

## **Report From Agency**

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

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**CR 06-003**

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

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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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**PART 1**  
**Analysis Prepared by the Wisconsin Department of Transportation**

**Statutes interpreted:** Ch. 194, Stats.

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

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

**Related statute or rule:** s. 110.07, Stats.

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

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.

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

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

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

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

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

**Fiscal effect and anticipated costs incurred by private sector:** The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

**Copies of Rule.** Copies of this proposed rule can be obtained, without cost, by writing to Charles Teasdale, 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**

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

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

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

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

**Trans 326.01 Federal rules adopted.** (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect

on January 4, ~~2004~~ 1, 2006, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these federal rules apply in the same manner as though the regulations were set out in full in this chapter:

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

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**(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)(intro.), Stats.

Signed at Madison, Wisconsin, this \_\_\_\_ day of February, 2006.

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FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation





**PART 4**  
**CR 06-003**

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ANALYSIS OF FINAL DRAFT OF TRANS 325/326

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(a) **Basis and Purpose of Rule.** **Chapter Trans 325** (Motor Carrier Safety Regulations) - interstate. Amend the rule to include all changes in effect as of January 1, 2006. 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.

**Chapter 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, 180 and 385 subparts C & E and in effect as of January 1, 2006. Amendment to this rule will bring state regulations, interstate and intrastate regulations into compliance with current federal regulations.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on February 13, 2006. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No one appeared/registered at the hearing.

(d) **Summary of Public Comments and Agency Response to those Comments.** None.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate.** No changes made.

(f) **Response to Legislative Council Recommendations.** The Legislative Council Clearing House report contained no recommendations to the proposed rule.

(g) **Final Regulatory Flexibility Analysis.** All businesses will have the same effect. There is no differentiation between small business and large business.