

Clearinghouse Rule 08-080

PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES

The Wisconsin Department of Transportation proposes an order to create ch. TRANS 145, relating to neighborhood electric vehicles.

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 349.26, 341.04(1), 341.297(1), Stats.

Statutory authority: ss. 84.01(2), 227.10(1), 227.11(2)(a), 342.255(3), 349.26, 340.01(36r), 341.04(1) and 341.297(1), Stats.

Explanation of agency authority: Current law prohibits the operation of any motor vehicle on any public road unless the motor vehicle is registered, or for which registration application is made. The Department of Transportation is required to issue biennial registration for a neighborhood electric vehicle for which it receives a proper application. Municipalities may authorize the operation of neighborhood electric vehicles on public roads under its jurisdiction having a speed limit of 35 miles per hour or slower. Current law contains no specific prohibition against the driver of a neighborhood electric vehicle operating on any public road not approved by the municipality for such operation. The Department concludes that the registration of a neighborhood electric vehicle is effective only on public roads authorized by municipalities for such travel, and that traveling on any other public road is done without valid registration.

Related statute or rule: ss. 340.01(36r), 341.04(1), 341.297(1) and 349.26, Stats.

Plain language analysis: Section 349.26, Stats., allows a city, town or village by ordinance to authorize operation of Neighborhood Electric Vehicles (NEVs) on its roadways that have speed limits of 35 mph or less. The law specifies that the ordinance may apply to State Trunk Highways (STH) in only two circumstances: (1) crossing an STH at a location approved by DOT; or (2) traveling longitudinally upon a connecting highway segment approved by DOT.

While s. 349.26, Stats., implies that NEVs cannot operate on local roads not specified in the ordinance or at any unapproved location on STHs, statutes do not specifically prohibit NEV operation on those roads. Sections 341.25(1)(b) and 341.297, Stats., establish NEV registration under Chapter 341, Stats. Because NEVs bear DMV-issued registration plates, NEVs traveling on unapproved roads may appear to violate no laws, despite s. 349.26 restriction on approved roads for NEV operation. This proposed rule clarifies that NEV registration is valid only on approved roads under s. 349.26, Stats.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Federal motor vehicle safety standards, promulgated by the National Highway Traffic Safety Administration, define an NEV as a lightweight, four-wheeled motor vehicle incapable of exceeding a top speed of 25 miles per hour. The federal regulations do not address registration and operation of NEVs, leaving that to states to determine.

Comparison with Rules in the Following States:

Michigan: An NEV (low speed vehicle) may not be operated on any street with a posted speed limit greater than 35 mph. A low speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low speed vehicles are required to be registered by the state.

Minnesota: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph. NEVs are required to be registered by state.

Illinois: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph, only at an intersection. NEVs are required to be registered by state.

Iowa: An NEV (low-speed vehicle) may not be operated on a street with a posted speed limit greater than 35 mph. A low-speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low-speed vehicles are required to be registered by state.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: This proposed rule clarifies that NEVs, while registered under ch. 341, Stats., are authorized to operate only on roadways authorized under local ordinance, under s. 349.26, Stats. The Department uses only this statutory intent in determining this proposed rule.

Analysis and supporting documentation used to determine effect on small businesses: This rule clarifies that NEV operation is only allowed on roadways designated by local authorities under s. 349.26, Stats. Any NEV owner, including any small business, is subject to the same operation limitations.

Effect on small business: This proposed rule will have no effect on small business other than limitation on NEV operation to which all NEV owners are subject. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: 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.

Anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency contact person and place where comments are to be submitted and deadline for submission: The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Carson P. Frazier, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

TEXT OF PROPOSED RULE

SECTION 1. Chapter Trans 145 is created to read:

CHAPTER TRANS 145
NEIGHBORHOOD ELECTRIC VEHICLE

Trans 145.01 Purpose. The purpose of this chapter is to state that registration of neighborhood electric vehicles under s. 341.25(1)(b), Stats., is valid only on roadways designated under s. 349.26, Stats.

Trans 145.02 Roadway designation. Section 349.26, Stats., authorizes the governing body of any city, town or village to enact an ordinance allowing the use of a neighborhood electric vehicle on a roadway that has a speed limit of 35 miles per hour or less and over which the city, town or village has jurisdiction.

Trans 145.03 Registration. Sections 341.25(1)(b) and 341.297(1), Stats., authorize biennial registration of a neighborhood electric vehicle with the department.

Trans 145.04 Registration limited. Registration of a neighborhood electric vehicle is valid only on roadways designated in an ordinance adopted under s. 349.26, Stats. Registration of a neighborhood electric vehicle on any highway not designated in an

ordinance adopted under s. 349.26, Stats., is unregistered operation subject to penalties provided in s. 341.04, Stats.

(END OF RULE TEXT)

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

Signed at Madison, Wisconsin, this ____ day of August, 2008.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation