital assistance, but will eliminate the option of allowing applicants to purchase vehicles on their own.

Establishes record and reporting requirements.

Allows for greater flexibility in membership requirements of transportation coordinating committees.

Fiscal Effect. No fiscal impact is anticipated from the promulgation of this proposed rule.

Initial Regulatory Flexibility Analysis. This proposed rule has no significant impact on small businesses.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Ron Morse, or by calling (608) 266-1650. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 85.22, Stats., relating to elderly and disabled transportation capital assistance program.

SECTION 1. Trans 2.01 is amended to read:

TRANS 2.01 Purpose and scope. The purposes of this chapter are to establish the department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 46 5310 program, and to prescribe administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats.

SECTION 2. Trans 2.015(1m) is repealed.

SECTION 3. Trans 2.015(3) is amended to read:

Trans 2.015(3) "Federal sec. 46 5310 program" means the federal assistance program under 49 USC ~~4612(b)(2)~~ 5310.

SECTION 4. Trans 2.015(4) is repealed.

SECTION 5. Trans 2.02(1) and (2) are amended to read:

Trans 2.02(1) An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants shall comply with federal regulations governing the federal sec. 46 5310 program. ~~In addition to being eligible for assistance under the federal sec. 46 program, an applicant shall, at the time it applies for capital assistance, have legal authority to contract or subcontract with any other transportation provider in its proposed service area, unless it is prohibited from subcontracting by its contracts with agencies of county government. An applicant which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.~~

(2) State aids administered under this chapter are available only for projects for which applicants received notice of eligibility under 49 USC ~~4612(b)(2)~~ 5310 after

July 1, 1977. Projects that are eligible for such assistance but do not receive federal moneys due to insufficient federal funds are eligible for state aids under s. Trans 2.03.

SECTION 6. Trans 2.04(3) is amended to read:

Trans 2.05(1)(a) On or before the first Monday in February, the applicant shall submit its completed application to the ~~department's appropriate district office;~~ department.

(b) Not less than 70 days before the application deadline, the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers likely to give notice in the planned service area of the applicant. The notice shall include the applicant's name; the address and phone number of a contact person; a short description of the equipment for which the applicant is applying for a capital grant; and the applicant's proposed service area; ~~and the date by which another transportation provider must request additional information under par. (e);~~

(c) Not less than 70 days before the application deadline, the applicant shall submit its completed proposed transportation schedule and budget and shall submit a list of all other transportation providers operating within the applicant's service area to the appropriate department district office;

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request capital assistance under this chapter to all other transportation providers operating within applicant's proposed service area and to the chairperson of the county board for any county in which the applicant proposes to operate;

SECTION 10. Trans 2.05(1)(e) to (i) are repealed.

SECTION 11. Trans 2.05(3) is amended to read:

Trans 2.05(3) At the same time that an applicant submits the original manuscript of its application to the ~~department's appropriate district office~~ department, it shall also

submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for review and comment to the appropriate area agency on aging, and to the appropriate department of health and ~~social~~ family services' division of ~~community services~~ regional strategic finance's area office. In order to be considered by the department, comments from these agencies must be submitted to the department's appropriate district office within ~~45~~ 30 days following submission of the application to the department. The department shall give appropriate consideration to the review comments.

SECTION 12. Trans 2.055 is created to read:

TRANS 2.055 Request for department review. (1) A person adversely affected by a violation of s. Trans 2.045, 2.05 or 2.10 may request the department to review an application for capital assistance under this chapter.

NOTE: Specific allegations shall be sent to Director, Bureau of Transit & Local Roads, P. O. Box 7913, Madison, WI 53707-7913, with a copy sent to the affected applicant.

(2) A request for department review under sub. (1) shall be made in writing and shall be filed with the department within 10 days of the application filing deadline in s. Trans 2.05(1)(a).

(3) If the department receives a request for review ^{under sub. (1)} of an application for capital assistance under this chapter, the chief of the specialized transit section shall conduct the department review.

(4) In conducting its review, the department may consider only an applicant's compliance with applicable state and federal procedural requirements.

(5) All interested parties shall be given the opportunity to submit written or documentary evidence and written arguments to the department. Interested parties shall provide a copy of any written evidence, arguments, or correspondence submitted to the department to all other parties involved in the department review.

(6) The department shall limit its review to consideration of written or documentary evidence and written arguments. The formal contested case requirements in ch. 227, Stats., are not applicable to this review.

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note

(7) In conducting its review, the department may request interested parties to provide additional written information. The failure of any interested party to provide information requested by the department, or to cooperate with the department in its review, may result in dismissal of a request for review or denial of an application for capital assistance.

(8) The chief of the specialized transit section shall submit a written recommendation to the director of the bureau of transit and local roads, who shall issue a written decision. A copy of the director's decision shall be provided to the applicant and to the person requesting the department review.

(9) The decision of the director of the bureau of transit and local roads shall be the final decision of the department, and may not be subject to further appeals or judicial review.

SECTION 13. Trans 2.06(2)(c)1. is amended to read:

Trans 2.06(2)(c)1. Estimate of elderly and disabled population and sources or methodology used to derive the figure (0-15 points);

SECTION 14. Trans 2.06(2)(c)2. is repealed.

SECTION 15. Trans 2.06(2)(c)3. is renumbered Trans 2.06(2)(c)2. and amended to read:

Trans 2.06(2)(c)2. Percentage of the elderly and disabled population in need of service and the ~~proportion which the applicant proposes to serve~~ methodology used to arrive at the percentage (~~0-30~~ 0-15 points); ~~and.~~

SECTION 16. Trans 2.06(2)(c)3. is created to read:

Trans 2.06(2)(c)3. The percentage of the elderly and disabled population which the applicant proposes to serve and how that percentage was derived (0-15).

SECTION 17. Trans 2.06(2)(c)4. is amended to read:

Trans 2.06(2)(c)4. ~~Evidence that existing~~ How applicant's proposed service is ~~not adequate to~~ ^{will} shall meet the identified needs of the elderly and disabled population (~~0-15~~ 0-30 points).

SECTION 18. Trans 2.06(2)(d) is renumbered Trans 2.06(2)(d)1. and amended to read:

Trans 2.06(2)(d)1. Evidence of financial ~~and managerial~~ capabilities of the

SECTION 20. Trans 2.07 is repealed and recreated to read:

TRANS 2.07 Vehicles offered. Types of vehicles offered under this chapter, equipped as human service vehicles or standard yellow school buses, shall be determined by the department for each grant cycle. Factors including, but not limited to, funding levels, volume of requests, vehicle availability and technological innovations shall be used in the department's determination. No communications equipment shall be offered under this chapter.

SECTION 21. Trans 2.08 is repealed.

SECTION 22. Trans 2.09 is amended to read:

Trans 2.09 Vehicle registration. A ~~grantee under the federal sec. 16 program~~ recipient shall at all times maintain human service vehicle or school bus registration, as appropriate, on every vehicle purchased in part with ~~aid~~ assistance under ~~s. 85.22,~~ Stats., and this chapter whether the vehicles are operated by the ~~grantee~~ recipient or by other transportation providers except that a local public body owner or operator may maintain municipal registration, provided human service vehicle inspections are completed on an annual basis. If a ~~grantee~~ recipient fails to comply with this registration requirement, the department may reassign the vehicles not properly registered ~~by the grantee~~ to other eligible applicants specified in s. Trans 2.02(1) and

SECTION 24. Trans 2.10(1)(a)3. is renumbered Trans 2.10(1)(a)4.

SECTION 25. Trans 2.10(1)(a)3. is created to read:

Trans 2.10(1)(a)3. County department of social services, ^{or} or county department of human services;

SECTION 26. Trans 2.10(1)(a)4. to 6. are renumbered Trans 2.10(1)(a)5. to 7.

SECTION 27. Trans 2.10(1)(b)6., (2)(a)(intro.) and (b)(intro.) are amended to read:

Trans 2.10(1)(b)6. Act on requests by local public bodies to be designated as coordinators of transportation services for elderly and disabled persons for the purpose of becoming eligible for assistance under the federal sec. ~~46~~ 5310 program.

(2)(a)(intro.) Is determined by the department to be eligible for assistance under the federal sec. ~~46~~ 5310 program after first certifying to the department that no private, nonprofit organizations as specified in s. Trans 2.015(2m) are readily available to provide transportation services to elderly and disabled persons in a proposed service area and providing all of the following or similar documentation supporting such certification:

(b)(intro.) Is approved by the department to be the coordinator of transportation services to the elderly and disabled persons in the proposed service area. A local public body shall be after first being so approved by the county board and a transportation coordinating committee and the county board and providing which satisfies the membership requirements in sub. (1)(a). The department may waive the membership requirements in sub. (1)(a) if the county board provides satisfactory evidence that the county board made a reasonable attempt to include members of all

groups identified in sub. (1)(a). The applicant shall provide all of the following or similar documentation to the department verifying such approval:

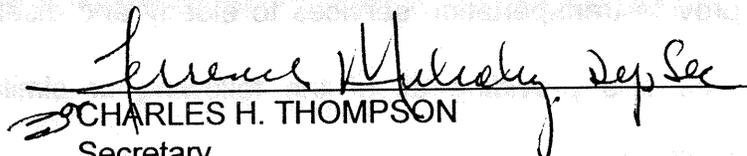
SECTION 28. Trans 2.11 is created to read:

Trans 2.11 Reporting requirements. All recipients shall maintain records in the manner required by the department for all vehicles purchased with program funds and shall make semi-annual reports on each vehicle as well as special reports as required by the department or by governing federal regulations. If required semi-annual reports are not current at the time of the application filing deadline, the department may deny that recipient's application.

(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), Stats.

Signed at Madison, Wisconsin, this 25 day of March, 1999.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

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E-Mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

June 22, 1999

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53707

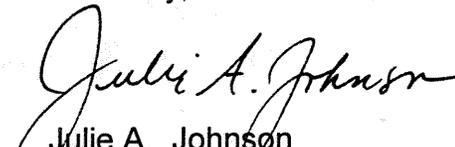
JUN 24 RECD

RE: Proposed Administrative Rule **TRANS 2**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 99-063

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **99-063**, relating to **elderly and disabled transportation capital assistance program**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,


Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson (Deputy Revisor of Statutes)
Senator Judy Robson
Representative Glenn Grothman
Jim Van Sistine
Ron Morse



Department of Transportation

U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C. 20590
TELEPHONE 202-366-6000
FAX 202-366-6001

June 2, 1995

JUN 2 4 REC'D

Dear Mr. [Name]:

Reference is made to your letter of June 1, 1995, regarding the [Subject].

The Department is currently reviewing the information provided and will contact you again as soon as a decision has been reached.

[Large block of illegible text, possibly a signature or a large body of text that is too faded to read.]

Sincerely,

[Illegible name]

[Illegible text, possibly a signature or a large body of text that is too faded to read.]

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats.

STATUTES INTERPRETED: s. 85.22, Stats.

General Summary of Proposed Rule. Chapter Trans 2 establishes the Department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program (formerly sec. 16), and prescribes administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats. The purpose of this rule making is to clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.

This proposed rule:

Simplifies the requirements an applicant must satisfy to qualify for elderly and disabled transportation capital assistance. The proposed rule eliminates an applicant's requirement to give private transportation providers the opportunity to submit proposals to provide service. The proposed rule merely requires applicants to give private transportation providers the opportunity to comment on the applicant's decision to seek capital assistance from the Department.

Establishes a simplified process for the Department to review challenges to an application for elderly and disabled capital assistance.

Revises and clarifies criteria, relative weights, and minimum point totals for evaluating applications for elderly and disabled transportation capital assistance.

Provides the Department with greater discretion to determine the types of vehicles that may be provided under the elderly and disabled capital assistance program.

Eliminates the option of allowing applicants awarded capital assistance to purchase vehicles. The proposed rule will continue to authorize the Department to procure vehicles on behalf of applicants awarded capital assistance, but will eliminate the option of allowing applicants to purchase vehicles on their own.

Establishes record and reporting requirements.

Allows for greater flexibility in membership requirements of transportation coordinating committees.

Fiscal Effect. No fiscal impact is anticipated from the promulgation of this proposed rule.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Ron Morse, or by calling (608) 266-1650. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351. Alternate formats of the proposed rule will be provided to individuals at their request.

PART 2
TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 85.22, Stats., relating to elderly and disabled transportation capital assistance program.

SECTION 1. Trans 2.01 is amended to read:

TRANS 2.01 Purpose and scope. The purposes of this chapter are to establish the department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. ~~46~~ 5310 program, and to prescribe administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats.

SECTION 2. Trans 2.015(1m) is repealed.

SECTION 3. Trans 2.015(3) is amended to read:

Trans 2.015(3) "Federal sec. ~~46~~ 5310 program" means the federal assistance program under 49 USC ~~4612(b)(2)~~ 5310.

SECTION 4. Trans 2.015(4) is repealed.

SECTION 5. Trans 2.02(1) and (2) are amended to read:

Trans 2.02(1) An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants shall comply with federal regulations governing the federal sec. ~~46~~ 5310 program. ~~In addition to being eligible for assistance under the federal sec.~~

~~16 program, an applicant shall, at the time it applies for capital assistance, have legal authority to contract or subcontract with any other transportation provider in its proposed service area, unless it is prohibited from subcontracting by its contracts with agencies of county government. An applicant which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.~~

(2) State aids administered under this chapter are available only for projects for which applicants received notice of eligibility under 49 USC ~~1612(b)(2)~~ 5310 after July 1, 1977. Projects that are eligible for such assistance but do not receive federal moneys due to insufficient federal funds are eligible for state aids under s. Trans 2.03.

SECTION 6. Trans 2.04(3) is amended to read:

Trans 2.04(3) Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems and previous federal sec. ~~46~~ 5310 program grantees located within the applicant's service area; and

SECTION 7. Trans 2.045 is amended to read:

Trans 2.045 (title) ~~Opportunity for competition~~ **Private provider participation.**

~~(4)~~ Every application shall include evidence that all other transportation providers in the applicant's service area have been afforded ~~a competitive~~ an opportunity to ~~furnish comment on the service which an applicant proposes to furnish with the vehicles to be purchased with aid~~ assistance under this chapter. In each case where an applicant provides this opportunity to other transportation providers, the evidence shall include copies of all correspondence between the applicant and other transportation providers, except that the evidence shall include one copy of the notice required under s. Trans

2.05(1)(d) and a certified list of all other transportation providers to which the notice was mailed rather than copies of all the notices actually mailed. ~~The evidence shall also include copies of all proposals received by the applicant from other transportation providers. All notifications and correspondence from an applicant to other transportation providers shall be conducted by certified return receipt mail.~~ The department may reject an application for failure to comply with this requirement.

SECTION 8. Trans 2.045(2) to (6) are repealed.

SECTION 9. Trans 2.05(1)(a) to (d) are amended to read:

Trans 2.05(1)(a) On or before the first Monday in February, the applicant shall submit its completed application to the ~~department's appropriate district office;~~ department.

(b) Not less than 70 days before the application deadline, the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers likely to give notice in the planned service area of the applicant. The notice shall include the applicant's name; the address and phone number of a contact person; a short description of the equipment for which the applicant is applying for a capital grant; and the applicant's proposed service area; ~~and the date by which another transportation provider must request additional information under par. (e);~~

(c) Not less than 70 days before the application deadline, the applicant shall submit its completed proposed transportation schedule and budget and shall submit a list of all other transportation providers operating within the applicant's service area to the appropriate department district office.

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request capital assistance under this chapter to all other transportation providers operating within applicant's proposed service area and to the chairperson of the county board for any county in which the applicant proposes to operate.

SECTION 10. Trans 2.05(1)(e) to (i) are repealed.

SECTION 11. Trans 2.05(3) is amended to read:

Trans 2.05(3) At the same time that an applicant submits the original manuscript of its application to the ~~department's appropriate district office~~ department, it shall also submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for review and comment to the appropriate area agency on aging, and to the appropriate department of health and ~~social~~ family services' division of ~~community services~~ regional strategic finance's area office. In order to be considered by the department, comments from these agencies must be submitted to the department's appropriate district office within ~~45~~ 30 days following submission of the application to the department. The department shall give appropriate consideration to the review comments.

SECTION 12. Trans 2.055 is created to read:

TRANS 2.055 Request for department review. (1) A person adversely affected by a violation of s. Trans 2.045, 2.05 or 2.10 may request the department to review an application for capital assistance under this chapter.

NOTE: Specific allegations shall be sent to Director, Bureau of Transit & Local Roads, P. O. Box 7913, Madison, WI 53707-7913, with a copy sent to the affected applicant.

(2) A request for department review under sub. (1) shall be made in writing and shall be filed with the department within 10 days of the application filing deadline in s. Trans 2.05(1)(a).

(3) If the department receives a request for review of an application for capital assistance under this chapter, the chief of the specialized transit section shall conduct the department review.

(4) In conducting its review, the department may consider only an applicant's compliance with applicable state and federal procedural requirements.

(5) All interested parties shall be given the opportunity to submit written or documentary evidence and written arguments to the department. Interested parties shall provide a copy of any written evidence, arguments, or correspondence submitted to the department to all other parties involved in the department review.

(6) The department shall limit its review to consideration of written or documentary evidence and written arguments. The formal contested case requirements in ch. 227, Stats., are not applicable to this review.

NOTE: A request for Department review under this section is not a contested case as defined in s. 227.01(3), Stats., and not subject to the contested case hearing requirement in s. 227.42, Stats.

(7) In conducting its review, the department may request interested parties to provide additional written information. The failure of any interested party to provide information requested by the department, or to cooperate with the department in its review, may result in dismissal of a request for review or denial of an application for capital assistance.

(8) The chief of the specialized transit section shall submit a written recommendation to the director of the bureau of transit and local roads, who shall issue a written decision. A copy of the director's decision shall be provided to the applicant and to the person requesting the department review.

(9) The decision of the director of the bureau of transit and local roads shall be the final decision of the department and may not be subject to further appeals or judicial review.

NOTE: The Department's decision under this section does not affect a person's substantial interests and is not subject to judicial review under s. 227.52, Stats.

SECTION 13. Trans 2.06(2)(c)1. is amended to read:

Trans 2.06(2)(c)1. Estimate of elderly and disabled population and sources or methodology used to derive the figure (0-15 points);

SECTION 14. Trans 2.06(2)(c)2. is repealed.

SECTION 15. Trans 2.06(2)(c)3. is renumbered Trans 2.06(2)(c)2. and amended to read:

Trans 2.06(2)(c)2. Percentage of the elderly and disabled population in need of service and the proportion which the applicant proposes to serve methodology used to arrive at the percentage (0-30 0-15 points); and.

SECTION 16. Trans 2.06(2)(c)3. is created to read:

Trans 2.06(2)(c)3. The percentage of the elderly and disabled population which the applicant proposes to serve and how that percentage was derived (0-15).

SECTION 17. Trans 2.06(2)(c)4. is amended to read:

Trans 2.06(2)(c)4. ~~Evidence that existing~~ How applicant's proposed service is not adequate to will meet the identified needs of the elderly and disabled population (0-45 0-30 points).

SECTION 18. Trans 2.06(2)(d) is renumbered Trans 2.06(2)(d)1. and amended to read:

Trans 2.06(2)(d)1. Evidence of financial ~~and managerial~~ capabilities of the applicant in assuring that adequate operating funds ~~and practices~~ will be available to support the proposed project objectives. ~~Applicant experience with previous federal sec. 16 program capital assistance grants may be considered (0-45 0-15 points).~~

SECTION 19. Trans 2.06(2)(d)2. is created to read:

Trans 2.06(2)(d)2. Evidence of managerial capabilities of the applicant in assuring that adequate personnel, experience, training, safety and other practices will be available to support the project objectives. Applicant experience with previous capital assistance under this chapter may be considered (0-30 points).

SECTION 20. Trans 2.07 is repealed and recreated to read:

TRANS 2.07 Vehicles offered. Types of vehicles offered under this chapter, equipped as human service vehicles or standard yellow school buses, shall be determined by the department for each grant cycle. Factors including, but not limited to, funding levels, volume of requests, vehicle availability and technological innovations shall be used in the department's determination. No communications equipment shall be offered under this chapter.

SECTION 21. Trans 2.08 is repealed.

SECTION 22. Trans 2.09 is amended to read:

Trans 2.09 Vehicle registration. A ~~grantee under the federal sec. 16 program~~ recipient shall at all times maintain human service vehicle ~~or~~, school bus, or municipal registration, as appropriate, on every vehicle purchased in part with ~~aids~~ assistance under ~~s. 85.22, Stats., and this chapter~~ whether the vehicles are operated by the ~~grantee~~ recipient or by other transportation providers. If a ~~grantee~~ recipient fails to comply with this registration requirement, the department may reassign the vehicles not properly registered ~~by the grantee~~ to other eligible applicants specified in s. Trans 2.02(1) and may reject pending or future applications of the ~~grantee~~ recipient for ~~aids~~ assistance under ~~s. 85.22, Stats.~~ this chapter.

SECTION 23. Trans 2.10(1)(a) is amended to read:

Trans 2.10(1)(a) ~~Has 10 or more~~ Includes members representing at least the following:

SECTION 24. Trans 2.10(1)(a)3. is renumbered Trans 2.10(1)(a)4.

SECTION 25. Trans 2.10(1)(a)3. is created to read:

Trans 2.10(1)(a)3. County department of social services or county department of human services;

SECTION 26. Trans 2.10(1)(a)4. to 6. are renumbered Trans 2.10(1)(a)5. to 7.

SECTION 27. Trans 2.10(1)(b)6., (2)(a)(intro.) and (b)(intro.) are amended to read:

Trans 2.10(1)(b)6. Act on requests by local public bodies to be designated as coordinators of transportation services for elderly and disabled persons for the purpose of becoming eligible for assistance under the federal sec. ~~46~~ 5310 program.

(2)(a)(intro.) Is determined by the department to be eligible for assistance under the federal sec. ~~46~~ 5310 program after first certifying to the department that no private, nonprofit organizations as specified in s. Trans 2.015(2m) are readily available to provide transportation services to elderly and disabled persons in a proposed service area and providing all of the following or similar documentation supporting such certification:

(b)(intro.) Is approved by the department to be the coordinator of transportation services to the elderly and disabled persons in the proposed service area. A local public body shall be ~~after first being so~~ approved by the county board and a transportation coordinating committee ~~and the county board and providing which~~ satisfies the membership requirements in sub. (1)(a). The department may waive the membership requirements in sub. (1)(a) if the county board provides satisfactory evidence that the county board made a reasonable attempt to include members of all groups identified in sub. (1)(a). The applicant shall provide all of the following or similar documentation to the department verifying such approval:

SECTION 28. Trans 2.11 is created to read:

Trans 2.11 Reporting requirements. All recipients shall maintain records in the manner required by the department for all vehicles purchased with program funds and shall make semi-annual reports on each vehicle as well as special reports as required by the department. If required semi-annual reports are not current at the time of the application filing deadline, the department may deny that recipient's application.

NOTE: The report required by the Department is DOT Form Wisconsin Department of Transportation 1610, Vehicle Operation Semi-Annual Report, and can be obtained from the Bureau of Transit and Local Roads, P. O. Box 7913, Madison, WI 53707-7913.

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), Stats.

Signed at Madison, Wisconsin, this 18 day of June, 1999.



CHARLES H. THOMPSON

Secretary

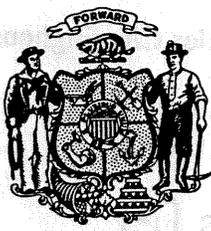
Wisconsin Department of Transportation

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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Madison, WI 53701-2536
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PART 3

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 99-063

AN ORDER to repeal Trans 2.015 (1m) and (4), 2.045 (2) to (6), 2.05 (1) (e) to (i), 2.06 (2) (c) 2. and 2.08; to renumber Trans 2.10 (1) (a) 3. to 6.; to renumber and amend Trans 2.06 (2) (c) 3. and (d); to amend Trans 2.01, 2.015 (3), 2.02 (1) and (2), 2.04 (3), 2.045, 2.05 (1) (a) to (d) and (3), 2.06 (2) (c) 1. to 4., 2.09 and 2.10 (1) (a) and (b) 6. and (2) (a) (intro.) and (b) (intro.); to repeal and recreate Trans 2.07; and to create Trans 2.055, 2.06 (2) (c) 3. and (d) 2., 2.10 (1) (a) 3. and 2.11, relating to elderly and disabled transportation capital assistance program.

Submitted by **DEPARTMENT OF TRANSPORTATION**

03-29-99 RECEIVED BY LEGISLATIVE COUNCIL.
04-23-99 REPORT SENT TO AGENCY.

RS:DLS:jal;rv

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)]

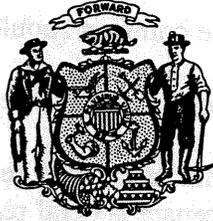
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 99-063

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 September 1998.]

1. Statutory Authority

Section 2.055 (6) provides in part that the formal contested case requirements

- b. In s. Trans 2.06 (2) (c) 4., the word "shall" should be replaced by the word "will."

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

- a. In s. Trans 2.055 (2) and (9), the commas should be deleted.
- b. In s. Trans 2.10 (1) (a) 3., the comma should be deleted.
- c. Section Trans 2.11 provides that assistance recipients must maintain records in the manner required by the department and prepare special reports as required by the department or by governing federal regulations. Can cross-references be provided to these requirements? If not, how will recipients discern the requirements and why are the requirements not placed in the Wisconsin Administrative Code?

at the public hearing or written comments filed after the hearing two years within
the proposed administrative rule change as received and considered comments.
CR 99-063

at the public hearings or written comments received after the hearing, two areas within the proposed administrative rule change process received considerable comments: (1) whether to require that all vehicles purchased under the program be lift-equipped and (2) eliminating the need for applicants to give private transportation providers the opportunity to submit proposals to provide service. The following is a synopsis of the issues:

Accessible Vehicles

On January 14, 1999, the Department issued a Statement of Scope for the proposed amendment of ch. Trans 2. In the Statement of Scope, the Department stated that it was contemplating a requirement that all program vehicles be lift-equipped. As a result of the number of negative responses to that statement from various agencies, the Department did not include it in its Notice of Hearing and Text of Proposed Rule of March 25, 1999.

Subsequent to the hearings, a number of individuals and organizations sent written comments for the record stating their support for all vehicles purchased under the program being lift-equipped.

The Section 5310 Elderly & Disabled (E&D) Capital Assistance Program utilizes state and federal funds to purchase vehicles for private non-profit agencies and local public bodies under certain circumstances. Grantees use these vehicles to provide E&D transportation for their own clients, contracted service for other public or private organizations and some limited general E&D transportation.

The Federal Transit Administration (FTA) which administers the federal program funds allocated to the states allows the purchase of non-accessible vehicles for demand responsive transportation services in accordance with 49 CFR Part 37 (Certification of Equivalent Service). Such certification, which is signed by the applicant, states that the service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Chapter Trans 2, which specifies the manner in which the Department administers the state and federal funds under this program, does not require that all vehicles be lift-equipped.

The primary reasons why agencies support the option to purchase non-accessible vehicles are the loss of vehicle seating capacity, increased vehicle cost and increased maintenance costs, all resulting in reduced service because of limited funds to run their programs. A number of agencies that have received non-accessible vehicles operate sheltered workshops which serve the needs of persons with developmental disabilities who, in a lot of instances, are ambulatory.

Only 22% of the active vehicles purchased under the Section 5310 program do not have lifts. The vast majority (80%) of these non-accessible vehicles are vans. The

received non-accessible vehicles. In fact, the Department, on occasion, denies agency requests for non-accessible vehicles where it believes that the fleet ratio is inappropriate for the persons to be served.

The Department believes that the option to purchase non-accessible vehicles should be retained as long as the federal program regulations which comply with the Americans with Disabilities Act are followed. Accordingly, no change will be made to the current rule regarding this issue.

Competitive Proposals for Transportation Service

A couple of private for-profit transportation providers object to the elimination of the requirement that applicants provide an opportunity for private transportation providers to submit proposals to the applicant for the transportation services to be provided with the applied-for vehicles. This is part of the procedures which were implemented in 1988 to comply with federal private sector participation regulations at the time. Since then, a number of changes to these requirements have been made at the federal level.

Because of the limited funding available, only vehicles are procured under the Section 5310 Elderly & Disabled Capital Assistance Program in Wisconsin. It does not

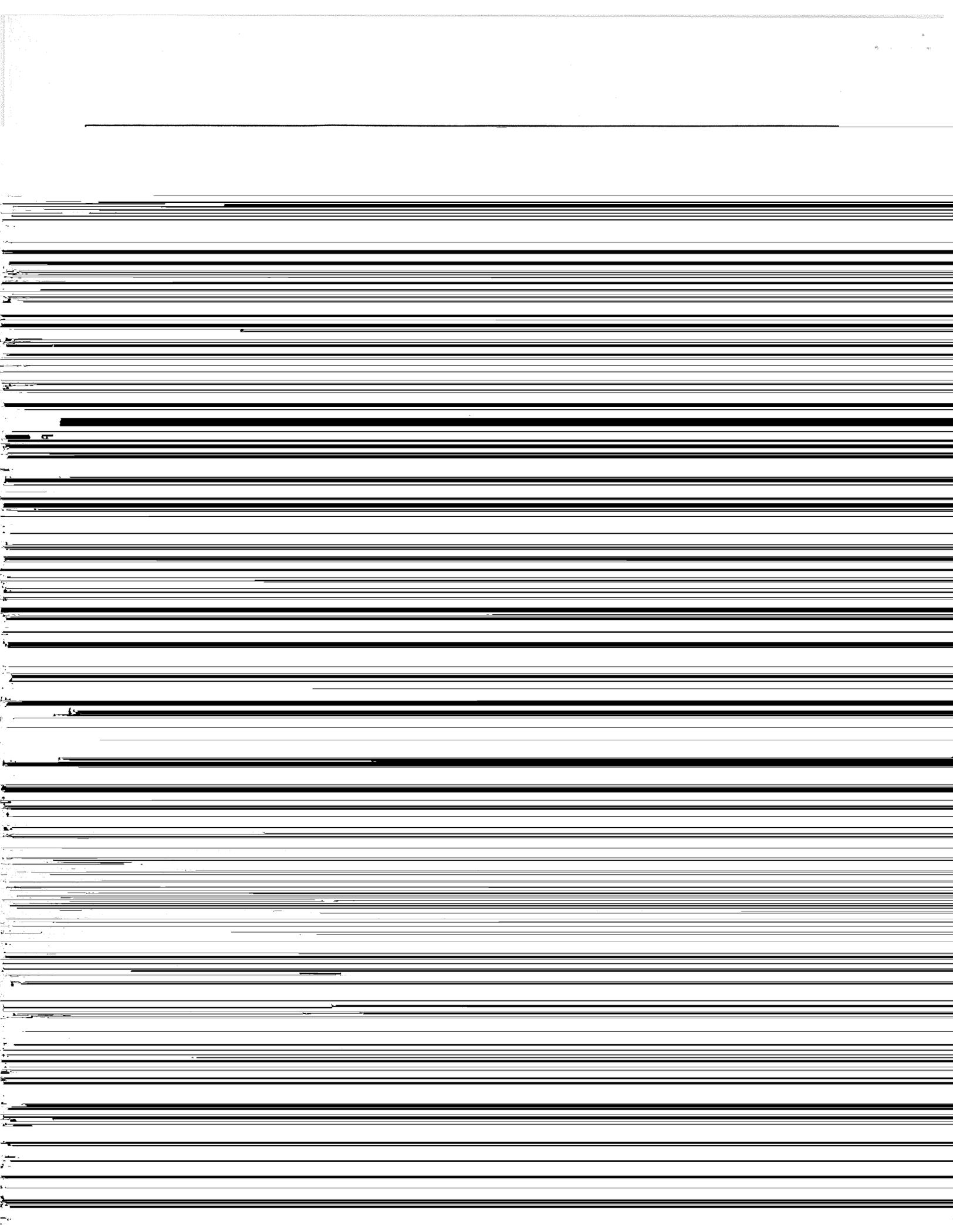
grantee for the transportation services utilizing the vehicle that is awarded. The grant only covers the cost of the vehicle, not the operating expenses.

Even under the existing rule, there are very few private providers that submit proposals to applicants each year. Of the approximate 40 applications that are filed in an average year on a statewide basis, only about five proposals are submitted to applicants for consideration. Of the 100 active grantee agencies, there are currently only seven (7) instances in which providers are contracting with grantees for their transportation service, all of which are leasing the grant vehicle from the grantee.

Because of the limited scope of this program as well as the number of small businesses that participate, the proposed rule has no significant impact on small businesses.

(c) List of Persons who Appeared or Registered at Public Hearing. The

Stan Spence Independence <i>First</i> 600 West Virginia, Suite 301 Milwaukee, WI 53204-1516	Supports lifts on all vehicles
Arnold Mahlik, President Medi-Vans 1846 Industrial Drive Green Bay, WI 54307	Opposes changes to opportunity for competition
John Nousaine, Director North Country Independent Living 2231 Catlin Avenue P. O. Box 1245 Superior, WI 54880-5137	Supports lifts on all vehicles



Marvin Schneider, Administrator Chippewa County Dept. of Human Services Room 306 711 North Bridge Street Chippewa Falls, WI 54729-1877	<i>Opposes lifts on all vehicles</i>
John Gast, Director Pepin County Office of Aging 606 W. Madison Street Durand, WI 54736	<i>Opposes lifts on all vehicles</i>
Charlene Oftedahl, Director Carla Radtke, Chair Barron County Office on Aging 330 E. Lasalle Avenue Barron, WI 54812	<i>Opposes lifts on all vehicles</i>
Don Kush West Central WI Regional Plng. Comm. 800 Wisconsin Street Mailbox 9 Eau Claire, WI 54703-3606	<i>Opposes lifts on all vehicles</i>
Richard Sicchio, Director Northern Agency on Aging Rhineland, WI	<i>Opposes lifts on all vehicles</i>
David Titus, Director Dodge Co. Human Serv. & Health Dept. 143 East Center Street Juneau, WI 53039-1371	<i>Supports lifts on all vehicles</i>

(d) **Response to Legislative Council Recommendations.** The Rules Clearinghouse asked the Department to identify the authority for human service vehicles and school buses to be issued municipal registration under s. Trans 2.09. The authority for municipal registration is s. 341.26(2m), Stats.

The Rules Clearinghouse asked the Department to clarify why requests for review under s. Trans 2.055 are not subject to Chapter 227 contested case and judicial review provisions. This has been done in a note following s. Trans 2.055(6) and in a note following s. Trans 2.055(9).

The Rules Clearinghouse asked the Department to provide more specific information about the report required in s. Trans 2.11. This has been done in a note following s. Trans 2.11. The Department has also deleted the reference to "governing federal regulations" in s. Trans 2.11.

All of the remaining Rules Clearinghouse recommendations have been incorporated into the proposed rule.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule has no significant impact on small businesses.

Opposes rule on all vehicles	<p>John J. Tamm State of Maryland 100 North Howard Street Baltimore, MD 21201-1071</p>
Opposes rule on all vehicles	<p>John J. Tamm State of Maryland 100 North Howard Street Baltimore, MD 21201-1071</p>
Opposes rule on all vehicles	<p>John J. Tamm State of Maryland 100 North Howard Street Baltimore, MD 21201-1071</p>
Opposes rule on all vehicles	<p>John J. Tamm State of Maryland 100 North Howard Street Baltimore, MD 21201-1071</p>

The Rules Clearinghouse requested the Department to identify the authority for human service vehicles and to identify the authority for registration. The Department has identified the authority for registration in the Department's response to the Rules Clearinghouse's request.

The Rules Clearinghouse asked the Department to clarify why requests for review under a Title 202 rule are not subject to Chapter 202 contested case and notice provisions. This has been done in a note following a Title 202(f) rule in the following: Title 202(f).

The Rules Clearinghouse asked the Department to provide more specific information about the report issued in a Title 202(f) rule. The report has been done in a note following a Title 202(f) rule. The Department has also provided the reference to government labor in the following: Title 202(f).



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

March 29, 1999

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

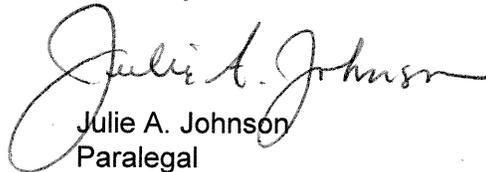
The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **elderly and disabled transportation capital assistance program, Trans 2**

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,


Julie A. Johnson
Paralegal

Enclosure

cc: Secretary's Office
Sandy Beaupre
Mike Goetzman
Jim Van Sistine
Ron Morse



Wisconsin Department of Transportation

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Madison, Wisconsin 53703

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Secretary

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March 15, 2009

Mr. [Name] [Address] [City] [State] [Zip]

Re: [Subject]

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD

The Wisconsin Department of Transportation is holding a public hearing on the proposed [Project Name] in the [Location]. The hearing will be held on [Date] at [Time] at [Address]. The purpose of the hearing is to provide an opportunity for the public to express their views on the proposed project. Comments should be submitted to the Department of Transportation by [Date].

Secretary
Wisconsin Department of Transportation

cc: [List of recipients]

The Wisconsin Department of Transportation proposes an order to repeal TRANS 2.015(1m) and (4), 2.045(2) to (6), 2.05(1)(e) to (i), 2.06(2)(c)2. and 2.08; renumber TRANS 2.10(1)(a)3. to 6.; renumber and amend TRANS 2.06(2)(c)3 and (d); amend TRANS 2.01, 2.015(3), 2.02(1) and (2), 2.04(3), 2.045, 2.05(1)(a) to (d) and (3), 2.06(2)(c)1. to 4., 2.09 and 2.10(1)(a), (b)6., (2)(a)(intro.) and (b)(intro.); repeal and recreate TRANS 2.07; and create TRANS 2.055, 2.06(2)(c)3. and (d)2., 2.10(1)(a)3. and 2.11, relating to elderly and disabled transportation capital assistance program.

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats., and interpreting s. 85.22, Stats., the Department of Transportation will hold public hearings at the following locations to consider the amendment of ch. Trans 2, Wisconsin Administrative Code, relating to elderly and disabled transportation capital assistance program:

Wednesday, May 12, 1999

Hill Farms State Transportation Building
4802 Sheboygan Avenue
Room 144-B
Madison, WI
10:00 AM

and

Thursday, May 13, 1999

State Patrol District 4
2805 Martin Avenue
Junction of Hwys. 51 & NN
Upper Conference Room
Wausau, WI
10:00 AM

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until May 27, 1999, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Ron Morse, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building, and at the south side of the State Patrol District 4 office.

NOTE: This hearing is being conducted at 2 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from both locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats.
STATUTES INTERPRETED: s. 85.22, Stats.

General Summary of Proposed Rule. Chapter Trans 2 establishes the Department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program (formerly sec. 16), and prescribes administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats. The purpose of this rule making is to clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures.

This proposed rule:

Simplifies the requirements an applicant must satisfy to qualify for elderly and disabled transportation capital assistance. The proposed rule eliminates an applicant's requirement to give private transportation providers the opportunity to submit proposals to

provide service. The proposed rule merely requires applicants to give private transportation providers the opportunity to comment on the applicant's decision to seek capital assistance from the Department.

Establishes a simplified process for the Department to review challenges to an application for elderly and disabled capital assistance.

Revises and clarifies criteria, relative weights, and minimum point totals for evaluating applications for elderly and disabled transportation capital assistance.

Provides the Department with greater discretion to determine the types of vehicles that may be provided under the elderly and disabled capital assistance program.

Eliminates the option of allowing applicants awarded capital assistance to purchase vehicles. The proposed rule will continue to authorize the Department to procure vehicles on behalf of applicants awarded capital assistance, but will eliminate the option of allowing applicants to purchase vehicles on their own.

Establishes record and reporting requirements.

Allows for greater flexibility in membership requirements of transportation coordinating committees.

Fiscal Effect. No fiscal impact is anticipated from the promulgation of this proposed rule.

Initial Regulatory Flexibility Analysis. This proposed rule has no significant impact on small businesses.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Ron Morse, or by calling (608) 266-1650. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 85.22(3)(h) and 227.11(2), Stats., the department of transportation hereby proposes to amend a rule interpreting s. 85.22, Stats., relating to elderly and disabled transportation capital assistance program.

SECTION 1. Trans 2.01 is amended to read:

TRANS 2.01 Purpose and scope. The purposes of this chapter are to establish the department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. ~~46~~ 5310 program, and to prescribe administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats.

SECTION 2. Trans 2.015(1m) is repealed.

SECTION 3. Trans 2.015(3) is amended to read:

Trans 2.015(3) "Federal sec. ~~46~~ 5310 program" means the federal assistance program under 49 USC ~~4612(b)(2)~~ 5310.

SECTION 4. Trans 2.015(4) is repealed.

SECTION 5. Trans 2.02(1) and (2) are amended to read:

Trans 2.02(1) An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants shall comply with federal regulations governing the federal sec. ~~46~~ 5310 program. ~~In addition to being eligible for assistance under the federal sec. 46 program, an applicant shall, at the time it applies for capital assistance, have legal authority to contract or subcontract with any other transportation provider in its proposed service area, unless it is prohibited from subcontracting by its contracts with agencies of county government. An applicant which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.~~

(2) State aids administered under this chapter are available only for projects for which applicants received notice of eligibility under 49 USC ~~4612(b)(2)~~ 5310 after

July 1, 1977. Projects that are eligible for such assistance but do not receive federal moneys due to insufficient federal funds are eligible for state aids under s. Trans 2.03.

SECTION 6. Trans 2.04(3) is amended to read:

Trans 2.04(3) Demonstrate how the proposed project will be integrated with specialized transportation services provided by public transit systems and previous federal sec. ~~46~~ 5310 program grantees located within the applicant's service area; and

SECTION 7. Trans 2.045 is amended to read:

Trans 2.045 (title) ~~Opportunity for competition~~ **Private provider participation.**

(4) Every application shall include evidence that all other transportation providers in the applicant's service area have been afforded ~~a competitive~~ an opportunity to ~~furnish comment on the service which an applicant proposes to furnish with the vehicles to be purchased with aid assistance under this chapter.~~ In each case where an applicant provides this opportunity to other transportation providers, the evidence shall include copies of all correspondence between the applicant and other transportation providers, except that the evidence shall include one copy of the notice required under s. Trans 2.05(1)(d) and a certified list of all other transportation providers to which the notice was mailed rather than copies of all the notices actually mailed. ~~The evidence shall also include copies of all proposals received by the applicant from other transportation providers. All notifications and correspondence from an applicant to other transportation providers shall be conducted by certified return receipt mail.~~ The department may reject an application for failure to comply with this requirement.

SECTION 8. Trans 2.045(2) to (6) is repealed.

SECTION 9. Trans 2.05(1)(a) to (d) are amended to read:

Trans 2.05(1)(a) On or before the first Monday in February, the applicant shall submit its completed application to the ~~department's appropriate district office;~~ department.

(b) Not less than 70 days before the application deadline, the applicant shall cause to be published a "Notice to Transportation Providers" in newspapers likely to give notice in the planned service area of the applicant. The notice shall include the applicant's name; the address and phone number of a contact person; a short description of the equipment for which the applicant is applying for a capital grant; and the applicant's proposed service area; ~~and the date by which another transportation provider must request additional information under par. (e);~~

(c) Not less than 70 days before the application deadline, the applicant shall submit its completed proposed transportation schedule and budget and shall submit a list of all other transportation providers operating within the applicant's service area to the appropriate department district office;

(d) Not less than 60 days before the application deadline, the applicant shall mail a notice of its intention to request capital assistance under this chapter to all other transportation providers operating within applicant's proposed service area and to the chairperson of the county board for any county in which the applicant proposes to operate;

SECTION 10. Trans 2.05(1)(a) to (d) are repealed

submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for review and comment to the appropriate area agency on aging, and to the appropriate department of health and ~~social~~ family services' division of community services' regional strategic finance's area office. In order to be considered by the department, comments from these agencies must be submitted to the department's appropriate district office within ~~45~~ 30 days following submission of the application to the department. The department shall give appropriate consideration to the review comments.

SECTION 12. Trans 2.055 is created to read:

TRANS 2.055 Request for department review. (1) A person adversely affected by a violation of s. Trans 2.045, 2.05 or 2.10 may request the department to review an application for capital assistance under this chapter.

NOTE: Specific allegations shall be sent to Director, Bureau of Transit & Local Roads, P. O. Box 7913, Madison, WI 53707-7913, with a copy sent to the affected applicant.

(2) A request for department review under sub. (1) shall be made in writing, and shall be filed with the department within 10 days of the application filing deadline in s. Trans 2.05(1)(a).

(3) If the department receives a request for review of an application for capital assistance under this chapter, the chief of the specialized transit section shall conduct the department review.

(4) In conducting its review, the department may consider only an applicant's compliance with applicable state and federal procedural requirements.

(5) All interested parties shall be given the opportunity to submit written or documentary evidence and written arguments to the department. Interested parties shall provide a copy of any written evidence, arguments, or correspondence submitted to the department to all other parties involved in the department review.

(6) The department shall limit its review to consideration of written or documentary evidence and written arguments. The formal contested case requirements in ch. 227, Stats., are not applicable to this review.

(7) In conducting its review, the department may request interested parties to provide additional written information. The failure of any interested party to provide information requested by the department, or to cooperate with the department in its review, may result in dismissal of a request for review or denial of an application for capital assistance.

(8) The chief of the specialized transit section shall submit a written recommendation to the director of the bureau of transit and local roads, who shall issue a written decision. A copy of the director's decision shall be provided to the applicant and to the person requesting the department review.

(9) The decision of the director of the bureau of transit and local roads shall be the final decision of the department, and may not be subject to further appeals or judicial review.

SECTION 13. Trans 2.06(2)(c)1. is amended to read:

Trans 2.06(2)(c)1. Estimate of elderly and disabled population and sources or methodology used to derive the figure (0-15 points);

SECTION 14. Trans 2.06(2)(c)2. is repealed.

SECTION 15. Trans 2.06(2)(c)3. is renumbered Trans 2.06(2)(c)2. and amended to read:

Trans 2.06(2)(c)2. Percentage of the elderly and disabled population in need of service and the ~~proportion which the applicant proposes to serve~~ methodology used to arrive at the percentage (~~0-30~~ 0-15 points); and.

SECTION 16. Trans 2.06(2)(c)3. is created to read:

Trans 2.06(2)(c)3. The percentage of the elderly and disabled population which the applicant proposes to serve and how that percentage was derived (0-15).

SECTION 17. Trans 2.06(2)(c)4. is amended to read:

Trans 2.06(2)(c)4. ~~Evidence that existing~~ How applicant's proposed service is not adequate to shall meet the identified needs of the elderly and disabled population (~~0-15~~ 0-30 points).

SECTION 18. Trans 2.06(2)(d) is renumbered Trans 2.06(2)(d)1. and amended to read:

Trans 2.06(2)(d)1. Evidence of financial ~~and managerial~~ capabilities of the applicant in assuring that adequate operating funds ~~and practices~~ will be available to support the proposed project objectives. ~~Applicant experience with previous federal sec. 16 program capital assistance grants may be considered~~ (~~0-45~~ 0-15 points).

SECTION 19. Trans 2.06(2)(d)2. is created to read:

Trans 2.06(2)(d)2. Evidence of managerial capabilities of the applicant in assuring that adequate personnel, experience, training, safety and other practices will be available to support the project objectives. Applicant experience with previous capital assistance under this chapter may be considered (0-30 points).

SECTION 20. Trans 2.07 is repealed and recreated to read:

TRANS 2.07 Vehicles offered. Types of vehicles offered under this chapter, equipped as human service vehicles or standard yellow school buses, shall be determined by the department for each grant cycle. Factors including, but not limited to, funding levels, volume of requests, vehicle availability and technological innovations shall be used in the department's determination. No communications equipment shall be offered under this chapter.

SECTION 21. Trans 2.08 is repealed.

SECTION 22. Trans 2.09 is amended to read:

Trans 2.09 Vehicle registration. ~~A grantee under the federal sec. 16 program recipient~~ shall at all times maintain human service vehicle or school bus registration, as appropriate, on every vehicle purchased in part with ~~aid~~ assistance under ~~s. 85.22, Stats.,~~ and this chapter whether the vehicles are operated by the ~~grantee~~ recipient or by other transportation providers except that a local public body owner or operator may maintain municipal registration, provided human service vehicle inspections are completed on an annual basis. If a ~~grantee~~ recipient fails to comply with this registration requirement, the department may reassign the vehicles not properly registered ~~by the grantee~~ to other eligible applicants specified in s. Trans 2.02(1) and may reject pending or future applications of the ~~grantee~~ recipient for ~~aid~~ assistance under ~~s. 85.22, Stats.~~ this chapter.

SECTION 23. Trans 2.10(1)(a) is amended to read:

Trans 2.10(1)(a) ~~Has 10 or more~~ Includes members representing at least the following:

SECTION 24. Trans 2.10(1)(a)3. is renumbered Trans 2.10(1)(a)4.

SECTION 25. Trans 2.10(1)(a)3. is created to read:

Trans 2.10(1)(a)3. County department of social services, or county department of human services;

SECTION 26. Trans 2.10(1)(a)4. to 6. are renumbered Trans 2.10(1)(a)5. to 7.

SECTION 27. Trans 2.10(1)(b)6., (2)(a)(intro.) and (b)(intro.) are amended to read:

Trans 2.10(1)(b)6. Act on requests by local public bodies to be designated as coordinators of transportation services for elderly and disabled persons for the purpose of becoming eligible for assistance under the federal sec. 46 5310 program.

(2)(a)(intro.) Is determined by the department to be eligible for assistance under the federal sec. 46 5310 program after first certifying to the department that no private, nonprofit organizations as specified in s. Trans 2.015(2m) are readily available to provide transportation services to elderly and disabled persons in a proposed service area and providing all of the following or similar documentation supporting such certification:

(b)(intro.) Is approved by the department to be the coordinator of transportation services to the elderly and disabled persons in the proposed service area. A local public body shall be after first being so approved by the county board and a transportation coordinating committee and the county board and providing which satisfies the membership requirements in sub. (1)(a). The department may waive the membership requirements in sub. (1)(a) if the county board provides satisfactory evidence that the county board made a reasonable attempt to include members of all

groups identified in sub. (1)(a). The applicant shall provide all of the following or similar documentation to the department verifying such approval:

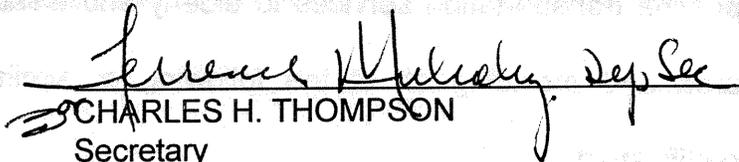
SECTION 28. Trans 2.11 is created to read:

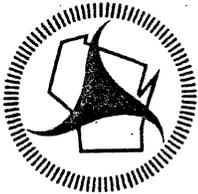
Trans 2.11 Reporting requirements. All recipients shall maintain records in the manner required by the department for all vehicles purchased with program funds and shall make semi-annual reports on each vehicle as well as special reports as required by the department or by governing federal regulations. If required semi-annual reports are not current at the time of the application filing deadline, the department may deny that recipient's application.

(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), Stats.

Signed at Madison, Wisconsin, this 25 day of March, 1999.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

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Tommy G. Thompson
Governor

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January 14, 1999

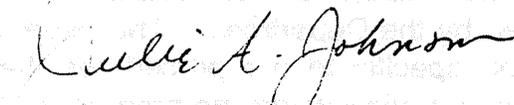
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 2**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 2. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Secretary's Office
Sandy Beaupre
Mike Goetzman
Jim Van Sistine
Ron Morse

STATEMENT OF SCOPE

Description of the Objective of the Proposed Rule-Making:

Chapter Trans 2 establishes the Department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 5310 program (formerly sec. 16), and prescribes administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats. The purpose of this rule making is to clarify existing provisions of the rule as well as incorporate changes to reflect current program policy and conditions and improve program administrative procedures. For each item below, a description of the objective of the proposed change, a description of existing policies relevant to the amendment, and an analysis of policy alternatives are described.

PROPOSED AMENDMENT 1 **TRANSPORTATION SERVICE PROPOSALS**

Description of Objective of the Amendment:

Amend current s. Trans 2.045 to remove the requirement that all applicants must provide an opportunity for other transportation providers to submit proposals for the service to be furnished with the vehicles applied for under this chapter.

Description of Existing Policies Relevant to the Amendment:

Current policy provides an opportunity for other transportation providers to submit service proposals. If a proposal is rejected by the applicant, the other provider can request the Department to review the rejection. Minimum evaluation criteria are prescribed by the Department. The Federal Transit Administration has recently issued a decision specific to our procedures that transportation service proposals are not subject to its review where no program dollars are involved. Since our program funds are limited to the purchase of vehicles, the requirement for all applicants to provide an opportunity for other transportation providers to submit proposals and our review of any proposal rejections is no longer necessary.

Analysis of Policy Alternatives:

Amend s. Trans 2.045 to eliminate all reference to transportation service proposals. This would include reference to the need to provide an opportunity for other transportation providers to submit service proposals, evaluation of service proposals, and the determination of fully allocated costs. The notification to other transportation providers of intent to apply for a grant would be retained. It would allow the decision-making matters to remain at the local level where there is no financial involvement through this program.

Another alternative is to retain the existing rules which require a substantial amount of staff time to administer. Since the Federal Transit Administration has no jurisdiction in matters where no program funds are involved, it seems onerous for the state to impose unnecessary notification procedures on applicants for aid under this chapter.

PROPOSED AMENDMENT 2 **REQUEST FOR REVIEW PROCEDURES**

Description of Objective of the Amendment:

Amend current s. Trans 2.045 to establish the process used for considering procedural complaints or conflicts.

Description of Existing Policies Relevant to the Amendment:

Trans 2.045(5) requires the Department to investigate any request for review filed by any transportation provider whose service proposal is rejected by an applicant. The current rule does not specify the review procedures. The Department has used several review procedures in this program in the past. This rule making will clarify what is subject to review and how the request for review is administered.

Analysis of Policy Alternatives:

Amend s. Trans 2.045 to specify when the review is applicable and what the process is. This would make it clear to the applicant and the protester what our procedures are and the level of internal appeals available.

The other alternative is to not change the administrative rule with regard to procedural complaints and conflicts. This alternative would allow the Department the flexibility to change its procedures but will result in the program participants' continued uncertainty as to when and how this provision applies.

PROPOSED AMENDMENT 3 **APPLICATION EVALUATION**

Description of Objective of the Amendment:

Trans 2.06 establishes the criteria and their relative weight for evaluating applications for aids under this statewide competitive program. It also establishes the minimum point score necessary to be eligible to receive a grant. A review of the appropriateness of these three factors would be beneficial since transportation priorities and capabilities change over time. Program participant input is essential to that review.

Description of Existing Policies Relevant to the Amendment:

The application evaluation rules have evolved over the years. Since it is a statewide competitive program, it is necessary to provide an appropriate ranking process for all applications. The evaluation is made utilizing established criteria which has been weighted and all eligible applicants are ranked. A 100 point minimum score is required to be eligible to receive a grant. The Department awards grants to eligible applicants based upon the amount of funds available.

Analysis of Policy Alternatives:

There are three different areas that will be examined:

1. The evaluation criteria covers four general categories: (a) the extent of service coordination, (b) the extent that service can be provided to the general elderly and disabled public, (c) the extent to which transportation needs of elderly and disabled persons are identified, and (d) financial and managerial capabilities.
2. Each of the criteria in the above categories has an assigned weight.
3. The minimum point score is 100 points.

PROPOSED AMENDMENT 4 **VEHICLES OFFERED**

Description of Objective of the Amendment:

Amend s. Trans 2.07 to provide the Department with greater latitude for establishing what types of vehicles may be applied for on an annual basis as long as they meet human service vehicle (HSV) or yellow school bus specifications. The Department is also contemplating a requirement that all program vehicles be lift-equipped. This would ensure compliance by the grantee with the Americans with Disabilities Act (ADA) requirements.

Description of Existing Policies Relevant to the Amendment:

The current rule specifies that small, medium and large school bus type vehicles and 15-passenger vans shall be offered under this program. Whereas the human service vehicle rule, Trans 301, was recently changed to allow other than school bus type vehicles to be designated as HSVs, the transit industry produces vehicles which offer alternatives to the school bus type vehicle. The Department needs to update its current rule to reflect this change. Additionally, the Department believes that it should have the ability to make decisions on an annual basis as to the types of vehicles it wants to offer

potential program participants since this is an evolving industry with changing needs and capabilities.

The current rule also allows the purchase of nonlift-equipped vehicles if the applicant certifies that it provides equivalent service to persons with disabilities. The Department must monitor those grantees that have received nonlift-equipped vehicles to ensure that the ADA requirements are being met. Such compliance monitoring will require a substantial amount of program staff time.

Analysis of Policy Alternatives:

The Department could just revise the current rule to reflect that other than school bus type vehicles can be purchased. This would mean that if transportation needs or innovations present themselves in the future, the Department would need to go through the rule-making process to respond. By continuing to allow the purchase of nonlift-equipped vehicles, the Department will be devoting a substantial amount of staff and financial resources to an activity that does not provide any additional transportation services.

By changing the rule to allow the Department to determine what types of vehicles to offer on an annual basis, it can respond to the changing conditions within the transit industry in a more timely manner. Requiring that all vehicles be lift-equipped, will ensure that all grantees are in compliance with ADA and the Department will save a substantial amount of staff time and program financial resources.

PROPOSED AMENDMENT 5 **CASH GRANT OPTION**

Description of Objective of the Amendment:

Repeal s. Trans 2.08 to eliminate the option for successful grantees to procure vehicles. This option has not been effective and would relieve the Department from having to train grantees on the federal procurement process and to monitor the grantee to ensure that all federal procurement requirements have been met.

Description of Existing Policies Relevant to the Amendment:

The Department procures vehicles for the grantees in conformance with federal procurement regulations. In 1993, the rule was changed to allow a grantee to procure its vehicles rather than participate in the Department procurement. Since then, several grantees have attempted to use the option but have found that either no bids were received or the bids were substantially higher than the state bids. Federal program management regulations require the Department to ensure that a grantee who procures vehicles complies with all federal procurement procedures. Program staff must train

and provide technical assistance to any grantee who chooses this option plus monitor the procurement process.

Analysis of Policy Alternatives:

Repealing s. Trans 2.08 would free up program staff time which is needed to perform other program monitoring responsibilities. It would not reduce the effectiveness of the program since the option has been ineffective since its inception.

PROPOSED AMENDMENT 6
REPORTING REQUIREMENTS

Description of Objective of the Amendment:

The establishment of a provision in the rule that addresses the general reporting requirements and any penalties for non-compliance is a more formal administrative tool for ensuring compliance with program requirements.

Description of Existing Policies Relevant to the Amendment:

The existing policy on reporting requirements is specified in the grant contract. While it specifies what reports are required, there are no penalties specified for non-compliance.

Analysis of Policy Alternative:

The Department could continue to use the contract as the primary vehicle for specifying reporting requirements but it would not be as effective as a provision in the rule. However, a penalty for non-compliance should be added to ensure compliance.

If a provision is added to the rule which addresses general reporting requirements and the penalties for non-compliance, it will provide a more formal tool for program administration and should improve the compliance rate. Without a penalty clause, there is no strong incentive for compliance.

PROPOSED AMENDMENT 7
TRANSPORTATION COORDINATING COMMITTEE

Description of Objective of the Amendment:

The committee membership requirements in s. Trans 2.10(1) is very prescriptive. Some counties may not be able to have representation from a particular prescribed category or there may not be anyone within a particular category willing to serve on the committee. The rule should be changed to allow more flexibility as reflected in these kinds of situations. The objective of a change to s. Trans 2.10(1)(a) is to ensure that

the appropriate parties representing agencies and individuals with transportation needs are asked to be members of a coordinating committee. The member list should also be expanded to include the "County Department of Social Services" which is different than an aging unit or 51.42/437 Board and an important segment in any coordinating efforts.

Description of Existing Policies Relevant to the Amendment:

The existing version of s. Trans 2.10(1) which was implemented in 1994 provides an opportunity for a public body to be an eligible applicant. The objective is to encourage coordination of transportation services within the applicant's service area through the formation of a transportation coordinating committee. Experience shows that the literal interpretation of the rule regarding the membership of the committee could preclude a local public body from becoming an eligible applicant.

Analysis of Policy Alternatives:

Revising s. Trans 2.10(1)(a) to reflect that efforts must be made to include all of the listed categories of individuals and agencies would be a more realistic approach to the formation of a transportation coordinating committee.

PROPOSED AMENDMENT 8
REGIONAL REVIEW PROCESS

Description of Objective of the Amendment:

Part of the process for preparing an application (Trans 2.05 (3)) is that copies are sent to the appropriate area agency on aging and Department of Health and Family Services' regional offices of strategic finance for review and comments. Historically, these agencies have provided very little input into the review process. As the applications involve numerous pages that must be copied in order to comply with this provision, the Department proposes to require the applicant only provide copies upon request. This will save the applicant time and money.

Description of Existing Policies Relevant to the Amendment:

The existing policy is to require that copies be sent to the appropriate agencies regardless if the agency desires to review and comment.

Analysis of Policy Alternatives:

If the applicant were to send a notification of intent to file an application to the review agencies noted above, it would alert the agency that an application is to be filed. The notification would also offer to send copies to the agencies upon request. The interested agencies would still have an opportunity to review and comment and the

applicant would potentially save time and money. Such notification could also be used to encourage agencies to participate in the review process.

PROPOSED AMENDMENT 9
TECHNICAL AMENDMENTS

Description of Objective of the Amendment:

There are a number of references in the existing rule that are no longer accurate and need to be updated.

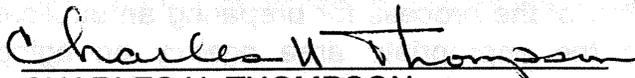
Statutory Authority for the Rule:

ss. 85.16(1), 85.22 and 227.11(2), Stats,

Estimate of the Amount of Time That State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule:

200 person hours

Signed at Madison, Wisconsin, this 13 day
of January, 1999.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation