

 **09hr\_JCR-AR\_Misc\_pt66**



Details: Statements of Scope by Department of Transportation.  
(FORM UPDATED: 08/11/2010)

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

### 2009-10

(session year)

### Joint

(Assembly, Senate or Joint)

## Committee for Review of Administrative Rules ...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- 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) (June 2012)



Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
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Jim Doyle, Governor  
Frank J. Busalacchi, Secretary  
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February 2, 2009

Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 252**

Dear *Bruce* Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 252. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne Judd  
Supt. David Collins  
Dave Vieth  
Capt. Charles Lorentz  
Greg Niva  
Carson Frazier  
Kathleen Nichols

## **STATEMENT OF SCOPE**

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

Ch. Trans 252 establishes policies that apply to escort vehicles for oversize or overweight transport. The proposed rule amendment will add explicit requirements and approval procedures for use of an escort that is formally trained as an oversize/overweight transport escort as approved by the Department, in lieu of a police escort as currently allowed.

### **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:**

Currently, ch. Trans 252 allows the Department or local permit issuing authority to require the permittee to use an escort that is a uniformed police officer with a marked squad car, if the Department or permit issuing authority determines that the load or route presents difficulties that may require traffic direction or other specialized authority or knowledge that a law enforcement officer would have.

In recent years, as the State Patrol and other law enforcement agencies deal with greater workload and shrinking resources, providing oversize/overweight transport escort services, even if paid for by the permittee, exceeds the capacity of the agency.

By policy, the Department currently allows permittees to use a private transport escort that has obtained formal training, specializing in issues that a transport escort must understand and be able to put into operation. The training must satisfy the Department. This proposed rule amendment would establish this policy in the rule.

Even with specialized training, oversize/overweight transport escorts are not empowered to direct traffic. In promulgating this rule amendment, the Department will designate certain route locations and intersections at which a trained transport escort may, under approval by state or local law enforcement, provide some traffic direction strictly limited to passage of the oversize or overweight load.

### **SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

No federal regulations address escort requirements for oversize or overweight transport.

### **DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Motor carriers that obtain permits for oversize and overweight transport, businesses that provide oversize/overweight transport escort services, law enforcement agencies, and the Department and local permitting authorities and authorities in charge of maintenance of state and local highways.


**STATUTORY AUTHORITY FOR THE RULE:**

Section 348.25(3), Stats.

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

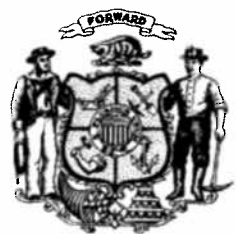
100 hours

Signed at Madison, Wisconsin, this 30<sup>th</sup> day  
of **January**, 2009.

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



# WISCONSIN STATE LEGISLATURE





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February 2, 2009

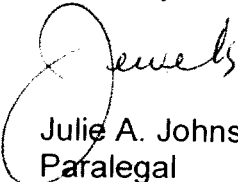
Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 254**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 254. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne Judd  
Supt. David Collins  
Dave Vieth  
Capt. Charles Lorentz  
Greg Niva  
Carson Frazier  
Kathleen Nichols

## **STATEMENT OF SCOPE**

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

Ch. Trans 254 governs policies and procedures for single trip oversize and overweight permits. This rule making will amend the rule to incorporate Department policies and procedures that have been established, and to accommodate changes in the industry environment since the rule was last revised. Specifically, the rule proposes to:

- Add a requirement for the permit applicant to give the Department an e-mail address in addition to a mail address, if the applicant has e-mail.
- Eliminate application by telephone call-in procedure and instead allow internet application, as the Department has replaced telephone with internet application.
- Increase insurance amounts required of the carrier to reflect current industry standards.
- Clarify reasons that the Department may withdraw the permit, reflecting recent policy modifications.
- Clarify conditions that are adverse weather conditions under which the Department may invalidate the permit.
- Eliminate references to operation restrictions on the Milwaukee County expressway system, because improvements to the highway system in Milwaukee County allow for relief from the most restrictive vehicle size and time of operation in the state.
- Reduce the length of permit validity from two weeks to one week to make Wisconsin permit validity length more consistent with all bordering states. Permit validity of two weeks is implied in the current rule but not explicitly stated.

In addition, the rule will require a single trip permit applicant to provide a route survey of the proposed route that determines the sufficiency of the route to handle the length, width, and height of the load as well as the weight, including sufficiency of turns to accommodate the turning radius of the load, and specifying any pre-move remediation of identified problems. The route must be surveyed by a professional transportation engineer. The rule will clarify that the applicant is responsible for any costs incurred as a result of any at-fault incidents on the route.

### **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:**

Currently, Department policy and procedure addresses several of the proposed rule changes. However, in the absence of rule authority, the department may not require certain things; for example, while most carriers carry insurance significantly greater than current minimums, the department may not require higher amounts.

Currently, the applicant proposes a route for a single trip permit, and the Department approves the route or stipulates a different route. The policy proposed in this rule will accomplish three objectives: First, it will reduce workload requirement for the Department engineering staff, as the Department is faced with growing numbers of oversize and overweight permit applications at the same time as reductions in staffing. Second, it will assure that the applicant has driven the route, is familiar with all potential impediments, and has a plan to minimize impacts before the move, rather than repairing damage after the move. Third, it provides clear basis for understanding that the carrier, rather than the Department, is responsible for any costs incurred as a result of any at-fault incident on the route.

**SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

This rule, like all Department size and weight rules and statutes, complies with federal regulations regarding size and weight limitations on federally funded highways.

**DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Motor carriers that request oversize or overweight single trip permits  
Wisconsin law enforcement officers, who enforce size and weight restrictions  
Local governments and local highway authorities

**STATUTORY AUTHORITY FOR THE RULE:**

Section 348.25(3), Stats.

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

100 hours

Signed at Madison, Wisconsin, this 30<sup>th</sup> day  
of **January**, 2009.

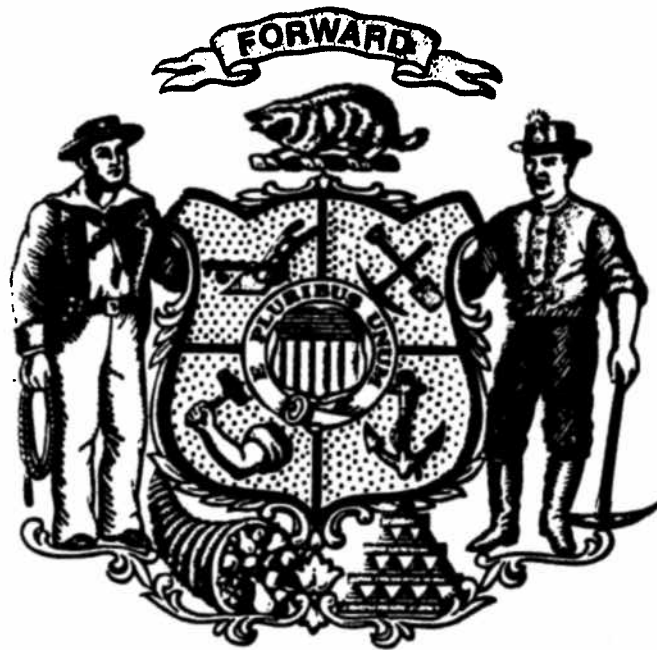


FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation







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February 2, 2009

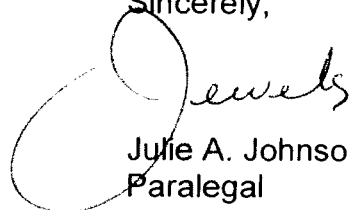
Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS  
267/268**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment of chs. Trans 267/268. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,



Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne Judd  
Supt. David Collins  
Dave Vieth  
Capt. Charles Lorentz  
Greg Niva  
Carson Frazier  
Kathleen Nichols

## **STATEMENT OF SCOPE**

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

Ch. Trans 268 governs emergency energy conservation permits under s. 340.01(15s) and 348.17(3), Stats. Ch. Trans 267 governs emergency agricultural transportation permits under s. 348.17(4), Stats. 2005 Wis. Act 364 repealed that provision and instead created s. 348.17(5), Stats., allowing overweight transport of certain crops during certain time periods. This proposed rule amendment will combine ch. Trans 267 into ch. Trans 268.

The proposed amendment will incorporate provisions on operation, permit suspension, driver requirements, and similar provisions that apply to all permits, to make the rule consistent with other overweight rules. The proposed amendment will include provisions related to any permit that might be authorized by any Gubernatorial declaration of agricultural emergency unrelated to s. 348.17(5), Stats.

### **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 proposed rule amendment will reflect updated statutory provisions related to overweight agricultural transport, and will incorporate into this rule current Department policies that apply to all overweight permits.

### **SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

This rule, like all Department size and weight rules and statutes, complies with federal regulations regarding size and weight limitations on federally funded highways.

### **DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Motor carriers that request emergency energy or agricultural transport permits  
Wisconsin law enforcement officers who enforce weight restrictions  
Local governments and local highway authorities


### **STATUTORY AUTHORITY FOR THE RULE:**

ss. 348.17(3) and 348.25(3), Stats.

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

100 hours

Signed at Madison, Wisconsin, this 30<sup>th</sup> day of  
January, 2009.

  
FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation





Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
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February 2, 2009

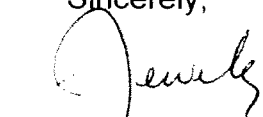
Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS  
510/512**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment of chs. Trans 510/512. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,



Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Mark Wolfgram  
Dennis Leong

## STATEMENT OF SCOPE

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

This rule making will amend chs. Trans 510 and 512, relating to the Transportation Facilities Economic Assistance and Development Program, and the Transportation Infrastructure Loan Program to implement the provisions of 2007 Wis. Act 125 that relate to verified statements from an independent certified accountant and the director or principal officer of the recipient of the grant or loan for each economic development program administered by the Department.

### **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:**

Under chs. Trans 510 and 512, there are existing policies regarding job guarantees, reporting requirements, benchmarks and payback provisions for failure to meet the requirements under the project agreements. However, the existing rules do not include in text any requirement for (1) the submittal of a verified statement signed by both an independent certified accountant and the director or principal officer of the recipient of an economic development grant or loan; (2) the Department to coordinate the development of these accountability measures with the other State agencies that administer economic development programs; or (3) standardized reporting requirements for the economic development programs.

### **SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

No federal regulation applies to other DOT programs defined as an "economic development program" under 2007 Wis. Act 125. The Act defines economic development program as a program or activity having the primary purpose of encouraging the establishment and growth of business in the state, including the creation and retention of jobs. DOT programs are transportation infrastructure projects that contribute to mobility, safety and efficiency transporting freight and the traveling public.

### **DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

This rule making may affect any public entity that chooses to accept an economic development grant or loan administered by the Department.

### **STATUTORY AUTHORITY FOR THE RULE:**

Sections 84.01(6m)(b)6. and 7. and (11m), Stats., as created by 2007 Wis. Act 125.

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

40 - 80 hours

Signed at Madison, Wisconsin, this 30<sup>th</sup> day of  
January, 2009.



FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation





Office of General Counsel  
4802 Sheboygan Ave., Rm. 115B  
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May 1, 2009

Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 264**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed creation of ch. Trans 264. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

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

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Anna Biermeier  
Carson Frazier



## **STATEMENT OF SCOPE**

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

This rule making will create ch. Trans 264, relating to permits for wind tower oversize and overweight transport movement. Wind tower project development is an emerging industry in Wisconsin. Federal energy initiatives encourage wind energy industrial development. Further, Wisconsin formally mandates renewable energy development.

2005 Wisconsin Act 141, effective July 1, 2007, "requires electric providers to increase the amount of renewable electricity they sell two percentage points above current level by 2010 and six percentage points above their current level by 2015, with the goal that 10% of all electricity sales in Wisconsin be from renewable resources" (Wisconsin Legislative Council Act Memo on 2005 Wisconsin Act 141, March 27, 2006, page 2). The Act also creates s. 196.378(2)(a)1., Stats., which requires the public service commission to report whether the state has met a goal that, by the end of 2015, 10% of all electric energy consumed in Wisconsin is renewable energy.

Wind energy is not only a feasible renewable energy option but also clearly a growth industry, which provides extremely beneficial economic development to Wisconsin. Wind industry representatives estimate that 2005 Wisconsin Act 141 will require that 400 to 500 new wind turbines will be erected in Wisconsin by 2015.

Extensive wind tower transport will be required for the next several years. A wind development project may take more than five years merely for assembly, and the Department anticipates many wind development projects to become operational in the next few years. At the same time, federal stimulus funding is vastly increasing the amount and geographic extent of highway construction projects, rendering many logical transport routes unavailable or constrained at certain times. Wind development projects will face changing route availability and conditions, requiring complex route determination, approval, and review throughout wind development planning, assembly, and operation periods, as the actual permit to any specific vehicle is issued during assembly and operation.

Wind tower transport generates unique permitting challenges, including such conditions as unusually high frequency of trips on state-wide routes combined with extended duration of wind development projects, wind tower extraordinary dimensions and weights, and state law requiring extensive wind energy development within a limited time frame. Current multiple trip and single trip permits do not sufficiently accommodate wind tower transport needs. A separate administrative rule establishing a special permit for wind tower transport is needed.

This rule making interprets ss. 348.25, 348.26 and 348.27, Stats., as related to wind tower oversize and overweight transport movement. The rule making creates wind energy development multiple trip project permits and will consider creating wind energy development single trip permits.

### **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 issues multiple trip oversize and overweight permits for movement of a particular load or commodity within a specified geographic area, and single trip permits for individual oversize and overweight movement, on a specified route.

Since July 2007, the Department has been handling wind tower movement under special conditions attached to single and multiple trip permits. However, for wind tower transport, the Department must address several conditions that differ from or combine conditions of typical multiple trip or single trip permits.

This rule making will address the issues of wind energy development projects including, but not limited to, such issues as load dimensions and weights, duration of permits, frequency and number of trips authorized by the permit, requirements for escort operators and vehicles, hours of operation, route approval and designation requirements, consent of local officials for operation on local roads, and special investigation responsibilities and costs.

**SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

Federal law and regulation places some limits on oversize and overweight transport on the national highway system. Like all oversize and overweight transport administrative rules, this rule will conform to federal requirements that apply to the national highway system.

**DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Wind energy industry, including component manufacturers.  
Electric energy utilities and transmission industry.  
Local government, law enforcement, and highway maintenance and traffic regulation agencies.  
Oversize or overweight transport industry.  
Shipping ports of entry.  
Rail carrier industry.  
Highway construction and maintenance businesses providing highway construction and maintenance projects.  
State energy, economic development, and environmental permitting agencies.

**STATUTORY AUTHORITY FOR THE RULE:**

ss. 85.16(1), 227.11(2)(a), 348.25(3), Stats.

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

800 hours

Signed at Madison, Wisconsin, this 30<sup>th</sup> day of April, 2009.



---

FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation





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

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May 26, 2009

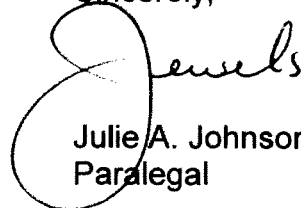
Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 114**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment to ch. Trans 264. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

  
Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Erin Egan

## **STATEMENT OF SCOPE**

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

This rule making will amend ch. Trans 114, relating to the Uniform Traffic Citation, to eliminate figures 1-6, and also clarify that the automated citation must be in a format prescribed by the Department.

### **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:**

During the last audit of our Commercial Driver Licensing program in 2007, the reviewers indicated "The boxes on the uniform citation to identify CMV and hazmat involvement are not consistently and appropriately used by law enforcement for the DMV to identify and impose the appropriate disqualification action."

We have met with the Uniform Traffic Citation Council, and they have agreed to the changes. As such, we plan to remove the fields related to license class and endorsements, and vehicle class and endorsements, and replace them with yes or no indicators for CMV Operation and Hazmat Operation. The change to the CMV/Hazardous materials reporting portion of the citation involves no issue of policy; it is simply made to hopefully improve the reliability of the data provided by officers.

Requiring the date and time of appearance to be shown on the citation is simply codifying procedures that should already be mandated by courts processing citations. A person who is being issued a citation should be notified of the time and place he or she is required to appear in court as part of that process. All persons have a fundamental due process right to notice of the time and place their case will be heard.

In addition, the 2007 CDL Compliance Review included the following finding:

"Wisconsin only receives 35% of convictions electronically and, as a result, will be hard-pressed to meet deadlines imposed by MCSIA for the timely posting of convictions (within 30 days by September 30, 2005, and within 10 days by September 30, 2008). Wisconsin must address the timeliness associated with the processes currently in place by which convictions are reported and processed, if Wisconsin is to meet the initial 30-day requirement of the MCSIA by July 2005 and fully comply with the 10-day posting requirement of MCSIA by July '08."

Our plan to address this finding was to expand the use of automated citations. To achieve this goal, we would like to clarify that the Department must prescribe the automated citation form to ensure that all law enforcement agencies are using the same document. This will eliminate confusion and increase efficiency, and all law enforcement agencies in the state will be using the same format, as they are today.

**SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

The purpose of making changes to the citation form related to CMV use or the transportation of hazardous materials is to improve compliance with federal CDL laws and regulations. Federal law requires Wisconsin to:

- Notify the licensing jurisdiction within 10 days if one of its drivers is convicted of a CDL offense in Wisconsin.
- Post convictions on Wisconsin driving records within 10 days of their conviction.

Section 345.48(1m), Stats., requires courts to report convictions to DMV within 5 working days. By having consistent information regarding CMV use or hazardous materials transportation, as well as a consistent automated citation format, DMV should be more consistent in processing reported convictions within the 10-day federal time limit.

**DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Law enforcement agencies, Wisconsin Judicial System, and third party vendors such as the vendor who keys paper citations.

**STATUTORY AUTHORITY FOR THE RULE:**

s. 345.11, Stats.

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

80 hours

Signed at Madison, Wisconsin, this 21<sup>st</sup> day of **May**, 2009.



---

FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation





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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June 17, 2009

Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 315**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment to ch. Trans 315. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

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

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Supt. David Collins  
Laura Andreasson



**STATEMENT OF SCOPE**

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

This rule making will amend ch. Trans 315, relating to safety belt medical use exemption, by deleting the authority of any person other than physicians to exempt persons from safety belt use requirements. This rule making will result in increased use of safety belts, and increase receipt of federal moneys for highway safety activities.

**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:**

Current rules allow chiropractors and Christian Science practitioners to grant medical exemptions from safety belt use requirements, in addition to physicians. The legislature is currently deliberating a safety belt use law, in part to become eligible for federal safety belt use grants. State law encourages the Department to maximize receipt of federal aid. This rule making is required to conform to federal policy regarding medical exemption from safety belt use laws, a necessary condition of receiving the federal grants.

**SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

Federal law provides safety belt use grants to states that require use of safety belts. Federal policy implementing the grants recognizes a medical exemption issued by physicians. The National Highway Traffic Safety Administration, which administers the grants, has informed this state that any medical exemption must conform to federal policy to be eligible for the grants.

**DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Patients under the care of chiropractors or Christian Science practitioners who may desire an exemption from safety belt use laws.

**STATUTORY AUTHORITY FOR THE RULE:**

ss. 84.015, 84.41(7) and 347.48(2m)(e), Stats.

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

20 hours

Signed at Madison, Wisconsin, this 16<sup>th</sup> day of June, 2009.

  
FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation





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

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June 23, 2009

Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULE MAKING, TRANS 101**

Dear *Bruce* Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment to ch. Trans 101. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

*Julie A. Johnson*  
Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Reed McGinn

## **STATEMENT OF SCOPE**

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

Chapter Trans 101.10 administratively interprets the Graduated Driver License (GDL) retractions and extensions. The GDL allows novice drivers (ages 15½ to 18) to gain knowledge and driving experience while under the supervision of an experienced mentor under a specified set of restrictions as they progress through the learning stages. Restrictions are extended if the driver violates these restrictions, is convicted of a moving traffic violation, or if the person's license is revoked or suspended for any reason.

For efficiency, DMV has made its demerit point regulations consistent with Graduated Driver License provisions. This also makes the law considerably easier to administer and explain to drivers. In working on one individual case that recently arose, however, DMV discovered an inconsistency between the regulations that needs to be corrected.

Currently, DMV is treating convictions for parking on a highway under ss. 346.475, 346.51(1) and 346.52(1)(f), Stats., as moving violations and assessing two demerit points per violation. In contrast, parking convictions under s. 346.51(1), Stats., are not treated as moving violations and no demerit points are assessed for those violations. Parking is not a moving violation; it is the exact opposite – a violation that occurs when vehicle operation ceases. Accordingly, parking violation should not extend GDL restrictions. (See s. 343.085(2m)(b)1.a., Stats.)

A further ambiguity in Ch. Trans 101 that needs to be addressed is related to offenses that occur on a highway but outside of traffic lanes. Section Trans 101.02(4)(d) assesses two demerit points for parking on a highway in a traffic lane. No demerit points are assessed for parking on a highway but off the roadway under s. Trans 101.02(5)(sm). The rule does not address parking that falls into neither category: parking on a highway, on a roadway, but outside of a traffic lane. When ch. Trans 101 was first promulgated, there were few paved shoulders on state highways, so this inconsistency would not have been important. Today, however, such violations are not uncommon and the rule should specify the demerit point repercussions of such violations.

DMV's current practice of attempting to distinguish between on and off roadway parking or between in and out of traffic lane parking is problematic. Because the offenses themselves do not include these items as elements of the offense, DMV is forced to attempt to discern the nature of the charge from other paperwork submitted by police, by asking courts, or various other burdensome mechanisms.

For consistency with GDL restrictions and for administrative efficiency, the Department proposes to eliminate demerit point repercussions for those parking offenses that are not already demerit point exempt: offenses committed on highway roadways.

A separate and distinct issue to be addressed in this proposed rule making relates to the determination of whether a person can be subject to more than one license withdrawal for

a single conviction. DMV recently amended ch. Trans 101 to provide that convictions that result in a license withdrawal will generally not be used in a point case to affect the driver's license a second time. There are a number of exceptions to that rule: CDL disqualification actions under s. 343.315, Stats.; withdrawals related to failure to pay the citation; and withdrawals under the a habitual traffic offender law. The Department proposes in this rule making to permit "reuse" of convictions for serious traffic violations committed by an occupational license holder. Occupational license holders whose operating privileges are suspended for committing a serious traffic violation could also be subject to a demerit point suspension for that offense and any other offenses committed within a one-year period from the date of that offense.

***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:***

**Amendment #1**—Amend ch. Trans 101 so that demerit points are not assessed for any parking offenses.

The alternative would be to permit assessment of demerit points for these offenses but change DMV computer systems in a manner that disconnects the current parallel between demerit point assessment and Graduated Driver License repercussions. Such programming would be extremely expensive and of little public benefit. It would also make explaining the system to the public much more difficult. At present, drivers understand that so long as no demerit points are assessed for an offense, they don't have GDL concerns. Disconnecting the two will require drivers (and all persons in the criminal justice system dealing with driver licensing) to keep track of separate lists of offenses of import for demerit point and GDL purposes.

**Pros:** The Department's proposal to eliminate demerit points for parking offenses is simple to understand, consistent with statutes, and inexpensive to implement. Implementing the change saves significant costs in reprogramming computer systems and eliminates a process of reviewing citations by hand in DMV offices.

**Cons:** Parking in a travel lane is dangerous. It is unlikely, however, that assessment of demerit points for that offense has much deterrent value. Drivers who are not concerned about the safety of their vehicles probably aren't worried about receiving 2 demerit points, either.

**Amendment #2** — Permit demerit points assessed for serious traffic offenses that trigger suspensions of occupational licenses to be used in demerit point cases and potentially trigger a demerit point suspension in addition to the occupational license suspension.

**Pros:** The Department's proposal to allow use of serious traffic violations to suspend occupational licenses and trigger demerit point cases is consistent with statutes and inexpensive to implement. Implementing the change saves significant costs in reprogramming computer systems.

**Cons:** The proposal complicates rather than simplifies the already complicated demerit point system.

**STATUTORY AUTHORITY FOR THE RULE:**

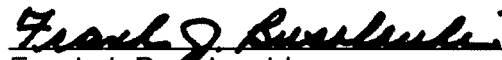
Proposed Amendment #1: Section 343.085(2m)(b)1.a., Stats.

Proposed Amendment #2: Section 343.32(2), Stats.

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

5 hours

Signed at Madison, Wisconsin, this 23<sup>rd</sup> day  
of June, 2009.

  
\_\_\_\_\_  
Frank J. Busalacchi  
Secretary  
Wisconsin Department of Transportation





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

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July 3, 2009

Mr. Bruce Hoesly  
Legislative Reference Bureau  
One East Main, Suite 200  
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULE MAKING, TRANS 148**

Dear Mr. Hoesly:

Enclosed is the Statement of Scope for the proposed amendment to ch. Trans 148. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

Julie A. Johnson  
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director  
Representative Josh Zepnick, Co-Chair/JCRAR  
Senator Jim Holperin, Co-Chair/JCRAR  
Casey Newman  
Mike Goetzman  
Lynne B. Judd  
Bev Schwartz  
Carson Frazier



## **STATEMENT OF SCOPE**

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

2009 Assembly Bill 75, the biennial budget bill, proposes to create ss. 342.19(2)(a)2., 342.22(1)(b) and 342.245, Stats., which will require a non-individual lien holder to file and release a security interest in a motor vehicle using an electronic process prescribed by the Department. Section 342.245(4), Stats., requires the Department to promulgate rules to implement the provisions. Section 342.245(3), Stats., authorizes the Department to exempt certain persons or transactions by rule, and requires exempted persons to pay the Department a fee for processing security interest applications and releases. The proposed rule establishes policy and procedures for an electronic lien and titling system, and establishes the amount of the processing fee under s. 342.245(3), Stats., to be paid to the Department by a person exempted from electronic filing and release of the security interest statement.

### ***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:***

This rule making will: (1) implement and administer the requirement for non-individual lien holders to file and release electronically a security interest in a vehicle; (2) specify what categories of non-individual lien holders are not required to file and release a security interest electronically under the new law, or for which types of transactions a non-individual lien holder would be exempted from filing or releasing electronically a security interest in a vehicle; and (3) establish what fee will be charged to non-individual lien holders, in various circumstances, including not only those non-individual lien holders or types of transactions that are exempted by DOT, but also non-individual lien holders who fail to comply with the law. The law and administrative rule are expected to be effective July 1, 2010.

While the requirement to file and release electronically a security interest statement will be a new law, the Department is guided by similar experience implementing the 2005 Wis. Act 25 requirement that motor vehicle dealers process electronically title applications for vehicles they sell. That requirement is implemented in ch. Trans 141.

In developing the policies and procedures in this rule, the Department will consider policies, procedures, and fees established in ch. Trans 141 that apply to motor vehicle dealers. The Department will consider circumstances with regard to the new law that are similar and different from those addressed in ch. Trans 141. These circumstances include, as examples only and are not limited to, number of security interests placed and released annually by a non-individual lien holder, business practices that non-individual lien holders may have to protect the security interest, amount of work that security interest placement and release require of a non-individual lien holder, the cost to non-individual lien holders for equipment and communication links, cost to DMV to process transactions that non-individual lien holders do not process, amount of the processing fee relative to the statutory fee for placing and releasing a security interest, and similar variables.

Because the law underlying this rule making is not yet enacted, the Department will not submit a draft rule to the Legislative Council before enactment of the biennial budget act.

**SUMMARY AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:**

While no federal regulations directly govern the state's procedure for filing security interest on a vehicle, the proposed rule will comply with any applicable federal law and regulations governing interstate commerce.

**DESCRIPTION OF ALL OF THE ENTITIES THAT MAY BE AFFECTED BY THE RULE:**

Financial institutions and other businesses that perfect and remove security interests from vehicles; purchasers and owners of motor vehicles who grant a security interest in the vehicle.

**STATUTORY AUTHORITY FOR THE RULE:**

s. 342.245(3) and (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:**

200 hours

Signed at Madison, Wisconsin, this 3<sup>rd</sup> day of June, 2009.



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FRANK J. BUSALACCHI  
Secretary  
Wisconsin Department of Transportation