

COMMISSIONER OF TRANSPORTATION

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Chapter OCT 1

PROCEDURE AND PRACTICE

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Note: Chapter TC 1 was renumbered ch. OCT 1 effective September 1, 1986.

**OCT 1.001 Definition.** For purposes of this chapter:

(1) "Office" means the office of the commissioner of transportation.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 1.01 Communications and documents addressed to office.** (1) All written communications and documents should be addressed to the Office of the Commissioner of Transportation, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, P.O. Box 7957, Madison, WI 54707-7957.

(2) Documents shall be served upon the office by deposit in the first class mail or by delivery in person. When service is made upon the office the date of service shall be the day when the document is received by the office.

(3) Office hours are 7:45 a.m. to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays, Martin Luther King Jr.'s Birthday, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve day, Christmas, New Year's Eve day, New Years, Good Friday afternoon, Memorial Day, and other days as designated by the governor.

(4) The time within which an action is to be taken as provided in any rule or order promulgated by the office, when expressed in days, shall be computed by excluding the first day and including the last, except if the last day falls on a day the office is closed, the action may be taken on the next day it is open. When an action is to be taken in less than 10 days and the period contains both a Sunday and a legal holiday, the period shall be increased to 12 days. Legal holidays are those listed in sub. (3).

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 1.02 Parties.** (1) Parties who seek office approval for permits, exemptions or other relief are applicants. Those opposing applicants are objectors.

(2) Parties who file complaints are complainants.

(3) Parties of interest other than complainants, applicants, petitioners, objectors and complainants are intervenors.

(4) Parties who file petitions are petitioners.

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(5) Those opposing complainants and petitioners and parties investigated or ordered to show cause are respondents.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 1.03 Notice of hearings.** (1) Written notice of hearing shall be deposited in the first class mail to all parties and to any other interested person requesting notice in accordance with s. 227.44, Stats.

(2) When the general public may be injured by the office's action, written notice of hearing shall be mailed to the clerk of each incorporated city, town or village in the area affected.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (2), Register, August, 1986, No. 368, eff. 9-1-86.

**OCT 1.04 Hearings.** (1) At any hearing an examiner may preside. An examiner shall disqualify himself or herself if by reason of personal interest in or knowledge of the matter to be heard he or she is unable to act fairly or impartially. No person who has directly participated in the investigation of the matter to be heard shall be designated or serve as examiner.

(2) The examiner, at any time prior to the commencement of a hearing, may require the parties or their counsel to appear at a pre-hearing conference for the purpose of simplification and clarification of issues or consideration of other matters which may expedite or aid in the disposition of the proceeding, and issue orders as necessary to carry out the purposes of this chapter. All stipulations made at a pre-hearing conference shall be made a matter of record and control subsequent proceedings.

(3) If any original document in a proceeding is lost or withheld by any person, or is otherwise unavailable, the examiner may authorize the filing or use of a copy in place of the original. The examiner may authorize the substitution of a copy of any original document received in evidence as an exhibit and return the original to the owner.

(4) Parties may be off the record only when the examiner permits. If a discussion off the record is pertinent, the examiner will summarize it on the record. Any argument before the examiner on objections to receipt of evidence or on motions to strike will not be recorded. The legal reasons for the objections or motion will be recorded.

(5) Members of the office staff appear neither in support of nor opposition to any cause, but solely to discover and present facts pertinent to the issues.

(6) No smoking is permitted during hearings.

(7) Failure to comply with any order issued under sub. (2) or s. OCT 1.09 by any of the parties without good cause shown for the failure to comply shall result in sanctions being imposed by the examiner. Sanctions which shall be imposed include:

(a) An order that the matters for which the initial order was made or any other designated facts shall be taken to be established for the purposes of the hearing in accordance with the claim of the party obtaining the order;