

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

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: Ch. 194, Stats.

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

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

Related statute or rule: s. 110.07, Stats.

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

In addition, the adoption of Trans 325 and 326 will give the Department the authority to use federal standards by which traffic officers and state patrol inspectors declare vehicles and drivers out of service. The offices of the Attorney General and the Revisor of Statutes Bureau have consented to the incorporation by reference of the revised North American Uniform Out-of-Service Criteria under the provision of § 227.21(2), Stats.

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

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

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

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

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

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

Copies of Rule. Copies of this rule can be obtained, without cost, by writing to Charles Teasdale, Division of State Patrol, 4802 Sheboygan Avenue, Room 551, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 266-0305. Alternate formats of the rule will be available to individuals upon request.

TEXT OF RULE

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

Trans 325.02 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on January 4, ~~2004~~ 1, 2006, are adopted by the department and shall be enforced

in relation to those carriers, drivers or vehicles to which these rules apply in the same manner as though the regulations were set out in full in this chapter:

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

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

Trans 326.01 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on January 4, ~~2004~~ 1, 2006, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these federal rules apply in the same manner as though the regulations were set out in full in this chapter:

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

(END OF RULE TEXT)

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

Signed at Madison, Wisconsin, this ____ day of April, 2006.

FRANK J. BUSALACCHI

Secretary
Wisconsin Department of Transportation