

Wisconsin Department of Transportation

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Tommy G. Thompson
Governor

Terrence D. Mulcahy, P.E.
Secretary

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August 14, 2000

The Honorable Senator Roger Breske
Chairman, Senate Transportation Committee
Room 18 South, State Capitol
Madison, Wisconsin 53702

The Honorable Representative David Brandemuehl
Chairman, Assembly Committee on Highways & Transportation
Room 317 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to the
automated partnership processing system program, Trans 156

Dear Senator Breske and Representative Brandemuehl:

In accordance with the Department of Transportation's practice of notifying the Legislative Transportation Committees concerning rulemaking actions, I submit the enclosed documents for your information. These documents have also been filed with the Revisor of Statutes and with the Legislative Council, with copy to the Department of Administration, in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Roger D. Cross
Bev Schwartz
Carson Frazier

The Wisconsin Department of Transportation proposes an order to create ch. TRANS 156, relating to the automated partnership processing system program

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16(1) and 227.11, Stats., and interpreting ss. 341.21 and 341.255(4), Stats., the Department of Transportation will hold a public hearing in **Room 254** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **4th** day of **October**, 2000, at **1:00 PM**, to consider the creation of ch. Trans 156, Wisconsin Administrative Code, relating to the automated partnership processing system program.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on October 11, 2000, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Bev Schwartz, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 227.11, Stats.

STATUTES INTERPRETED: ss. 341.21 and 341.255(4), Stats.

General Summary of Proposed Rule. In 1995, s. 341.21, Stats., was created to provide the Department of Transportation authority to contract with any person for the provision of title and registration services under chs. 341 and 342 of the Wisconsin Statutes. This rule establishes policies and procedures by which the Department will accept and review applications from persons seeking to become contractors under the automated processing partnership system or "APPS" program. The rule also establishes policies and procedures for terminating contracts under the program, fees to be charged customers and records to be retained by contractors.

Fiscal Impact. The Department estimates that there will be minimal fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or any federally-recognized tribes or bands. For those units of government who may choose to contract with the Department to provide registration and titling services, the estimated costs of obtaining electronic access to the Department data bases from a vendor will be \$7 to \$8 per title transaction and \$3 to \$5 per renewal transaction. The program standards will permit units of government to charge customers up to \$17.50 for a title transaction and up to \$10 for a renewal transaction. Therefore, there should be no net adverse fiscal impact on local governments who choose to participate in the APPS program since it is assumed that fees from customers will offset costs of providing the services.

The proposed rule will have no fiscal effect independent of the fiscal impact of s. 341.21, Stats. It is estimated that there will be no net annualized fiscal impact on state funds based on the assumption that fees received from agents under s. 341.255(4), Stats., will offset any loss of counter service fees from citizens who obtain title and registration services from contractors under s. 341.21, Stats., rather than at DMV service counters.

Initial Regulatory Flexibility Analysis. It is expected that small businesses will be among those entities who choose to become contractors under the APPS program. The costs of obtaining electronic access to DMV data bases to provide title and registration services can be more than offset by the fees which contractors are permitted to charge for title and registration processing. The Department believes that the decision of a business to seek a contract with the DMV under s. 341.21, Stats., will be based on estimated demand for the services whether the business is large or small. The requirement of a bond has been waived for motor vehicle dealers and financial institutions which are expected to make up the majority of contractors under the program. After considering the methods mentioned in s. 227.114(2), Stats., the Department concluded that the same program standards must apply to all contractors regardless of size. To incorporate any of the methods suggested in s. 227.114(2), Stats., would be contrary to the objectives of s. 341.21, Stats. The Department believes that many small businesses will view the APPS program as a desirable opportunity to enhance their primary business

activities by offering a related customer service which will be convenient and beneficial to both the contractor and its customers.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Bev Schwartz, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909, or by calling (608) 267-5253. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1) and 227.11, Stats., the department of transportation hereby proposes to create a rule interpreting ss. 341.21 and 341.255(4), Stats., relating to the automated partnership processing system program.

SECTION 1. Chapter Trans 156 is created to read:

CHAPTER TRANS 156 AUTOMATED PARTNERSHIP PROCESSING SYSTEM PROGRAM

TRANS 156.01 Purpose and scope. (1) **PURPOSE.** This chapter establishes the department's administrative interpretation of ss. 341.21 and 341.255(4), Stats., which authorizes the department to contract with any person for services relating to processing or distribution of original and renewal vehicle registrations, and vehicle titling.

(2) **SCOPE.** This chapter shall govern administration of the automated partnership processing system, or APPS, program, authorized by s. 341.21, Stats.

(3) **APPLICABILITY.** This chapter applies to any person performing either title and original registration services, or registration renewal services, who uses automated transmittal of transactions to the DMV. This chapter also applies to any vendor providing automated interface between agents and the DMV in the APPS program.

This chapter does not apply to persons who issue temporary registration plates under ch. Trans 132.

TRANS 156.02 DEFINITIONS. The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Agent" means a person, business or an organization that contracts with the DMV to access and update vehicle records of the DMV via an approved vendor system.

(2) "APPS" means the "automated processing partnership system" program established by the DMV, in which the division contracts with agents and vendors to provide vehicle registration and titling services.

(3) "Contractor" has the meaning provided in s. 341.21(1m), Stats., and includes agents and vendors.

(4) "Department" means the department of transportation.

(5) "DMV" means the Wisconsin department of transportation, division of motor vehicles.

(6) "Financial institution" has the meaning provided in s. 710.05(1)(c), Stats.

(7) "Program standards" means the technical, qualitative and other specifications adopted by the DMV to administer the APPS program.

NOTE: The complete Program Standards are available in printed form from the Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Third Party Programs Section, P. O. Box 7909, Room 253, Hill Farms State Transportation Building, Madison, WI 53707-7909.

(8) "Vendor" means a person, business or organization that contracts with the DMV to provide a host computer system by which agents may obtain access to specified information services of the DMV in order to process registration and title transactions.

Trans 156.03 Selection of vendors. (1) DMV shall approve vendors to provide an interface between agents and the DMV. An application to be a vendor shall include all the following:

(a) A request to participate as a vendor submitted to the Wisconsin Department of Transportation, DMV Bureau of Vehicle Services, Third Party Programs Section, P. O. Box 7909, Madison WI 53707-7909.

(b) The company name, address, telephone and fax number, and the name of key personnel and contact person.

(c) The number of years the company has been in business and the number of years of experience providing electronic filing of title and registration, or other comparable services.

(d) A description of the product and services that will be provided if the organization is approved as a vendor.

(e) A description of any relevant experience in other states and the names of references.

(f) A written signature in ink with the name typed below the signature. If the business or organization is a corporation, the request shall be signed by an employee or officer authorized to bind the corporation. Below the signature shall be typed the name, corporate title, name of corporation and state of incorporation.

(g) Financial statements or other information showing the current financial status of the organization.

(h) A statement certifying that the applicant agrees to meet DMV program standards.

(2) Before approving a vendor, DMV may consider the items listed in subs. (1) and (4) and also the following:

(a) The type of business the organization or company is in.

(b) The organization or company's familiarity with and relationship to Wisconsin motor vehicle titling and registration.

(c) The organization or company's past practice, reliability and record of customer service.

(d) The amount of technical support the company is likely to need from DMV to competently develop and maintain a public interface software, to train and manage agent needs, to maintain security of data, and to accurately and securely provide for electronic transfer of funds.

(e) The anticipated benefit to DMV and DMV customers, such as the projected volume of title and registration or renewal transactions, and the location in the state. DMV may require a prospective vendor to develop a business plan to demonstrate that the organization has assessed the business venture and projects adequate volume to maintain a viable business.

(f) The results of background checks on the business or organization and its owners, employees and subcontractors including arrest and conviction records.

(3) After DMV receives and reviews the application to participate as a vendor, the DMV project manager shall notify the applicant of the DMV decision approving or disapproving the vendor.

(4) If approved, the vendor shall submit a specific implementation plan and begin working with DMV to develop an automated interface software application. The

application shall meet all requirements of the automated interface specifications prescribed in the program standards.

(5) Before an approved vendor may obtain access to DMV information systems, the vendor shall execute a contract with DMV by which the vendor agrees to comply with the program standards and other conditions established by the DMV for APPS program participation.

Trans 156.04 Selection of agents. (1) A person, business or organization desiring to contract with the DMV as an agent under s. 341.21(2), Stats., shall comply with all of the following:

(a) The applicant shall enter into an agreement with a vendor. An agent may request service from and enter into an agreement with only one vendor.

(b) The applicant shall submit to the DMV a letter on company letterhead requesting appointment as a provider of processing or distribution services for vehicle registration or certificates of title. The letter shall include the legal business name and address of the physical location of the business.

(c) The applicant shall provide a performance bond or letter of credit along with the request for appointment. The bond or letter of credit shall be at least \$10,000 for an agent doing renewal transactions and at least \$25,000 for an agent doing title transactions and original registration. This bond shall cover, among other items, missing or stolen license plates, stickers, temporary certificate of registration paper stock, and any other indicia. The requirement for a bond does not apply to units of government, or to dealers which are bonded and regulated by the department, or to financial institutions.

(d) The applicant shall submit a signed agent contract to the DMV.

(e) The applicant shall be in compliance with all applicable laws governing the applicant's industry and not be under investigation by any regulatory or enforcement agency for suspected violations of applicable laws or regulations.

(f) The applicant shall employ at least one primary processing person and have at least one other employee trained as a back-up in order to ensure adequate service during business hours and that reports and documentation of registration and titling transactions are submitted to DMV within required time limits.

(2) Before entering a contract with an agent, DMV may consider all of the following:

(a) The type of business the person, organization or company is in.

(b) The person, organization or company's familiarity with and relationship to Wisconsin motor vehicle titling and registration.

(c) The person, organization or company's past practice, reliability, and record of customer service.

(d) The amount of technical support the person, organization or company is likely to need from DMV to competently process title or registration transactions.

(e) The anticipated benefit to DMV and DMV customers, such as the projected volume of title and registration or renewal transactions and the location of the agent in the state. DMV may require a prospective agent to develop a business plan to demonstrate that the person, organization or company has assessed the business venture and projects adequate volume to maintain a viable business.

(f) The results of background checks on the person, company or organization and its owners and employees including arrest and conviction records.

Trans 156.05 Termination of contracts. (1) DMV may terminate a contract or refuse to renew a contract with any vendor or agent on the following grounds:

(a) DMV has reasonable cause to doubt the accuracy or timeliness of the title and registration transactions performed by the agent.

(b) Failure to provide any documents or information required to complete a transaction.

(c) DMV has reasonable cause to doubt the compliance of the agent or vendor with any provisions of the written agreements used for the APPS program or the performance of any obligations under the written agreements of the APPS program, including the program standards and the contract between DMV and the agent or vendor.

(2) DMV may terminate a contract or refuse to renew a contract with an agent who is a motor vehicle dealer on the following grounds:

(a) Failure to provide information requested by DMV relating to the motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

(b) DMV has reasonable cause to doubt the financial responsibility of the dealer licensee as prescribed in ch. Trans 140.

(c) DMV has reasonable cause to doubt the dealer's compliance with s. 218.01, Stats., or rules interpreting s. 218.01, Stats., where the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution.

(3) Reasonable cause under sub. (2) includes, but is not limited to, situations in which any dealer licensee has been found by the department, the division of hearings

and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(4) DMV may terminate a contract or refuse to renew a contract with any agent or vendor for lack of compliance with the following:

- (a) Agent and vendor responsibilities contained in the program standards.
- (b) All terms stated in the contract between DMV and the agent or vendor.
- (c) Performance evaluation and progressive intervention procedures.

(5) If an agent's or vendor's actions warrant termination of the agent or vendor from the program, DMV shall invoke termination provisions which are stated in the contract between DMV and the agent or vendor.

(6) In addition to any other cause, DMV may terminate a contract with a vendor or agent for non-compliance with any of the requirements in the program standards, including prohibited acts.

NOTE: Prohibited acts are listed in section 4.2 of the Program Standards. All of the practices listed in this section are prohibited. This list is not a complete list of unacceptable practices.

Trans 156.06 Updates to program standards. (1) All vendors shall be added to the distribution list for legislative changes that affect vehicle titling and registration. The DMV shall notify vendors of these changes to ensure that the required software modifications are made.

(2) DMV may revise or change the program standards as it deems necessary to administer the APPS program. Any agent, vendor or other interested person may also request that DMV make a change to the program standards. The request shall be

submitted in writing to DMV and shall include the specific language for change, justification for the change, and a requested effective date.

(3) DMV shall send a copy of any proposed changes to program standards to all participating vendors who may respond to DMV with comments, the effect the change may have on contractor's finances and operations, and the time frame for implementation. All responses shall be returned to DMV within 30 days of receipt of notice of the proposed change.

(4) The DMV shall review all responses from vendors and prepare an issue summary which the DMV may submit to a third party consultant for review. A copy of the issue summary and any changes approved by DMV shall be sent to vendors.

(5) The DMV shall send copies of the revised program standards to all agents.

(6) Vendors shall implement APPS program software changes within the time frames indicated by the legislature or required by DMV. Vendors may be required to submit project plans for program software changes for progress monitoring by DMV.

Trans 156.07 Fees. (1) The maximum fees that an agent may charge a customer shall be specified in the program standards.

(2) An agent may charge a customer any amount less than the maximum fee.

(3) The fee which a financial institution submits to DMV pursuant to s. 341.255(4), Stats., does not apply to transactions which add or release a lien with no change of ownership, title corrections with no change of ownership, or to registration renewal transactions.

NOTE: Fee disclosure requirements are detailed in section 2.3 of the Program Standards.

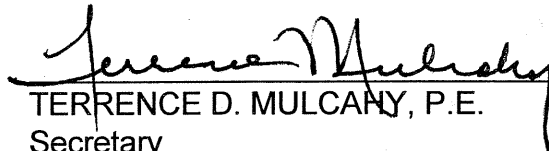
Trans 156.08 Records. All records required to be kept by contractors under s. 341.21(2)(c), Stats., shall be retained in electronic format by the vendor for itself and for

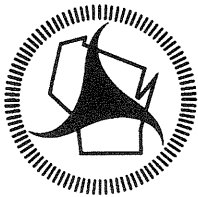
each agent which uses the vendor for completing registration or titling transactions with DMV.

(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 14 day of August, 2000.


TERRENCE D. MULCANY, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

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The Honorable Senator Roger Breske
Chairman, Senate Transportation Committee
Room 18 South, State Capitol
Madison, Wisconsin 53702

October 30, 2000

The Honorable Representative David Brandemuehl
Chairman, Assembly Committee on Highways & Transportation
Room 317 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 156**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 00-121

Dear Senator Breske and Representative Brandemuehl:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rulemaking actions, enclosed is a courtesy copy of Final Draft rule **Trans 156**, relating to the **automated partnership processing system program**, which is being submitted to the Legislature for committee review.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Roger Cross
Carson Frazier
Bev Schwartz

CR 00-121

The Wisconsin Department of Transportation proposes an order to create ch. TRANS 156, relating to the automated partnership processing system program

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

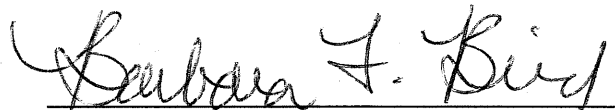
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



BARBARA F. BIRD
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-8807

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 227.11, Stats.

STATUTES INTERPRETED: ss. 341.21 and 341.255(4), Stats.

General Summary of Proposed Rule. In 1995, s. 341.21, Stats., was created to provide the Department of Transportation authority to contract with any person for the provision of title and registration services under chs. 341 and 342 of the Wisconsin Statutes. This rule establishes policies and procedures by which the Department will accept and review applications from persons seeking to become contractors under the automated processing partnership system or "APPS" program. The rule also establishes policies and procedures for terminating contracts under the program, fees to be charged customers and records to be retained by contractors.

Fiscal Impact. The Department estimates that there will be minimal fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or any federally-recognized tribes or bands. For those units of government who may choose to contract with the Department to provide registration and titling services, the estimated costs of obtaining electronic access to the Department data bases from a vendor will be \$7 to \$8 per title transaction and \$3 to \$5 per renewal transaction. Units of government will be permitted to charge customers up to \$17.50 for a title transaction and up to \$10 for a renewal transaction. Therefore, there should be no net adverse fiscal impact on local governments who choose to participate in the APPS program since it is assumed that fees from customers will offset costs of providing the services.

The proposed rule will have no fiscal effect independent of the fiscal impact of s. 341.21, Stats. It is estimated that there will be no net annualized fiscal impact on state funds based on the assumption that fees received from agents under s. 341.255(4), Stats., will offset any loss of counter service fees from citizens who obtain title and registration services from contractors under s. 341.21, Stats., rather than at DMV service counters.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Bev Schwartz, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909, or by calling (608) 267-5253. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

PART 2

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1) and 227.11, Stats., the department of transportation hereby proposes to

create a rule interpreting ss. 341.21 and 341.255(4), Stats., relating to the automated partnership processing system program.

SECTION 1. Chapter Trans 156 is created to read:

**CHAPTER TRANS 156
AUTOMATED PARTNERSHIP PROCESSING SYSTEM PROGRAM**

TRANS 156.01 Purpose and scope. (1) **PURPOSE.** This chapter establishes the department's administrative interpretation of ss. 341.21 and 341.255(4), Stats., which authorizes the department to contract with any person for services relating to processing or distribution of original and renewal vehicle registrations under ch. 341, Stats., or certificates of title under ch. 342, Stats.

(2) **SCOPE.** This chapter governs administration of the automated partnership processing system, or APPS, program, authorized by s. 341.21, Stats.

(3) **APPLICABILITY.** This chapter applies to any person performing either title and original registration services, or registration renewal services, who uses automated transmittal of transactions to the DMV. This chapter also applies to any vendor providing automated interface between agents and the DMV in the APPS program. This chapter does not apply to persons who issue temporary registration plates under ch. Trans 132.

TRANS 156.02 DEFINITIONS. The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "Agent" means a person, business or an organization that contracts with the DMV to access and update vehicle records of the DMV via an approved vendor system.

(2) "APPS" means the "automated processing partnership system" program established by the DMV, in which the division contracts with agents and vendors to provide vehicle registration and titling services.

(3) "Contractor" has the meaning provided in s. 341.21(1m), Stats., and includes agents and vendors.

(4) "Department" means the department of transportation.

(5) "DMV" means the Wisconsin department of transportation, division of motor vehicles.

(6) "Financial institution" has the meaning provided in s. 710.05(1)(c), Stats.

(7) "Program standards" means the technical and operational standards incorporated into vendor and agent contracts.

(8) "Vendor" means a person, business or organization that contracts with the DMV to provide a host computer system by which agents may obtain access to specified information services of the DMV in order to process registration and title transactions.

Trans 156.03 Selection of vendors. (1) DMV shall approve vendors to provide an interface between agents and the DMV. An application to be a vendor shall include all of the following:

(a) A request to participate as a vendor submitted to the Wisconsin Department of Transportation, DMV Bureau of Vehicle Services, Third Party Programs Section, P. O. Box 7909, Madison WI 53707-7909.

(b) The company name, address, telephone and fax number, and the names of key personnel and a contact person.

(c) The number of years the company has been in business and the number of years of experience providing electronic filing of title and registration, or other comparable services.

(d) A description of the product and services that will be provided if the organization is approved as a vendor.

(e) A description of any relevant experience in other states and the names of references.

(f) A written signature in ink with the name typed below the signature. If the business or organization is a corporation, the request shall be signed by an employee or officer authorized to bind the corporation. Below the signature shall be typed the name, corporate title, name of corporation and state of incorporation.

(g) Financial statements or other information showing the current financial status of the organization.

(h) A statement certifying that the applicant agrees to meet DMV program standards.

(2) Before approving a vendor, DMV may consider the items listed in subs. (1) and (4) and all of the following:

(a) The type of business the vendor is in.

(b) The vendor's familiarity with and relationship to Wisconsin motor vehicle titling and registration.

(c) The vendor's past practice, reliability and record of customer service.

(d) The amount of technical support the vendor is likely to need from DMV to competently develop and maintain a public interface software, to train and manage

agent needs, to maintain security of data, and to accurately and securely provide for electronic transfer of funds.

(e) The anticipated benefit to DMV and DMV customers, such as the projected volume of title and registration or renewal transactions, and the location in the state. DMV may require a prospective vendor to develop a business plan to demonstrate that the organization has assessed the business venture and projects adequate volume to maintain a viable business.

(f) The results of background checks on the vendor and its owners, employees and subcontractors including arrest and conviction records.

(3) After DMV receives and reviews the application to participate as a vendor, the DMV project manager shall notify the applicant of the DMV decision approving or disapproving the vendor.

(4) If approved, the vendor shall submit a specific implementation plan and begin working with DMV to develop an automated interface software application. The application shall meet the automated interface specifications prescribed by DMV.

(5) Before an approved vendor may obtain access to DMV information systems, the vendor shall execute a contract with DMV.

Trans 156.04 Selection of agents. (1) A person, business or organization desiring to contract with the DMV as an agent under s. 341.21(2), Stats., shall comply with all of the following:

(a) The applicant shall enter into an agreement with a vendor. An agent may request service from and enter into an agreement with only one vendor.

(b) The applicant shall submit to the DMV a letter on company letterhead requesting appointment as a provider of processing or distribution services for vehicle

registration or certificates of title. The letter shall include the legal business name and address of the physical location of the business.

(c) The applicant shall provide a surety bond or letter of credit along with the request for appointment in a form prescribed by the DMV. The bond or letter of credit shall be \$10,000 for an agent doing renewal transactions and \$25,000 for an agent doing title transactions and original registration. The bond shall indemnify the department against claims arising from the acts or omissions of agents under the contract including, but not limited to, missing or stolen license plates, stickers, and temporary certificate of registration paper stock. The requirement for a bond does not apply to units of government, or to dealers which are bonded and regulated by the department, or to financial institutions.

(d) The applicant shall submit a signed agent contract to the DMV.

(e) The applicant shall be in compliance with all applicable laws governing the applicant's industry and not be under investigation by any regulatory or enforcement agency for suspected violations of applicable laws or regulations.

(f) The applicant shall employ at least one primary processing person and have at least one other employee trained as a back-up in order to ensure adequate service during business hours and that reports and documentation of registration and titling transactions are submitted to DMV within required time limits.

(2) Before entering a contract with an agent, DMV may consider all of the following:

(a) The type of business the vendor is in.

(b) The vendor's familiarity with and relationship to Wisconsin motor vehicle titling and registration.

(c) The vendor's past practice, reliability, and record of customer service.

(d) The amount of technical support the vendor is likely to need from DMV to competently process title or registration transactions.

(e) The anticipated benefit to DMV and DMV customers, such as the projected volume of title and registration or renewal transactions and the location of the agent in the state. DMV may require a prospective agent to develop a business plan to demonstrate that the person, organization or company has assessed the business venture and projects adequate volume to maintain a viable business.

(f) The results of background checks on the vendor and its owners and employees including arrest and conviction records.

Trans 156.05 Termination of contracts. (1) DMV may terminate a contract or refuse to renew a contract with any vendor or agent on the following grounds:

(a) DMV has reasonable cause to doubt the accuracy or timeliness of the title and registration transactions performed by the agent or vendor.

(b) Failure of the agent or vendor to provide any documents or information required to complete a transaction.

(c) DMV has reasonable cause to doubt the compliance of the agent or vendor with any provisions of the written agreements used for the APPS program or the performance of any obligations under the written agreements of the APPS program, including the contract between DMV and the agent or vendor.

(d) Lack of compliance with performance evaluation and progressive intervention procedures contained in the contract.

(2) DMV may terminate a contract or refuse to renew a contract with an agent who is a motor vehicle dealer on the following grounds:

(a) Failure to provide information requested by DMV relating to the motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

(b) DMV has reasonable cause to doubt the financial responsibility of the dealer licensee as prescribed in ch. Trans 140.

(c) DMV has reasonable cause to doubt the dealer's compliance with s. 218.01, Stats., or rules interpreting s. 218.01, Stats., where the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution.

(3) Reasonable cause under sub. (2) includes, but is not limited to, situations in which any dealer licensee has been found by the department, the division of hearings and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(4) If an agent's or vendor's actions warrant termination of the agent or vendor from the program, DMV shall invoke termination provisions which are stated in the contract between DMV and the agent or vendor.

Trans 156.06 Fees. (1) The maximum fees that an agent may charge a customer shall be specified in the contract.

(2) An agent may charge a customer any amount less than the maximum fee.

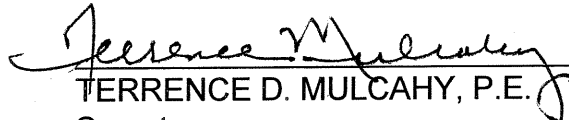
(3) The fee submitted to DMV pursuant to s. 341.255(4), Stats., does not apply to transactions which add or release a lien with no change of ownership, title corrections with no change of ownership, or to registration renewal transactions.

Trans 156.08 Records. All records required to be kept by contractors under s. 341.21(2)(c), Stats., shall be retained in electronic format by the vendor for itself and for each agent which uses the vendor for completing registration or titling transactions with DMV.

(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.

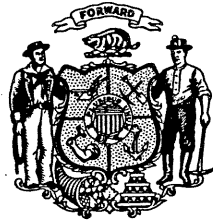
Signed at Madison, Wisconsin, this 27 day of October, 2000.


TERRENCE D. MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation

RULES CLEARINGHOUSE

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PART 3

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 00-121

AN ORDER to create chapter Trans 156, relating to the automated partnership processing system program.

Submitted by **DEPARTMENT OF TRANSPORTATION**

08-15-00 RECEIVED BY LEGISLATIVE COUNCIL.
08-29-00 REPORT SENT TO AGENCY.

RS:WF;jal;tlu

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)]

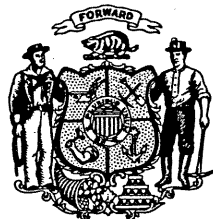
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-121

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 September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. Trans 156.01 (2), the phrase "shall govern" should be replaced by the word "governs."

b. Section Trans 156.02 (7) defines the term "program standards" to mean the technical, qualitative and other specifications adopted by the department to administer the automated processing partnership system. To the extent these program standards impose responsibilities on vendors or agents, or authorize vendors or agents to take certain actions, they should be promulgated as administrative rules. For example, s. Trans 156.05 (6) makes the statement that the program standards include prohibited acts. The note following the subsection states that the list of prohibited acts contained in the program standards is not a complete list of unacceptable practices. Section Trans 156.06 provides a procedure by which program standards may be revised; the process appears to be a mini version of some of the rule promulgation practices found in ch. 227, Stats. Agency actions that meet the definition of the term "rule" found in s. 227.01 (13), Stats., should be formally promulgated and not incorporated in a program manual that is not subject to review. Possibly, the problem posed by the program standards could be solved by including the program standards as an appendix to ch. Trans 156.

c. In s. Trans 156.03 (1) (intro.), the word "of" should be inserted after the word "all."

d. In s. Trans 156.03 (2), the word “also” should be replaced by the phrase “all of.” Also, in pars. (a) to (d) and (f), each reference to an organization, company or business should be replaced by the defined term “vendor.” [See also s. Trans 156.04 (2).]

e. It appears that s. Trans 156.05 (4) should be consolidated with sub. (1).

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

a. In s. Trans 156.03 (1) (b), the word “a” should be inserted before the phrase “contact person.” Also, the word “name” should be replaced by the word “names.”

b. In s. Trans 156.04 (1) (c), an agent is required to provide a performance bond or letter of credit in “at least” specified monetary amounts. This language may imply that the department can impose a requirement that a performance bond or letter of credit be in excess of the amount stated in the rule. If so, the rule should explicitly so state. Also, the rule text refers to “other indicia.” Indicia of what?

c. In s. Trans 156.05 (1) (a), the sentence should conclude with the phrase “or vendor.” In par. (b), the phrase “of the agent or vendor” should be inserted after the word “failure.”

PART 4
CR 00-121

ANALYSIS OF FINAL DRAFT OF TRANS 156

(a) **Need for Amended Rule.** In 1995, s. 341.21, Stats., was created to provide the Department of Transportation authority to contract with any person for the provision of title and registration services under chs. 341 and 342 of the Wisconsin Statutes. This rule establishes policies and procedures by which the Department will accept and review applications from persons seeking to become contractors under the automated processing partnership system or "APPS" program. The rule also establishes policies and procedures for terminating contracts under the program, fees to be charged customers and records to be retained by contractors.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on October 4. No modifications were made to the proposed rule as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following two persons appeared/registered at the hearing:

Joan Loden, State Manager, Computerized Vehicle Registration, 2912 Richardson Street, Madison, WI 53711.

Pat Sands, Computerized Vehicle Registration, 1407 Fox River Drive, DePere, WI 54115.

(d) **Response to Legislative Council Recommendations.** All of the Legislative Council recommendations have been incorporated into the proposed rule, except that the program standards have not been attached as an appendix to the rule as recommended. The Department believes that the technical requirements for software applications and processing of transactions are more appropriately included in agent and vendor contracts and should not be part of an administrative rule.

(e) **Final Regulatory Flexibility Analysis.** The Department of Transportation has concluded, after complying with s. 227.114(1) to (5), Stats., that the rule will not have a significant economic impact on a substantial number of small businesses.