

CR 86-175

CERTIFICATE

STATE OF WISCONSIN )  
 ) s.s.  
DEPARTMENT OF TRANSPORTATION )

RECEIVED

APR 9 1987

8:45 am  
Revisor of Statutes  
Bureau

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Ronald R. Fiedler, 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 April 7, 1987.

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, this 7th day of April, 1987.

*for* Ronald R. Fiedler, Deputy  
RONALD R. FIEDLER, P.E.  
Secretary

## OFFICE OF THE SECRETARY

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IN THE MATTER OF THE ADOPTION OF \*  
 A RULE TO CREATE CHAPTER TRANS \*  
 327, WISCONSIN ADMINISTRATIVE \* ORDER ADOPTING RULE  
 CODE, RELATING TO MOTOR CARRIER \*  
 SAFETY REQUIREMENTS. \*

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Analysis Prepared by the Wisconsin Department of Transportation

General summary of rule. These rule provisions adopt federal requirements governing motor carrier safety requirements.

Under §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

(a) 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.

(b)(1) 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;

(F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

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 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 set 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.

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

Fiscal estimate. The adoption of this rule will allow the Department of Transportation, Division of State Patrol, to qualify for up to \$468,000 in grants from the U.S. Department of Transportation for federal fiscal year 1987 (October 1, 1986-September 30, 1987).

Initial Regulatory Flexibility Analysis. This rule can have an effect on small businesses. The department will consider suggestions for reducing the impact of the rule on small businesses. To that end the department intends to provide broad notice of hearing and has conducted hearings throughout the state to enhance participation in the rulemaking process.

This analysis was prepared by Joe Maassen, Assistant General Counsel, Wisconsin Department of Transportation, P.O. Box 7910, Madison, WI 53707. (608) 266-8810.

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

SECTION 1. Trans 327 is created to read:

TRANS 327

MOTOR CARRIER SAFETY REGULATIONS

Trans 327.01 DEFINITIONS. Along with words and phrases defined in s. 340.01, Wis. Stats., the following definitions shall apply in the interpretation of this chapter:

(1) "Driving time" shall include all time spent at the driving controls of a motor vehicle in operation.

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

(a) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

(b) All time inspecting equipment as required or otherwise inspecting, servicing, or conditioning any motor vehicle at any time;

(c) All driving time as defined in paragraph (2) of this section;

(d) All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth;

(e) All time loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(f) All time spent performing the driver requirements and relating to accidents;

(g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

(h) All time performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier.

(4) "Twenty-four hour period" means any 24 consecutive hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

Trans 327.03 FEDERAL RULES ADOPTED. The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on November 1, 1986, 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:

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

(2) Title 49, Code of Federal Regulations, part 391, qualifications of drivers, except 391.11(b)(1), and 391.41(b)(3) if, in the alternative a driver with diabetes controlled by insulin obtains statements from 2 licensed physicians indicating, on a form provided by the department of transportation, that the diabetes is not likely to cause loss of ability to control or operate a motor vehicle, and 391.69;

(3) Title 49, Code of Federal Regulations, part 392, driving of motor vehicles, except 392.16;

(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;

(5) Title 49, Code of Federal Regulations, part 396, inspection, repair and maintenance;

(6) Title 49, Code of Federal Regulations, part 397, transportation of hazardous materials; driving and parking rules.

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

(2) 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 15 hours following 8 consecutive hours off duty; or

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

(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 traveling time shall be counted as on-duty time unless the driver is afforded at least 8

consecutive hours off duty when arriving at destination, in which case he or she shall be considered off duty for the entire period.

(5) DRIVERS RECORD OF DUTY STATUS. Every motor carrier shall require every driver used by the motor carrier to record his or her duty status, for each 24-hour period. Every driver who operates a motor vehicle shall record his or her duty status, for each 24-hour period. Upon request of a traffic officer or state patrol inspector each driver shall produce his or her duty status record covering the 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 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).

Trans 327.07 ENFORCEMENT. (1) The provisions of s. Trans 327.03(4) and (5) shall be enforced under the provisions of ss. 110.07 and 110.075, Stats.

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

Trans 327.09 EXEMPTIONS. (1) The provisions of s. Trans 327.03 do not apply to a driver or school bus when the school bus is being used for authorized educational or extracurricular or charter activities.



(2) The provisions of s. Trans 327.03(2) do not apply to the following:

(a) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds.

(b) Drivers of vehicles operating within an area having a 100 air mile radius from the drivers' home post office or a 100 air mile radius from the official worksite of the vehicle.

(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.

(4) The provisions of s. Trans 327.05 do not apply to the following:

(a) Drivers of authorized emergency vehicles as defined in s. 340.01(3), Wis. Stats.

(b) Drivers who operate motor vehicles which have a manufacturers' gross vehicle weight rating equal to or less than 26,000 pounds.

(c) Drivers of vehicles operating within an area having a 100 air mile radius from the drivers' home post office or a 100 air mile radius from the official worksite of the vehicle.

(d) Drivers of motor vehicles used exclusively to transport mail under contract with the U.S. postal service.

Trans 327.11 DEMERIT POINTS NOT APPLICABLE. No demerit points may be assessed for violations of the regulations adopted in this chapter.

Trans 327.13 COPIES OF REGULATIONS. The department shall advise carriers that copies of the federal regulations cited in s. Trans 327.01 may be obtained by contacting the Division of State Patrol, Wisconsin Department of Transportation.

(END)

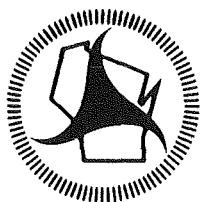
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This rule shall take effect upon the first day of the month following publication as provided in s. 227.22(2) (intro.), Wis. Stats.

Dated at Madison, Wisconsin, this  
7th day of April, 1987.

*for* Donald H. Oengricher, Deputy

Ronald R. Fiedler, P.E.  
Secretary  
Wisconsin Department of  
Transportation



## Wisconsin Department of Transportation

OFFICE OF GENERAL COUNSEL

4802 Sheboygan Avenue

P.O. Box 7910

Madison, WI 53707-7910

Telephone: (608) 266-8810

April 8, 1987

Mr. Gary Poulson  
Assistant Revisor of Statutes  
30 West Mifflin Street  
Suite 904  
Madison, Wisconsin 53703

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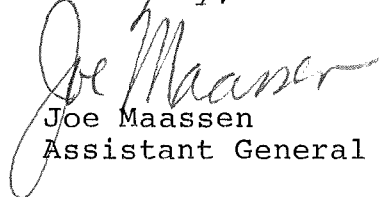
Revisor of Statutes  
Bureau

RE: Clearinghouse Rule 86-175  
In the Matter of the Adoption  
of TRANS 327, Wis. Admin. Code,  
Relating to Motor Carrier Safety  
Requirements

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of CR 86-175, an administrative rule relating to motor carrier safety requirements. An additional, uncertified copy of CR is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

  
Joe Maassen  
Assistant General Counsel

JM:dlm  
Enclosures  
CC: Tom Walker  
Maynard Schneider