

CERTIFICATE

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Revisor of Statutes
Bureau

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 **Commercial Driver License Waivers**, was duly approved and adopted by this Department on December 10, 1992.

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 10 day of **December**, 1992.

Charles H. Thompson

CHARLES H. THOMPSON
Secretary

IN THE MATTER OF a rule REPEALING Trans 102.12, Chapter Trans 116 and Trans 117.10; AMENDING s. Trans 102.15(6)(intro.), and CREATING Trans 102.20, Wisconsin Administrative Code, relating to Commercial Driver License Waivers.

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

STATUTORY AUTHORITY: s. 343.02(1), Stats.

STATUTES INTERPRETED: ss. 343.055(1)(f) and (5), as created by 1991 Wis. Act 242, 343.055(3), 343.065, 343.16, and 343.21, Stats.

General Summary of Rule. On April 17, 1992, FHWA issued an advisory rule permitting states to issue restricted CDLs to certain groups of drivers in select farm-related businesses (custom harvesters, farm retail outlets, agri-chemical businesses and livestock feeders). The federal rule allows states to waive only the requirement that all CDL license holders submit to federal written and skills CDL tests. Under the federal regulations, drivers must apply for a restricted CDL (farm service CDL) and comply with all the CDL requirements, except testing. 1991 Wisconsin Act 242 provided a statutory basis for the Department to waive CDL licensing requirements for farm service workers to the extent permitted by federal law. The purpose of this rule making is to implement the federal CDL farm service industry waiver in Wisconsin.

Seasonal employment operators are defined in s. 343.055(1)(f), Stats., as persons working in agricultural jobs that can be conducted only during certain times of the year and for not more than 14 weeks per year.

Under this rule, all farm service drivers must meet the following federal standards:

1. Drivers must have at least one year licensed driving experience immediately preceding date of application.
2. Drivers must have a good driving record (defined in the rule).
3. Drivers must have a current driver's license.
4. Drivers must meet all the other requirements of 49 CFR 383 concerning the issuance of CDLs.

Federal law permits the waiver of all CDL written and skills tests for farm service industry CDL applicants. This rule waives CDL skills testing for farm service CDL holders, but does require a limited state knowledge test. The knowledge test will be used to educate drivers about the laws and regulations that apply to commercial motor vehicle operators and CDL

SECTION 1. Trans 102.12 is repealed.

SECTION 2. Trans 102.15(6)(intro.) is amended to read:

Trans 102.15(6) **TEMPORARY DRIVER RECEIPT.** The department may issue a temporary driver receipt to a person who is temporarily unable to meet the identification requirements of sub. (3). The temporary driver receipt shall state the date of issue, shall be clearly marked "NOT VALID FOR IDENTIFICATION," and shall be validated for the operation of a vehicle for a stated period of up to 60 days from the date issued. The person may complete his or her license application within this period by presenting proof of the person's name, date and place of birth in accordance with sub. (3)(a). For good cause shown, the department may renew the driving receipt once for an additional period of no more than 30 days. This subsection does not prohibit a person from proceeding under sub. (3)(b). This subsection applies only to a persons who meet all of the following:

SECTION 3. Trans 102.20 is created to read:

TRANS 102.20 FARM SERVICE CDLS. (1) **PURPOSE.** The purpose of this section is to administratively interpret s. 343.055(1)(f), Stats., consistent with those federal department of transportation regulations at 57 Fed. Reg. 13650 (April 17, 1992).

NOTE: Federal CDL regulations make no provision for limited license privileges or license waivers for drivers described in those classes described in s. 343.055(1)(e), (g) and (h), Stats. Pursuant to s. 343.055(4), Stats., drivers in those categories are required to hold CDLs. Drivers licensed under this section are subject to all laws and regulations pertaining to commercial motor vehicle drivers and CDL holders.

(2) **DEFINITIONS.** In this section:

(a) "Agri-chemical business" means a business that sells and delivers fertilizer, pesticides or other chemical compounds to farmers.

(b) "CDL" means a commercial driver license.

(c) "Convicted" or "conviction" has the meaning set forth in s. 340.01(9r), Stats., and includes convictions under state law, convictions under local ordinances in conformity with state law, convictions under a law of a federally recognized American Indian tribe or band in this state in conformity with state law, or convictions under the law of another jurisdiction which prohibits conduct similar to that prohibited under state law even if that jurisdiction's law is not in conformity with state law.

(d) "Custom harvester" means a business which is engaged solely in the provision of for hire harvesting services to farmers.

(e) "Farm retail outlet" means a business engaged in the retail sale and delivery of farm supplies to farmers.

(f) "Farm service CDL" means a restricted commercial driver license issued pursuant to this section.

(g) "Farm service industry" means a farm retail outlet, a custom harvester, a livestock feeder or an agri-chemical business.

(h) "Farmer" has the meaning set forth in s. 340.01(18)(b), Stats.

(i) "Livestock feeder" means a business that is licensed as an approved veal lot under s. AG 11.13 or an approved feed lot under s. AG 11.14.

(j) "Seasonal employment" has the meaning set forth in s. 343.055(1)(f), Stats.

(k) "Seasonal period" means a continuous time period for which a farm service CDL permits limited operation of commercial motor vehicles.

(3) ELIGIBILITY. The department may issue a farm service CDL to any person who meets all of the following requirements:

(a) Is employed in seasonal employment with a farm service industry.

(b) Has held a class D operator's license, other than an instruction permit for at least the one-year period preceding the date of application.

(c) Meets the driver record requirements of sub. (4).

(d) Has passed the test required under sub. (7).

(e) Does not hold a CDL.

(f) Meets the medical standards requirements of s. 343.065, Stats., and ch. Trans 112.

(g) Is at least 18 years of age.

(4) DRIVER RECORD REQUIREMENTS. The department may not issue or renew a farm service CDL to any person who at any time during the 2-year period preceding the date of application:

(a) Held more than one operator's license at one time, except that for purposes of this subdivision, a school bus or chauffeur's license issued under ss. 343.12 or 343.125, 1987 Stats., shall be counted with a regular license as a single license.

(b) Had any driver license or operating privilege, in Wisconsin or any other jurisdiction, revoked, suspended or canceled as a result of a moving violation. Failure to pay a forfeiture resulting from a non-traffic offense is not a moving violation for purposes of this paragraph.

(c) Was convicted of any one violation listed as a disqualifying offense or serious traffic violation under s. 343.315(2)(a), (e), (f) or (g), Stats., regardless of whether the person was operating a commercial motor vehicle at the time of the offense.

(d) Was convicted of a violation of a law relating to motor vehicle traffic control arising in connection with any traffic accident, except a parking or safety belt violation.

(e) Was at fault in any motor vehicle accident.

(f) Was convicted of a violation of a law arising out of the person's operating a vehicle type not authorized under a farm service CDL, violating a restriction of a farm service CDL,

transporting hazardous materials not permitted under a farm service CDL, or operating a commercial motor vehicle outside the seasonal period provided for on a farm service CDL.

(5) **DISQUALIFICATION.** The department shall revoke, suspend, cancel or disqualify the farm service CDL privilege of any person who is disqualified under s. 343.315, Stats.

(6) **APPLICATION.** (a) An application for a farm service CDL shall be made on forms provided by the department and shall include all requested information.

(b) An original or renewal application for farm service CDL shall include all of the following:

1. A standard driver license application form.
2. A certification of the driver's eligibility for the license.
3. The required fee.
4. Specification of the seasonal period for which the applicant seeks farm service CDL

operating privileges.

NOTE: Driver License Application and renewal forms (MV3001 and MV3005) and Driver Certification forms (MV3586) may be obtained at any Division of Motor Vehicle Services Center or from the Wisconsin Department of Transportation, Bureau of Driver Services, License Issuance Unit, P. O. Box 7918, Madison, WI 53707-7918.

(7) **TESTING.** (a) The department may not issue a farm service CDL to any person who has not passed the required knowledge test.

NOTE: See ss. 343.16(1)(a) and 343.16(2)(intro.), Stats.

(b) The department shall waive CDL skills tests for applicants seeking farm service CDLs except under circumstances where the department would require one or more examinations under s. 343.16(5) or (6), Stats.

(8) **RESTRICTIONS.** All farm service CDLs shall be subject to the following restrictions:

(a) The license may not permit operation of class A motor vehicles as defined in s. 343.04(1)(a), Stats.

(b) The license may not permit transporting hazardous materials.

(c) The license may not permit operation of a school bus or of a passenger carrying vehicle, as defined in s. 343.04(2)(d), Stats.

(d) The license shall permit operation only of commercial motor vehicles owned, leased or rented by the driver's farm service industry employer.

(e) The license may not permit operation of commercial motor vehicles outside the period of seasonal employment.

(f) The license may not permit the operation of commercial motor vehicles beyond 150 miles of the driver's place of employment or, in the case of custom harvester employees, 150 miles of the farm being served by the custom harvester business.

(g) The license may not permit operation in interstate commerce unless the driver meets the requirements of s. 343.06(3), Stats.

(h) The license may not grant farm service CDL privileges for more than 14 weeks in any calendar year.

(9) NO OCCUPATIONAL LICENSE. The department may not issue an occupational license granting farm service CDL privileges.

(10) SEASONAL PERIOD APPLICATION AND DRIVER RECORD VERIFICATION.

(a) Except when a license is due for renewal, at least once each calendar year in which an applicant seeks farm service CDL privileges, the person shall apply to the department for a farm service CDL restriction card designating the person's next seasonal periods.

NOTE: Form MV3587, Application for New Farm service CDL Seasonal Period may be obtained at any Division of Motor Vehicle Services Center or from the Wisconsin

Department of Transportation, Bureau of Driver Services, License Issuance Unit,
P. O. Box 7918, Madison, WI 53707.

(b) The department shall confirm the driver's continued eligibility for the farm service CDL before each seasonal period and, if the driver is eligible for the license under sub. (3), shall issue a restriction card to the driver.

(c) No person may have more than 2 seasonal periods in a calendar year.

NOTE: See sub. (13)(c) regarding the fee for changing a seasonal period.

(11) LICENSE FORM. A farm service CDL shall be subject to the restrictions set forth on a restriction card.

(12) EXPIRATION. Farm service CDL privileges shall expire on the same date as the holder's operator's license.

NOTE: See s. Trans 102.16.

(13) FEES. (a) The fee for the farm service CDL shall be \$32.00 or the prorated amount due under s. Trans 102.10.

(b) There shall be no fee for annually issuing a seasonal period restriction card.

(c) The fee for changing the seasonal period after a person has specified a seasonal period in a given calendar year shall be the fee for obtaining a duplicate license under s. 343.21(1)(L), Stats.

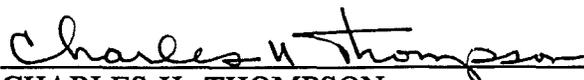
NOTE: Section 343.21(1)(d), Stats., prescribes the fee for CDLs. Section 343.21(1)(L), Stats., currently provides that the fee for a duplicate license shall be \$4.

SECTION 4. Chapter Trans 116 and s. Trans 117.10 are repealed.

(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 10 day of December, 1992.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

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Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

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Mr. Gary Poulson
Deputy Revisor of Statutes
119 Martin Luther King, Jr. Blvd.
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Madison, Wisconsin 53703

December 11, 1992

RE: **CLEARINGHOUSE RULE 92-141**

In the Matter of the Adoption of **TRANS 102**, Wisconsin Administrative Code, relating to **Commercial Driver License Waivers**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Stats., is a certified copy of **CR 92-141**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

I'm also enclosing a copy of WisDOT's Order Adopting Rule (Clearing House Rule 92-45) which became effective October 1, 1992. Note on p. 3, Section 4, Trans 102.16(3)(b), that the sentence reads:

"(b) Shall expire ~~three~~ 3 years from the licensed person's next birthday when the application is made **after the** expiration date of the license." (Highlight added.)

On the enclosed copy of Page 138 of the Code, that subsection was erroneously amended to read "prior to" rather than leaving it as is to read "after the." Please have WISCOMP correct this error. Thanks.

Sincerely,

Julie A. Johnson
Julie A. Johnson
Paralegal

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Enclosures

cc: Tom Walker
Dorothy Kapke
Jim McDonnell
Roger Cross
Wes Geringer
Julie Clark