

Report From Agency

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

CR 10-099

The Wisconsin Department of Transportation proposes an order to amend TRANS 178.02(2) and 178.03(1); and to create TRANS 178.04(1)(a)1.(note), relating to the Unified Carrier Registration System

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

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

- Part 1--Analysis prepared by the Department of Transportation.
- Part 2--Rule text in final draft form.
- Part 3--Recommendations of the Legislative Council.
- Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:

/s/

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PART 1
Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 194.407, Stats., as created by 2007 Wis. Act 20

Statutory authority: s. 194.407 (1) and (3), Stats., as created by 2007 Wis. Act 20

Explanation of agency authority: Section 194.407, Stats., authorizes the Department to implement and administer a unified registration system for motor carriers consistent with 49 USC 13908 and 14504a, and to prescribe annual fees for that registration.

Related statute or rule: Section 194.407, Stats., 49 USC 13908 and 14504a, 49 CFR 367.

Plain language analysis: Chapter Trans 178 establishes the fees to be charged under the Unified Carrier Registration (UCR) system, and establishes a method for counting the number of vehicles so that an entity knows whether it is required to register under UCR and, if so, which fee bracket applies to the entity.

The Federal Motor Carrier Safety Administration published in the Federal Register on April 27, 2010 a changed schedule of fees. As provided in s. Trans 178.03(2), on May 6, 2010, the Department sent notice of the changed fees to the chairpersons of the standing committees of the legislature having jurisdiction over transportation. Neither committee chairperson notified the secretary of transportation within 14 working days after that notice that the committee had scheduled a meeting for the purpose of reviewing the fees. The Department implemented the new fees on May 27, 2010. The proposed rule replaces the prior fee schedule with the new fee schedule.

In addition, the proposed rule removes the reference to towed vehicles in the definition of commercial motor vehicle for the purposes of the UCR to conform to federal law. Originally, UCR included towed vehicles (trailers) in the definition of commercial motor vehicles for the purposes of UCR; subsequently, federal law eliminated towed vehicles from the definition.

Summary of, and preliminary comparison with, existing or proposed federal regulation: This proposed rule complies and is consistent with federal law and regulations pertaining to the Unified Carrier Registration system.

Comparison with Rules in Adjacent States:

Michigan: Michigan participates in UCR. Michigan charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

Minnesota: Minnesota participates in UCR. Minnesota charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

Illinois: Illinois participates in UCR. Illinois charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

Iowa: Iowa participates in UCR. Iowa charges the 2010 fees as required by federal law and regulation and the UCR Agreement.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: This proposed rule is derived solely from federal law, federal regulation and Unified Carrier Registration Agreement, both of which are authorized by 49 USC 13908 and 14504a and implement those sections. If Wisconsin does not follow federal law, federal regulation, and the Unified Carrier Registration Agreement, Wisconsin may not participate in the UCR program. If Wisconsin does not participate in the UCR program, Wisconsin will forfeit revenues from carrier registration pursuant to federal law.

Analysis and supporting documentation used to determine effect on small businesses: This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any effect on small businesses is a result of federal law, federal regulation and the Unified Carrier Registration Agreement.

Effect on small business: The fees charged under federal law, federal regulation, and Unified Carrier Registration Agreement will affect some small businesses by increasing the amount of annual registration fee. The new fee schedule increases all fees by just less than 96%. These fees are established under federal law at 49 CFR 367.20 but may be revised annually by publication in the federal register. If Wisconsin does not charge these fees, small businesses that operate affected trucks and trailers outside this state will nevertheless be required to pay these same fees to other states. 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: This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any 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 is a result of federal law, federal regulation and the Unified Carrier Registration Agreement. The Unified Carrier Registration Agreement authorizes states to exempt solely intra-state carriers and qualified school buses from the registration fee, and the Department has made registration and payment of the fees optional for those entities.

Anticipated costs incurred by private sector: This proposed rule is derived solely from federal law, federal regulation, and Unified Carrier Registration Agreement. Any cost incurred by the private sector is a result of federal law, federal regulation and the Unified Carrier Registration Agreement. The fee schedule increases all fees by just less than 96%.

Agency contact person and copies of proposed rule: Copies of the proposed rule may be obtained, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 253, 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@wisconsin.gov.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 178.02(2) is amended to read:

Trans 178.02 **(2)** “Commercial motor vehicle,” as defined in 49 USC 31101, means a self-propelled ~~or towed~~ vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle meets any of the following criteria:

SECTION 2. Trans 178.03(1) is amended to read:

Trans 178.03 **(1)** Except as provided in sub. (2), as provided in 49 CFR 367.20, fees for registration year ~~2007~~ 2010 and thereafter are as follows:

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for broker or leasing company
B1	0-2	\$39 76	\$39 76
B2	3-5	\$116 227	\$39 76
B3	6-20	\$231 452	\$39 76
B4	21-100	\$806 1,576	\$39 76
B5	101-1,000	\$3,840 7,511	\$39 76
B6	1,001 and above	\$37,500 73,346	\$39 76

SECTION 3. Trans 178.04(1)(a)1.(note) is created to read:

Trans 178.04 **(1)(a)1.(note)** Note: As stated in s. Trans 178.02(2), a commercial motor vehicle for purposes of UCR does not include a towed vehicle. Therefore, a carrier should exclude any towed vehicles reported on the MCS-150.

(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 27th day
of **September**, 2010.

_____/s/
FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

LEG. COUNCIL COMMENTS GO HERE

PART 4
CR 10-099

ANALYSIS OF FINAL DRAFT OF TRANS 178

(a) **Basis and Purpose of Rule.** Chapter Trans 178 establishes the fees to be charged under the Unified Carrier Registration (UCR) system, and establishes a method for counting the number of vehicles so that an entity knows whether it is required to register under UCR and, if so, which fee bracket applies to the entity.

The Federal Motor Carrier Safety Administration published in the Federal Register on April 27, 2010 a changed schedule of fees. As provided in s. Trans 178.03(2), on May 6, 2010, the Department sent notice of the changed fees to the chairpersons of the standing committees of the legislature having jurisdiction over transportation. Neither committee chairperson notified the secretary of transportation within 14 working days after that notice that the committee had scheduled a meeting for the purpose of reviewing the fees. The Department implemented the new fees on May 27, 2010. The proposed rule replaces the prior fee schedule with the new fee schedule.

In addition, the proposed rule removes the reference to towed vehicles in the definition of commercial motor vehicle for the purposes of the UCR to conform to federal law. Originally, UCR included towed vehicles (trailers) in the definition of commercial motor vehicles for the purposes of UCR; subsequently, federal law eliminated towed vehicles from the definition.

(b) **Modifications as a Result of Testimony at Public Hearing.** Notice of intent to adopt this proposed rule without public hearing was given under the procedure set forth in s. 227.16(2)(e), Stats. No one petitioned for a public hearing and no public hearing was held.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No hearing was held.

(d) **Summary of Public Comments and Agency Response to those Comments.** No comments were submitted.

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

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained one comment that suggested the Department conclude the rule preface with a statement of the place where comments about the rule may be submitted and a deadline for submission of the comments. The Department made the recommended changes to the proposed rule posted to its internet administrative rule

website until the expiration of the 30-day deadline for which to receive petitions to hold a hearing. Neither petitions nor comments were received.

(g) **Final Regulatory Flexibility Analysis**. The fees charged under federal law, federal regulation, and Unified Carrier Registration Agreement will affect some small businesses by increasing the amount of annual registration fee. The new fee schedule increases all fees by just less than 96%. These fees are established under federal law at 49 CFR 367.20 but may be revised annually by publication in the federal register. If Wisconsin does not charge these fees, small businesses that operate affected trucks and trailers outside this state will nevertheless be required to pay these same fees to other states.