

CR 95-64

**CERTIFICATE**

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

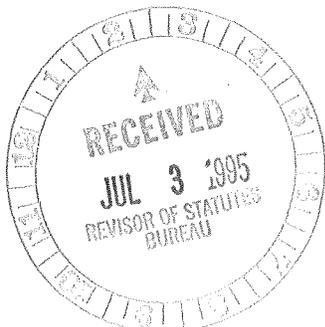
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **motor carrier safety requirements**, was duly approved and adopted by this Department on June 29, 1995.

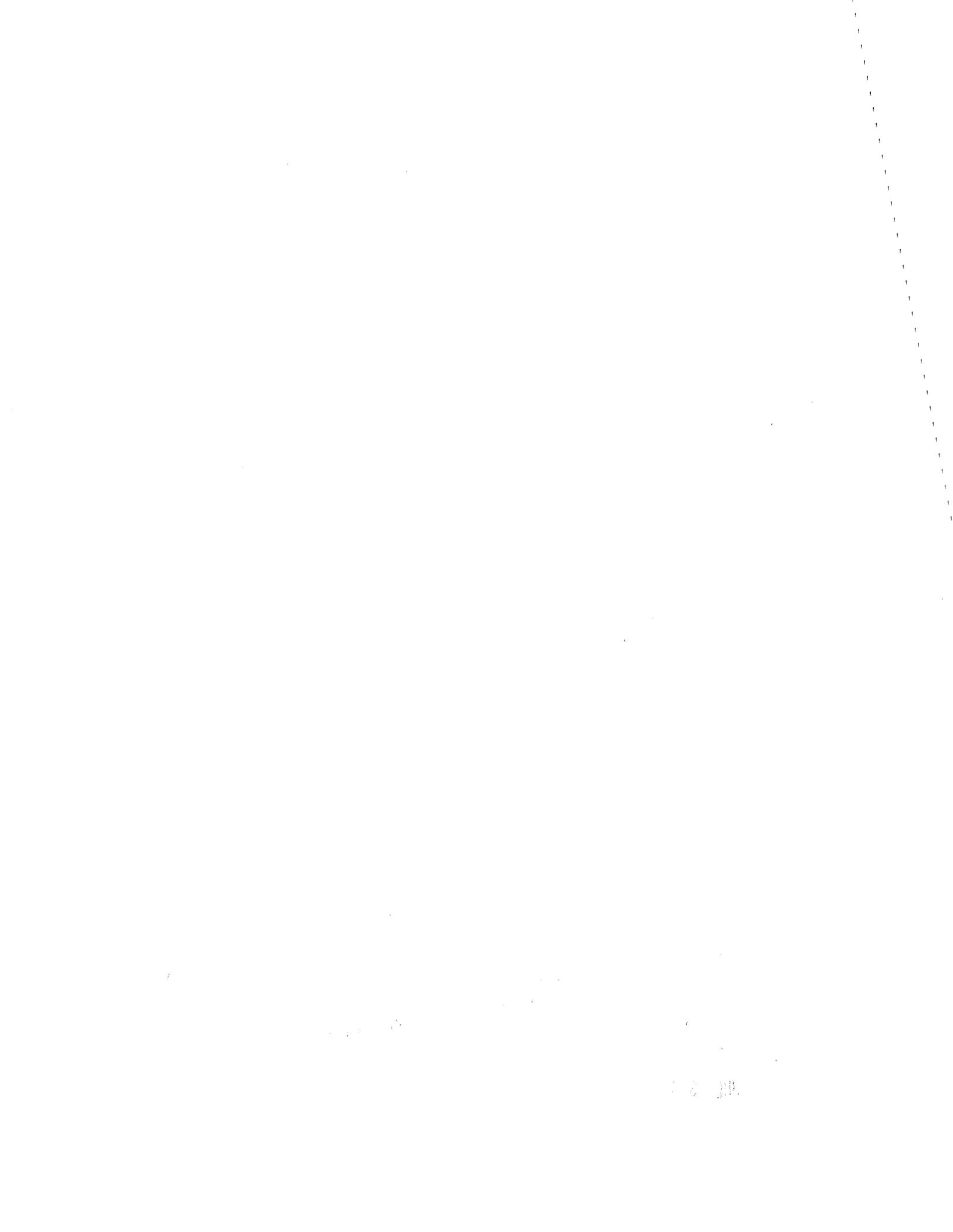
I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



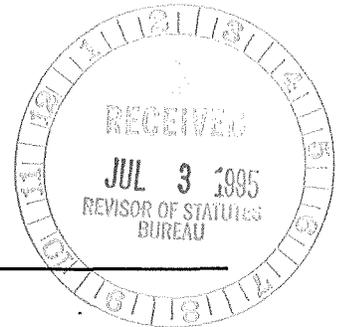
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 29 day of **June**, 1995.

*Charles H. Thompson*  
CHARLES H. THOMPSON  
Secretary





The Wisconsin Department of Transportation adopts an order to repeal TRANS 327.09(4)(d); renumber TRANS 327.01(1), (2)(a), (b) and (d) to (h); renumber and amend TRANS 327.01(2)(intro.) and (c), and 327.05(2) and 327.09(4)(c); amend TRANS 327.03(intro.), (1), (4) and (5), 327.05(1) and (4) to (6), 327.07(2), 327.09(2)(a), (3) and 327.13; repeal and recreate TRANS 327.01(intro.) and 327.09(2)(b); and create TRANS 327.01(2)(a), (c) and (d)9, 327.05(2), (3)(c) and (d), and 327.09(4)(c), (5)(a) to (d) and (6), relating to motor carrier safety requirements.

**ORDER ADOPTING RULE****Analysis Prepared by the Wisconsin Department of Transportation**

**STATUTORY AUTHORITY:** ss. 110.07, 110.075, 194.38, 194.43 and 227.11, Stats.

**STATUTE INTERPRETED:** ss. 110.07 and 110.075, Stats., and Chapter 194, Stats.

**General Summary of Rule.** Chapter Trans 327 adopted federal requirements governing motor carrier safety requirements.

Under Section 402 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 2302 (Public Law 97-424, January 6, 1983), the U.S. Secretary of Transportation was empowered to make grants to states for the development or implementation of programs to enforce federal regulations applicable to commercial motor vehicles. A portion of the provision in the Act is reproduced as follows:

**GRANTS TO STATES**

(1) Under the terms and conditions of this section, subject to the availability of funds, the Secretary is authorized to make grants to states for the development or implementation of programs for the enforcement of federal rules, regulations, standards and orders applicable to commercial motor vehicle safety and compatible state rules, regulations, standards and orders.

(2) The Secretary shall formulate procedures for any state to submit a plan whereby the state agrees to adopt and to assume responsibility for enforcing federal rules, regulations, standards and orders applicable to commercial motor vehicle safety, or compatible state rules, regulations, standards and orders. Such plan shall be

approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan--

- (a) Designates the state motor vehicle safety agency responsible for administering the plan throughout the state;
- (b) Contains satisfactory assurances that such agency has or will have the legal authority, resources and qualified personnel necessary for the enforcement of such rules, regulations, standards and orders;
- (c) Gives satisfactory assurances that such state will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards and orders;
- (d) Provides a right of entry and inspection sufficient to enforce such rules, regulations, standards and orders;
- (e) Provides that all reports required pursuant to this section be submitted to the state agency and that such agency make available upon request to the Secretary all such reports; and
- (f) Provides that such state agency will adopt such uniform reporting requirements and use such uniform forms for established and required by the Secretary.

In order to be eligible for these grants, it is necessary to apply the applicable federal standards on motor carrier safety to intrastate carriers. Therefore, this rule adopts significant portions of the following parts of Title 49 of the Code of Federal Regulations by reference:

- Part 390 Federal Motor Carrier Safety Regulations--General;
- Part 391 Qualification of Drivers;
- Part 392 Driving of Motor Vehicles;
- Part 393 Parts and Accessories Necessary for Safe Operation;
- Part 396 Inspection, Repair and Maintenance;
- Part 397 Transportation of Hazardous Materials; Driving and Parking Rules.

Certain provisions of the federal regulations are not included either because of conflict with present Wisconsin statutes or because the provisions are inapplicable. The provisions not included are 49 CFR § 391.11 which sets driver age at 21 (see s. 343.125(4)(a), Wis. Stats., establishing driver age at 18); 49 CFR § 391.41(b)(3) driver with diabetes controlled by insulin (see text pg. 4); 49 CFR § 391.69 governing drivers operating in Hawaii; 49 CFR § 392.16 use of seat belts (see s. 347.48(3), Wis. Stats., prohibition on seat belt rules); and 49 CFR § 393.42 brakes required on all wheels (see s. 347.35(1), Wis. Stats., regarding Wisconsin brake requirements).

These regulations are adopted and will be enforced under the provisions of chs. 110 and 194. Violations of ch. 110 and the rules adopted thereunder are punishable by a forfeiture of not less than \$10 nor more than \$200. Violations of ch. 194 are punishable by a forfeiture of not less than \$50 nor more than \$100. No demerit points may be assessed to a person's driving record for violations of these rules.

Trans 327 gives the Department the authority to use federal standards as the basis for State of Wisconsin Administrative Rules governing motor carrier safety for intrastate carriers. This rule will be enforced by the inspectors and troopers of the Wisconsin State Patrol and other law enforcement agencies.

**Fiscal Estimate.** The amendment to this rule will allow the Department of Transportation, Division of State Patrol, to qualify for up to \$1,383,652 in grants from the U.S. Department of Transportation for federal fiscal year 1994 and proceeding years.

**Final Regulatory Flexibility Analysis.** This rule can have an effect on small businesses. The Department will consider suggestions for reducing the impact of this rule on small businesses. To that end, the Department has provided broad notice of hearings and has conducted hearings throughout the state to enhance participation in the rule making process.

**Preparation and Contact Person.** This analysis was prepared by Joe Maassen, Deputy General Counsel, Wisconsin Department of Transportation, P.O. Box 7910, Madison, WI 53707 (608) 266-8810. The contact person is Lyle Walheim, Lieutenant, Wisconsin State Patrol, Wisconsin Department of Transportation, P.O. Box 7910, Madison, WI 53707 (608) 266-0305. **Alternate formats of the rule will be provided to individuals at their request.**

---

### TEXT OF RULE

Under the authority vested in the Wisconsin department of transportation by ss. 110.07, 110.075, 194.38, 194.43, and 227.11, Stats., the department hereby amends a rule interpreting ss. 110.07 and 110.075 and ch. 194, Stats., as follows:

**SECTION 1.** Trans 327.01(intro.) is repealed and recreated to read:

**Trans 327.01 DEFINITIONS.** (1) Words and phrases defined in s. 340.01, Stats., and 49 CFR part 390.5 have the same meaning in this chapter. However, the definition of a word or phrase in s. 340.01, Stats., except s. 340.01(8), Stats., shall apply when the word or phrase is defined in both s. 340.01, Stats., and 49 CFR part 390.5.

(2) In this chapter:

**SECTION 2.** Trans 327.01(1) is renumbered 327.01(2)(b).

**SECTION 3.** Trans 327.01(2)(intro.) is renumbered 327.01(2)(d)(intro.) and amended to read:

Trans 327.01(2)(d)(intro.) "On-duty time" means ~~all the~~ that time period from the time a driver begins to work until the time ~~he or she~~ the driver is relieved from work and all responsibility for performing work. The term "on-duty" time shall include:

**SECTION 4.** Trans 327.01(2)(a) and (b) are renumbered 327.01(2)(d)1 and 2.

**SECTION 5.** Trans 327.01(2)(a) is created to read:

Trans 327.01(2)(a) "Driver's record of duty status" means a form for all drivers, when required by this chapter, to record all off-duty time, on-duty time and driving time.

**SECTION 6.** Trans 327.01(2)(c) is renumbered 327.01(2)(d)3 and amended to read:

Trans 327.01(2)(d)3. All driving time as defined in ~~sub. (4)~~ subd. 2;

**SECTION 7.** Trans 327.01(2)(c) is created to read:

Trans 327.01(2)(c) "Emergency" means the result of any natural activities including, but not limited to, tornado, windstorm, thunderstorm, snowstorm, ice storm, blizzard, drought, mud slide, flood, high water, earthquake, forest fire, explosion, blackout or other occurrence, natural or manmade, which interrupts the delivery of essential services, such as electricity, medical care, sewer, water, telecommunication transmissions, or essential supplies, such as food and fuels, or otherwise threatens human life or public welfare.

**SECTION 8.** Trans 327.01(2)(d) to (h) are renumbered 327.01(2)(d)4 to 8.

**SECTION 9.** Trans 327.01(2)(d)9 is created to read:

Trans 327.01(2)(d)9. All time performing any compensated work for any nonmotor carrier entity.

**SECTION 10.** Trans 327.03(intro.), (1), (4) and (5) are amended to read:

**TRANS 327.03 FEDERAL REGULATIONS ADOPTED.** The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on November 1, ~~1986~~ 1994, 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 ~~rule~~ chapter:

(1) Title 49, Code of Federal Regulations, part 390, federal motor carrier safety regulations--general, except ~~390.17, 390.40, and 390.45~~ 390.23(a)(3);

(4) Title 49, Code of Federal Regulations, part 393, parts and accessories necessary for safe operation, except 393.42 shall not apply to vehicles placed in operation in common, contract or private carriage prior to ~~the effective date of this rule~~ June 1, 1987;

(5) Title 49, Code of Federal Regulations, part 396, inspection, repair and maintenance, except 396.17, 396.19, 396.21, 396.23 and 396.25;

**SECTION 11.** Trans 327.05(1) is amended to read:

**Trans 327.05 HOURS OF SERVICE OF DRIVERS.** (1) GENERAL. Except as provided in s. Trans 327.09(4), every intrastate motor carrier, its officers, drivers, agents, employes, and representatives shall comply with the ~~rules~~ provisions in this section, and

every intrastate motor carrier shall require that its officers, drivers, agents, employes, and representatives be conversant with the ~~rules~~ provisions in this section.

**SECTION 12.** Trans 327.05(2) is renumbered 327.05(3) and amended to read:

Trans 327.05(3) MAXIMUM DRIVING AND ON DUTY TIME. Except as provided in s. Trans 327.09, no motor carrier shall permit or require any driver ~~used by it~~ to drive nor shall any driver drive:

(a) More than ~~45~~ 12 hours following 8 consecutive hours off duty; ~~or,~~

(b) For any period after having been on duty ~~20~~ 16 hours following 8 consecutive hours off duty;

**SECTION 13.** Trans 327.05(3)(c) and (d) are created to read:

Trans 327.05(3)(c) After having been on duty for 70 hours in any period of 7 consecutive days.

(d) After having been on duty for 80 hours in any period of 8 consecutive days.

**SECTION 14.** Trans 327.05(2) is created to read:

Trans 327.05(2) REGULATORY GUIDANCE. The hours of service provisions in this chapter shall be interpreted in a manner consistent with the regulatory guidance provisions of 49 C.F.R. part 395 when applicable.

**SECTION 15.** Trans 327.05(4), (5) and (6) amended to read:

Trans 327.05(4) TRAVEL TIME. When a driver at the direction of a motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, the driver's traveling time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at his or her destination, in which case ~~he or she~~ the driver shall be considered off duty for the entire period.

(5)(title) DRIVER'S RECORD OF DUTY STATUS. Every motor carrier shall require every driver used by the motor carrier to record ~~his or her~~ the driver's duty status, for each 24-hour period. All drivers records of duty status shall be maintained by each motor carrier for a period of 6 months. Every driver who operates a motor vehicle shall record ~~his or her~~ the driver's duty status, for each 24-hour period. Upon request of a traffic officer or state patrol inspector, each driver shall produce ~~his or her~~ the driver's duty status record covering the current 24-hour period.

(6) DRIVERS DECLARED OUT OF SERVICE. Every traffic officer and state patrol inspector, as set forth in s. 110.07, Stats., is authorized, except in the case of an emergency, to declare a driver out of service and to notify the motor carrier of that declaration, upon finding that a driver has been driving or been on duty in excess of the maximum period permitted in sub. (2).

**SECTION 16.** Trans 327.07(2) is amended to read:

Trans 327.07(2) The provisions of ss. Trans 327.03(2), (3), and (6), and 327.05 shall be enforced under the ~~provision~~ provisions of ss. 194.38 and 194.43, Stats.

**SECTION 17.** Trans 327.09(2)(a) is amended to read:

Trans 327.09(2)(a) Drivers who operate motor vehicles which have a manufacturer's gross vehicle weight rating equal to or less than 26,000 pounds, except that this provision does not apply to vehicles transporting hazardous materials requiring placarding or vehicles transporting 16 or more passengers including the driver.

**SECTION 18.** Trans 327.09(2)(b) is repealed and recreated to read:

Trans 327.09(2)(b) Drivers who have met state medical qualifications and have been issued a valid Wisconsin commercial driver's license, or CDL, prior to July 29,

1996, which has not been revoked, and who continue to meet state medical requirements as found in ch. Trans 112.

**SECTION 19.** Trans 327.09(3) is amended to read:

Trans 327.09(3) The provisions of s. Trans 327.03(6) do not apply to drivers and vehicles transporting hazardous materials by a motor vehicle which is not required to be ~~marked or~~ placarded.

**SECTION 20.** Trans 327.09(4)(c) is renumbered 327.09(5)(intro.) and amended to read:

Trans 327.09(5)(~~e~~) ~~Drivers~~ The provisions of s. Trans 327.05(5) do not apply to drivers of vehicles operating within an area having a ~~400~~ 150 air mile radius from the drivers' home post office or a ~~400~~ 150 air mile radius from the official worksite of the vehicle. if:

**SECTION 21.** Trans 327.09(5)(a) to (d) are created to read:

Trans 327.09(5)(a) The driver returns to the work reporting location and is released within 12 consecutive hours.

(b) At least 8 consecutive hours off duty separate each 12 hours on duty.

(c) The driver does not exceed 12 hours maximum driving time following 8 consecutive hours off duty.

(d) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:

1. The time the driver reports for duty each day.
2. The total number of hours the driver is on duty each day.
3. The time the driver is released from duty each day.

**SECTION 22.** Trans 327.09(4)(c) is created to read:

Trans 327.09(4)(c) Drivers of tow trucks as defined in s. 340.01(67n), Stats., operating at the request of a law enforcement officer.

**SECTION 23.** Trans 327.09(4)(d) is repealed.

**SECTION 24.** Trans 327.09(6) is created to read:

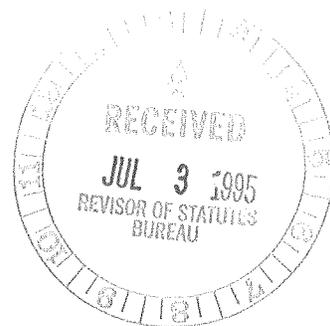
Trans 327.09(6) The provisions of ss. Trans 327.03(2) and 327.05 do not apply to drivers of motor vehicles when transporting property or passengers during a declared emergency as defined in s. Trans 327.01(2)(c). Each employer must declare and document that the emergency is necessary to assure the protection of public health and safety or to provide other essential assistance to the public. Each employer shall maintain such documentation for one year and shall make it available upon request of a traffic officer or state patrol inspector.

**SECTION 25.** Trans 327.13 is amended to read:

**Trans 327.13 COPIES OF FEDERAL REGULATIONS.** The department shall advise carriers that copies of the federal regulations cited in s. Trans ~~327.04~~ 327.03 may be obtained by contacting the division of state patrol, Wisconsin department of transportation.

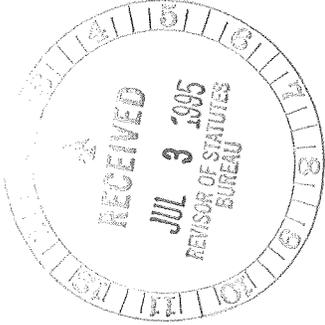
**(END OF RULE TEXT)**

---



**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), Stats.

Signed at Madison, Wisconsin, this 29 day of June, 1995.



*Charles H. Thompson*  
CHARLES H. THOMPSON  
Secretary  
Wisconsin Department of Transportation