

MAY 08 2000

LCRC  
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

**Ronald Sklansky**  
Director  
(608) 266-1946



**Terry C. Anderson, Director**  
Legislative Council Staff  
(608) 266-1304

**Richard Sweet**  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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**CLEARINGHOUSE REPORT TO AGENCY**

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[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 00-069**

AN ORDER to repeal chapter Trans 328; and to amend Trans 325.02 (intro.) and (8) and 326.01 (intro.) and (8), relating to motor carrier safety regulations.

Submitted by **DEPARTMENT OF TRANSPORTATION**

04-04-00 RECEIVED BY LEGISLATIVE COUNCIL.

04-28-00 REPORT SENT TO AGENCY.

RS:DLS:jal

**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

The Wisconsin Department of Transportation proposes an order to repeal Ch. TRANS 328; and amend TRANS 325.02(intro.) and (8), 326.01(intro.) and (8), Wisconsin Administrative Code, relating to motor carrier safety regulations.

**NOTICE OF INTENT TO ADOPT RULE  
WITHOUT PUBLIC HEARING  
AND  
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to the authority of ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., interpreting ss. 110.07, 110.075, 194.38 and 194.43, Stats., and according to the procedure set forth in s. 227.16(2)(b), Stats., the Wisconsin Department of Transportation will adopt the following rule amending chs. Trans 325 and 326, and repealing ch. Trans 328 without public hearing.

Questions about this rule may be addressed to Lyle Walheim, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707-7912, telephone (608) 266-0305.

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**Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats.

**STATUTES INTERPRETED:** ss. 110.07, 110.075, 194.38 and 194.43, Stats.

**General Summary of Proposed Rule.** This rule making will amend two existing chapters to bring them into compliance with changes to the federal regulations which have gone into effect as of April 1, 2000. These changes are as follows:

**Chapter Trans 325** adopted motor carrier safety regulations of the United States Department of Transportation in effect on August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent motor carrier safety regulations. All vehicles operating in interstate commerce are already subject, under federal law, to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 326** adopted motor carrier safety requirements for transportation of hazardous materials of the United States Department of Transportation in effect on

August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for transportation of hazardous materials. All vehicles operating in interstate and intrastate commerce are already subject under federal law to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 328** is being repealed. 49 CFR Parts 171, 172, 173, 177 and 180 now apply to intrastate operations. There is no longer a need for this chapter.

**Fiscal Impact.** 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 or sewerage district, or any federally-recognized tribes or bands.

**Initial Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

**Copies of Rule.** Copies of this proposed rule can be obtained, without cost, by writing to Lyle Walheim, Division of State Patrol, 4802 Sheboygan Avenue, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 266-0305. Alternate formats of the proposed rule will be available to individuals upon request.

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### **TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., the department of transportation hereby proposes to amend rules interpreting ss. 110.07, 110.075, 194.38 and 194.43, Stats., relating to motor carrier safety regulations.

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

**Trans 325.02 Federal rules adopted.** The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~August 1, 1998~~ April 1, 2000, 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 ~~1998~~ 2000 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.** The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~August 1, 1998~~ April 1, 2000, 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 ~~1998~~ 2000 North American uniform out-of-service criteria.

**SECTION 3.** Chapter Trans 328 is repealed.

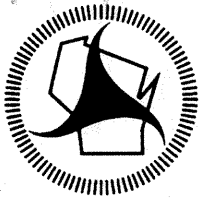
**(END OF RULE TEXT)**

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**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 3 day of April, 2000.

  
CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation



MAY 25 2000

## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Terrence D. Mulcahy, P.E.  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

The Honorable Fred Risser  
President, Wisconsin State Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53707

May 24, 2000

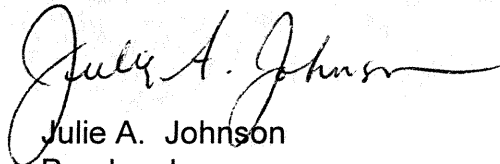
The Honorable Scott Jensen  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 325/326/328**  
Notification of Legislative Standing Committees  
**CLEARINGHOUSE RULE 00-069**

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **00-069**, relating to **motor carrier safety regulations**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

  
Julie A. Johnson  
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson/Senator Judy Robson/Representative Glenn Grothman/  
David Schumacher/Lyle Walheim/Lt. Bob Defrang

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CR 00-069

The Wisconsin Department of Transportation proposes an order to repeal Ch. TRANS 328; and amend TRANS 325.02(intro.) and (8), 326.01(intro.) and (8), Wisconsin Administrative Code, relating to motor carrier safety regulations.

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

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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:

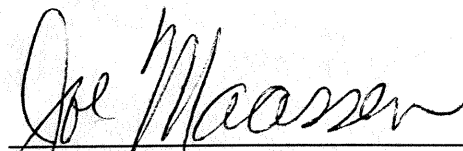
Part 1--Analysis prepared by the Department of Transportation.

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:



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JOE MAASSEN  
Deputy 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) 266-7364

## PART 1

### Analysis Prepared by the Wisconsin Department of Transportation

**STATUTORY AUTHORITY:** ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats.

**STATUTES INTERPRETED:** ss. 110.07, 110.075, 194.38 and 194.43, Stats.

**General Summary of Proposed Rule.** This rule making will amend two existing chapters to bring them into compliance with changes to the federal regulations which have gone into effect as of April 1, 2000. These changes are as follows:

**Chapter Trans 325** adopted motor carrier safety regulations of the United States Department of Transportation in effect on August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent motor carrier safety regulations. All vehicles operating in interstate commerce are already subject, under federal law, to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 326** adopted motor carrier safety requirements for transportation of hazardous materials of the United States Department of Transportation in effect on August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for transportation of hazardous materials. All vehicles operating in interstate and intrastate commerce are already subject under federal law to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 328** is being repealed. 49 CFR Parts 171, 172, 173, 177 and 180 now apply to intrastate operations. There is no longer a need for this chapter.

In addition, the adoption of Trans 325 and 326 will give the Department the authority to use federal standards by which traffic officers and state patrol inspectors declare vehicles and drivers out of service. The offices of the Attorney General and the Revisor of Statutes Bureau have consented to the incorporation by reference of the revised North American Uniform Out-of-Service Criteria under the provision of § 227.21(2), Stats.

**Fiscal Impact.** 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 or sewerage district, or any federally-recognized tribes or bands.

**Copies of Rule.** Copies of this proposed rule can be obtained, without cost, by writing to Lyle Walheim, Division of State Patrol, 4802 Sheboygan Avenue, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 266-0305. Alternate formats of the proposed rule will be available to individuals upon request.

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**PART 2**  
**TEXT OF PROPOSED RULE**

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., the department of transportation hereby proposes to amend rules interpreting ss. 110.07, 110.075, 194.38 and 194.43, Stats., relating to motor carrier safety regulations.

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

**Trans 325.02 Federal rules adopted.** The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~August 1, 1998~~ April 1, 2000, 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 ~~1998~~ 2000 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.** The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~August 1, 1998~~ April 1, 2000, 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 ~~1998~~ 2000 North American uniform out-of-service criteria.

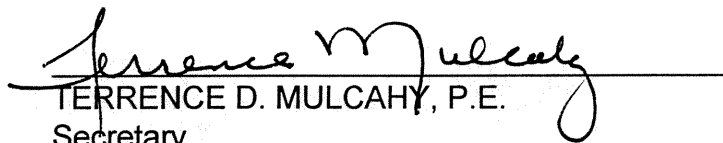
**SECTION 3.** Chapter Trans 328 is repealed.

**(END OF RULE TEXT)**

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**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 23 day of  
May, 2000.

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

**PART 4**  
CR 00-069

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ANALYSIS OF FINAL DRAFT OF TRANS 325/326/328

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(a) **Need for Amended Rule.** This rule making will amend two existing chapters to bring them into compliance with changes to the federal regulations which have gone into effect as of April 1, 2000. These changes are as follows:

**Chapter Trans 325** adopted motor carrier safety regulations of the United States Department of Transportation in effect on August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent motor carrier safety regulations. All vehicles operating in interstate commerce are already subject, under federal law, to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 326** adopted motor carrier safety requirements for transportation of hazardous materials of the United States Department of Transportation in effect on August 1, 1998. This amendment changes the date from August 1, 1998 to April 1, 2000. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for transportation of hazardous materials. All vehicles operating in interstate and intrastate commerce are already subject under federal law to any changes that have been adopted between August 1, 1998 and April 1, 2000.

**Chapter Trans 328** is being repealed. 49 CFR Parts 171, 172, 173, 177 and 180 now apply to intrastate operations. There is no longer a need for this chapter.

(b) **Modifications as a Result of Testimony at Public Hearing.** Notice of intent to adopt this proposed rule without public hearing was given under the procedure set forth in s. 227.16(2)(b), Stats. No public hearing was held.

(c) **List of Persons who Appeared or Registered at Public Hearing.** Because there was no hearing, there were none.

(d) **Response to Legislative Council Recommendations.** The Legislative Council report contained no recommendations.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.

APR 05 2000



## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
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E-Mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)  
April 4, 2000

The Honorable Judy Robson  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 15 South, State Capitol  
Madison, Wisconsin 53702

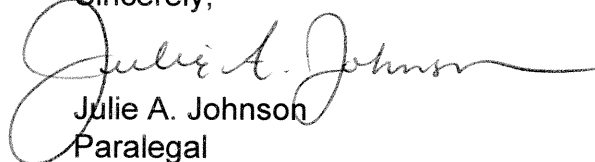
The Honorable Glenn Grothman  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 15 North, State Capitol  
Madison, Wisconsin 53702

RE: **NOTICE OF INTENT TO ADOPT RULE WITHOUT PUBLIC HEARING** and Text  
of Proposed Rule, relating to **motor carrier safety regulations**, Trans 325, 326  
and 328

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Intent to Adopt Rule Without Public Hearing and Text of Proposed Rule making relating to the above-entitled matter. This document has also been filed with the Legislative Council and with the Revisor of Statutes in accordance with the requirements of ss. 227.15(1) and 227.16(2)(b), Stats.

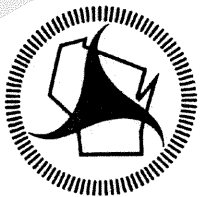
Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosure

cc: Alice Morehouse  
Mike Goetzman  
David Schumacher  
Lyle Walheim  
Lt. Bob Defrang

JAN 28 2000



## Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson  
Governor

Charles H. Thompson  
Secretary

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P.O. Box 7910  
Madison, WI 53707-7910

Telephone: 608-266-8810  
FAX: 608-267-6734  
E-Mail: ogc.exec@dot.state.wi.us

January 27, 2000

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

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS  
325/326/328**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 325/326/328. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson  
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director  
Senator Judy Robson, Co-Chair/JCRAR  
Representative Glenn Grothman, Co-Chair/JCRAR  
Alice Morehouse  
Mike Goetzman  
David Schumacher  
Lyle Walheim  
Lt. Bob Defrang

## **STATEMENT OF SCOPE**

### **DESCRIPTION OF THE OBJECTIVE OF THE RULE:**

This rule making will amend chs. Trans 325 and 326, relating to motor carrier safety and hazardous material transportation safety, to bring them into conformance with changes to the Federal Motor Carrier Safety Regulations and Hazardous Material regulations which will go into effect on April 1, 2000. Amendment of these rules will assure State Patrol inspectors and troopers are enforcing the most recent Safety regulations for Interstate Carriers and Hazardous Material (HM) regulations for both interstate and intrastate HM carriers. This rule making will also repeal ch. Trans 328.

1. Trans 325 (Motor Carrier Safety Regulations) - interstate. Amend the rule to include all changes already in effect as of April 1, 2000. Changes have been made to the Federal Motor Carrier Safety regulations Title 49, Parts 390 through 397, regulating interstate operations. Amendment to this rule will bring state regulations in compliance with current interstate regulations.
2. Trans 326 (Motor Carrier Safety Requirements for Transportation of Hazardous Materials) for interstate and intrastate operations. Amend the rule to include all changes which have been made to Federal Motor Carrier Safety regulations 49 CFR Parts 107, 171, 172, 173, 177, 178, and 180 and are already in effect as of April 1, 2000. Amendment to this rule will bring state regulations, interstate and intrastate regulations into compliance with current federal regulations.
3. Trans 328 (Intrastate Hazardous Material Regulations). Repeal intrastate HM rule. Federal regulations changed in 1998 to include intrastate operations, thus there is no longer a need for a separate intrastate rule.

### **DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:**

#### **TRANS 325**

The Department annually updates ch. Trans 325 to keep current with the most recent changes and revisions to the Federal Motor Carrier Safety regulations. The revisions allow state inspectors and troopers to enforce the most current safety regulations already in effect for interstate motor carriers. The rule will continue to reference the use of the most recent North American Standard Out-of-Service criteria for placing vehicles and drivers out of service.

#### **TRANS 326**

The Department annually updates ch. Trans 326 to keep current with the most recent changes and updates to the federal hazardous material regulations. The revisions will allow state inspectors to enforce the most current hazardous material (HM) regulations already in effect for interstate and intrastate carriers. The rule will continue to reference the use of the most recent North American Standard Out-of-Service criteria vehicles and drivers out of service.

## REPEAL TRANS 328

Federal Hazardous Material Regulations, 49 CFR, were amended in 1998 to include regulation of intrastate transportation of HM. There is no longer a need for this rule. Intrastate HM transportation will now be covered under Trans 326.

### STATUTORY AUTHORITY FOR THE RULE:

Trans 325 – ss. 110.075 and ch. 194, Stats.

Trans 326 – ss. 110.07, 194.38, 194.43 and 346.45(4), Stats.

### ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

It is estimated that state employees will spend 100 hours on the rule making process, including research, committee meetings, drafting and conducting public hearings.

Signed at Madison, Wisconsin, this 26 day  
of January, 2000.



CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation