

MAY 08 2000

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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

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-072

AN ORDER to renumber Trans 327.09 (6); to amend Trans 327.03 (intro.) and (2); and to create Trans 327.09 (6) (b), relating to motor carrier safety requirements.

Submitted by **DEPARTMENT OF TRANSPORTATION**

04-10-00 RECEIVED BY LEGISLATIVE COUNCIL.
04-28-00 REPORT SENT TO AGENCY.

RNS:DLS:rv

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)]

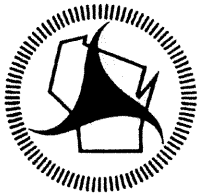
Comment Attached YES NO

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



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

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

April 10, 2000

Ronald Sklansky, Director
Rules Clearinghouse
Wisconsin Legislative Council
One East Main Street, P. O. Box 2536
Suite 401
Madison, Wisconsin 53701-2536

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **motor carrier safety requirements, Trans 327**

Dear Mr. Sklansky:

In accordance with § 227.15(1), Stats., I submit the enclosed text of proposed rule for Legislative Council staff review in the above-referenced matter. This document, along with written notice of WisDOT's submittal to joint Legislative Council staff, have also been filed with the Revisor of Statutes to be published in the Administrative Register in accordance with §§ 227.14(4m) and 227.17, Stats.

Sincerely,

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

Julie A. Johnson
Paralegal

Enclosure

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

The Wisconsin Department of Transportation proposes an order to renumber TRANS 327.09(6); amend TRANS 327.03(intro.) and (2); and create TRANS 327.09(6)(b), relating to motor carrier safety requirements.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats., and interpreting ss. 110.07 and 110.075, and 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 **11th** day of **May**, 2000, at **10:00 AM**, to consider the amendment of ch. Trans 327, Wisconsin Administrative Code, relating to motor carrier safety requirements.

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

The public record on this proposed rule making will be held open until close of business the day of the hearing, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Lyle Walheim, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats.
STATUTES INTERPRETED: ss. 110.07 and 110.075, and ch. 194, Stats.

General Summary of Proposed Rule. This rule making will amend ch. Trans 327, relating to intrastate motor carrier safety regulations, to bring it into compliance with the most recent changes to the Federal Motor Carrier Safety Regulations which go into effect on October 1, 2000. Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers. The update of this rule will also keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

The Department annually updates ch. Trans 327 to keep current with the most recent changes to 49 CFR parts 390, 391, 392, 393, 396 and 397 which contains exceptions and hours-of-service requirements currently found in 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. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

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

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Lyle Walheim, Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 264-9963. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 110.07 and 110.075, and ch. 194, Stats., relating to motor carrier safety requirements.

SECTION 1. Trans 327.03(intro.) and (2) are amended to read:

Trans 327.03 Federal regulations adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and

in effect on ~~November~~ October 1, 1994 ~~2000~~, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles which operate in intrastate commerce in the same manner as though the regulations were set out in full in this chapter:

(2) Title 49, Code of Federal Regulations, part 391, qualifications of drivers, except 391.11(b)(1), and 391.41(b)(3) if, in the alternative a driver with diabetes controlled by insulin obtains statements from 2 licensed physicians indicating, on a form provided by the department of transportation, that the diabetes is not likely to cause loss of ability to control or operate a motor vehicle, ~~and 391.69;~~

SECTION 2. Trans 327.09(6) is renumbered Trans 327.09(6)(a).

SECTION 3. Trans 327.09(6)(b) is created to read:

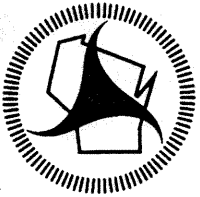
Trans 327.09(6)(b) Drivers returning to normal duty following the end of a declared emergency and when s. Trans 327.05 hours of service have been exceeded shall be off duty for at least 24 consecutive hours.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 7 day of April, 2000.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



JUN 13 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

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

June 12, 2000

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

RE: Proposed Administrative Rule **TRANS 327**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 00-072

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **00-072**, relating to **motor carrier safety requirements**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

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

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

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

CR 00-072

The Wisconsin Department of Transportation proposes an order to renumber TRANS 327.09(6); amend TRANS 327.03(intro.) and (2); and create TRANS 327.09(6)(b), relating to motor carrier safety requirements.

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

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

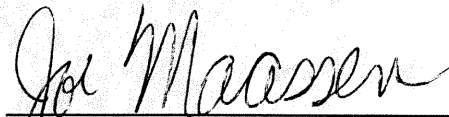
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

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

Submitted by:



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. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats.

STATUTES INTERPRETED: ss. 110.07 and 110.075, and ch. 194, Stats.

General Summary of Proposed Rule. This rule making will amend ch. Trans 327, relating to intrastate motor carrier safety regulations, to bring it into compliance with the most recent changes to the Federal Motor Carrier Safety Regulations which go into effect on October 1, 2000. Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers. The update of this rule will also keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

The Department annually updates ch. Trans 327 to keep current with the most recent changes to 49 CFR parts 390, 391, 392, 393, 396 and 397 which contains exceptions and hours-of-service requirements currently found in 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. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Copies of Proposed Rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Lyle Walheim, Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 264-9963. Alternate formats of the proposed rule will be provided to individuals at their request.

PART 2

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 110.07 and 110.075, and ch. 194, Stats., relating to motor carrier safety requirements.

SECTION 1. Trans 327.03(intro.) and (2) are amended to read:

Trans 327.03 Federal regulations adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and

in effect on ~~November~~ October 1, ~~1994~~ 2000, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles which operate in intrastate commerce in the same manner as though the regulations were set out in full in this chapter:

(2) Title 49, Code of Federal Regulations, part 391, qualifications of drivers, except 391.11(b)(1), and 391.41(b)(3) if, in the alternative a driver with diabetes controlled by insulin obtains statements from 2 licensed physicians indicating, on a form provided by the department of transportation, that the diabetes is not likely to cause loss of ability to control or operate a motor vehicle, ~~and 391.69;~~

SECTION 2. Trans 327.09(6) is renumbered Trans 327.09(6)(a).


SECTION 3. Trans 327.09(6)(b) is created to read:

Trans 327.09(6)(b) Drivers returning to normal duty following the end of a declared emergency and when s. Trans 327.05 hours of service have been exceeded shall be off duty for at least 24 consecutive hours.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 12 day of June, 2000.


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

PART 4
CR 00-072

ANALYSIS OF FINAL DRAFT OF TRANS 327

(a) **Need for Amended Rule.** This rule making will amend ch. Trans 327, relating to intrastate motor carrier safety regulations, to bring it into compliance with the most recent changes to the Federal Motor Carrier Safety Regulations which go into effect on October 1, 2000. Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers. The update of this rule will also keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

The Department annually updates ch. Trans 327 to keep current with the most recent changes to 49 CFR parts 390, 391, 392, 393, 396 and 397 which contains exceptions and hours-of-service requirements currently found in this chapter.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on May 11, 2000. No modifications were made as a result of testimony at the hearing.

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

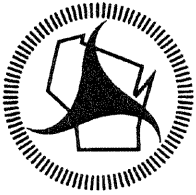
Jodi Jensen, Manager of State & Local Public Affairs, Alliant Energy Corp., P. O. Box 192, Madison, WI 53701-0192.

Barry McNulty, Legislative Liaison, Wisconsin Electric, 321 West Michigan Street, Milwaukee, WI 53201.

(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 12 2009



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

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

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

April 10, 2000

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

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **motor carrier safety requirements**, Trans 327

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

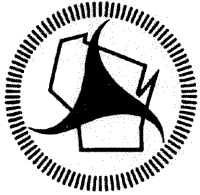
Sincerely,

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

Julie A. Johnson
Paralegal

Enclosure

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



JAN 28 2000

Wisconsin Department of Transportation

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Tommy G. Thompson
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Secretary

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4802 Sheboygan Ave., Rm. 115B
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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 327**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 327. 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 ch. Trans 327, relating to intrastate motor carrier safety regulations to bring them into conformity with the most recent changes to the Federal Motor Carrier Safety Regulations which will go into effect on April 1, 2000.

Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers.

The update of this rule will keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

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:

The Department annually updates Trans 327 to keep current with the most recent changes to the Federal Motor Carrier Safety Regulations, 49 CFR parts 390, 391, 392, 393, 396, and 397 which contains exceptions and hours-of-service requirements currently found in ch. Trans 327.

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.

STATUTORY AUTHORITY FOR THE RULE:

ss. 110.07, 110.075, 194.38 and 194.43, 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