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☞ Details: Emergency Rule by Department of Transportation.

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Joint

(Assembly, Senate or Joint)

### Committee for Review of Administrative Rules...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)



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

Jim Doyle, Governor  
Frank J. Busalacchi, Secretary  
Internet: [www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)  
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The Honorable Robert Jauch  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 118 South, State Capitol  
Madison, Wisconsin 53702

June 11, 2008

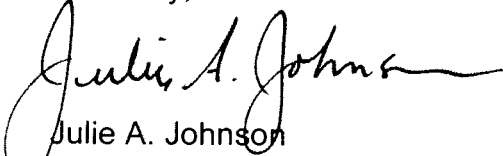
The Honorable Dan LeMahieu  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 17 North, State Capitol  
Madison, Wisconsin 53702

RE: **ORDER ADOPTING EMERGENCY RULE ON TRANS 263**, relating to multiple trip overweight permits for vehicles transporting granular roofing materials

Gentlepersons:

Enclosed is a copy of the above-referenced emergency rule for your information. Pursuant to sec. 227.24(1)(c), Stats., the rule will take effect upon publication in the Wisconsin State Journal, scheduled for Tuesday, July 1, 2008.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosure

cc: Lynne B. Judd  
Supt. David Collins  
Mike Goetzman  
Casey Newman  
Greg Niva  
Carson Frazier

**ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING EMERGENCY RULES**

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The Wisconsin Department of Transportation adopts an emergency order creating ch. TRANS 263, relating to multiple trip overweight permits for vehicles transporting granular roofing materials.

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NOTICE IS HEREBY GIVEN that pursuant to ss. 348.25(3) and (4)(intro.) and 348.27(15)(d), Stats., interpreting s. 348.27(15), Stats., as created by 2007 Wis. Act 171, the Department of Transportation will hold a public hearing on **July 30, 2008** at the Hill Farms State Transportation Building, **Room 144-B**, 4802 Sheboygan Avenue, Madison, WI, at **10:00 AM**, on the creation of ch. Trans 263, Wisconsin Administrative Code, relating to multiple trip overweight permits for vehicles transporting granular roofing materials.

Parking for persons with disabilities and an accessible entrance are available.

A copy of the emergency rule may be obtained upon request from Carson Frazier, Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, 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](mailto:carson.frazier@dot.state.wi.us).

**ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING EMERGENCY RULES**

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The Wisconsin Department of Transportation adopts an emergency order creating ch. TRANS 263, relating to multiple trip overweight permits for vehicles transporting granular roofing materials.

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

**Statutes interpreted:** s. 348.27(15), Stats., as created by 2007 Wis. Act 171

**Statutory authority:** ss. 348.25(3) and (4)(intro.) and 348.27(15)(d), Stats.

**Explanation of agency authority:** The Department is authorized to administer statutes and administrative rules related to vehicle weights, widths, heights, and lengths. Nonstatutory provisions created in 2007 Wis. Act 171, section 6, require the Department to promulgate emergency rules implementing a newly-created multiple trip permit for transporting granular roofing materials by not later than August 1, 2008. Notwithstanding the normal restrictions applying to emergency rules in s. 227.24, 2007 Wis. Act 171, section 6, authorizes this emergency rule to remain in effect until July 1, 2009 or the date on which the permanent rule takes effect. 2007 Wis. Act 171, section 6, also authorizes the Department to promulgate this emergency rule without providing a finding of emergency, or evidence that the emergency rule is necessary for the preservation of the public peace, health, safety, or welfare.

**Related statute or rule:** Chapter 348, Stats., and Chapters Trans 250 to 278, Wis. Admin. Code.

**Plain Language Analysis:** This emergency rule is required by 2007 Wis. Act 171, section 6. The new law creates a multiple trip permit for certain overweight vehicles or vehicle combinations transporting granular roofing materials. The law establishes certain conditions for the permit and certain limitations on operation.

This rule implements those conditions and limitations:

- The permit allows excess gross weight of 10,000 pounds, but not to exceed 90,000 pounds.
- The permit requires that the motor carrier on whose behalf the load is transported be named in the permit.
- The permit requires a named origin, destination, and designated route of travel.
- The permit requires that any municipality or county whose highways make up any part of the designated route pass a resolution allowing that transport, and requires the permit applicant to submit copies of all resolutions to the department along with the permit application.

The emergency rule defines "granular roofing material" in order to make eligibility for permit and enforcement clear and uniform.

The emergency rule states that the permit is not valid on the interstate highway system, and is valid on not more than 2.5 miles of the state trunk highway system.

**Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation:** Federal law governs overweight transport on certain federal highways, including general prohibition of divisible overweight loads on the interstate highway system. Pursuant to 23 U.S.C. section 127 and 23 C.F.R. section 658, divisible overweight loads are not allowed on the interstate highway system. 2007 Wis. Act 171 provides that a permit under this law may be issued for up to 2.5 miles on any state trunk highway if such issuance of the permit is consistent with federal law. This rule is consistent with federal law because 2007 Wis. Act 171 authorizes permits for this type of divisible load and transport is not allowed on the interstate highway system.

**Comparison with Rules in Adjacent States:**

**Michigan:** Michigan has no rule or statute authorizing overweight loads of granular roofing materials, or similar divisible overweight loads.

**Minnesota:** Minnesota has no rule or statute authorizing overweight loads of granular roofing materials, or similar divisible overweight loads.

**Illinois:** Illinois has no rule or statute authorizing overweight loads of granular roofing materials, or similar divisible overweight loads.

**Iowa:** Iowa has no rule or statute authorizing overweight loads of granular roofing materials, or similar divisible overweight loads.

**Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen:** This emergency rule implements a newly-enacted law. The Department's implementation of the law, including policies, procedures, and requirements, is the same as the Department applies to all similar multiple trip permits.

**Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses:** This emergency rule implements 2007 Wis. Act 171. The law will allow all businesses, including small businesses, to transport granular roofing materials at weights exceeding state load limits. This would have a beneficial effect on small businesses. The Department's Regulatory Review Coordinator may be contacted by e-mail at [ralph.sanders@dot.state.wi.us](mailto: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.

**Copies of Emergency Rule and Contact Person:** Copies of this emergency rule are available without cost upon request by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, 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 emergency rule or proposed amendments to the permanent rule, view the current rule, or submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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### **TEXT OF EMERGENCY RULE**

**SECTION 1.** Chapter Trans 263 is created to read:

#### CHAPTER TRANS 263

#### MULTIPLE TRIP OVERWEIGHT PERMITS FOR VEHICLES TRANSPORTING GRANULAR ROOFING MATERIALS

**Trans 263.01 Purpose.** The purpose of this chapter is to establish standards and procedures for the issuance of overweight permits for the transportation of granular roofing materials, pursuant to s. 348.27(15), Stats.

**Trans 263.02 Definitions.** Unless otherwise stated, the definitions of words and phrases in ss. 340.01 and 348.01(2), Stats., and s. Trans 250.02 apply to this chapter. In this chapter:

(1) "Granular roofing materials" means small grains, pellets, and particles of naturally occurring mineral product transported in bulk from a mine to a processing plant where the product is processed or stored for sale, and to be used solely for the manufacture of roofing materials, including roofing shingles.

(2) "Permit" means multiple trip overweight permits authorized under s. 348.27(15), Stats., which includes permit pages, copies of all written approvals for movement on local highways, a copy of this chapter, a copy of ch. Trans 251, and any

other written conditions of movement issued by the department.

**Trans 263.03 Overweight permits; general.** (1) The department may issue annual or consecutive month permits for the transportation of overweight loads in vehicles meeting the requirements of this chapter.

(2) A permit issued under this chapter is not a guarantee of the sufficiency of any highway or structure for the transporting of the vehicle or load, or both.

**Trans 263.04 Permit application.** An application for a permit shall be submitted on a department form and shall include the following:

(1) The name, address, telephone number, and electronic mail address of the applicant motor carrier on whose behalf the load is to be transported.

(2) The name and address of the applicant's insurer, and the applicant's policy number and policy expiration date.

(3) The date on which the applicant seeks to have the permit first become valid, not more than 60 days later than the date of application.

(4) The gross weight of the vehicle.

(5) An indication of whether the vehicle is a combination vehicle and the type of combination, the make, year, and vehicle identification number for the vehicle.

(6) An affirmation that the owner has insurance in the amounts required by this chapter or such higher amount as may be required by the department and that the person accepts the terms of the issuance of a permit under this chapter.

(7) The location of the origin and the location of the destination of the load, and the designated route over which the load will be transported.

(8) For each local road or county highway permitted under s. Trans 263.06(4) on which the applicant seeks authority to operate, a copy of every resolution adopted by the governing body of each municipality or county having jurisdiction over such streets

or highways approving the transportation of the load over that portion of the designated route that is on streets or highways under the jurisdiction of that municipality or county.

**Note: Applications are available upon request from the Motor Carrier Services Section Permit Unit of the Wisconsin Department of Transportation, 4802 Sheboygan Avenue, P.O. Box 7980, Madison, WI 53707.**

**Note: Permit application procedures are specified in s. Trans 250.025. A permit application may be submitted in person or by mail to the Motor Carrier Services Section Permit Unit. The Motor Carrier Services Section Permit Unit of the Wisconsin Department of Transportation is located at 4802 Sheboygan Avenue, Room 151, P.O. Box 7980, Madison, WI 53707.**

**Trans 263.05 Eligibility.** The department may issue permits for vehicles under this chapter only to applicants that meet all of the following requirements:

(1) **STATUTORY REQUIREMENTS.** The vehicle and any load satisfy the requirements for a permit under ss. 348.25 and 348.27(15), Stats.

(2) **TRANSPORTATION OF SPECIFIC COMMODITY.** The application may not seek authority to transport any commodity or goods other than granular roofing materials, as provided in s. 348.27(15), Stats.

(3) **MAXIMUM SIZE.** The vehicle may not exceed 8 feet 6 inches in width, nor 13 feet 6 inches in height. Semi-tractor and semi-trailer combinations may not exceed 75 feet in overall length. Motor truck and trailer combinations may not exceed 65 feet in overall length. Single vehicles, not operating in combination, may not exceed 40 feet in length. Vehicle combinations consisting of a semi-tractor and semi-trailer exceeding 65 feet in overall length may not travel on state highways identified by the department as limiting operation to 65 feet or less in length, and may travel only on local roads and highways designated as long truck routes in ch. Trans 276.

(4) **PNEUMATIC TIRES.** The vehicle shall be equipped with pneumatic tires.

(5) **MAXIMUM GROSS WEIGHT.** The vehicle, including any load, may not exceed the maximum gross weight limitations under s. 348.15(3)(c) by more than



10,000 pounds, and the vehicle, including any load, may not exceed 90,000 pounds gross weight.

**(6) MAXIMUM AXLE WEIGHTS.** Axle weights may not exceed those specified in s. Trans 251.06.

**(7) BALANCED LOAD.** Wheels on one side of the vehicle may not carry more than 60% of the load.

**Trans 263.06 Validity.** A permit issued under this chapter is valid only if all of the following conditions are met:

**(1) PERMITTED VEHICLE ONLY.** It is used for the vehicle described in the application and permit.

**(2) PERMIT CONDITIONS FOLLOWED.** All conditions of the permit are met, including all maximum axle, axle combination, total weight limitations, and restrictions on speed, time or route of travel.

**(3) VEHICLE ELIGIBLE FOR PERMIT.** The vehicle meets all the requirements of this chapter.

**(4) AREA OF OPERATION.** The vehicle is operated in Wisconsin on the route designated in the permit.

**(5) OPERATION ON INTERSTATE HIGHWAYS PROHIBITED.** This permit is not valid on highways designated as part of the national system of interstate and defense highways.

**(6) OPERATION ON STATE TRUNK HIGHWAYS RESTRICTED.** This permit is valid for operation on not more than 2.5 miles of any state trunk highway.

**(7) LAWFUL OPERATION.** The driver of the vehicle is obeying all Wisconsin laws contained in chs. 194 and 340 to 349, Stats., and chs. Trans 305 and 325 to 327.

**(8) PERMIT CARRIED ON VEHICLE.** The driver carries the permit with attached

local road approval resolutions in the vehicle and available for inspection by any police officer, representative of the department or any local authority or person in charge of maintaining the highway being used.

**(9) OBEY POSTED WEIGHT AND SPEED LIMITS.** The vehicle does not exceed any posted weight limit for a bridge or highway or any temporary weight restriction due to construction or seasonal conditions, and does not exceed any posted speed limits.

**(10) MINIMUM FOLLOWING DISTANCE MAINTAINED.** The driver maintains a distance of 500 feet between the vehicle and any preceding vehicle on the highway, whenever reasonable and practical.

**(11) ALLOW PASSING.** The driver allows approaching or overtaking traffic to pass.

**(12) INSURANCE MAINTAINED.** Insurance on the vehicle is maintained in accordance with s. Trans 263.08.

**(13) PROPER REGISTRATION.** If the vehicle is required to be registered by Wisconsin law, registration shall be at not less than the permit weight or at the maximum available registration weight, whichever is less.

**(14) OPERATION ON PAVEMENT SURFACE.** The right wheels of the vehicle do not leave the roadway.

**(15) ALCOHOL USE PROHIBITED.** The driver does not:

(a) Consume any alcohol beverage within 4 hours of being on duty time, regardless of alcohol content.

(b) Have an alcohol concentration above 0.0.

(c) Possess an intoxicating beverage, regardless of alcohol content.

**Note: Section 346.63(7)(a), Stats., is applicable to all drivers of commercial motor vehicles.**

**(16) DRIVER PROPERLY LICENSED.** The driver holds all required licenses bearing the proper classes and endorsements needed to operate the vehicle.

**(17) ALL OTHER NEEDED PERMITS OBTAINED.** All other operational permits required by the department or other agencies having jurisdiction over the highways used by the permittee are obtained.

**(18) ADVERSE WEATHER AND ROAD CONDITIONS.** A permit is not valid during periods when adverse weather or road conditions, such as fog, smoke, heavy rain, snow or ice, or wind velocity, impair the safety of a movement under the permit.

**(19) MOTOR CARRIER AND DESIGNATED ROUTE.** As stated in s. 348.27(15)(b), this permit is valid only for the motor carrier on behalf of which the load is carried; only from the origin and to the destination cited in the permit application; and only on the route designated in the permit application.

**Trans 263.065 Times of operation.** (1) Except as otherwise specified in a permit, a vehicle or load, or both, that is overweight, but not oversize, may operate 24 hours a day, including weekends and holidays.

(2) The department may issue a permit for times other than those specified in sub. (1), under extraordinary circumstances when, in the opinion of the department, public health and welfare is better served, and may impose additional conditions to promote the safe operation of the vehicle and load and to reflect conditions deemed necessary by local officials in view of local conditions.

**Trans 263.07 Transfers.** In the event of a breakdown or other circumstance requiring a change of the power unit or trailer identified on the permit, the permit holder may transfer the permit to another vehicle, under the control of the permittee, following

the completion of a new application and the issuance of a new permit. The words, "This is a transfer from permit #<original permit number>," shall be written on the bottom of the application.

**Trans 263.08 Insurance and liability conditions. (1)** A permittee shall:

(a) Pay any claim for any bodily injury or property damage resulting from operation under the permit for which the permittee is legally responsible.

(b) Hold the state, its subdivisions, officers, employees and agents harmless from any claim that may arise from operation over public highways under the permit.

(c) Be liable for all damage which any highway or its appurtenances may sustain by reason of any operation under the permit.

(2) The department may waive insurance requirements for permits issued to units of government.

(3) Where a certificate of insurance is required, no insurer may cancel the certificate of insurance without providing the department 10 days advance written notice of the cancellation.

(4) Unless different amounts are required under sub. (5), the permittee shall carry insurance in either of the following minimum amounts:

(a) When the permitted load is not overweight by more than 25%:

Bodily injury liability—each person \$150,000 or \$750,000

Bodily injury liability—each accident \$450,000 combined single

Property damage liability—each accident \$300,000 limit

(b) When the permitted load exceeds the weight limitations in par. (a):

Bodily injury liability—each person \$200,000 or \$1,000,000

Bodily injury liability—each accident \$600,000 combined single

Property damage liability—each accident \$400,000 limit

(5) The department may require a permittee to provide more bodily injury or damage liability coverage than the minimum amounts specified in sub. (4).

(6) A permittee shall certify, and may be required to present satisfactory written evidence, that the amount of insurance coverage required under sub. (4) or (5), or a bond in a form satisfactory to the department, shall be in effect for the vehicle and load designated in the permit while operating on the public highway, unless this requirement is expressly waived by the department.

**Trans 263.09 Denial, suspension or revocation of permit.** (1) The department may deny, suspend, or revoke a permit for good cause, pursuant to s. 348.25(7), Stats. Grounds for the denial, suspension, or revocation of a permit include the following:

(a) Violation of any condition of a permit.

(b) Preventing an employee of the department or a law enforcement officer from performing his or her official duties, or interfering with the lawful performance of his or her duties.

(c) Physically assaulting an employee of the department or a law enforcement officer while performing his or her official duties.

(d) Making a material misstatement in an application for a permit.

(e) Unauthorized alteration of a permit.

(f) Refusal or failure, without just cause, to produce required records.

(g) Nonpayment of the application fee or payment by a check that is subsequently dishonored by the drawee or bank.

(h) Violation of any other applicable provision under ch. 348, Stats., or this chapter.

(2) A permittee shall immediately return a suspended or revoked permit to the department after receiving notice from the department of the suspension or revocation of the permit.

**Note:** If a permit is denied, suspended, or revoked, an applicant or permittee may request a hearing before the Department of Administration Division of Hearings and Appeals, s. 348.25(9), Stats.

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(END OF RULE TEXT)

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**EXEMPTION FROM FINDING OF EMERGENCY**

The Legislature, by 2007 Wisconsin Act 171, Section 6(2), provides an exemption from a finding of emergency for the adoption of the rule.

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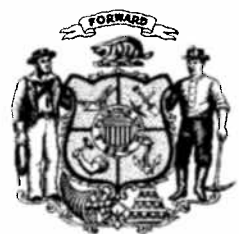
**Effective Date.** This rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Signed at Madison, Wisconsin, this 10<sup>th</sup> day of June, 2008.

  
\_\_\_\_\_  
FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation

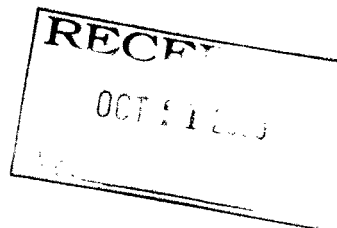


# WISCONSIN STATE LEGISLATURE





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



Jim Doyle, Governor  
Frank J. Busalacchi, Secretary  
Internet: [www.dot.wisconsin.gov](http://www.dot.wisconsin.gov)  
Telephone: 608-266-8810  
Facsimile (FAX): 608-267-6734  
E-mail: [ogc.exec@dot.state.wi.us](mailto:ogc.exec@dot.state.wi.us)

The Honorable Robert Jauch  
Senate Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 118 South, State Capitol  
Madison, Wisconsin 53702

October 17, 2008

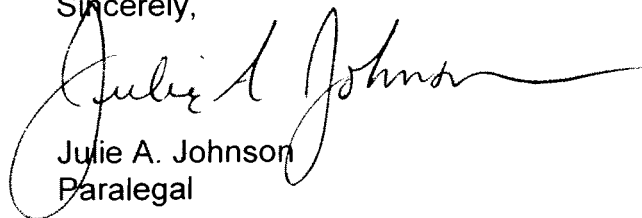
The Honorable Dan LeMahieu  
Assembly Chairman  
Joint Committee for Review  
of Administrative Rules  
Room 17 North, State Capitol  
Madison, Wisconsin 53702

RE: **ORDER ADOPTING EMERGENCY RULE ON TRANS 325/326/327**, relating to  
motor carrier safety, and hazardous material transportation safety

Gentlepersons:

Enclosed is a copy of the above-referenced emergency rule for your information.  
Pursuant to sec. 227.24(1)(c), Stats., the rule will take effect upon publication in the  
Wisconsin State Journal, scheduled for Wednesday, November 5, 2008.

Sincerely,



Julie A. Johnson  
Paralegal

Enclosure

cc: Supt. David Collins  
Mike Goetzman  
Casey Newman  
Capt. Charles Lorentz  
Lt. Patricia Hansen



**ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING EMERGENCY RULES**

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The Wisconsin Department of Transportation adopts an emergency order amending TRANS 325.02(intro.) and (8), 326.01(intro.) and (8), 327.03(intro.) and (7), and 327.09(6)(note); and creating TRANS 325.02(7g) and (7r), 326.01(7m) and 327.03(11), relating to motor carrier safety, and hazardous material transportation safety.

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NOTICE IS HEREBY GIVEN that pursuant to s. 110.07 and Ch. 194, Stats., interpreting s. 110.07 and ch. 194, Stats., the Department of Transportation will hold a public hearing on **December 2, 2008** at the Hill Farms State Transportation Building, **Room 701**, 4802 Sheboygan Avenue, Madison, WI, at **10:00 AM**, on the amendment of chs. Trans 325, 326 and 327, Wisconsin Administrative Code, relating to motor carrier safety, and hazardous material transportation safety.

The public hearing site is accessible to people with disabilities.

A copy of the emergency rule may be obtained upon request from Lt. Patricia Hansen, Department of Transportation, Division of State Patrol, Bureau of Field Services, Room 551, P. O. Box 7936, Madison, WI 53707-7936. You may also contact Lt. Hansen by phone at (608) 266-0094 or via e-mail at [patricia.hansen@dot.state.wi.us](mailto:patricia.hansen@dot.state.wi.us).

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**ORDER OF THE STATE OF WISCONSIN  
DEPARTMENT OF TRANSPORTATION  
ADOPTING EMERGENCY RULES**

---

The Wisconsin Department of Transportation adopts an emergency order amending TRANS 325.02(intro.) and (8), 326.01(intro.) and (8), 327.03(intro.) and (7), and 327.09(6)(note); and creating TRANS 325.02(7g) and (7r), 326.01(7m) and 327.03(11), relating to motor carrier safety, and hazardous material transportation safety.

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

**Statutes interpreted:** s. 110.075 and Ch. 194, Stats.

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

**Explanation of agency authority:** The Department of Transportation sets standards and adopts rules to establish a plan of inspection to implement the inspection program. It is the duty of the Department to prescribe rules and regulations as to safety and operations and the hours of labor of drivers of motor vehicles operated under the authority of these chapters.

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

**Plain language analysis:** As prescribed by state statute, the Department is mandated to regulate both intrastate 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.

**Summary of, and preliminary comparison with, existing or proposed federal regulation:** Trans 325 (Interstate Motor Carrier Safety regulations) adopts Federal regulations 49 CFR part 385, subpart C (Certification of Safety Auditors, Safety Investigators and Safety Inspectors) and parts 390 to 393 and 395 to 397. Trans 326 (Motor Carrier Safety Requirements for Transportation of Hazardous Materials) adopts Federal Regulations 49 CFR parts 107, 171-173, 177, 178, 180 and 385, subpart E (Hazardous Materials Safety Permits). Trans 327 (Motor Carrier Safety) adopts Federal regulations part 385, subpart C, (Certification of Safety Auditors, Safety Investigators and Safety Inspectors), parts 40, 390-general, except 390.23(a)(3); 391-general except 391.11(b)(1) and 391.41(b)(3), 391.41(b)(10); 392 except 392.16; 393-general except 393.42 shall not apply to vehicles placed in operation in common, contract or private carriage prior to June 1, 1987; 395, general-except 395.1(e)(1), 395.1(h), 395.1(i) 395.5, 395.8, and the maximum number of hours identified in 395.3 as follows: (a) more than 12 hours following 10 consecutive hours off duty; (b) for any period after having been on duty 16 hours following 10 consecutive hours off duty; (c) after having been on duty for 70 hours in any period of 7 consecutive days; and (d) after having been on duty for 80 hours in any period of 8 consecutive days, and parts 396 and 397.

**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 continues to do ongoing research into vehicle equipment, driver safety, carrier authority and hazardous materials. Its research, coupled with the input from the motor carrier industry, resulted in ongoing updates to federal regulations for interstate commerce. It is imperative the same regulations are enforced from state to state.

**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:** This rule making will have no significant adverse effect on small businesses. The Department's Regulatory Review Coordinator may be contacted by e-mail at [ralph.sanders@dot.state.wi.us](mailto:ralph.sanders@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 Emergency Rule:** Requests for copies of the emergency rule should be submitted to Lt. Patricia Hansen, Department of Transportation, Division of State Patrol, Bureau of Field Services, Room 551, P. O. Box 7912, Madison, WI 53707-7912. You may also contact Lt. Hansen by phone at (608) 266-0094.

To view the emergency rule, you may visit the following website:  
<http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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### **TEXT OF EMERGENCY RULE**

**SECTION 1.** Trans 325.02(intro.) is 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 1, 2006 2008, as amended, 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:

**SECTION 2.** Trans 325.02(7g) and (7r) are created to read:

Trans 325.02(7g) Title 49, Code of Federal Regulations, part 385, subpart C, certification of safety auditors, safety investigators and safety inspectors.

(7r) Title 49, Code of Federal Regulations, part 387, as it pertains to the financial responsibility requirements applicable to commercial motor vehicles that are subject to the provisions of 392.9a.

**SECTION 3.** Trans 325.02(8) is amended to read:

Trans 325.02(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 2006 North American uniform out-of-service criteria.

**NOTE:** The North American Uniform Out-of-Service Criteria is on file with the ~~offices of the Revisor of Statutes, the Secretary of State, and the Department of Transportation, Division of State Patrol.~~ Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, ~~5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814~~ 1101 17th Street, NW, Suite 803, Washington, DC 20036, or by calling 202-775-1623. You may also request copies via their website at [cvsahq@cvsa.org](mailto:cvsahq@cvsa.org).

**NOTE:** Federal regulations may be obtained through the Internet via: <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp>

**SECTION 4.** Trans 326.01(intro.) is 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 1, ~~2006~~ 2008, as amended, 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:

**SECTION 5.** Trans 326.01(7m) is created to read:

Trans 326.01(7m) Title 49, Code of Federal Regulations, part 385, subpart E, hazardous materials safety permits.

**SECTION 6.** Trans 326.01(8) is amended to read:

Trans 326.01(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 2006 North American uniform out-of-service criteria.

**NOTE:** The North American Uniform Out-of-Service Criteria is on file with the ~~offices of the Revisor of Statutes, the Secretary of State, and the~~ Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, ~~5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814~~ 1101 17th Street, NW, Suite 803, Washington, DC 20036, or by calling 202-775-1623. You may also request copies via their website at [cvsahq@cvsa.org](mailto:cvsahq@cvsa.org).

**NOTE:** Federal regulations may be obtained through the Internet via: <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp>

**SECTION 7.** Trans 327.03(intro.) and (7) 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 October 1, ~~2006~~ 2008, as amended, 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:

(7) 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 2006 North American uniform out-of-service criteria.

**NOTE:** The North American Uniform Out-of-Service Criteria is on file with the ~~offices of the Revisor of Statutes, the Secretary of State, and the~~ Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, ~~5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814~~ 1101 17th Street, NW, Suite 803, Washington, DC 20036, or by calling 202-775-1623. You may also request copies via their website at [cvsahq@cvsa.org](mailto:cvsahq@cvsa.org).

**NOTE:** Federal regulations may be obtained through the Internet via: <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp>

**SECTION 8.** Trans 327.03(11) is created to read:

Trans 327.03(11) Title 49, Code of Federal Regulations, part 385, subpart C, certification of safety auditors, safety investigators and safety inspectors.

**SECTION 9.** Trans 327.09(6)(note) is amended to read:

Trans 327.09(6)(note) Note: Declarations can be faxed to (608) 266-4495 227-9600.

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(END OF RULE TEXT)

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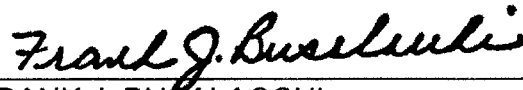
**FINDING OF EMERGENCY**

The Department of Transportation finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. Recently enacted commercial motor carrier safety regulations apply to drivers and carriers transporting property and passengers by commercial vehicles in interstate commerce and enhance highway safety. It is imperative the industry operates under a single set of safety regulations to minimize confusion that could result in inadvertent noncompliance or application of an outdated safety standard. Also pursuant to 49 CFR 350.331(d), States are required to adopt compatible laws or rules to remain eligible for Motor Carrier Safety Assistance Program funding. Currently, Wisconsin receives approximately \$4 million in such funding, which is used to administer various highway safety programs, and that funding and the safety programs it supports will be in jeopardy if Wisconsin does not implement these changes immediately. The Motor Carriers Association has urged the Department to implement these changes as it will help ensure uniformity and increased highway safety.

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**Effective Date.** This rule shall take effect upon publication in the official state newspaper as provided in s. 227.24(1)(c), Stats.

Signed at Madison, Wisconsin, this 15<sup>th</sup> day of **October**, 2008.



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FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation