

Chapter OCT 2

MOTOR CARRIERS

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Note: Chapter TC 2 was renumbered ch. OCT 2 effective September 1, 1986.

OCT 2.001 Definition. For purposes of this chapter:

(1) "Office" means the office of the commissioner of transportation.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.01 Applications for motor carrier authority. (1) Applications for motor carrier authority may be obtained from the Office of the Commissioner of Transportation, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, P.O. Box 7957, Madison, Wisconsin 53707-7957.

(2) The applications shall include the following information:

(a) The name or names of the applicant as shown on the certificate of insurance required by ch. Trans 176 to be filed with the Wisconsin department of transportation, their social security number and date of birth.

(b) The applicant's principal place of business.

(c) Information on the applicant's financial status; its past experience in the transportation industry, including safety and service; and whether the applicant or its principals have been convicted of a felony within the past 5 years. If the applicant or its principals have been convicted of a felony within the past 5 years, a summary of the circumstances of the conviction. This summary shall include the offense involved, where the offense took place and the name of the court which rendered the verdict, the disposition of the case or present status of the convicted applicant or its principals and any other relevant information concerning the conviction.

(3) All information contained in the application shall be verified by the applicant or the applicant's legal representative.

(4) All original application materials shall be retained permanently by the office.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1), (2) (a) and (c), r. and recr. (4), Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.015 Review of and determination on applications. (1) If a "complete application" is received by the office, review and final determination shall be made within 10 working days. The time period specified in

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this subsection shall be calculated beginning the day the complete application is received by the office.

(2) If an application is received by the office which is incomplete in some manner, the applicant shall be notified. The notification shall explain why the application is incomplete and indicate what actions are necessary to be taken by the applicant. The applicant shall have 45 days from the date of notification by the office to complete the application. If the application is completed within the time period specified in this subsection, then review and determination as provided for in sub. (1) shall occur. If the application is not completed within the time period specified in this subsection, then the application and all supporting materials will be returned to the applicant.

(3) For purposes of this section, "complete application" means an application:

(a) Which contains all the information required in s. OCT 2.01 (2);

(b) On which the department of transportation has indicated that the insurance requirements of ss. 194.41 and 194.42, Stats., have been fulfilled;

(c) Which indicates compliance with the fitness and ability requirements of ch. 194, Stats.; and

(d) Which is accompanied by the appropriate fee as set forth in s. 194.04, Stats.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.02 Change of address. A carrier authorized under ch. 194, Stats., shall notify the office in writing of a change in their principal place of business within 30 days of the change.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.025 Corporate name change. A carrier authorized under ch. 194, Stats., which changes its corporate name shall file a copy of the articles of amendment or restated articles of incorporation filed in the office of the secretary of state pursuant to s. 180.54 or 180.827, Stats. Upon receipt of the documents required in this section, the office shall issue an amended authority in the new corporate name. No fee shall be charged for issuance of an amended authority under this section.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.03 Modification or transfer of ownership. (1) A carrier authorized under ch. 194, Stats., shall file an amended application which indicates a modification or transfer of ownership prior to the modification or transfer becoming effective if:

(a) In the case of a sole proprietorship,

1. A partnership is created;

2. A corporation is organized; or

3. A transfer is made to the transferor's spouse

(b) In the case of a partnership,

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1. Individual partners are added or eliminated; or
 2. A corporation is organized.
- (c) In the case of a corporation, the corporation is dissolved and the ownership reverts to the incorporators of the dissolved corporation.
- (2) The office may approve a modification or transfer of ownership under this section if it finds:
- (a) That the authority to be modified or transferred is in good standing and is not abandoned under s. OCT 2.07; and
 - (b) That, in the case of a transfer under sub. (1) (a) 3, the proposed transferee is fit, willing and able to provide the transportation authorized.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. and rec. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.04 Application fees. (1) No application fee shall be collected for:

- (a) An application to transport commodities exempted from regulation by the interstate commerce commission.
- (b) An amended application filed pursuant to s. OCT 2.03, provided that the original authority is canceled and a new authority is substituted therefor. When a new authority is issued under this subsection a new "licensed carrier" (L.C.) number will also be issued.

(2) Whether or not applications for different authorities are combined, the applicable fee shall be collected for each authority applied for.

(3) An application for authority to transport passengers and property in buses requires only one fee.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (1) (b), Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.05 Lease of motor vehicles. (1) No motor carrier authorized under ch. 194, Stats., shall operate a leased power unit or a power unit interchanged with another carrier on the highways of Wisconsin without complying with the provisions of subs. (2) through (7) except for:

(a) Power units utilized in interstate transportation only, and operated solely and exclusively within any municipality, contiguous municipality or commercial zone as defined by the interstate commerce commission.

(b) Carriers whose operations in interstate commerce are performed exclusively in conformity with a plan approved by the interstate commerce commission exempting them from interstate commerce commission lease and interchange rules.

(2) The lease shall be in writing and shall include:

- (a) Name of the lessor and lessee.
- (b) Year, make and identification, motor or serial number of the motor vehicle as shown on the registration card issued for such vehicle.
- (c) The date of the lease.

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(d) The period of the lease.

(e) Any restrictions.

(f) Statement that the lessee is fully responsible to the public, the shippers and the regulatory agencies having jurisdiction during the period of the lease.

(3) An interchange agreement shall include the following:

(a) The name of the parties to the agreement.

(b) The year, make and identification, motor or serial numbers of the motor vehicle as shown on the registration card issued for such vehicle.

(c) The point of interchange.

(d) The period of the interchange.

(e) Any restrictions.

(f) Statement that the carrier who receives the power unit is fully responsible to the public, the shippers and the regulatory agencies having jurisdiction during the period of the interchange.

(4) A copy of the lease or interchange agreement shall be carried in the power unit specified therein during the entire period of the lease or agreement and such lease or agreement shall be made available for inspection immediately upon the request of any law enforcement officer.

(5) Any lease or interchange agreement meeting the requirements of the interstate commerce commission in cases involving interstate commerce, will be deemed sufficient to meet the requirements of subs. (2) and (3) notwithstanding any provision herein to the contrary.

(6) For the purpose of this section only, a carrier who subleases or interchanges power units it has on lease shall be considered the owner of the leased equipment for the purpose of subleasing or interchanging that equipment.

(7) The lease of equipment and drivers to private carriers for interstate and intrastate vehicle operations on Wisconsin highways shall be administered and enforced in accordance with the regulations of the interstate commerce commission pertaining to interstate operations.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; am. (6), Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.06 Copy of authority to be carried. A photocopy of a carrier's authority to operate intrastate and its authority to transport commodities interstate on the highways of Wisconsin if exempt from interstate commerce commission regulation shall be carried in its vehicles at all times while operating on the highways of Wisconsin and shall be made available for inspection immediately upon the request of any law enforcement officer.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82.

OCT 2.07 Abandoned authority. (1) A carrier authorized under ch. 194, Stats., shall be presumed to have abandoned authority where, for a period of 2 years, the carrier has not had on file an appropriate certificate for a policy of insurance or an approved contract of insurance as required by Register, August, 1986, No. 368

s. 194.41, Stats., or a current order exempting the carrier from the insurance undertaking requirements as provided by s. 194.42, Stats.

(2) Upon good cause being shown, a motor carrier may obtain permission from the office to suspend operation for a period of more than 2 years. Where permission is obtained under this subsection, a motor carrier authority shall be presumed to have been abandoned upon expiration of the granted suspension period unless the carrier requests a further suspension period or provides evidence of current operation.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.08 Authority revocation. A motor carrier authority granted under ch. 194, Stats., which is presumed to be abandoned under OCT 2.07 shall be revoked upon a finding, after notice to the carrier and an opportunity to be heard, that service under the motor carrier authority has been abandoned under the provisions of s. 194.46, Stats. Failure of a motor carrier to respond within 20 days after notice is given under this section shall result in a finding that the motor carrier authority has been abandoned and shall be revoked without hearing.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.09 Carriers entering armed forces. A motor carrier authority granted under ch. 194, Stats., held by any person who has entered the armed forces of the United States during a national war emergency shall not be presumed to have been abandoned under OCT 2.07 until 6 months after the authorized carrier's discharge from military service, or until a later date that the commissioner considers appropriate under the circumstances.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.10 Authority cancellation. A carrier authorized under ch. 194, Stats., who wishes to have its motor carrier authority cancelled shall notify the office in writing specifically requesting that the authority be cancelled. The request shall be signed by the carrier, its authorized agent or in the case of a partnership, the general partners. Upon receipt of an acceptable request to cancel an authority the authority shall be cancelled effective immediately.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.11 Revocation or suspension of authorities and permits. (1) The office, pursuant to s. 194.46, Stats., may revoke or suspend an authority or permit issued under ch. 194, Stats., if after opportunity to be heard the commissioner determines that the motor carrier:

(d) Does not have on file with the department of transportation proof of continuous bond or insurance coverage in the amounts specified in s. 194.41, Stats., or ch. Trans 176 or has not maintained a continuous exemption from insurance undertaking granted by the department of transportation as provided for in s. 194.42, Stats.

(b) Is unfit to carry on operations by reason of noncompliance with department of transportation motor carrier safety regulations.

(c) Is unfit to carry on operations by reason of its reliability and service records.

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(2) For purposes of sub. (1) (b) and (c), a pattern of safety violations or a pattern of unreliable or inadequate service will be sufficient to warrant suspension or revocation of an authority or permit.

(3) Any authority suspended under this section shall be reinstated upon expiration of the suspension period. In the case of a permit suspended under this section, the permit shall be reinstated upon expiration of the suspension period except in the case where the permit itself has expired. A motor carrier whose authority has been revoked under this section may apply for a new authority in the manner provided for in s. OCT 2.01 one year from the date of revocation.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.

OCT 2.12 Investigations. (1) The office may employ an investigator who shall enforce the provisions of ch. 194, Stats., and this chapter.

(2) Pursuant to s. 194.11, Stats., the investigator may at any time enter the facilities and other property located within this state occupied by any motor carrier and any motor vehicle operated in this state by any motor carrier.

(3) The investigator shall file with the office a report detailing the results of any investigation. Violations may be reported to the state patrol for the purpose of issuing citations or the investigator may file a complaint in the office of the district attorney in the county where the violation occurred. The report to the office may result in a hearing as provided for in s. OCT 2.11 to determine whether any motor carrier authorities or permits should be revoked or suspended.

(4) Any person may file with the office a complaint alleging a violation of ch. 194, Stats. After a complaint is filed on forms provided by the office, an investigation shall be carried out under this section.

History: Cr. Register, August, 1986, No. 368, eff. 9-1-86.