

Clearinghouse Rule 06-003

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

The Wisconsin Department of Transportation proposes an order to amend TRANS 325.02(intro.) and (8), and 326.01(intro.) and (8), relating to motor carrier safety regulations, and motor carrier safety requirements for transportation of hazardous materials.

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

NOTICE IS HEREBY GIVEN that pursuant to s. 110.075 and ch. 194, Stats., and interpreting ch. 194, Stats., the Department of Transportation will hold a public hearing in **Room 551** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **13th** day of **February**, 2006, at **3:00 PM**, to consider the amendments of chs. Trans 325 and 326, Wisconsin Administrative Code, relating to motor carrier safety regulations, and motor carrier safety requirements for transportation of hazardous materials.

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.

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

Statutes interpreted: Ch. 194, Stats.

Statutory authority: s. 110.075 and Ch. 194, Stats.

Explanation of agency authority: The secretary shall set standards and adopt rules to establish a plan of inspection to implement the inspection program. It shall be the duty of the department to prescribe rules and regulations as to safety and operations and the hours of service of drivers of motor vehicles operated under the authority of this chapter.

Related statute or rule: s. 110.07, Stats.

Plain language analysis: As prescribed by state statute, the Department is mandated to regulate both intra and interstate transportation of property and passengers by commercial motor vehicles. It is in the best interest of the public when current regulations are used for enforcement of these regulations.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Trans 325 (Interstate Motor Carrier Safety Regulations) adopts Federal regulations 49 CFR parts 390 to 397. Trans 326 (Interstate and Intrastate Motor Carrier Safety Requirements for Transportation of Hazardous Materials) adopts Federal regulations 49 CFR parts 107, 171, 172, 173, 177, 178, 180 and 385 subparts C & E.

Comparison with Rules in Adjacent States: All adjacent states (Michigan, Minnesota, Illinois and Iowa) adopt the same Federal regulations.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The Federal Motor Carrier Safety Administration did extensive research into the hours-of-service for commercial vehicle drivers. Its research, coupled with input from the motor carrier industry, resulted in the new hours-of-service regulations for interstate commerce effective October 1, 2005.

Analysis and supporting documentation used to determine effect on small businesses: The research provided by the Federal Motor Carrier Safety Administration was used in analyzing the effects on small business.

Effect on small business: All businesses will have the same effect. There is no differentiation between small business and large business. The Department's Regulatory Review Coordinator may be contacted by e-mail at andrew.ruiz@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact 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. The Department estimates that there will be no fiscal impact on state or 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 to Capt. Charles Teasdale, Department of Transportation, Division of State Patrol, Bureau of Field Services, Room 551, P. O. Box 7912, Madison, WI 53707-7912. You may also contact Capt. Teasdale by phone at (608) 266-0305.

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>.

TEXT OF PROPOSED RULE

SECTION 1. Trans 325.02(intro.) and (8) are amended to read:

Trans 325.02 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on January 4,~~2004~~ 1, 2006, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these rules apply in the same manner as though the regulations were set out in full in this chapter:

(8) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the ~~2003~~ 2006 North American uniform out-of-service criteria.

SECTION 2. Trans 326.01(intro.) and (8) are amended to read:

Trans 326.01 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on January 4,~~2004~~ 1, 2006, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these federal rules apply in the same manner as though the regulations were set out in full in this chapter:

(8) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the ~~2003~~ 2006 North American uniform out-of-service criteria.

(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
January, 2006.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation