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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**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 04-070

AN ORDER to renumber Comm 14.02 (1) to (9); and to create Comm 14.02 (1) and (11), relating to definitions of administrative expenses and substantial compliance.

Submitted by **DEPARTMENT OF COMMERCE**

06-22-2004 RECEIVED BY LEGISLATIVE COUNCIL.

07-19-2004 REPORT SENT TO AGENCY.

RNS:RJC

**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 04-070

#### 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.]**

#### 1. Statutory Authority

The first sentence of the definition of “administrative expenses” does not appear to define the term beyond what is already in the statutes. The statutes allow expenditure from the appropriation for “administrative expenses under ss. 101.14, 101.141 and 101.573.” The rule states that the term includes “all expenses related to the department’s operations under ss. 101.14, 101.141 and 101.573, Stats.” The rule does not define what expenses constitute administrative expenses as is required by s. 101.573 (5), Stats. It does not state how indirect an expense might be and still be considered an administrative expense (e.g., utilities, rent, salaries of persons who do not work directly with the program).

In addition, the second sentence does not appear to be statutorily authorized. By use of the phrase “In addition,” it seems to treat as administrative expenses those expenses incurred for purposes other than administration of the three statutes cited in the first sentence. However, s. 20.143 (3) (La), Stats., only allows payment for administration of those three statutes.

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

a. The rule’s analysis should have the uniform headings contained in the attached memorandum.

b. It appears that the subsection identified as (2) should really be (11).

c. It appears that the understanding of the rule is in no way enhanced by the inclusion of the text of ss. 101.575 (6) and 101.14 (2), Stats., in the note to s. Comm 14.02 (2). Because these provisions tend to clutter up the Administrative Code, it is recommended that they be deleted.

**4. Adequacy of References to Related Statutes, Rules and Forms**

a. Because “substantial compliance” appears to be defined for the limited purposes of s. 101.575 (4) (a) 1. and 2., it seems the definition ought to specify that it is “for the purposes” of those statutory provisions. The rule should be modified accordingly.

b. 2003 Wisconsin Act 219 provides that the “substantial compliance” component of the fire dues program takes effect on the first day of the eighth month after publication of the act. It appears this would make the provision’s effective date December of 2004. However, the rule, including the definition of “substantial compliance,” takes effect on the first day of the month following publication in the Wisconsin Administrative Register. It appears that the effective date of the “substantial compliance” portion of the rule should coincide with the effective date of the triggering provisions of Act 219.

August 27, 2004

Robert Marchant  
Senate Chief Clerk  
Room 401  
17 West Main Street  
Madison, Wisconsin 53703

Patrick Fuller  
Assembly Chief Clerk  
Room 208  
17 West Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 04-070

RULE NO.: Chapter Comm 14

RELATING TO: Substantial Compliance in the Fire Dues Program

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

*for: David K. Storey*  
Cory L. Nettles  
Secretary



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777

Jim Doyle, Governor  
Cory L. Nettles, Secretary

August 27, 2004

Senator Alan Lasee  
President of the Senate  
Room 219 South, State Capitol  
Madison, Wisconsin 53702

Representative John Gard  
Speaker of the Assembly  
Room 215 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Lasee and Representative Gard:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 04-070

RULE NO.: Chapter Comm 14

RELATING TO: Substantial Compliance in the Fire Dues Program

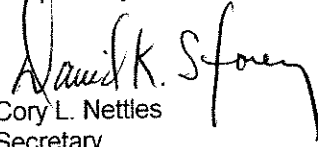
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
  - a) Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

  
for Cory L. Nettles  
Secretary

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 04-070

RULE NO.: Chapter Comm 14

RELATING TO: Substantial Compliance in the Fire Dues Program

Agency contact person for substantive questions.

Name: Joe Hertel

Title: Program Manager

Telephone No. 266-5649

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

- a.  Accepted
- b.  Accepted in part
- c.  Rejected
- d.  Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

- a.  Accepted
- b.  Accepted in part
- c.  Rejected
- d.  Comments attached

*(Continued on reverse side)*

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached



# RULE REPORT

## Department of Commerce

Clearinghouse Rule No.: 04-070

Rule No.: Chapter Comm 14

Relating to: Substantial Compliance in the Fire Dues Program

*Contact person for substantive questions:* \_\_\_\_\_ *Contact person for internal processing:* \_\_\_\_\_

Name Joe Hertel Name Sam Rockweiler

Title Program Manager Title Code Development Consultant

Telephone Number 266-5649 Telephone Number 266-0797

1. Basis and purpose of the proposed rule.

The proposed rules would define "substantial compliance" for the purpose of determining eligibility for funding under the Fire Dues program, and would modify the current rule text to provide consistent references to this definition. This proposal would not reduce the current duty of municipalities to annually inspect 100 percent of all public buildings and places of employment, but would provide more flexibility in determining whether that duty has been met, so as to establish eligibility for Fire Dues funding.

2. How the proposed rule advances relevant statutory goals or purposes.

Under sections 101.14, 101.141, 101.573, and 101.575 of the Wisconsin statutes, the Department protects public health, safety, and welfare by promulgating rules for and administering fire inspection and prevention programs. Those programs include a Fire Dues program which is funded by fees from insurance companies, and which provides annual funding to cities, villages, and towns for performing fire inspection and prevention services. Under sections 101.575 (4) (a) 1. and 2. of the statutes, as established in 2003 Wisconsin Act 219, the Department is required to promulgate rules that define the "substantial compliance" which the Department looks for in determining whether a municipality is eligible for funding from the Fire Dues program.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

The rule analysis and fiscal estimate were both changed to no longer include references to a proposed definition of "administrative expenses." Further rulemaking for that definition, as is also required by 2003 Wisconsin Act 219, will proceed separately from the subject rules.

The rule analysis was also changed to include newly-learned details about Fire Dues programs in adjacent states.

FISCAL ESTIMATE  
DOA-2048 (R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Chapter Comm 14  
Amendment No. if Applicable

**Subject**

Substantial Compliance in the Fire Dues Program

**Fiscal Effect**

**State:**  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget       Yes       No

Decrease Costs

**Local:**  No local government costs

1.  Increase Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:

Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

2.  Decrease Costs  
 Permissive       Mandatory

4.  Decrease Revenues  
 Permissive       Mandatory

**Fund Sources Affected**

GPR       FED       PRO       PRS       SEG       SEG-S

Affected Ch. 20 Appropriations

**Assumptions Used in Arriving at Fiscal Estimate**

The proposed rules would define "substantial compliance" for the purpose of determining eligibility for funding under the Fire Dues program, and would modify the current rule text to provide consistent references to this definition. This proposal would not reduce the current duty of municipalities to annually inspect 100 percent of public buildings and places of employment, but would provide more flexibility in determining whether that duty has been met, so as to establish eligibility for Fire Dues funding. Consequently, these rules are not expected to result in significant changes to state or local revenues, or to state or local costs.

**Long-Range Fiscal Implications**

None known.

Agency/Prepared by: (Name & Phone No.)

Joe Hertel 266-5649

Authorized Signature/Telephone No.

*David K. Stoney*

Date

8/26/04

**FISCAL ESTIMATE WORKSHEET**  
 Detailed Estimate of Annual Fiscal Effect  
 DOA-2047(R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
 Section Comm 14.02

Amendment No.

**Subject**  
 Definitions of Administrative Expenses and Substantial Compliance

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs By Category</b>		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( 0.00 FTE)	( - 0.00 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs By Category</b>	<b>\$0</b>	<b>\$0</b>
<b>B. State Costs By Source of Funds</b>		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	\$0	\$0
<b>III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S	\$0	\$0
<b>TOTAL State Revenues</b>	<b>\$0</b>	<b>\$0</b>

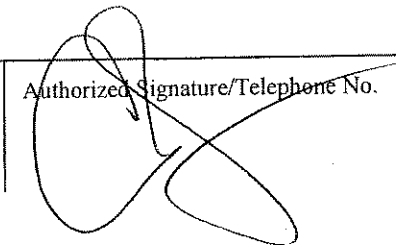
**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Cathy Cliff 267-9360

Authorized Signature/Telephone No.



Date

6/21/04

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 04-070

RULE NO.: Chapter Comm 14

RELATING TO: Substantial Compliance in the Fire Dues Program

Final regulatory flexibility analysis not required. (Statement of determination required.)

Under sections 101.14, 101.141, 101.573, and 101.575 of the Wisconsin statutes, the Department protects public health, safety, and welfare by promulgating rules for and administering fire inspection and prevention programs. Those programs include a Fire Dues program which is funded by fees from insurance companies, and which provides annual funding to cities, villages, and towns for performing fire inspection and prevention services. Under sections 101.575 (4) (a) 1. and 2. of the statutes, as established in 2003 Wisconsin Act 219, the Department is required to promulgate rules that define "substantial compliance" for determining whether a municipality is eligible for funding from the Fire Dues program. The proposed rules of Clearinghouse Rule Number 04-070 are minimum requirements to meet the directive of the statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.
2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

*(Continued on reverse side)*



DEPARTMENT OF COMMERCE  
PUBLIC HEARING ATTENDANCE RECORD

RULE NO.: Section Comm 14.02  
 RELATING TO: Administrative Expenses and Substantial Compliance  
 LOCATION: Thompson Commerce Center, Third Floor, Room 3B  
 DATE: July 28, 2004  
 TIME: 9:30 AM  
 CITY: Madison

Name	Representation (Business, Assoc., Group, Self, etc.)	City and State	Appearing in Support	Appearing in Opposition	Appearing for Information
JOHN DAHMS	City of Brookfield Fire Dept	Brookfield, WI			
Allen LaCerte	City of Waukesha Fire Dept	Waukesha, WI			
DAVID LIND	Wisconsin Fire Insp Association	Glendale, WI			
Tom Doebler	WI Fire Insp. Assoc. area 5	menomonee Falls, WI			
Mark Barnes	Stevens Point Fire Dept.	Stevens Point			
Larry Plummer	WI's State Firefighters of Duroard	Duroard WI.			
Richard D. Johnson	The State Firefighters	Wisconsin			
TOM CASEY	MONROE FIRE DEPT	Monroe WI.			
Ann Fry	Hartford Fire & Rescue	Hartford WI			
JIM CREGGAN	REDFORD FIRE CO	REDFORD WI			
ED GEIDEL	WEST BEND FIRE DEPT	WEST BEND WI			
ELROY SCHIEFER	GRAFTON FIRE DEPT	GRAFTON WI			
POB LEONER	WAUBEKA FIRE DEPT.	WAUBEKA WI.			
DAK TRUBENBACH	WAUBEKA FIRE DEPT	WAUBEKA WI			
Dean Redman	WAUKATOSA FIRE DEPT	WAUKATOSA, WI 53113			
Norm Hanson	Merrill Fire Department	Merrill, WI 54452			
Lom Fonfara	WIS. STATE FIRE-FIGHTERS ASSN.	MADISON 53701			
Curt Witynski	League of WI MUNIC.	Madison, WI 53703			
Conrad Cleveland	MARSHFIELD Fire/Rescue Dept	Marshfield 54449			
Aethel SCORA	STURTEVANT FIRE	STURTEVANT 59127		✓	



**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Robert F. Nack Kaukauna Fire Department Kaukauna, Wisconsin	States any excess funds from the 2% dues should be distributed back to the fire departments in the state.	See response to Exhibit #3.
2	R. Schmidt Cudahy Fire Department Cudahy, Wisconsin	Believes the Fire Chiefs should have the fire dues added to their budget – not to offset the general budget but to spend on everything that the State requires.  States that as a matter of law the money is put into the city's general fund, and as a result it is treated like revenue. This is not to say the Fire Department does not comply however, just to say that being on duty as a firefighter may be complying in the eyes of the city.  States that if forced to spend the money on prevention, inspection and training in these areas, they would get more bang for their buck if the Fire Chiefs could spend this money outside their budget.	See response to Exhibit #3.
3	Senator Ron Brown 31 <sup>st</sup> Senate District Wisconsin	States that as the author of the legislation which requires the Department to define "administrative expenses," he can clarify that the purpose of this legislation was to ensure that money not actually needed for administration of the fire dues program is diverted to the appropriation from which distributions are made to local fire departments. Notes that although state statutes already require this transfer of funds to occur, fire personnel continue to question whether funds appropriated for administration of the program are used for legitimate purposes. Believes the Department opposed this legislation because the attempt to restrict the use of administrative funds was well understood by the Department. Urges the Department to consider legislative intent when formulating agency policies.	The proposed definition of "administrative expenses" pertaining to fire prevention and fire dues administration as it appeared for public hearing on July 28, 2004 will not be submitted for legislative review. The department will work closely with the Comm 14 Advisory Committee and the legislature so that all directives contained in 2003 Act 219 are closely followed.
4	Representative Samantha Kerkman 66 <sup>th</sup> Assembly District Wisconsin	Believes the proposed definition of "administrative expenses" is so broad as to include any expense related or unrelated to the fire dues program. States the Department rejected an alternate definition that was unanimously recommended by the Comm 14 Advisory Committee and widely accepted by the Wisconsin State Fire Chiefs Association. States the fire dues program is an important program that ensures that local fire departments are able to receive the training and equipment that is needed to keep communities safe. Believes using money that is set aside by the fire departments for anything other than its intended purpose is unfair to the fire departments and the state	See response to Exhibit #3.



**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
5	Representative John Gard Speaker of the Wisconsin Assembly 89 <sup>th</sup> Assembly District Wisconsin	<p>citizens who rely on the fire departments to keep them safe. Strongly urges the Department to change the definition of administrative expenses to be in compliance with the Legislature's directive.</p> <p>States that under 2003 Wisconsin Act 219, promulgation of a definition of "administrative expenses" was intended clarify the term under the fire dues program, and to ensure that those monies would be utilized for their intended purposes. Believes that the Department and the Department of Administration (DOA) are instead using the opportunity to put further ambiguity and vagueness into the definition so that both agencies will have the ability to use the money for unrelated purposes. Hopes the Department and DOA will consider the unanimous, opposing testimony at the public Hearing, and modify the definition to instead include the language proposed by the Comm 14 Advisory Committee, which would define administrative expenses as expenses "...directly related to the administrative of the fire dues program."</p>	See response to Exhibit #3.
6	Curt Witynski League of Wisconsin Municipalities Madison, Wisconsin	<p>States the League supported 2003 Wisconsin Act 219, and supports the proposed definition of "substantial compliance," but opposes the proposed definition of "administrative expenses." Urges the Department to instead adopt the definition of administrative expenses that was recommended by the Comm 14 Advisory Committee, as follows: "Administrative expenses' means expenses for salaries, fringe benefits, supplies, electricity, rent, telephone, travel and postage that are directly related to administration of the fire dues program." Believes this definition accurately reflects the intent of the legislature in enacting 2003 Act 219.</p> <p>States the Department's proposed definition gives the secretary of DOA unlimited discretion to use the revenue collected from insurance companies for the fire dues program for other purposes unrelated to the program, and the goal of the legislation was to do just the exact opposite. States that although the Department's definition complies with the strict legal requirement in Act 219 to define "administrative expenses," it is unlikely that the Department's definition will withstand legislative scrutiny. Believes the Department may be wiser to consider revising the rule at this juncture to better reflect the Legislature's intent.</p>	<p>Support for the proposed definition of substantial compliance is noted.</p> <p>See response to Exhibit #3.</p>
7 and Oral	Larry Plumer Wisconsin State	Supports the proposed definition of "substantial compliance." Opposes the proposed definition of "administrative expenses" because it is an open	Support for the proposed definition of substantial compliance is noted.

**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	Firefighters City of Durand Durand, Wisconsin	<p>checkbook for use of the 2% money and because it is a double standard. States that in the past the Department disqualified fire departments from receiving 2% money because the town or city repaired buildings with the 2% money, so why shouldn't the Department have to follow the same rule of using the 2% money only for fire prevention.</p> <p>States they supported giving 2% money to have better use of the fire coordinators in the field, but that didn't last long -- the coordinators were doing audits all the time, and had no time to help the fire departments regarding codes or how to handle a certain inspection.</p> <p>Recommends having more faith in and listening to the Comm 14 Advisory Committee, because they have the ability to work correctly.</p> <p>Recommends letting the 2% money be used for what it was intended, and moving forward in other areas of the fire service.</p>	See response to Exhibit #3.
8 and Oral	Jack Running Wisconsin State Fire Chiefs Association Madison, Wisconsin	<p>States WSFCA objects to the Department's proposed definition of "administrative expenses" because the definition does not represent the historical and authorized use of 2% dues. States the WSFCA instead supports the definition that was recently passed by the Comm 14 committee, as that definition reflects the intent of the statutes and how the Department has used 2% funding in the past.</p> <p>States that under the proposed definition, the Department can utilize 2% Dues funds for any purpose that the Secretary deems appropriate, thus, funds do not have to be used for fire prevention purposes. Believes the definition is broad in scope and defeats the primary purpose of using the fire insurance proceeds for their intended use, fire prevention. States the Department has already demonstrated its willingness to utilize these funds to contribute in meeting lapse requirements within the Department, and that last year, the Department lapsed \$12,500.00; funds that were not used to provide services, supplies, or support to fire departments across Wisconsin. Believes the law is clear that any unexpended funds are to revert back to the 2% Dues fund to be distributed to fire departments.</p>	See response to Exhibit #3.
9 and Oral	Dave Bloom Wisconsin State Fire	<p>9a. States WSFCA believes that the Department's proposed definition of "administrative expenses" will allow arbitrary use of the 2% dues funds by</p>	See response to Exhibit #3.

**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	Chiefs Association (WSFCA) Madison, Wisconsin	<p>funding budget shortages in Commerce's annual budget not related to fire prevention.</p> <p>States the 2% dues fund was established as a funding mechanism for fire training through the technical schools system, fire prevention through the Department, and the distribution of excess funds to the fire service, to financially assist communities in providing adequate protection from fire incidents. States the intent of the 2% dues fund is not to cover budget shortfalls in state government. States the 2% dues funding program was created to assist the fire service and only the fire service.</p> <p>Notes the fire service across the State has circulated petitions (attached) to help the Department understand the support for language passed by the Comm 14 committee for "administrative expenses," in place of the Department's proposed definition.</p>	Support for the proposed definition of substantial compliance is noted.
Oral	David Lind Wisconsin Fire Inspector's Association Glendale, Wisconsin	<p>9b. States the WSFCA does support the definition for "substantial compliance" as proposed by the fire service committee and the Department of Commerce.</p> <p>Indicates that the Association supports the proposed definition for "substantial compliance".</p> <p>Indicates that the Association opposes the proposed definition for "administrative expense" for various reasons, including:</p> <ul style="list-style-type: none"> <li>• the definition does not reflect legislative intent</li> <li>• the potential reduction in funds made available to fire departments.</li> </ul> <p>Believes that the Department can demonstrate fiscal responsibility by:</p> <ul style="list-style-type: none"> <li>• relocating the fire program</li> <li>• not assigning a manager or more managers to the fire program</li> <li>• comparing the NFPA and ICC suite of codes.</li> </ul> <p>Provided a copy of a Department letter to the Office of Representative Wasserman regarding the Commercial Building Code in which were embedded comments and questions.</p>	Support for the proposed definition of substantial compliance is noted.
Oral	Randall J. Sellnow	Opposes use of the 2% dues to help balance the State's budget, particularly	See response to Exhibit #3.

**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments:			
Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	WSFCA Oregon, Wisconsin	since it is becoming harder and harder to obtain other funding for fire departments. States the 2% monies are critical to many volunteer and other small fire departments, and those monies were never intended to be used for balancing the State's budget.	
Oral	Greg Cleveland WSFCA, Marshfield Fire and Rescue Department	States the Comm 14 Advisory Committee has worked very well to resolve the issues related to defining "substantial compliance;" what has been accomplished there is very positive, and he supports that definition.  States there is a big disagreement between the Department and both the Comm 14 Committee and the fire service over the definition of "administrative expenses." States that by statute funds are to go from the State Commissioner of Insurance Office to the Department, for fire prevention purposes, including funding the five fire prevention coordinators and program assistant and program manager, who provide services and support to fire prevention programs by all the fire departments throughout the State. States the "administrative expenses" definition proposed by the Comm 14 committee accurately reflects what that money was used for historically, and what it should be used for in the future; but under the Department's proposed definition, the Secretary can use the money for whatever is deemed appropriate, including other programs besides fire programs, which is unacceptable, and he is very, very uncomfortable with it. Urges the Department to replace its proposed definition with the definition that was passed by the Comm 14 Committee.	Support for the proposed definition of substantial compliance is noted.  See response to Exhibit #3.
Oral	Tod Doebler Wisconsin Fire Inspectors Association, Area 5 Menomonee Falls, Wisconsin	Questions whether the proposed definition will help protect the public, as reflected in the statutes. Believes the definition will have far-reaching ramifications, and the consequences for the smaller communities could be very devastating.	See response to Exhibit #3.
Oral	Kevin L. Timm City of Two Rivers Fire Department Two Rivers, Wisconsin	Indicates 2% dues issues have been longstanding, and the fire service has always struggled to hold on to what the program has always been. Supports the proposed definition of "substantial compliance," but the Department's proposed definition of "administrative expenses" is unacceptable and should be replaced with the definition developed by the Comm 14 committee. Using the 2% dues for general budget shortfalls is not its intended use, and should instead go towards the fire service. States whatever monies are withheld will	Support for the proposed definition of substantial compliance is noted. Also see response to Exhibit #3.

**DEPARTMENT OF COMMERCE  
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 04-070		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: July 28, 2004	
Relating to: Definitions of Administrative Expenses and Substantial Compliance			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Oral	Dean Redman Wauwatosa Fire Department Wauwatosa, Wisconsin	<p>have a negative impact on his municipality.</p> <p>States concern that a similar fire dues program in Illinois was not evaluated while developing the proposed rules. Reports that the State of Illinois collects fire insurance dues, administers the program through the State Fire Marshall's Office, and passes the funding directly to the fire departments; where by law it is administered by a committee made up of the fire chief, the community's financial officer, and firefighters.</p> <p>Believes the relationship between the fire service and the Department is consistently contentious, and would like to see a better relationship.</p> <p>Believes building owners expect the taxes they pay for fire protection to be passed on for getting that work done. Strongly opposes the Department's proposed definition of "administrative expenses," which would allow spending the funds on any use deemed necessary.</p> <p>States that while working for several years in Michigan, extensive efforts to get a fire dues program similar to Wisconsin's were obstructed by the insurance industry. Believe the new challenge for Wisconsin may be that the bureaucracy will siphon off the fire dues money that is intended to go to the municipalities</p>	See response to Exhibit #3.
Oral	Mark L. Barnes City of Stephens Point Fire Department Stephens Point, Wisconsin		See response to Exhibit #3.

File reference: Comm 14/Hearing Comments



State of Wisconsin \ Department of Commerce

# RULES IN FINAL DRAFT FORM

**Rule No.:** Chapter Comm 14

**Relating to:** Substantial Compliance in the Fire Dues Program

**Clearinghouse Rule No.:** 04-070

**ORDER OF THE  
DEPARTMENT OF COMMERCE**

**CREATING RULES**

The Wisconsin Department of Commerce proposes an order to amend Comm 14.48 (1) (a) 1., (2) (a), (3) (c), and (4) (a); and to create Comm 14.02 (10), relating to a definition of substantial compliance.

\*\*\*\*\*

**ANALYSIS OF PROPOSED RULES**

**Statutes interpreted:**

Sections 101.14, 101.141, 101.573, and 101.575, Stats.

**Statutory authority:**

Sections 101.575 (4) (a) 1. and 2., Stats.

**Explanation of agency authority:**

Under sections 101.14, 101.141, 101.573, and 101.575 of the Wisconsin statutes, the Department protects public health, safety, and welfare by promulgating rules for and administering fire inspection and prevention programs. Those programs include a Fire Dues program which is funded by fees from insurance companies, and which provides annual funding to cities, villages, and towns for performing fire inspection and prevention services. Under sections 101.575 (4) (a) 1. and 2. of the statutes, as established in 2003 Wisconsin Act 219, the Department is required to promulgate rules that define "substantial compliance" for determining whether a municipality is eligible for funding from the Fire Dues program.

**Plain language analysis:**

The proposed rules would define "substantial compliance" for the purpose of determining eligibility for funding under the Fire Dues program, and would modify the current rule text to provide consistent references to this definition. This proposal would not reduce the current duty of municipalities to annually inspect 100 percent of public buildings and places of employment, but would provide more flexibility in determining whether that duty has been met, so as to establish eligibility for Fire Dues funding.

**Summary of, and comparison with, existing or proposed federal regulation:**

An Internet-based search of existing and proposed federal regulations did not identify any that address a fire dues program funded by fees from insurance companies.

**Comparison with rules in adjacent States:**

The four adjacent states of Michigan, Illinois, Iowa, and Minnesota each have some form of statewide funding for fire prevention. None of these states have a substantial compliance requirement as contained in this proposal.

Michigan collects 2% of fire insurance premiums and deposits that money into their general fund. Funding for fire prevention education comes from that general fund.

Illinois has a 1% tax on all property, that funds the State Fire Marshall's office, and receives an average of \$22-23 million per year from this source. The State Fire Marshall uses approximately \$15 million to administratively run their office. Approximately \$2 million goes to the Illinois Fire Service Institute to fund training, and approximately \$1.5 million goes to the Chicago Fire Department for the training they provide to other departments.

In Iowa, 2% is withheld from insurance premiums. The 2% funds go into the general fund, and the State Fire Marshall's office is funded from the general fund.

The Minnesota Department of Revenue handles a 2% program that is derived from the tax base. The funds are distributed to municipalities that have a fire department or contract with an independent, nonprofit fire fighting corporation.

**Summary of factual data and analytical methodologies, analysis and supporting documents used to determine effect on small business or in preparation of economic impact report, anticipated costs incurred by private sector, and effect on small business:**

These rules are not expected to result in significant impacts on small business or the private sector in general, because they simply provide more flexibility in determining whether corresponding statutory duties of municipalities have been met, so as to establish eligibility for funding from the Fire Dues program.

**Agency contact person:**

Joe Hertel, Program Manager – [jhertel@commerce.state.wi.us](mailto:jhertel@commerce.state.wi.us), or 608/266-5649

*File reference: Comm 14/AnalysisLR*



SECTION 1. Comm 14.02 (10) is created to read:

**Comm 14.02 (10)** "Substantial compliance," for the purposes of s. 101.575 (4) (a) 1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance.

**Note:** Under section 101.575 (4) (a) 1. of the statutes, the Department may not pay fire department dues to a city, village, town or fire department, unless the Department determines that the city, village, town or fire department is in substantial compliance with sections 101.575 (6) and 101.14 (2) of the statutes.

SECTION 2. Comm 14.48 (1) (a) 1., (2) (a), (3) (c), and (4) (a) are amended to read:

**Comm 14.48 (1) (a) 1.** In order to be eligible to receive a fire department dues payment, a municipality shall ~~ensure that~~ be in substantial compliance with the requirements for fire protection and fire prevention services specified in ss. 101.14 and 101.575, Stats., and this chapter, are provided to throughout the entire municipality.

**(2) (a) General.** The department shall determine substantial compliance with the fire department dues entitlement program through the self-certification audit process specified in sub. (3) and the onsite audit process specified in sub. (4).

**(3) (c)** The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall sign the self-certification audit form and indicate whether or not the municipality is in substantial compliance or noncompliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification audit form.

**(4) (a)** In addition to the self-certification audit process, the department shall periodically conduct onsite audits of fire department dues entitlement records to determine substantial compliance with the fire department dues entitlement program for the previous calendar year.

(END)

\*\*\*\*\*

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.) and (a), Stats., these rules shall take effect on either December 1, 2004, or on the first day of the month following publication in the Wisconsin administrative register, whichever occurs later.

\*\*\*\*\*

SECTION 1. Comm 14.02 (10) is created to read:

**Comm 14.02 (10)** "Substantial compliance," for the purposes of s. 101.575 (4) (a) 1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance.

**Note:** Under section 101.575 (4) (a) 1. of the statutes, the Department may not pay fire department dues to a city, village, town or fire department, unless the Department determines that the city, village, town or fire department is in substantial compliance with sections 101.575 (6) and 101.14 (2) of the statutes.

SECTION 2. Comm 14.48 (1) (a) 1., (2) (a), (3) (c), and (4) (a) are amended to read:

**Comm 14.48 (1) (a) 1.** In order to be eligible to receive a fire department dues payment, a municipality shall ~~ensure that~~ be in substantial compliance with the requirements for fire protection and fire prevention services specified in ss. 101.14 and 101.575, Stats., and this chapter, are provided to throughout the entire municipality.

**(2) (a) General.** The department shall determine substantial compliance with the fire department dues entitlement program through the self-certification audit process specified in sub. (3) and the onsite audit process specified in sub. (4).

**(3) (c)** The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall sign the self-certification audit form and indicate whether or not the municipality is in substantial compliance ~~or noncompliance~~ with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification audit form.

**(4) (a)** In addition to the self-certification audit process, the department shall periodically conduct onsite audits of fire department dues entitlement records to determine substantial compliance with the fire department dues entitlement program for the previous calendar year.

(END)

\*\*\*\*\*  
EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.) and (a), Stats., these rules shall take effect on either December 1, 2004, or on the first day of the month following publication in the Wisconsin administrative register, whichever occurs later.

\*\*\*\*\*

File reference: Comm 14/rule3, 2003 Act 219

**Administrative Expenses Draft**  
**August 31, 2004**

**Comm 14.50 Administrative Expenses** (1) For the appropriation under s. 20.143 (3) (La), Stats., the term “administrative expenses” means expenditures for the direct costs and indirect costs of administering ss. 101.14, 101.141 and 101.573, Stats.

(2) Under this section:

- (a) “Direct costs,” means the cost of salaries, limited term employees, fringe benefits and supplies to administer ss. 101.14, 101.141 and 101.573, Stats.
- (b) “Indirect costs,” means the cost, determined on a pro rata basis, of management and administrative services provided to administer ss. 101.14, 101.141 and 101.573, Stats.
- (c) “Supplies,” means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities and similar outfitting and services directly related to administering ss. 101.14, 101.141 and 101.573, Stats.

**Discussion**

The new proposal uses terms and definitions that comport with state budgetary terms and practices and with 2003 WI Act 219. That Act directs Commerce to promulgate a rule defining “administrative expenses” for the purpose of s. 20.143 (3) (La), Stats. The new proposed definition does not mention expenditures or lapses directed or authorized by other portions of current law, or subsequent laws that may come, because Act 219 and s. 20.143 (3) (La), Stats., do not speak to those topics.

Because the proposed definition of “administrative expenses,” is solely focused on administering ss. 101.14, 101.141 and 101.573, Stats., and because of the requirements of s. 20.143 (3) (La). Stats., if promulgated, this code change would have the effect of protecting this appropriation from lapses if future lapse legislation was similar to 2003 WI Act 33, section 9160 (2x) (b).

Under s. 9160 (2x) (b) of Act 33, the secretary of administration was directed to lapse money from the unencumbered balances of appropriations, notwithstanding s. 20.001 (3) (a) to (c), Stats. As long as future lapse legislation does not contain language “notwithstanding s. 20.143 (3) (La), Stats.,” then the directive contained in s. 20.143 (3) (La), Stats., - particularly the last sentence of that statute section - would stand and would direct that “the unencumbered balance on June 30 of each year shall revert to the appropriation under par. (L).”

## **Financial Formulas Used by Commerce to Determine Indirect Costs**

Division level indirect costs for each program within the safety and buildings division are determined on a pro rata basis using the following formula:

Actual Full Time Equivalent (FTE) in a particular program of the division, divided by actual FTE in all programs of the division, multiplied by the total indirect cost for the division.

Department level indirect costs for each program within the department are determined on a pro rata basis using the following formula.

Total actual indirect pool costs, divided by actual salary, LTE and fringe benefit costs of all positions other than those fully and partially funded by the indirect cost method (Administrative Services Division and Secretary's Office) multiplied by the actual salary, LTE and fringe benefit costs of the particular program.

These formulas for indirect costs follow generally accepted accounting principles. They have been approved by the federal government for the purpose of federal contracts for service from the department, such as for mine safety training and OSHA consultation. Federal contracting specifications require contractors to distribute indirect costs using a pro rata basis that ensures that all programs, within a contracting department such as Commerce, pay their fair share so that federally funded programs don't pay a disproportionate amount of the costs of management and administrative services.

### **Previous Commerce Proposal for the Definition of "administrative expenses"**

Comm 14.02 (1) "Administrative expenses," for the purposes of s. 20.143 (3) (La), Stats., include all expenses related to the department's operations under ss. 101.14, 101.141 and 101.573, Stats. In addition, administrative expenses include all expenses deemed appropriate or directed by the secretary of the department of administration.

### **WI State Fire Chief's Association Proposal for the definition of "administrative expenses"**

For the purposes of s.20.143 (3)(La), administrative expense means expenses for salaries, fringe benefits, supplies, electricity, rent, telephone, travel, and postage that are directly related to administration of the fire dues program.

SEP 10 2004

September 10, 2004

~~The~~ Honorable Ron Brown, Chair  
Senate Committee on Homeland Security,  
Veterans and Military Affairs and Government Reform  
Room 104 South, State Capitol  
Madison, WI 53707-7882

The Honorable Scott Gunderson, Chair  
Assembly Committee on Urban and  
Local Affairs  
Room 7 West, State Capitol  
Madison, WI 53708-8952

Dear Senator Brown and Representative Gunderson:

The Department of Commerce is submitting a germane modification to Clearinghouse Rule Number 04-070, relating to definitions of administrative expenses and substantial compliance in the Fire Dues Program. This modification is being submitted pursuant to section 227.19 (4) (b) 3. of the statutes.

This modification consists of a definition of "administrative expenses."

This modification uses terms and definitions that comport with state budgetary terms and practices and with 2003 Wisconsin Act 219. That Act directs the Department of Commerce to promulgate a rule defining "administrative expenses" for the purposes of section 20.143 (3) (La) of the statutes.

The proposed definition of "administrative expenses" focuses solely on administering ss. 101.14, 101.141 and 101.573, Stats. In conjunction with the requirements of s. 20.143 (3) (La), Stats., this code change, if promulgated, would have the effect of protecting this appropriation from lapses in the future, if future lapse legislation is similar to 2003 Wisconsin Act 33, section 9160 (2x) (b).

The proposed definition does not mention expenditures or lapses directed or authorized by other portions of current law, or subsequent laws that may occur, because Act 219 and s. 20.143 (3) (La), Stats., do not speak to those topics.

Under s. 9160 (2x) (b) of Act 33, the Secretary of the Department of Administration was directed to lapse money from the unencumbered balances of appropriations, notwithstanding s. 20.001 (3) (a) to (c), Stats. As long as future lapse legislation does not contain language "notwithstanding s. 20.143 (3) (La), Stats.," then the directive contained in s. 20.143 (3) (La), Stats., – particularly the last sentence of that statute section – would prevail and would direct that "the unencumbered balance on June 30 of each year shall revert to the appropriation under par. (L)."

In reviewing the definition of "indirect costs" that is included in this modification, please note that Division-level indirect costs for each program within the Safety and Buildings Division are determined on a pro rata basis using the following formula:

Actual Full Time Equivalents (FTE) in a particular program of the Division, divided by actual FTE in all programs of the division, and then multiplied by the total indirect costs for the Division.

In addition, Department-level indirect costs for each program within the Department are determined on a pro rata basis using the following formula:

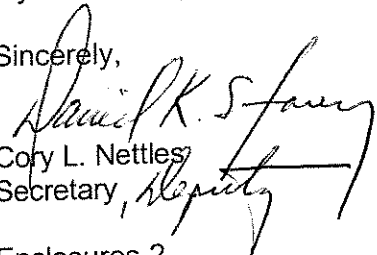
Total actual indirect pool costs; divided by actual salary, LTE, and fringe benefit costs of all positions other than those fully and partially funded by the indirect cost method (Administrative Services Division and Secretary's Office); and then multiplied by the actual salary, LTE, and fringe benefit costs of the particular program.

These formulas for indirect costs follow generally accepted accounting principles. They have been approved by the federal government for the purposes of federal contracts for various services from the Department, such as mine safety training and OSHA consultation. Federal contracting specifications require contractors to distribute indirect costs using a pro rata basis that ensures that all programs within a contracting department, such as Commerce, pay their fair share so that federally funded programs do not pay a disproportionate amount of the costs of management and administrative services.

The modification is attached for your reference, along with a revised summary of the treatment sections of Clearinghouse Rule Number 04-070, reflecting the creation of section Comm 14.50 to include this modification.

If you have any questions regarding this matter, please contact David Storey at 267-0754.

Sincerely,

*for*  
  
Cory L. Nettles  
Secretary, Deputy

Enclosures 2

File reference: Comm 14/Germane Mod219

**ORDER OF THE  
DEPARTMENT OF COMMERCE**

**CREATING RULES**

The Wisconsin Department of Commerce proposes an order to amend Comm 14.48 (1) (a) 1., (2) (a), (3) (c), and (4) (a); and to create Comm 14.02 (10) and 14.50, relating to definitions of administrative expenses and substantial compliance.

\*\*\*\*\*

*File reference: Comm 14/AnalysisLRGM*

SECTION 1. Comm 14.50 is created to read:

**Comm 14.50 (1)** For the appropriation under s. 20.143 (3) (La), Stats., the term “administrative expenses” means expenditures for the direct costs and indirect costs of administering ss. 101.14, 101.141 and 101.573, Stats.

(2) In this section:

(a) “Direct costs” means the cost of salaries, limited term employees, fringe benefits and supplies to administer ss. 101.14, 101.141 and 101.573, Stats.

(b) “Indirect costs” means the cost, determined on a pro rata basis, of management and administrative services provided to administer ss. 101.14, 101.141 and 101.573, Stats.

(c) “Supplies” means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities and similar outfitting and services, directly related to administering ss. 101.14, 101.141 and 101.573, Stats.

(End)

*File reference: Comm 14/ rules 3b, 2003 Act 210*



## Gilbert, Melissa

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**From:** Gilbert, Melissa  
**Sent:** Thursday, September 30, 2004 1:52 PM  
**To:** Bob Wirch; Cindy Block; David Zien; Elizabeth Piliouras; Jennifer Esser; John Hogan; Kelly Johnson; Lisa Jagla; Mary Offerdahl; Pat Erickson; Richard Sweet; Roger Breske; Scott Fitzgerald; Susan Meinholz  
**Cc:** Gunderson, Scott; Bruhn, Mike; Williams, Mary; Junck, Linda; Doyle, Donna; Renk, Jeff  
**Subject:** Extending committee jurisdiction on CR 04-070

Hi all,

As you may recall, CR 04-070 was submitted to the Senate Committee on Homeland Security, Veterans and Military Affairs on September 1, and a germane modification followed on September 10. This rule defines the terms "administrative expenses" and "substantial compliance" in relation to the state's fire dues program, which provides grants to eligible communities from a portion of the revenue collected for fire insurance premiums in the state. The promulgation of rule language was necessitated by passage of 2003 Wisconsin Act 219, which sought to ensure the proper distribution of these funds.

In recent months, controversy arose over the rule language submitted by the Department of Commerce. The agency's initial proposal prompted objections because the definition appeared to provide the state with unprecedented access to the funds for non-program activities, achieving the exact opposite of legislative intent. The version subsequently forwarded to the Assembly and Senate for legislative review caused additional concerns among the fire service because the rule excluded any definition of "administrative expenses." The modification appears to address at least some of those concerns.

While the preliminary feedback our office has received in regard to the current version of CR 04-070 indicates that language is acceptable, the Wisconsin Fire and EMS Legislative Leadership Coalition has yet to take a formal position on the rule. Since the committee's original jurisdiction expires on October 1 but the coalition does not meet until October 7, Sen. Brown has requested a committee meeting with the department to extend the legislative review period an additional 30 days.

While agreement with the present rule language by the coalition may render a future meeting with the department unnecessary, the potential need for such a meeting still exists. I will contact all affected offices to discuss this matter further. If you have any questions in the meantime, please call me at 266-8546.

Thank you for your attention to this matter. A copy of our letter to the Department of Commerce is attached for your records.



Walker.DCOMM.Fir  
eDuesRule.Juri...

Sincerely,  
*Melissa Gilbert*  
*Committee Clerk*  
*Homeland Security, Veterans and Military Affairs and Government Reform*  
*Office of Sen. Ron Brown*  
608-266-8546

## Gilbert, Melissa

---

**From:** Gilbert, Melissa  
**Sent:** Monday, October 18, 2004 10:05 AM  
**To:** Walker, Kimberly - COMM  
**Cc:** DuPont, Robert; Renk, Jeff; Doyle, Donna; Bob Wirch; Cindy Block; David Zien; Elizabeth Piliouras; Jennifer Esser; John Hogan; Kelly Johnson; Lisa Jagla; Mary Offerdahl; Pat Erickson; Richard Sweet; Roger Breske; Scott Fitzgerald; Susan Meinholz  
**Subject:** CR 04-070

Dear Kimberly,

Please consider this e-mail message confirmation that the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform no longer plans to meet with the Department of Commerce regarding Clearinghouse Rule 04-070, relating to the definitions of "administrative expenses" and "substantial compliance" under the state's fire dues program.

As you know, the Fire and EMS Legislative Leadership Coalition met on October 7 and voted to approve the modification previously submitted by the department. Since the clarification of "administrative expenses" appears to meet the immediate concerns of affected parties, further discussion is unnecessary at this time.

The committee's jurisdiction is now set to expire on October 31. Our office will contact you if other concerns arise in the meantime.

Thank you for your attention to this matter.

Sincerely,

*Melissa Gilbert*

*Committee Clerk*

*Homeland Security, Veterans and Military Affairs and Government Reform*

*Office of Sen. Ron Brown*

*608-266-8546*



Wisconsin State Senator  
**Ron Brown**  
District 31

September 30, 2004

Kimberly Walker, Administrator  
Division of Safety and Buildings  
Department of Commerce  
201 W. Washington Ave.  
Madison, WI 53703

***Hand-delivered***

Dear Ms. Walker:

Thank you for submitting a germane modification to Clearinghouse Rule 04-070, relating to the definitions of administrative expenses and substantial compliance under the state's fire dues program. As you know, 2003 Wisconsin Act 219 required the Department of Commerce to promulgate rule language in relation to these terms in order to ensure the appropriate distribution of two percent dues revenue to eligible communities in the state.

I appreciate the agency's willingness to work with legislative offices and the fire service to address concerns about the administrative expenses portion of the rule. The new language appears to represent a better alternative both to the original proposal and to the rule submitted to the Legislature, especially since the latter excluded any definition of administrative expenses.

The original jurisdiction of the Senate Committee on Homeland Security, Veterans and Military Affairs and Government reform expires on October 1. While my office has received preliminary feedback from some of the entities affected by the rule, other organizations are still in the process of reviewing the current language. Consequently, ***I am requesting a meeting of the committee with agency staff to discuss the implications of the rule, thereby extending the committee's jurisdiction an additional 30 days.***

My office will contact you to determine an appropriate day and time for this meeting. I understand the Wisconsin Fire and EMS Legislative Leadership Coalition will discuss the fire dues rule at the group's October 7 meeting, so I expect any meeting between the committee and department to take place after that date.

Thank you for your attention to this matter. Please contact my office at 266-8546 if you have any questions about this request.

Sincerely,

Ron Brown  
Chair

Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform

Cc: Rep. Scott Gunderson, Rep. Mary Williams, Senate Chief Clerk Rob Marchant