

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

The Wisconsin Department of Transportation proposes an order to amend TRANS 114.03(title) and 114.06(2)(a); and to create TRANS 114.07(3), relating to the uniform traffic citation.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 85.16(1) and 345.11(4), Stats.

Statutory authority: ss. 85.16(1) and 345.11(4), Stats.

Explanation of agency authority: Section 345.11(5), Stats., requires DOT to promulgate the Uniform Traffic Citation used by traffic officers across the state and any regulations related to it as an administrative rule:

...the secretary shall under s. 85.16(1) promulgate the form or automated format as an administrative rule, and with the advice of the council shall make any other rules as are necessary for the implementation and operation of this section.

Related statute or rule: s. 345.11, Stats.

Plain language analysis: This proposed rule amends Figures 1, 4, 5, and 6 to ch. Trans 114, relating to the Uniform Traffic Citation. During the last audit of our Commercial Driver Licensing program in 2007, the reviewers indicated “The boxes on the uniform citation to identify CMV and hazmat involvement are not consistently and appropriately used by law enforcement for the DMV to identify and impose the appropriate disqualification action.” DMV proposes to change the Uniform Traffic Citation form and insert yes/no boxes next to the problem items in the hope that the change will improve consistent and appropriate use. Development of this rule did not involve the gathering, analysis, or use of data. Therefore, Wis. Stat. s. 227.14(2m) is inapplicable to this rulemaking.

The Uniform Traffic Citation Council has endorsed these changes. The changes to the citation involve no issue of policy; they are made to improve the reliability of the data provided by officers.

The rule also proposes to amend the existing rule to clarify that the automated citation must be produced in the format already prescribed by the Department in Figure 6 of the rule. The document may not be reproduced on small paper leaving the information too small to read.

The title to s. Trans 114.03 would be amended by this proposed rule to clarify that the provisions of that section apply to prototype forms used for the testing purposes described in that rule. The rule text is unchanged; the title is simply corrected to better describe the rule's content. The new name will distinguish s. Trans 114.03 from s. Trans 114.07, which applies to the use of the standard uniform traffic citation form.

Finally, the proposal to amend the regulation to explicitly require the date and time of appearance to be shown on the citation is simply codifying procedures that should already be mandated by courts processing citations. A person who is issued a citation should be notified of the time and place he or she is required to appear in court or pay the ticket as part of that process. All persons have a fundamental due process right to notice of the time and place their case will be heard. Unfortunately, the Uniform Traffic Citation Council and Department have become aware that some police agencies do not specify the return date on citations. This proposed amendment is intended to end that practice.

Summary of, and preliminary comparison with, existing or proposed federal regulation: The purpose of making changes to the citation form related to CMV use or the transportation of hazardous materials is to improve compliance with federal CDL laws and regulations. Federal law requires Wisconsin to:

- Notify the licensing jurisdiction within 10 days if one of its drivers is convicted of a CDL offense in Wisconsin.
- Post convictions on Wisconsin driving records within 10 days of the conviction.

Section 345.48(1m), Stats., requires courts to report convictions to DMV within 5 working days. By having consistent information regarding CMV use or hazardous materials transportation, as well as a consistent automated citation format, DMV should be more consistent in processing reported convictions within the 10-day federal time limit.

Comparison with Rules in the Following States: Neighboring states have a requirement similar to Wisconsin's that a uniform citation be used for traffic offenses.

Michigan: Michigan: Section 257.727c, Michigan Vehicle Code Act 300

(1) As used in this act, "citation" means a complaint or notice upon which a police officer shall record an occurrence involving 1 or more vehicle law violations by the person cited. Each citation shall be numbered consecutively, be in a form as determined by the secretary of state, the attorney general, the state court administrator, and the director of the department of state police.

Minnesota: 2008 Minnesota Statutes 169.99 Uniform Traffic Ticket

Subdivision 1. Form. (a) Except as provided in subdivision 3, there shall be a uniform ticket issued throughout the state by the police and peace officers or by any other person for violations of this chapter and ordinances in conformity thereto. Such uniform traffic ticket shall be in the form and have the effect of a summons and complaint. Except as provided in paragraph (b), the uniform ticket shall state that if the defendant fails to appear in court in response to the ticket, an arrest warrant may be issued. The uniform traffic ticket shall consist of four parts, on paper sensitized so that copies may be made without the use of carbon paper, as follows:

Illinois: Joint Committee on Administrative Title 92, Chapter 1, Part 450

The complaint shall be in the form provided by the Illinois Uniform Citation and Complaint form, and shall contain...

Iowa: Chapter 805.6 Uniform Citation and Complaint

1.a.(1) The commissioner of public safety, the director of transportation, and the director of natural resources, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The uniform traffic citation is created with the advice of the Council on Uniformity of Traffic Citations and Complaints. That group consists of representatives of various groups involved in the enforcement and adjudication of traffic regulations.

Analysis and supporting documentation used to determine effect on small businesses: Traffic citations are generally written to individuals. The form used by law enforcement officers to write citations does not affect business in the state of Wisconsin. There is no documentation on this point and the analysis is limited to observing that there is no possible relationship between the form used for citations in traffic cases and small business development in Wisconsin.

Effect on small business: This rule has no effect on small business. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: The Department estimates that there will be no fiscal impact on the state or on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. Existing s. Trans 114.07 permits law enforcement agencies to exhaust the existing stock of forms before buying new forms. This mitigates any fiscal impact on local governments.

Anticipated costs incurred by private sector: The Department anticipates there will be no fiscal impact on private sector revenues or liabilities.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted Darlene Schwartz, Department of Transportation, Citations and Withdrawals Section, Room 301, P. O. Box 7919, Madison, WI 53707-7919. You may also contact Ms. Schwartz by phone at (608) 266-8677 or via e-mail: darlene.schwartz@wisconsin.gov for copies of the proposed rule.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

This rule is not subject to s. 227.135(2), Stats., as affected by 2011 Wis. Act 21. The scope statement for this rule, published in Register No. 642 on June 15, 2009, was sent to LRB prior to June 8, 2011, the effective date of 2011 Wis. Act 21.

TEXT OF PROPOSED RULE

SECTION 1. Trans 114.03(title) is amended to read:

Trans 114.03(title) ~~Uniform~~ Prototype uniform traffic citation form use.

SECTION 2. Trans 114.06(2)(a) is amended to read:

Trans 114.06(2)(a) A person who is issued an automated citation shall be served with a printed citation in the format set forth in figure 6. The citation shall be printed on 8.5 inch by 11 inch white paper and shall match the format and content requirements of figure 6 exactly. The citation shall include a unique control number assigned to the issuing agency, officer or computer by the department.

SECTION 3. Trans 114.07(3) is created to read:

Trans 114.07(3) In addition to the information specified in s. 345.11(2), Stats., the completed uniform traffic citation served on a defendant driver shall include the date and time at which the defendant driver is required to appear in court or by which the defendant driver must post deposit or bail for the offense or pay the forfeiture.

SECTION 4. Figures 1 to 6 of Ch. Trans 114 are repealed and recreated as shown in attached Figures 1 to 6.

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of
February, 2012.

MARK GOTTLIEB, P.E.
Secretary
Wisconsin Department of Transportation