



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### 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 03-110

AN ORDER to create chapter VA 17, relating to the administration of the military funeral honors program.

Submitted by **DEPARTMENT OF VETERANS AFFAIRS**

11-04-2003 RECEIVED BY LEGISLATIVE COUNCIL.

12-03-2003 REPORT SENT TO AGENCY.

RNS:PS

**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 RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
Clearinghouse Director

Richard Sweet  
Clearinghouse Assistant Director

Terry C. Anderson  
Legislative Council Director

Laura D. Rose  
Legislative Council Deputy Director

### CLEARINGHOUSE RULE 03-110

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]**

#### 2. Form, Style and Placement in Administrative Code

- a. In s. VA 17.01 (intro.), the word “Definition” should be plural and the introductory phrase could be shortened to read: “In this chapter:”.
- b. Some of the titles in the rule need reformatting. For example, only the first word of the section titles should have an initial capital letter. Also, the titles to ss. VA 17.02 and 17.03 should end with a period, not a colon. [See s. 1.05 (2), Manual, regarding title format.]
- c. In s. VA 17.02, “s.” should be inserted before the two rule citations.
- d. It would be helpful to insert a note following s. VA 17.02 with information on how to contact the department to request military funeral honors.
- e. In s. VA 17.03 (1) and numerous other locations, the words “will,” “must,” or “is required to” are used to denote a mandatory activity of the department or another entity. Instead, the word “shall” should be used. See s. 1.01 (2), Manual. The entire rule should be reviewed for occurrences of this problem.

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

- a. In s. VA 17.01 (3), the “at” on line 2 should be changed to “in.”
- b. In s. VA 17.02, what specific “verification” will the department seek in order to provide funeral honors? Also, “funeral directors” should read “a funeral director” and a comma should be inserted after “eligibility” on line 3.

c. As currently structured and worded, s. VA 17.03 is confusing. The following reorganization and clarifications are suggested:

- 1) In the (intro.), the generic listing of the types of honors that may be provided is unnecessary, because subs. (1) and (2) set forth the specific activities to be conducted for basic honors and full honors, respectively. The (intro.) is also in incorrect format for introductory material, as explained in s. 1.03 (8), Manual. This could be corrected by deleting all material after the colon in the (intro.), but retaining the colon.
- 2) Subsection (1), governing basic honors, should indicate under what circumstances basic honors are to be provided and who makes that determination. Can the family request one level of honors or the other? What does "coordinate" the attendance mean? Should it be "arrange for" the attendance? Since there are to be *at least* two uniformed service representatives, the language regarding the sounding of Taps should not refer to *these two* representatives. The Taps language indicates that the service representatives will sound Taps. Does this mean that for basic honors, an electronic device to play Taps may not be used, as is permitted for full honors? Also, no mention is made of the sounding of Taps by students in grades 6-12 or college in exchange for tuition vouchers, as provided in 2003 Wisconsin Act 42, which took effect on August 26, 2003.
- 3) Subsection (2), governing full honors, should indicate under what circumstances full honors are to be provided and who makes that determination. Does the phrase "when requested" mean that the family requests the provision of full honors? Also, do full honors require attendance of at least a certain number of uniformed service representatives, as do basic honors? Finally, there is no mention of flag folding under full honors as there is for basic honors. Will there be flag folding and presentation during full honors?
- 4) Also, in sub. (2), what is meant by the department "will coordinate actions for a firing detail..."? With whom does the department coordinate? Also, the terms "firing detail" and "rifle detail" are both used. If they mean the same thing, only one term should be used to avoid confusion. The provision states that a "firing detail" consists of a minimum of three individuals and a bugler to sound Taps. It then says that "this rifle detail" may consist of a funeral honors team, military service personnel, or a veterans organization. Does this mean that the Taps bugler must also be military personnel or from a military honors team or veterans organization? If so, the provision does not cover a student playing Taps, as permitted in Act 42. Further, how does the language permitting the playing of Taps with the aid of an electronic device comport with the language that the firing detail consists of a minimum of three individuals *and a bugler* (presumably a person) to sound Taps?

d. The following comments pertain to s. VA 17.04:

- 1) The phrase "the authority of" could be stricken.
  - 2) On line three, "to not" should read "not to." Also, how does the family know that it can direct the department not to perform funeral honors?
  - 3) The provision states that to the extent practicable, a military funeral honors team is to perform the honors at a state veterans cemetery and that on the family's request, a veterans organization may *assist* the team in providing honors. This means that the veterans organization cannot provide funeral honors at a state veterans cemetery without the team being present as well. Is that the department's intent? Should the veterans organization instead be permitted to conduct the funeral honors without the team when it is not practicable for the team to attend?
- e. The following comments pertain to s. VA 17.05:
- 1) The word "amount" should be stricken from the title, because under suggested rewrite of sub. (2) in item 5) below, that subsection would include language about more than just the amount of reimbursement.
  - 2) In sub. (1) (intro.), the language regarding a veterans organization's "eligibility to receive reimbursement" should indicate what the organizations are receiving reimbursement for. The "up to \$50.00" language should be stricken because reimbursement levels are dealt with in sub. (2). Finally, the items following the (intro.) in sub. (1) (a) and (b) are not "criteria" but rather required activities in order to receive reimbursement. Therefore, it is suggested that the introductory sentence be rewritten as follows: "In order to receive reimbursement for providing military funeral honors, a veterans organization shall do all of the following:".
  - 3) Paragraph (a) would then read: "Complete and file with the department a Taxpayer Identification Number Verification Form." Paragraph (b) would read: "Submit a request for reimbursement on a form developed by the department, within 90 days of providing military honors." The phrase "in accordance with department policy" is unnecessary. A note should be inserted after this subsection to indicate how to obtain the forms from the department.
  - 4) The language in par. (c) should be moved to sub. (2) which sets forth reimbursement amounts. See the next comment for a suggested rewrite of sub. (2), including placement of the language from par. (c).
  - 5) As currently drafted, sub. (2) is confusing. Although not clearly stated, it appears that the reimbursement amount is based on whether the veterans organization provided "basic honors" as described in s. VA 17.03 (1) or "full honors" as described in s. VA 17.03 (2). This conclusion is reached because reimbursement is higher if a firing detail is provided, which is only called for in

full honors and not basic honors, under s. VA 17.03. If in fact reimbursement is based on whether basic or full honors are provided, sub. (2) could be rewritten as follows:

(2) REIMBURSEMENT. (a) Reimbursement to veterans organizations for providing funeral honors shall be as follows:

1. If a single veterans organization provides basic honors, \$25.
2. If a single veterans organization provides full honors, \$50.
3. If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the department split the reimbursement.
4. If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the department.

(b) A veterans organization may not receive an honorarium or donation or request payment from the funeral home or the family for funeral honors for which reimbursement is sought under this section.

(c) Notwithstanding par. (a) the department may not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing funeral honors at one funeral in a day, the department shall reimburse the organization for the provision of funeral honors at any additional funerals on that day.

- 6) A note should be inserted after sub. (2) to indicate where information may be obtained about federal funding sources for military funeral honors.
- 7) Regarding the training and certification program "approved by the department" referenced in sub. (3), will the department develop that program or will it be developed by another entity? The same question pertains to the refresher training program. What will the training involve? Also, for what time period is the 60% turnover measured? Further, what criteria will the department use to determine if a veterans organization is "failing to meet minimal requirements in the provision of honors"?

f. In s. VA 17.06, the narrative information in the first sentence concerning the creation of the military funeral honors coin should not be in the text of the rule. The department should

define the term "military funeral honors coin" as the coin created by the department for presentation with a flag during military funeral honors. The language in s. VA 17.06 should state under what circumstances a coin will be presented. The provision states that it will be presented by military funeral honors teams when presenting a flag. As noted in comments c. (3) above, flag folding is only mentioned as part of basic honors and not full honors. Does that mean that coin presentation will not occur when full honors are provided? Will uniformed service personnel also have access to the coins and, if so, will they be charged?

## REPORT AND ANALYSIS OF CLEARINGHOUSE RULE 03-110

1. Statement explaining the need for the proposed rules.

The rationale for adopting the proposed rules is explained in the analysis section of the attached order.

2. Modifications made as a result of testimony presented at the public hearing.

The public hearing was conducted on December 5, 2003. No modifications were made as a result of the hearing.

3. Public hearing appearances and registration.

Italo Bensoni testified at the hearing.

4. Response to Legislative Council Clearinghouse Report.

The comments of the Legislative Council Clearinghouse were considered. The department has complied with the recommendations contained in the report. The department will include notes indicating the appropriate contact point for forms and other information concerning the Military Funeral Honors Program when the final order is submitted to the Revisor of Statutes for publication in the Administrative Register. As to the department's training program, the "turnover period" is now identified in the rule. The evaluation criteria are under development and will be published prior to any adverse action.

5. Fiscal Estimate.

The rules will have the fiscal impact identified in the attached fiscal note.

STATE OF WISCONSIN  
DEPARTMENT OF VETERANS AFFAIRS

BY:

  
\_\_\_\_\_  
JOHN A. SCOCOS, SECRETARY

**PROPOSED ORDER OF THE  
DEPARTMENT OF VETERANS AFFAIRS  
CREATING RULES**

The Wisconsin Department of Veterans Affairs proposes an order creating Chapter VA 17 of the Wisconsin Administrative Code relating to the administration of the military funeral honors program.

**ANALYSIS PREPARED BY THE  
DEPARTMENT OF VETERANS AFFAIRS**

Statutory authority: s. 45.35 (3), Stats.

Statute interpreted: s. 45.19, Stats.

The creation of chapter VA 17 will enable the Wisconsin department of veterans affairs to address several issues relating to the administration of the military funeral honors program under s. 45.19, Stats. The proposed order will provide a stipend payment, up to the statutory maximum, based upon the level of honors provided by a veterans organization. Additionally, the proposed order will impose a training and certification requirement for stipend reimbursement, as well as requiring a veterans organization to apply for available federal funding prior to the payment of a stipend. The proposed order also provides that burials in a state veterans cemetery will be accompanied by the provision of honors, unless the family requests that honors not be provided. Finally, the proposed order identifies the requirements applicable to the provision of a special burial coin to family members.

**TEXT OF RULE**

SECTION 1: Chapter VA 17 is created to read:

**MILITARY FUNERAL HONORS PROGRAM**

**VA 17.01 Definitions.** In this chapter:

- (1) "Department" means the department of veterans affairs.
- (2) "Military funeral honors coin" means a coin created by the department for presentation with a flag during military funeral honors.
- (3) "Military funeral honors team" means a team of individuals employed by the department for the purpose of providing military funeral honors.
- (4) "Veterans organization" means a local unit of a member organization of the council of veterans programs, as identified in s. 15.497 (2), Stats.

**VA 17.02 Process for arranging military funeral honors.** Except as provided under s.VA 17.04, a funeral director or a family member may initiate a request for military funeral honors by contacting the department. Upon verification of the individual's eligibility through a review of the individual's discharge documents or other trustworthy documentation, the department shall coordinate the provision of military funeral honors under s.VA 17.03.

**VA 17.03 Provision of military funeral honors.** The following types of honors may be rendered for a deceased veteran:

(1) **BASIC HONORS.** The department shall arrange for the attendance at a funeral of at least two uniformed service representatives. At least one of these representatives shall be from the branch of service of the deceased. Taps shall be sounded and a flag shall be folded and presented to the next of kin. Taps may be sounded in person or with the aid of an electronic device provided by a military funeral honors team, military service personnel, or a veterans organization.

(2) **FULL HONORS.** Upon the request of the family and when available, the department shall arrange for a firing detail of at least three individuals in addition to the honors provided under sub. (1).

**VA 17.04 Military funeral honors at state veterans cemeteries.** Military funeral honors shall be provided at a cemetery operated by the department under ss. 45.358 or 45.37, Stats., unless a family directs the department not to perform any honors. The family shall be notified of the department's intent to provide military funeral honors when the burial arrangements are being made. To the extent practicable, a military funeral honors team shall perform the honors. If requested by the family, a veterans organization may assist the funeral honors team in providing honors or provide military funeral honors in lieu of a military funeral honors team.

**VA 17.05 Eligibility, reimbursement and training and certification for providing military funeral honors.**

(1) **ELIGIBILITY.** In order to receive reimbursement for providing military funeral honors, a veterans organization shall do all of the following:

(a) Complete and file with the department a Taxpayer Identification Number Verification Form.

(b) Submit a request for reimbursement on a form developed by the department, within 90 days of providing military funeral honors.

(2) **REIMBURSEMENT.** (a) Reimbursement to veterans organizations for providing military funeral honors shall be as follows:

1. If a single veterans organization provides basic honors, \$25.
2. If a single veterans organization provides full honors, \$50.
3. If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the department split the reimbursement.
4. If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the department.

(b) A veterans organization may not receive an honorarium or donation or request payment from the funeral home or the family for military funeral honors for which reimbursement is sought under this section.

(c) Notwithstanding par. (a) the department may not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at one funeral in a day, the department may reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

**(3) TRAINING AND CERTIFICATION.** Effective July 1, 2004, a veterans organization shall satisfactorily complete or be scheduled for a training and certification program approved by the department to be eligible to receive reimbursement for providing funeral honors. As a continuing condition of eligibility for reimbursement, a veterans organization having a 60% or greater turnover in personnel in a 12 month period or identified by the department as failing to meet minimal requirements in the provision of military funeral honors shall undergo and successfully complete a refresher training program approved by the department.

**VA 17.06 Military funeral honors coin.** At the request of a veterans organization, the department may authorize a veterans organization to present a military funeral honors coin to the family in conjunction with the provision of military funeral honors under the following circumstances:

- (1) A veteran organization shall be scheduled or have satisfactorily completed the funeral honors training and certification program approved by the department.
- (2) A veterans organization shall agree to purchase the coins directly from the vendor approved by the department or from the department.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, December 5, 2003

STATE OF WISCONSIN  
DEPARTMENT OF VETERANS AFFAIRS



JOHN A. SCOCOS, SECRETARY

LRB or Bill No./Adm. Rule No.

VA 17

Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 N(R10/94)
 ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL
**Subject**

Military Funeral Honors Program Administrative Rule Creating VA 17 of the Wisconsin Administrative Code.

**Fiscal Effect**State:  No State Fiscal EffectCheck columns below only if bill makes a direct appropriation  
or affects a sum sufficient appropriation.
 Increase Costs - May be possible to Absorb  
Within Agency's Budget     Yes     No

 Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation
 Decrease CostsLocal:  No local government costs
1.  Increase Costs  
 Permissive     Mandatory  
2.  Decrease Costs  
 Permissive     Mandatory

3.  Increase Revenues  
 Permissive     Mandatory  
4.  Decrease Revenues  
 Permissive     Mandatory

5. Types of Local Governmental Units Affected:

 Towns       Villages       Cities  
 Counties     Others \_\_\_\_\_  
 School Districts       WTCS Districts
**Fund Sources Affected**
 GPR     FED     PRO     PRS     SEG     SEG-S
**Affected Ch. 20 Appropriations**

20.485(2)(g)

**Assumptions Used in Arriving at Fiscal Estimate:**

Funding for this program was provided under the provisions of 1999 Wisconsin Act 136. The proposed rule creates VA Chapter 17, Military Funeral Honors Program authorized under s.45.19, Wis. Stats.

The rule creates the process and provisions for coordinating honors and establishing the criteria for a veterans organization to receive reimbursement not to exceed \$50 to cover costs for providing military honors for a deceased veteran. The administrative rule has no fiscal effect except for the following:

VA 17.04 allows military honors to be performed for burials at the cemeteries operated by the department, unless a family directs the department not to perform any honors. The department's military funeral honors team would perform the honors, unless, if requested by a family member, a veteran's service organization may assist in providing honors. Therefore, the projected fiscal effect is a reduction in reimbursements to VSOs. These cost savings are indeterminable because it cannot be determined how many veteran's families would request honors by a VSO.

VA 17.05(2)(a)(b) provides the department the authority to determine the level of reimbursement to a VSO based upon the level of honors being provided for each service not to exceed \$50. A VSO would receive \$50 if providing full honors; firing detail is provided and conducts or participates in honors including folding and presentation of the the flag and sounding taps. If the VSO conducts or participates in honors, except other than providing a firing detail the reimbursement to cover costs would be \$25. The fiscal effect is estimated to be a savings of \$3,000. The estimate is based on FY03 data where 120 VSO's provided honors other than a firing detail (120 x \$25 = \$3,000).

**Long-Range Fiscal Implications**
Agency/Prepared by: (Name & Phone No.)  
**Zolonda Eubanks 264-7072**  
Dept. of Veterans Affairs

Authorized Signature/Telephone No.  
**John A. Scocos 266-2256**

Date  
**09/02/03**



*Jim Doyle, Governor*  
*John A. Scocos, Secretary*

**STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS**

*30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843*

*PHONE: (608) 266-1311 1-800-947-8387 (WIS VETS)*

*WEB SITE: [dva.state.wi.us](http://dva.state.wi.us)*

*E-MAIL: [Headquarters@dva.state.wi.us](mailto:Headquarters@dva.state.wi.us)*

*FAX: (608) 267-0403*

DATE: December 19, 2003

TO: Representative John Gard, Speaker of the Assembly  
Senator Alan Lasee, President of the Senate

FROM: John A. Scocos, Secretary  
Wisconsin Department of Veterans Affairs

RE: Clearinghouse Rule 03-110

I am submitting three copies of the final draft of Clearinghouse Rule 03-110, as well as the report and analysis required under sec. 227.19, Stats. Please forward this material to the appropriate committees for review.