

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 97-154**

### **Comments**

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

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

a. In s. Trans 512.03 (1), the contents of this provision should be in a note in this section (if possible, along with the address or location at which the application and program packet may be obtained).

b. In s. Trans 512.06, second sentence, “his or her” should be inserted before “designee.”

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

a. The statutory authority for the rule is found in s. 85.52 (4), Stats., as created by 1997 Wisconsin Act 27, and the statute being interpreted is s. 85.52, Stats. In two places (the first two lines of the analysis and the “Under the authority . . .” clause prior to the text of the rule), the rule has these references reversed.

b. In ss. Trans 512.04 and 512.05, the department should carefully examine the criteria set forth in those provisions to make sure that they include at least all of the items set forth in s. 85.52 (4), Stats., which lists four specific criteria that must be covered by the rule. For example, is the statutory criterion relating to the “statewide and local economic impact of the projects” in s. 85.52 (4) (a) 2., Stats., reflected in the rule? Is the statutory criterion relating to the “type and quality of intermodal transportation facilities affected by the project” in s. 85.42 (4) (a) 4., Stats., adequately covered by the criterion set forth in the rule (“Whether the project is compatible and

complementary to other intermodal transportation facilities.”)? Each of the statutory criteria should be examined to make sure that they are adequately covered by the criteria in the rule.

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

a. In s. Trans 512.02 (4), the definition of “Private nonprofit” is confusing. Is the last clause (beginning “eligible for transportation services . . .”) in addition to the requirements in s. 85.22 (2) (am) (intro.) and 1., Stats.? If so, this provision should be redrafted to reflect that more clearly. If not, the definition appears to be unnecessary. In sub. (5) and elsewhere in the rule, the reference to federal law should parallel the reference in the new statute [s. 85.52], that is, it should just read “P.L. 104-59 section 350.” In sub. (6) (intro.), it appears that “does” or a similar word should replace “includes” since “includes” does not fit in grammatically with the items listed in sub. (6) (a) to (k).

b. Section Trans 512.07 should be redrafted to specify who or what entity is required to report. Also, should the rule be more specific about when the reporting is required (for example, “annually” instead of just requiring a “periodic” report)?