

CR 82-110

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STATE OF WISCONSIN)
)
TRANSPORTATION COMMISSION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Joan D. McArthur, Chairman of the Transportation Commission and custodian of the official records do hereby certify that the annexed rules and repeal of rules relating the the Transporation Commission, were duly approved and adopted by this commission on August 12, 1982.

I further certify that this copy has been compared by me with the original on file in this commission 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 Transportation Commission at Hill Farms State Office Building, 4802 Sheboygan Avenue, in the city of Madison, this 12th day of August 1982.


Joan D. McArthur, Chairman

11-1-82

BEFORE THE
TRANSPORTATION COMMISSION OF WISCONSIN

IN THE MATTER OF THE ORDER TO	:	
REPEAL CHS. PSC 13 TO	:	ORDER
60 AND 69 TO 95; AND TO CREATE	:	ADOPTING
CHS. TC 1 TO 4, RELATING TO THE	:	RULE
WISCONSIN TRANSPORTATION COMMISSION	:	

Clearing House Rule 82-110

Analysis prepared by the Wisconsin Transportation Commission:

Since the commission's creation, it has used the rules adopted by the Public Service Commission. With the passage of Chapter 347, Laws of 1981, the commission's functions relating to motor carriers have been substantially altered. In order for the commission and the motor carrier industry to operate efficiently under this new legislation, it is necessary for the commission to repeal the Public Service Commission rules which will no longer apply to the transportation industry and to adopt rules which will meet the needs of the new regulatory scheme.

Chapter 1 outlines the Procedures and Practices that the commission will follow in all matters that come before it. It includes the commission's mailing address, defines date of service, identifies the parties, clarifies who shall receive notice of hearing, describes the minimum procedures for hearings, provides for nonappearance of parties at hearings, deals with the rules of evidence, indicates when transcripts will be made and the cost of those transcripts, identifies when briefs and answers may be required, specifies the examiners' powers to require witnesses and/or depositions, defines when a hearing and evidence are closed, provides for comments on proposed decisions made by examiners, deals with examiners' final decisions, prescribes procedures for requests for commission documents and defines the environmental review procedures.

Chapter 2 creates the new motor carrier procedures. They are very simple in keeping with the intent of Chapter 347, Laws of 1981. Under the proposed rules, a licensed motor carrier must notify the commission of a change of address or a modification in ownership. In addition, the chapter provides that a lease or interchange agreement shall be carried on the vehicle at all times along with a copy of the carrier's intrastate authority or its authority to haul commodities interstate if exempt from ICC regulation.

This proposal includes the repeal of the Public Service Commission rules governing motor carriers. Since Chapter 347, Laws of 1981, removes commission jurisdiction over the economic aspect of motor carriers, all economic regulations contained in the Public Service Commission rules are removed such as route restrictions, tariff requirements, and rules regarding c.o.d. deliveries.

Chapter 3 pertains to the railroads. The rules involving direct assessments are substantially those used by the Public Service Commission. A minor change involves the treatment of charges for hearing examiner and court reporter time should an investigation include a hearing. Previously these expenses were included in the remainder assessment. These rules redefine these as direct charges since they are readily identifiable with one case. This chapter also creates a requirement that the railroads keep a copy of the circuit plans in the instrument cases for the signal installations. This is for ease of operation for the commission and the railroads. The only other entirely new rule involves maintenance reimbursement. The rules include a form that the railroads must maintain which lists the maintenance costs. This is to implement section 195.28 of the Wisconsin Statutes. The remainder of the rules are the existing Public Service Commission rules pertaining to railroads with minor technical modifications and renumbered. This chapter also repeals those rules which are antiquated or are preempted by the federal government.

Chapter 4 sets the maximum moving rates that the state will reimburse a civil servant under sections 20.917(1)(intro) and (2) of the Wisconsin Statutes. In the past, the commission actually set rates, but because the commission will no longer do this, it is necessary to substitute another tariff which will prescribe equitable rates for the moving of household goods of civil servants.

Fiscal Estimate:

There is no fiscal effect anticipated from the adoption of these rules with the possible exception that the Commission may receive slightly more income from preparing transcripts than the actual cost of preparing them.

Pursuant to the authority vested in the Transportation Commission by section 189.02(1), Stats., the commission hereby adopts rules to repeal Public Service Commission rules affecting transportation and to create Chapters TC 1, 2, 3, and 4 interpreting and implementing its jurisdiction under chapters 66, 84, 88, 175, 190, 192, 193, 194, 195, 218, 343, 344, and 348, Stats., as follows:

Chapters PSC 13 to 60 and 69 to 95 of the Wisconsin administrative code are repealed.

Chapters TC 1 to 4 of the Wisconsin administrative code are adopted to read:

SECTION 1. CHAPTER TC 1 (title), Wis. Adm. Code, is created to read:

Chapter TC 1

Procedure and Practice

SECTION 2. TC 1.01 is created to read:

TC 1.01 COMMUNICATIONS AND DOCUMENTS ADDRESSED TO COMMISSION.

(1) All written communications and documents should be addressed to the Transportation Commission of Wisconsin, Hill Farms State Office Building, P.O. Box 7957, Madison, WI 53707-7957.

(2) Documents shall be served upon the commission by deposit in the first class mail or by delivery in person; in either case, date of service shall be the day when it is received by the commission.

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

(4) The time within which an act is to be done as provided in any rule or order promulgated by the commission, 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 act may be done on the next day it is open. When an act is to be done 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).

SECTION 3. TC 1.02 is created to read:

TC 1.02 PARTIES. (1) Parties who seek commission 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.

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

SECTION 4. TC 1.03 is created to read:

TC 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. 227.07, Stats.

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

SECTION 5. TC 1.04 is created to read:

TC 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 simplification 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 aforesated purposes. All stipulations made at such 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 objection or motion will be recorded.

(5) Members of the commission 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.

SECTION 6. TC 1.05 is created to read:

TC 1.05 NONAPPEARANCE AT HEARING. (1) When the complainant, petitioner or applicant fails to appear at the hearing without good cause shown, the complaint, petition or application, as the case may be, may be dismissed by the examiner.

(2) When the respondent or objector fails to appear at the hearing without good cause shown, the allegations of the complaint, petition, application or order to show cause, as the case may be, may be taken as true, and a final order may be issued without further notice of hearing.

(3) If a party, having failed to appear at a hearing, shows good cause for such failure to the commission within 10 days after the final order is issued, the commission may set aside the order and afford further opportunity to be heard.

SECTION 7. TC 1.06 is created to read:

TC 1.06 RULES OF EVIDENCE. (1) Rules of evidence are governed by s. 227.08, Stats.

(2) The presiding examiner shall rule on all objections and motions made prior to the issuance of the proposed decision.

(3) Failure of a party to object on the record to admission of any evidence shall be deemed a waiver of that objection.

(4) Any party who is dissatisfied with an examiner's ruling may submit comments explaining their position to the commission during the period set for receiving comments on the proposed order. If there is no proposed order, comments shall be filed within 15 days after the close of the period for receiving evidence. The commission shall review those comments prior to issuing a final order.

(5) Petitions or written communications addressed to the commission not admissible as evidence may be filed, but will not be considered evidence.

(6) The party introducing a document as an exhibit shall furnish a copy to all other parties in attendance.

SECTION 8. TC 1.07 is created to read:

TC 1.07 TRANSCRIPTS. (1) A stenographic, electronic or other record of all oral proceedings shall be made by the agency. A written transcript of the record shall be prepared only as deemed necessary by the agency, and unless otherwise prepared by the agency for its own use, shall not be prepared at the specific request of any person unless needed by such person for appeal or court review purposes, or other valid reasons.

(2) Except as otherwise provided by statute, if a transcript has been prepared by the agency for its own use, copies may be furnished to all interested parties upon payment of a fee of 50 cents

for each page, paid in advance. If no transcript of the record has been prepared by the agency and a specific request for a transcript is made, the party making the request shall be responsible for all reasonable costs incurred by the agency in transcribing the record and in preparation of the transcript. Any party who on the basis of a verified petition can establish to the satisfaction of the agency the need for a transcript and financial inability to pay for a copy, may be furnished a copy free of cost. No fee shall be assessed against government bodies.

(3) If the proceeding has been recorded, the commission may substitute a copy of the tapes for a transcript request if no petition for judicial review has been filed. The cost per tape shall be \$11.00 paid in advance, unless otherwise provided by statute.

SECTION 9. TC 1.08 is created to read:

TC 1.08 BRIEFS AND ANSWERS. (1) The examiner may require briefs and answers to complaints.

(2) Whenever briefs and answers are filed, the examiner shall indicate the date on or before which they shall be submitted.

(3) Briefs shall be no more than 10 pages, typed in double space on 8½ x 11 inch paper, unless the examiner provides otherwise. Three copies of the brief shall be filed with the commission and one copy mailed to each of the other parties.

SECTION 10. TC 1.09 is created to read:

TC 1.09 WITNESSES, SUBPOENAS AND DEPOSITIONS. (1) Any party may request the examiner to issue subpoenas to compel the attendance of witnesses.

(2) Any party may request the examiner to issue subpoenas duces tecum to compel a witness to bring specific documents.

(3) The examiner may limit the scope of the subpoena or deny it if it appears to be unreasonable, oppressive, excessive in scope or unduly burdensome.

(4) Depositions and written interrogatories may be taken and used as evidence as provided in ch. 804, Stats.

SECTION 11. TC 1.10 is created to read:

TC 1.10 CLOSE OF HEARING AND EVIDENCE. (1) Evidence in any proceeding will be declared closed when due opportunity to furnish relevant evidence, including proper cross-examination of witnesses and rebuttal, has been afforded all parties. If by stipulation of

the parties or by direction of the examiner documentary evidence is permitted or directed to be introduced subsequent to the close of testimony, the evidence will be declared closed when such documentary evidence is received or when the specified time for furnishing it has elapsed without its being furnished. The examiner may extend the time as originally prescribed for filing such evidence.

(2) When the evidence is closed, but before a proposed decision is issued, the examiner may reopen the hearing for the taking of further evidence.

(3) A hearing is closed when evidence is closed and when after the proposed decision is issued any period fixed for filing of briefs, comments or presentation of oral argument has expired. If the time for filing briefs or comments has expired and the briefs or comments of one or more parties are not filed within such time, the commission may proceed to its determination of the proceeding.

SECTION 12. TC 1.11 is created to read:

TC 1.11 COMMENTS ON PROPOSED DECISIONS. (1) Where a proposed decision is prepared and circulated, comments shall be filed within 15 days of deposit in the first class mail or delivery in person unless a different period is specified by the examiner or commission.

(2) Oral argument will be held only where directed by the commission. Requests for oral argument shall be included with the comments.

SECTION 13. TC 1.12 is created to read:

TC 1.12 FINAL EXAMINER DECISIONS. The examiner's decision shall be final in all cases involving motor vehicle registrations and drivers licenses.

SECTION 14. TC 1.13 is created to read:

TC 1.13 COMMISSION RECORDS. (1) Commission records shall be open and available to the public as required by ch. 19, Stats.

(2) Written requests for copies of commission records shall be addressed to the chairman.

(3) The fee shall be 75¢ per page, paid in advance if more than \$5.00.

SECTION 15. TC 1.14 is created to read:

TC 1.14 ENVIRONMENTAL REVIEW. (1) Approval of construction of major railroad facilities shall be screened using a screening

worksheet to determine whether an environmental impact statement is required.

(2) The following types of commission actions shall not require an environmental impact statement:

- (a) Approval of abandonment of rail passenger service.
- (b) Approval of abandonment of train service on a line.
- (c) Establishment of intrastate railroad rates.
- (d) Approval of reduction of rail service at stations.
- (e) Orders relating to railroad-highway crossings.
- (f) Approval of depot building removal or relocation.
- (g) Approval of railroad station abandonment.
- (h) Approval of spur track abandonment.
- (i) Granting of applications by water carriers.

(3) Any action not specifically categorized in subs. (1) and (2) is presumed not to be a major action which may significantly affect the human environment. The commission shall consider on an individual basis, any such action brought to its attention, and may determine that a screening worksheet is required to determine whether an environmental impact statement is needed.

(4) The procedure for an environmental screening shall be that outlined in s. PSC 2.91

(5) If an environmental impact statement is required, it shall be prepared in the manner outlined in s. PSC 2.92, 2.93, 2.94 and 2.95.

- SECTION 16. PSC 8.01 is repealed.
- SECTION 17. PSC 8.02 is repealed.
- SECTION 18. PSC 8.05 is repealed.
- SECTION 19. PSC 8.06 is repealed.
- SECTION 20. Chapter PSC 13 is repealed.
- SECTION 21. Chapter PSC 15 is repealed.

- SECTION 22. Chapter PSC 16 is repealed.
- SECTION 23. Chapter PSC 17 is repealed.
- SECTION 24. Chapter PSC 18 is repealed.
- SECTION 25. Chapter PSC 19 is repealed.
- SECTION 26. Chapter PSC 20 is repealed.
- SECTION 27. Chapter PSC 21 is repealed.
- SECTION 28. Chapter PSC 22 is repealed.
- SECTION 29. Chapter PSC 24 is repealed.
- SECTION 30. Chapter PSC 25 is repealed.
- SECTION 31. Chapter PSC 34 is repealed.
- SECTION 32. Chapter PSC 35 is repealed.
- SECTION 33. Chapter PSC 37 is repealed.
- SECTION 34. Chapter PSC 38 is repealed.
- SECTION 35. Chapter PSC 40 is repealed.
- SECTION 36. Chapter PSC 41 is repealed.
- SECTION 37. Chapter PSC 50 is repealed.
- SECTION 38. Chapter PSC 52 is repealed.
- SECTION 39. Chapter PSC 53 is repealed.
- SECTION 40. Chapter PSC 55 is repealed.
- SECTION 41. Chapter PSC 60 is repealed.
- SECTION 42. Chapter PSC 69 is repealed.
- SECTION 43. Chapter TC 2 (title), Wis. Adm. Code, is created
to read:

Chapter TC 2

Motor Carriers

- SECTION 44. TC 2.01 is created to read:

TC 2.01 APPLICATIONS FOR MOTOR CARRIER AUTHORITY. (1)
Applications for motor carrier authority may be obtained from the
Transportation Commission, Hill Farms State Office Building, P. O.
Box 7957, Madison, WI 53707-7957.

- (2) The applications shall include the following information:
 - (a) The name or names of the applicant as shown on their insurance policy filed with the Wisconsin Department of Transportation.
 - (b) The applicant's principal place of business.
 - (c) Information on the applicant's financial status; its past experience in the transportation industry, including safety and service; and whether the applicant or its principals have been convicted of a felony within the past five years.
- (3) All information contained in the application shall be verified by the applicant or the applicant's legal representative.
- (4) All original application materials shall be returned to the applicant 45 days after final action on the application. These materials shall be retained permanently by the motor carrier and shall be made available to the commission upon written request.

SECTION 45. TC 2.02 is created to read:

TC 2.02 CHANGE OF ADDRESS. A carrier authorized under ch. 194, Stats., shall notify the commission in writing of a change in their principal place of business within 30 days of the change.

SECTION 46. TC 2.03 is created to read:

TC 2.03 MODIFICATION OF OWNERSHIP. A carrier authorized under ch. 194, Stats., who adds a partner, eliminates a partner, incorporates or changes the corporate name shall file an amended application showing the change before it becomes effective.

SECTION 47. TC 2.04 is created to read:

TC 2.04 APPLICATION FEES. (1) No application fee shall be collected for:

- (a) An application to transport commodities exempted from regulation by the Interstate Commerce Commission.

(b) An amended application filed pursuant to s. TC 2.03, provided that a minimum of 25% of the owners, except owners of stock, remain the same and the original license is canceled and the new license substituted therefor.

(2) Whether or not applications for different authorities are combined, the applicable fee shall be collected for each authority applied for.

(3) An application for authority to transport passengers and property in buses requires only one fee.

SECTION 48. TC 2.05 is created to read:

TC 2.05 LEASE OF MOTOR VEHICLES. (1) No motor carrier authorized under ch. 194, Stats., shall operate a leased power unit or a power unit interchanged with another carrier on the highways of Wisconsin without complying with the provisions of subs. (2) through (7) except for:

- (a) Power units utilized in interstate transportation only, and operated solely and exclusively within any municipality, contiguous municipality or commercial zone as defined by the Interstate Commerce Commission.
 - (b) Carriers whose operations in interstate commerce are performed exclusively in conformity with a plan approved by the Interstate Commerce Commission exempting them from Interstate Commerce Commission lease and interchange rules.
- (2) The lease shall be in writing and shall include:
- (a) Name of the lessor and lessee.
 - (b) Year, make and identification, motor or serial number of the motor vehicle as shown on the registration card issued for such vehicle.
 - (c) The date of the lease.
 - (d) The period of the lease.
 - (e) Any restrictions.
 - (f) Statement that the lessee is fully responsible to the public, the shippers and the regulatory agencies having jurisdiction during the period of the lease.
- (3) An interchange agreement shall include the following:

- (a) The name of the parties to the agreement.
- (b) The year, make and identification, motor or serial numbers of the motor vehicle as shown on the registration card issued for such vehicle.
- (c) The point of interchange.
- (d) The period of the interchange.
- (e) Any restrictions.
- (f) Statement that the carrier who receives the power unit is fully responsible to the public, the shippers and the regulatory agencies having jurisdiction during the period of the interchange.

(4) A copy of the lease or interchange agreement shall be carried in the power unit specified therein during the entire period of the lease or agreement and such lease or agreement shall be made available for inspection immediately upon the request of any law enforcement officer.

(5) Any lease or interchange agreement meeting the requirements of the Interstate Commerce Commission in cases involving interstate commerce, will be deemed sufficient to meet the requirements of subs. (2) and (3) notwithstanding any provision herein to the contrary.

(6) For the purpose of s. TC 2.05 only, a carrier who subleases or interchanges power units it has on lease shall be considered the owner of the leased equipment for the purpose of subleasing or interchanging that equipment.

(7) The lease of equipment and drivers to private carriers for interstate and intrastate vehicle operations on Wisconsin highways shall be administered and enforced in accordance with the regulations of the Interstate Commerce Commission pertaining to interstate operations.

SECTION 49. TC 2.06 is created to read:

TC 2.06 COPY OF AUTHORITY TO BE CARRIED. A photocopy of a carrier's authority to operate intrastate and its authority to transport commodities interstate on the highways of Wisconsin if exempt from Interstate Commerce Commission regulation shall be carried in its vehicles at all times while operating on the highways of Wisconsin and shall be made available for inspection immediately upon the request of any law enforcement officer.

SECTION 50. Chapter TC 3 (title), Wis. Adm. Code, is created to read:

Chapter TC 3

Railroads

SECTION 51. TC 3.01 is created to read:

TC 3.01 DIRECT CHARGES-GENERAL. (1) The direct charges referred to in this chapter are the charges made by the commission pursuant to s. 195.60(1), Stats.

(2) Direct charges are made for expenses attributable to the performance of the commission's regulatory duties which are directly and strictly attributable to the investigations known as cost cases. Direct charges shall include such expenses as travel and salary, but shall not include overhead expenses, whether or not specifically identifiable with an investigation. Expenses not directly charged shall be considered in the remainder assessment.

(3) The supporting records for charges made are:

(a) Weekly time summaries recording the day's activities according to docket numbers are required of commission staff members working on chargeable cases. The time summaries are posted to monthly time distribution sheets from which the monthly charges are made.

(b) Records of the monthly travel expense accounts of members of the commission's staff are kept and charges made from them.

SECTION 52. TC 3.02 is created to read:

TC 3.02 DIRECT CHARGES FOR SALARIES. (1) The maximum daily charge against any one investigation is 8 hours per day.

(2) Charges are made on an hourly basis, computed to the nearest half-hour. The hourly rate for each employee is obtained by dividing the individual's annual salary rate by the appropriate number of standard working hours for the year.

(3) (a) The time of all persons engaged directly on an investigation, whether in the offices or on the property of the railroad, in the offices of the commission, or elsewhere, including traveling time, shall be charged. There shall be included, in addition to time spent on the investigation, or in rendering the service, the time devoted to preparing summaries and exhibits and writing and typing reports; also, the time spent in hearings.

(b) If it is necessary to visit the offices of another state government department, any other government department or organization, state or federal, or any private organization to obtain information for the investigation, the time thus spent shall be charged against the railroad being investigated. If an examination is made of affiliated interests, this likewise shall be charged against the railroad, the investigation of which necessitates the examination of the affiliate.

(4) No direct charges are made for the time of commissioners and staff acting in a supervisory capacity.

(5) If on a trip, actual time reported on cases equals or exceeds the standard 8 hours per day and traveling time is likewise reported for that day, such traveling time is disregarded in making charges. However, if actual time reported on cases be less than the standard per day and traveling time also be reported, the difference between the time on cases and the standard is regarded as traveling time against those cases, provided that such difference does not exceed the hours of travel reported. The total of traveling time computed by such method for an entire trip is then prorated over those cases reported on that trip on the basis of the aggregate actual time reported for each and limited for each investigation by the standard day, except where over-time hours as provided in this chapter have been included in the chargeable time.

(6) When the commission finds it necessary to engage the services of people, not members of its regular staff, for consulting advice or for particular projects arising out of investigations, the cost to the commission of such services shall be chargeable to the railroad under investigation.

SECTION 53. TC 3.03 is created to read:

TC 3.03 DIRECT CHARGES FOR TRAVELING EXPENSE. (1) All traveling expenses incurred in an investigation or in rendering services shall be charged subject to subs. (2) and (3):

(2) Traveling expenses for an entire trip are prorated among the cases reported on that trip on the basis of the aggregate actual hours (without the proration of traveling time) reported for each, and limited for each investigation by the standard day except where overtime hours as provided in this chapter have been included in the chargeable time. The underlying principle is that the expenses follow time spent.

(3) No direct charges are made for the traveling expenses of:

(a) Commissioners.

(b) Staff acting in a supervisory capacity.

SECTION 54. TC 3.04 is created to read:

TC 3.04 PROCEDURE FOR BILLING AND COLLECTION OF DIRECT CHARGES. (1) (a) The practice of the commission is to make an express finding of necessity for an investigation of the books, accounts, practices and activities, or an appraisal of the property of any railroad, and of the intention to assess costs incurred thereby.

(b) Notice of finding and notice of the existence of the resulting statutory duty to pay the expenses reasonably attributable to the contemplated investigation or appraisal are served upon the affected railroad by the commission.

(2) The usual practice of the commission is to render monthly statements. Itemization is made on the bill to indicate the names of the commission's employes engaged on the work, the hours expended, their hourly rates, special charges and the amount of the charges. In a joint investigation or where the charges in one investigation are to be divided between two or more railroads, such charges shall be assessed, unless otherwise ordered, in proportion to their respective gross operating revenues for the preceding calendar year from the kind of service involved.

(3) Each railroad shall file with the commission on or before April 1 of each year a verified statement of its gross operating revenues for the preceding calendar year, exclusive of those derived from the transportation of mail, derived from intrastate operations in the State of Wisconsin, showing the amounts for each operating revenue-account as prescribed by the current classification of accounts for railroads of the Interstate Commerce Commission.

SECTION 55. TC 3.05 is created to read:

TC 3.05 FORMS-GENERAL. The forms named in this chapter are listed by title, and may be obtained from the Transportation Commission of Wisconsin, 4802 Sheboygan Avenue, P. O. Box 7957, Madison, Wisconsin 53707-7957.

SECTION 56. TC 3.06 is created to read:

TC 3.06 LIST OF FORMS. The following forms may be obtained from the Commission:

- (1) State Commission Annual Report Class I Railroads.
- (2) State Commission Annual Report Class II Railroads.
- (3) State Commission Annual Report Class III Railroads.

(4) Quarterly report of freight commodity statistics.

(5) Gross operating revenues derived from intrastate operations in the State of Wisconsin for each calendar year. Required of railroads as defined in s. 195.02, Stats.

SECTION 57. PSC 70.01 is renumbered TC 3.07 and amended to read:

TC 3.07 NUMBER CROSSINGS. All railroads operating in the state of Wisconsin over public highway grade crossings are required to number all such crossings in this state and submit the information to the commission.

SECTION 58. PSC 70.02 is repealed.

SECTION 59. TC 3.08 is created to read:

TC 3.08 CROSSING CHANGES. All railroads shall submit to the commission an annual statement of changes at railroad-highway crossings including openings, closings, separations, and changes in protective devices.

SECTION 60. Chapter PSC 71 is repealed.

SECTION 61. TC 3.09 is created to read:

TC 3.09 PLANS. (1) All railroads operating in Wisconsin shall submit to the commission for its approval detailed circuit plans and a description of the operations and functions to be performed by signals for any proposed highway-railroad grade crossing signal installation and for proposed changes in existing installations.

(2) The railroads shall keep a copy of the circuit plans in the instrument cases for the signal installations.

SECTION 62. TC 3.10 is created to read:

TC 3.10 MAINTENANCE. (1) The railroads shall inspect and test each signal installation in the state at least once a month and record the dates of inspection and maintenance activities in the instrument cases.

(2) The railroads shall repair and replace signal equipment and components as is necessary to maintain proper operation of the signals and shall periodically clean the signal lenses and roundels and paint, if required, the signal backgrounds and hoods.

SECTION 63. TC 3.11 is created to read:

TC 3.11 MAINTENANCE REIMBURSEMENT. (1) The cost of maintenance for the purpose of reimbursement pursuant to s. 195.28, Stats., shall be based on a Signal Unit System Method using the following unit designations:

<u>DESCRIPTION</u>	<u>UNIT VALUE</u>	<u>QUANTITY</u>	<u>UNITS</u>
Non-coded track circuit.	2	_____	_____
Superimposed circuit on track circuit.	2	_____	_____
Auxiliary track instrument for train detection.	2	_____	_____
Highway grade crossing signal, wig-wag or flashing light type (one pair of flashing lights) with or without bell or reflectorized signs, per mast.	2	_____	_____
Additional pair of flashing lights.	1	_____	_____
Each gate mechanism, automatic.	4	_____	_____
Switch circuit controller, signal or highway crossing protection.	1	_____	_____
Grade crossing predictor.	8	_____	_____
Movement detector.	6	_____	_____
Standy movement detector.	2	_____	_____
TOTAL RELATIVE UNITS		_____	_____

(2) All railroads operating in Wisconsin shall submit to the Commission by June 1, 1983, a simple drawing delineating the installation with a tabulation and description of the signal units involved for each railroad-highway crossing signal installation in operation in the state on January 1, 1983.

(a) The drawing and tabulation shall contain identification of the crossing including federal AAR-DOT number, Wis. crossing number, county and town or municipality in Wisconsin, and the highway or street involved.

(b) When the component as stated under description functions jointly for more than one crossing or as a part of the railroad block signal system, the appropriate fractional quantity shall be applied to the crossing.

(3) All signal installations placed in service after January 1, 1983, including alteration of existing installations which change the number of signal units, shall be reported to the commission by the railroads with a drawing and unit tabulation which includes the date the installation or alteration was completed.

(4) All railroads operating in Wisconsin shall submit to the commission by June 1, 1983, the maintenance costs for calendar year 1982 for all railroad-highway crossing signal installations in Wisconsin as drawn from accounting records maintained in accordance with the Interstate Commerce Commission Uniform System of Accounts including assignable labor and material additives and a statement of the total signal units involved in such costs. In some cases, units and costs in adjoining states may be included where cost reports cannot readily be separated. This information shall be provided for each fourth year anniversary after 1982.

(5) Using the cost information and lists of signal units, the commission will determine the average dollar value per unit maintenance cost in Wisconsin for crossing signal installations for the year 1982.

(6) The average dollar value per unit applied to the total units per crossing will be the maintenance cost for the crossing and the basis for paying railroad claims for maintenance pursuant to s. 195.28, Stats.

(7) For the interim years when actual cost information is not provided, the average dollar value per unit will be adjusted in accordance with the published AAR Indexes of Railroad Material Prices and Wage Rates, Railroads of Class I, Western District.

SECTION 64. PSC 72.02(1) is renumbered TC 3.12 and is amended to read:

TC 3.12 ~~Nontrain, train, and train service accident~~ INITIAL REPORTS. Upon occurrence of any accident-incident in Wisconsin involving a railroad, ~~other than at an at-grade crossing,~~ resulting in death, substantial damages or significant hazard to the public, a report shall be made by the railroad involved to the commission as soon as practicable but not later than within 24 hours of the occurrence or before 4 p.m. of the first business day following the occurrence.

SECTION 65. PSC 72.02(3) is repealed.

SECTION 66. PSC 72.03 is renumbered TC 3.13 and is amended to read:

TC 3.13 MONTHLY REPORTS. ~~The federal department of transportation railroad administration in accordance with Title 49 of the Code of Federal Regulations "Rules Governing the Monthly Reports of Railroad Accidents"~~ 49 CFR 225 Accident/Incident Reporting Standards requires each railroad company to submit a monthly report of railroad accidents-incidents. Each railroad company operating in Wisconsin shall submit to the commission a copy of these applicable to its Wisconsin operation on or before the filing date as required by federal regulation.

SECTION 67. PSC 72.04 is repealed.

SECTION 68. PSC 72.05 is repealed.

SECTION 69. Chapter PSC 80 is repealed.

SECTION 70. PSC 82.01 is renumbered TC 3.14 and amended to read:

TC 3.14 ~~Application of chapter.~~ RAILROAD CLEARANCES-GENERAL. Clearance standards established herein shall apply to each railroad operating in Wisconsin and lands adjacent to all railroad tracks with respect to new construction or reconstruction of tracks and structures and other conditions after the effective date of this chapter. Construction, installation and operation of electric power, communication and signal lines and equipment shall comply with the Wisconsin State Electrical Code designated as ~~"E" in the Wisconsin Administrative Code~~ ch. PSC 114. The exemptions referred to in this rule are not applicable to requirements of the Wisconsin State Electrical Code.

SECTION 71. PSC 82.02 is renumbered TC 3.15(1) and amended to read:

TC 3.15 ~~CLEARANCES-between-tracks.~~ (1) The horizontal clearance between the centers of adjacent and parallel tracks shall not be less than 14 feet.

SECTION 72. PSC 82.03(title) is repealed.

SECTION 73. PSC 82.03(1) is renumbered TC 3.15(2).

SECTION 74. PSC 82.03(2) is renumbered TC 3.15(3).

SECTION 75. PSC 82.03(3) is renumbered TC 3.15(4).

SECTION 76. PSC 82.04 is renumbered TC 3.15(5) and amended to read:

TC 3.15(5) ~~Curved track clearances.~~ The minimum clearances standards in ~~Wis. Adm. Code sections PSC 82.02 and PSC 82.03 sub-~~ sections (1) through (4) are for straight tracks and these minimum clearances shall be increased 1 inch for each degree of curvature when the track or tracks are curved.

SECTION 77. PSC 82.05(title) is repealed.

SECTION 78. PSC 82.05 is renumbered TC 3.15(6).

SECTION 79. PSC 82.06 is renumbered TC 3.16.

SECTION 80. Chapter PSC 83 is repealed.

SECTION 81. Chapter PSC 84 is repealed.

SECTION 82. PSC 85.01(title) and (1) are repealed.

SECTION 83. PSC 85.01(2) is renumbered TC 3.17(1) and amended to read:

TC 3.17 ~~Minimum Requirements~~ MOTOR VEHICLES-GENERAL.

(1) ~~The rules prescribe~~ S. TC 3.17 prescribes minimum standards for the transportation of employes by motor vehicles to and from their places of employment and during the course of their employment and shall be observed by all railroads in their operations within the State of Wisconsin.

SECTION 84. PSC 85.02(title) is repealed.

SECTION 85. PSC 85.02(1)(title) is repealed.

SECTION 86. PSC 85.02(1) is renumbered TC 3.17(2).

SECTION 87. PSC 85.02(2)(title) is repealed.

SECTION 88. PSC 85.02(2) is renumbered TC 3.17(3).

SECTION 89. PSC 85.02(3)(title) is repealed.

SECTION 90. PSC 85.02(3) is renumbered TC 3.17(4).

SECTION 91. PSC 85.02(4)(title) is repealed.

SECTION 92. PSC 85.02(4) is renumbered TC 3.17(5).

SECTION 93. PSC 85.02(5)(title) is repealed.

SECTION 94. PSC 85.02(5) is renumbered TC 3.17(6).

SECTION 95. PSC 85.03(title) is repealed.

SECTION 96. PSC 85.03(intro) is renumbered TC 3.17(7).

SECTION 97. PSC 85.03(1) is repealed.

SECTION 98. PSC 85.03(2) through (6) are renumbered TC 3.17(7)(a) through (e), respectively.

SECTION 99. PSC 85.03(7) is repealed.

SECTION 100. PSC 85.03(8) is repealed.

SECTION 101. PSC 85.03(9) is renumbered TC 3.17(7)(f).

SECTION 102. PSC 85.03(10) is renumbered TC 3.17(7)(g).

SECTION 103. PSC 85.03(11) is renumbered TC 3.17(7)(h).

SECTION 104. PSC 85.03(12) is repealed.

SECTION 105. PSC 85.04 is renumbered TC 3.18.

SECTION 106. PSC 85.05 is renumbered TC 3.19.

SECTION 107. PSC 85.06 is renumbered TC 3.20.

SECTION 108. Chapter PSC 89 is repealed.

SECTION 109. Chapter PSC 95 is repealed.

SECTION 110. Chapter TC 4(title), Wis. Adm. Code, is created to read:

Chapter TC 4

Moving Rates for Civil Servants

SECTION 111. TC 4.01 is created to read:

Section TC 4.01 MAXIMUM RATES. (1) The amount of reimbursement for moving household effects of civil servants for the purposes stated in s. 20.917(1)(intro) and (2), Stats., shall not exceed the rate prescribed in Tariff 400, Household Goods Carriers Bureau, Agent, issued by J. M. Harrison, President, Arlington, VA, as found in Section 6, plus applicable supplements.


(2) The commission shall make available to all state agencies an up-to-date table of the applicable rates for moving household

goods in weight categories from 0 - 10,000 lbs., a distance from 0 - 500 miles.

(End)

These rules shall take effect on October 1, 1982, or upon publication as provided in s. 227.026(1)(intro), Stats., whichever is later.

Dated at Madison, Wisconsin, this 12 day of August, 1982.



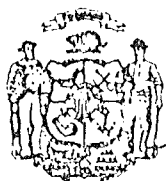
Joan D. McArthur, Chairman
Wisconsin Transportation Commission

WISCONSIN LEGISLATIVE COUNCIL

LCRC
FORM 2

RULES CLEARINGHOUSE

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BONNIE REESE
EXECUTIVE SECRETARY

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.029, STATS., AS CREATED BY CH. 34, LAWS OF 1979. 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 82-110
AN ORDER to repeal chs. PSC 13 to 60 and 69 to 95; and to create chs. TC 1 to 4, relating to the Wisconsin transportation commission.

Submitted by TRANSPORTATION COMMISSION.

5-27-82. Received by Legislative Council.

6-17-82. Report sent to Agency.

RS:AS:kja;las

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

(Pursuant to s. 227.029, Stats.)

1. REVIEW OF STATUTORY AUTHORITY [s. 227.029 (2) (a)]
 - a. Rules appear to be within the agency's statutory authority
 - b. Rules appear to be unsupported by statutory authority, either in whole or in part
 - c. Comment attached yes no

2. REVIEW OF RULES FOR FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.029 (2) (c)]
 - a. Rules satisfactory
 - b. Rules unsatisfactory
 - c. Comment attached yes no

3. REVIEW OF RULES FOR CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.029 (2) (d)]
 - a. Conflict or duplication not noted
 - b. Conflict or duplication noted
 - c. Comment attached yes no

4. REVIEW OF RULES FOR ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.029 (2) (e)]
 - a. References appear to be adequate
 - b. References appear to be inadequate
 - c. Comment attached yes no

5. REVIEW OF LANGUAGE OF RULES FOR CLARITY, GRAMMAR, PUNCTUATION AND PLAINNESS [s. 227.029 (2) (f)]
 - a. Rules satisfactory
 - b. Rules unsatisfactory
 - c. Comment attached yes no

6. REVIEW OF RULES FOR POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.029 (2) (g)]
 - a. No problems noted
 - b. Problems noted
 - c. Comment attached yes no

WISCONSIN LEGISLATIVE COUNCIL

RULES CLEARINGHOUSE

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BONNIE REESE
EXECUTIVE SECRETARY

June 17, 1982

CLEARINGHOUSE RULE 82-110

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, dated April 1982.]

1. Statutory Authority

In s. TC 1.13 (2), it is stated that requests for copies of the records of the Transportation Commission must be in writing and addressed to the chairman. The general law on open records under s. 19.21, Stats., does not require that requests for records be made in writing. Further, the new Open Records Law, which is to take effect on January 1, 1983, specifically states that a request for records may be made orally. [See s. 19.35 (1) (h), Stats., as created by Ch. 335, Laws of 1981.] Unless the Transportation Commission is able to cite specific statutory authority for this provision, the requirement should be removed.

2. Form, Style and Placement in Administrative Code

a. When referring to other statutory or rule provisions, the words "section," "chapter" and "Wisconsin Statutes" are spelled out in full. The use of abbreviations is preferred in rule drafting. Section 1.07 (2), Manual, sets forth the recommended format for these citations.

b. Section TC 1.02 (1) sets forth the order in which sections treated should be grouped. That order is as follows: to repeal, to renumber, to renumber and amend, to amend, to repeal and recreate and to create. The rule-making order set forth in the notice of hearing should follow this grouping.

c. When a series of consecutively-numbered rule sections receive the same treatment, they may be included in the same SECTION of the draft. [See s. 1.04 (2) (a), Manual.] This technique could be used throughout the rule to avoid the repetition resulting from the repeated use of SECTIONS. Clearinghouse Rule 82-110 should be structured in the following simplified format: "AN ORDER to repeal chs. PSC 13 to 60 and 69 to 95; and to create chs. TC 1 to 4." Using this format, only three SECTIONS would have been necessary in the rule and the complete contents of chs. TC 1 to 4 would have been presented for the ease of the reader.

d. Unnecessary capitalization of words in the rule should be avoided. [See s. 1.01 (4), Manual.]

e. Apparently, s. TC 1.02 is a section creating definitions. An alphabetized definition section should be created. [See s. 1.01 (7), Manual.]

f. The use of the words "such," "thereof" and "therefrom" should be avoided. [See s. 1.01 (8), Manual, and ss. TC 1.04 (2), 1.07 (2) and 3.01 (3) (b).]

g. When any section is divided into smaller subunits, at least two subunits should be created. Consequently, the rule should be reviewed so that sections like s. TC 2.02 do not contain the notation "(1)." [See s. 1.03, Manual.]

h. Paragraphs of a subsection should be preceded by a letter contained within parentheses. Sections TC 2.04 and 2.05 should be corrected.

i. In s. TC 2.04 (1) (a), a reference is made to the Interstate Commerce Commission with the parenthetical notation "(ICC)." If the notation "ICC" is to be used throughout the rule, a definition of the notation is appropriate.

j. References to "the following subsections" and "this rule" should be replaced by specifically numbered citations. [See, for example, s. TC 2.05 (1) (intro.), (5) and (6) and 3.17 (1).] Similarly, references to regulations of federal agencies should be replaced by specifically numbered citations to the Code of Federal Regulations.

k. A requirement in a rule should be expressed with the word "shall" rather than the use of the word "will" or "should." [See, for example, s. TC 3.01 (2) and s. 1.01 (2), Manual.]

l. The information contained within the parenthetical notations in s. TC 3.06 should be contained in notes to the rules.

m. The use of secondary standards in s. TC 4.01 should comply with s. 227.025, Stats., and s. 2.03 (5), Manual.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Reference is made to s. 22.917 (1) (intro.) and (2) in the analysis of the rule. The reference should be to s. 20.917 (1) (intro.) and (2).

b. In s. TC 2.01, the use of forms is mentioned. If new forms are being used, the provisions of s. 227.024 (1) (f) and (4) (a), Stats., should be met.

5. Clarity, Grammar, Punctuation and Plainness

a. As drafted, many of the sections are poorly structured and excessively wordy making the draft difficult to read. A careful review of the rule should be conducted in an attempt to convey the rule's purpose more concisely and understandably.

For example, in s. TC 1.04 (1), it appears that three separate ideas are sought to be stressed. However, by placing them all in one paragraph, the meaning becomes confused and each idea seems like it should be a part of the other rather than three separate ideas. Also, in the second sentence, the phrases "an examiner," "themselves" and "he or she" are used. It appears this was an attempt to use sex-neutral terms. However, attempted in this way, the meaning of the sentence is made more complicated than need be. It may be better to use "examiners," "themselves" and "they."

Section TC 1.05 (1) and (2) is an example of the use of unnecessary words. The phrase "as the case may be" is unnecessary.

b. Section 1.07 (9), Manual, provides that slashed alternatives should not be used. In the proposed draft, the slashed alternative "and/or" is used in the notice for hearing and the fiscal estimate sections. Section 1.07 (9), Manual, suggests making a decision on which word is more appropriate and to use it. If the thought expressed involves a choice between alternatives, the proper phrasing to be used is "____ or _____, or both."

In SECTIONS 64 and 66 of the draft, the slashed alternative "accident/incident" is used. Although this is the term used in the federal statute title, use of slashed alternatives is to be avoided in

Wisconsin rule drafting. An attempt should be made to use a different term in all but the federal title reference in the draft.

c. In s. TC 1.10 (1), last sentence, the word "its" should be replaced with the words "his or her."

d. TC 1.14 (1) to (3). These three subsections are confusing. The confusion is increased because the draft appears to make assumptions about the reader's knowledge of environmental impact statements (EIS). This is especially apparent in sub. (3). A reference is made to "a major action which may significantly affect human health." Apparently, if an action is "major" and "may significantly affect human health," an EIS is needed or at least a screening by the Commissioner is required. The procedure should be more specifically set forth, especially in view of the significance of these provisions.

e. TC 2.01 (2). The subsection contains a reference to "its legal representative." Since an applicant may be a person or a business, the word "its" should be replaced by the words "the applicant's." Also, the words "or applicants" are unnecessary.

f. TC 3.04 (1) and (2). Quoted language is used but no reference is made to the source of, or reason for, the quotation. These references should be clarified.

g. TC 3.17. Section 1.06 (1), Manual, provides that the new underscored language should follow the old stricken language. Section TC 3.17 (1) does not follow this instruction.

PROCEDURAL ANALYSIS
REQUIRED BY
SEC. 227.018(3), WIS. STATS.

(a) Statement of need. Beginning January 1, 1978, the Transportation Commission assumed the motor carrier and the railroad functions previously performed by the Public Service Commission. At that time the commission decided to operate with the Public Service Commission rules until it promulgated Transportation Commission rules. In the last 4 1/2 years there have been many changes in the motor carrier and the railroad regulations, probably the most significant being chapter 347 of the Laws of 1981 which substantially reduces the motor carrier regulations. These statutory changes mandate that the commission adopt rules consistent with these changes.

(b) Findings of Fact: As of October 1, 1982, the commission will no longer be required to hold hearings on motor carrier applications. The Public Service Commission rules relating to hearing procedures are geared toward a very high volume of hearings with a limited number of issues. The proposed rules relating to procedures are designed for fewer, but more complex hearings that come from appeals of Department of Transportation decisions. The rules applicable to motor carriers have been completely rewritten to comply with the intent of chapter 347, Laws of 1981, that is that the marketplace and not government should be the regulator. These proposed rules are the minimum the commission feels are necessary to maintain a safe transportation system within the state. The rules pertaining to the railroads are substantially the same as the Public Service Commission rules. The major exception is the signal unit rules which were mandated by chapter 29 of the Laws of 1979. That law provides that the railroads are to be reimbursed for a portion of their maintenance costs. Chapter 4 sets the maximum rate the state of Wisconsin will reimburse a civil servant for moving his or her household goods. Chapter 347, Laws of 1981, requires the commission to continue to establish the maximum applicable moving rates even though the commission is no longer setting rates for contract motor carriers of household goods.

(c) Modifications made as a result of testimony received at the public hearing or other suggestions:

TC 1.01(4) was modified to provide that when an act is to be done in less than 10 days and the period contains both a Sunday and a legal holiday, the period shall be increased to 12 days. Previously the rules stated that the 10 day period should be increased to 12 days. However a close examination of that section showed that that was not clear.

TC 1.06(4) was modified to provide that when no proposed order is issued, a party could comment on an examiner's ruling within 15 days after the close of the evidence. The Soo Line Railroad Company feared that there would be no opportunity to comment on an examiner's rulings in uncontested cases.

TC 1.07 was modified to require a stenographic, electronic or other recording in all oral proceedings, not just in contested cases. There was some confusion as to what contested should mean--any case that went to hearing or contested as defined in chapter 227 of the statutes.

TC 1.13(3) was modified to reduce the cost of photocopying from \$1.00 per page to \$.75 per page. Several people commented that they felt \$1.00 was too high.

TC 2.01(2)(c) was modified to require the applicant to list felony convictions within the last 5 years rather than merely requiring them to identify their criminal record. An attorney for the motor carriers felt that criminal record was too ambiguous.

TC 3.06 was modified in that the class II railroad report was changed to the State Commission Annual Report Class II Railroads and for class III railroads it was changed to the State Commission Annual Report Class III Railroads. A representative from the Department of Transportation pointed out that the ICC reports previously listed were obsolete.

TC 3.14 was modified to update the reference to the Wisconsin State Electrical Code designated as "E" in the Wisconsin Administrative Code to the new chapter PSC 114.

(d) List of persons who appeared or registered at the public hearing.

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James A. Spiegel, Attorney
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Henry S. Gerth, General Chairman
Brotherhood Railroad Signalmen
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Written comments were submitted by:

Keith Plasterer
Wisconsin Department of Transportation
Hill Farms State Office Building
Madison, WI 53702

(e) Response to Legislative Council recommendations. 1. Statutory authority. In accordance with the suggestion, the commission has removed the requirement that the request be made in writing, but provides that if it is in writing it should be addressed to the commission chairman.

2. Form, style and placement in administrative code.

a. The suggested changes have been made.

b. The Notice of Hearing had already been published at the time the comments were received; therefore, the suggested change was not made.

c. The commission chose to use a different section number for each consecutively numbered rule to allow the people at the public hearing to comment by section. We thought this was less confusing than lumping the rules into only 3 sections, especially since some of the PSC rules were renumbered and not repealed or created.

d. The suggested change has been made.

e. The suggested change has been made.

f. The suggestion has been followed.

g. The suggested change has been made.

h. The suggestion has been followed.

i. The initials ICC have been eliminated and replaced with the words Interstate Commerce Commission throughout the rule.

j. The suggested change has been made.

k. The suggested change has been made.

l. The proposed rule was modified and the parenthetical notations were eliminated.

m. Section 20.917(1)(intro) provides, in part, that, "The amount of reimbursement for moving household affects intrastate may not

exceed the maximum amount established by the Transportation Commission for the weight of goods moved and the distance involved." Due to the fact this rate must be adjusted periodically to follow inflation, the proposed rule provides that the supplements govern the maximum rate at any given time. Because the tariffs are difficult to read, the commission has also provided in its proposed rules that the commission will transform the tariff into a table showing weight and distance that is easily understood by non-tariff people, and will make it available to each agency as soon as a new supplement comes out. Accordingly, we did not feel that the comment applied to this situation.

4. Adequacy of references to related statutes, rules and forms.

a. There was a typographical error in the analysis of the rule and s. 20.917(1)(intro) and (2) was inadvertently referred to as s. 22.917(1)(intro) and (2). This has been corrected.

b. TC 2.01(1) has been modified to provide that application forms are available from the commission.

5. Clarity, grammar, punctuation and plainness.

a. The attempt to use sex-neutral terms has been eliminated. Also in TC 1.05(1) and (2) the phrase "as the case may be" has been eliminated. At the hearing no one commented that they felt the rules were unduly complex or difficult to understand.

b. The slashed alternatives have been eliminated and the reference to accident/incident has been changed to accident-incident.

c. The suggestion has been adopted.

d. TC 1.14(1) to (3) are essentially the same rules as the commission operated under when they were using Public Service Commission rules. Past experience shows that there has been no confusion in using these 3 subsections.

e. The suggested change has been made.

f. The quotation marks were used only as a method of emphasis and have been eliminated.

g. TC 3.17(1) has been modified and the new underscored language follows the old stricken language.