

Clearinghouse Rule 99-063

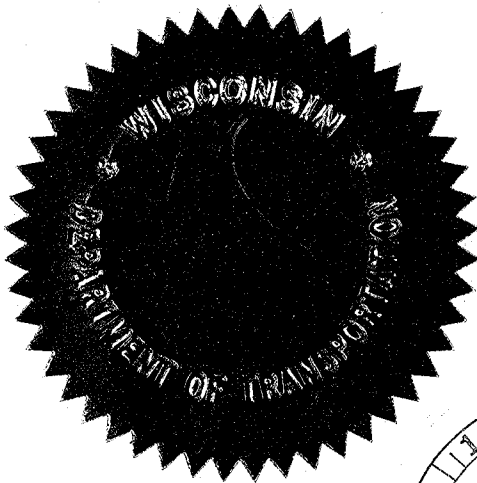
CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

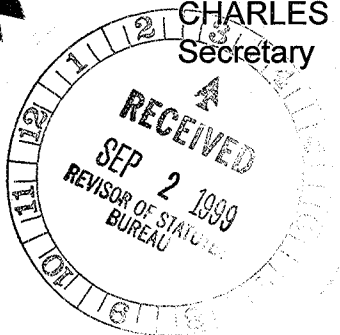
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **elderly and disabled transportation capital assistance program**, was duly approved and adopted by this Department on August 31, 1999.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 31 day of **August**, 1999.

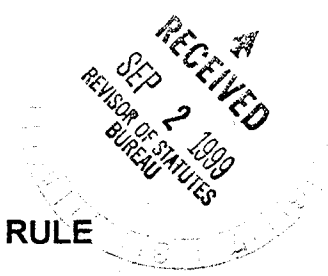
Charles H. Thompson
CHARLES H. THOMPSON
Secretary



11-1-99

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

ORDER ADOPTING RULE



Analysis Prepared by the Wisconsin Department of Transportation

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

STATUTES INTERPRETED: s. 85.22, Stats.

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

This rule:

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

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

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

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

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

Establishes record and reporting requirements.

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

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

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

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

TEXT OF RULE

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

SECTION 1. Trans 2.01 is amended to read:

TRANS 2.01 Purpose and scope. The purposes of this chapter are to establish the department's administrative interpretation of s. 85.22, Stats., including the administration of assistance under the federal sec. 46 5310 program, and to prescribe

administrative policies and procedures for implementing the elderly and disabled transportation capital assistance program authorized under s. 85.22, Stats.

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

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

Trans 2.015(3) "Federal sec. ~~46~~ 5310 program" means the federal assistance program under 49 USC ~~1612(b)(2)~~ 5310.

SECTION 4. Trans 2.015(4) is repealed.

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

Trans 2.02(1) An eligible applicant may apply for capital assistance under s. 85.22, Stats. All applicants shall comply with federal regulations governing the federal sec. ~~16~~ 5310 program. ~~In addition to being eligible for assistance under the federal sec. 16 program, an applicant shall, at the time it applies for capital assistance, have legal authority to contract or subcontract with any other transportation provider in its proposed service area, unless it is prohibited from subcontracting by its contracts with agencies of county government. An applicant which is prohibited in this way from subcontracting shall be eligible to apply for capital assistance only if the contracts which prohibit it from subcontracting were publicly bid and open to all transportation providers.~~

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

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

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

SECTION 7. Trans 2.045 is amended to read:

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

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

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

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

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

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

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

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

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

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

Trans 2.05(3) At the same time that an applicant submits the original manuscript of its application to the ~~department's appropriate district office~~ department, it shall also submit copies for review and comment to the department's appropriate district office and to the appropriate intergovernmental review agency in accordance with Presidential Executive Order E. O. 12372. It shall also send a letter offering to submit copies for

review and comment to the appropriate area agency on aging, and to the appropriate department of health and ~~social~~ family services' division of ~~community services~~ regional strategic finance's area office. In order to be considered by the department, comments from these agencies must be submitted to the department's appropriate district office within ~~45~~ 30 days following submission of the application to the department. The department shall give appropriate consideration to the review comments.

SECTION 12. Trans 2.055 is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 21. Trans 2.08 is repealed.

SECTION 22. Trans 2.09 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

SECTION 28. Trans 2.11 is created to read:

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

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

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

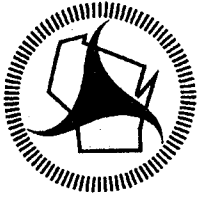
Signed at Madison, Wisconsin, this 31 day of August, 1999.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

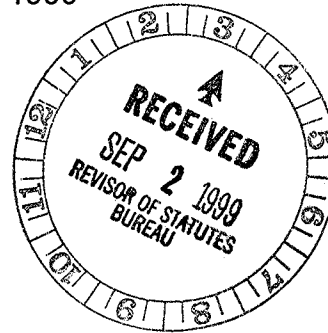
Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

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September 1, 1999



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

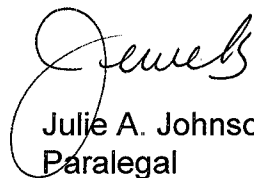
RE: **CLEARINGHOUSE RULE 99-063**

In the Matter of the Adoption of **TRANS 2**, Wisconsin Administrative Code, relating to **elderly and disabled transportation capital assistance program standards for the inspection of bridges in Wisconsin**

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 99-063**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Jim Van Sistine
Mike Goetzman
Sandy Beaupre
Ron Morse