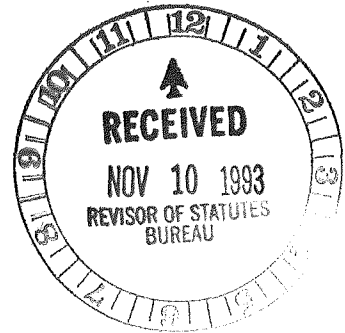


CR 92-140

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 **operator's licenses and identification cards**, was duly approved and adopted by this Department on November 10th, 1993.

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 10th day of November, 1993.

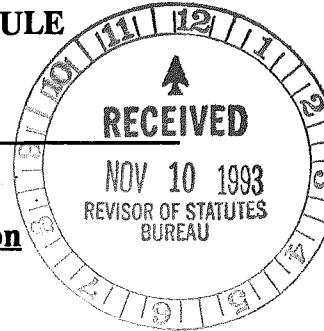
Charles H. Thompson

CHARLES H. THOMPSON
Secretary

1-1-94

IN THE MATTER OF an Order Adopting Rule to AMEND s. Trans 102.20(2)(d) and (j), (8)(b) and (h), and (10); and to CREATE s. Trans 102.20(8)(fm), Wisconsin Administrative Code, relating to Operator's Licenses and Identification Cards.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 343.17(3)(d)1g, Stats.

STATUTES INTERPRETED: ss. 343.16(1)(a) and (2) and 343.17(3)(d)1g, Stats.

General Summary of Rule. On April 17, 1992, FHWA issued an advisory rule at 57 FR No. 75 p. 13650 (April 17, 1992) permitting states to issue restricted Commercial Driver Licenses ("CDLs") to certain groups of drivers in select farm-related businesses. The federal rule allows states to issue restricted CDLs to farm service industry drivers who do not submit to the standard CDL written and skills tests. At the time s. Trans 102.20 was promulgated in January, 1993, Wisconsin law did not permit the Department to issue Farm Service CDLs that took full advantage of the federal law. The passage of 1991 Wis. Act 19, however, allowed the Department to adopt rules which take advantage of all aspects of the federal farm services CDL program. The purpose of this rulemaking is to implement the federal farm service CDL conditions that are permitted under federal law but were not adopted in January, 1993, and to extend the farm services CDL to the canning, freezing and processing industries.

Seasonal employment operators are persons working in seasonal agricultural jobs for a farm retail outlet, custom harvester, livestock feeder or agri-chemical business. The employment must be seasonal. This maximum length of the seasonal period was enlarged from 14 weeks to 180 days by 1993 Wis. Act 19 and this rule incorporates that statutory change. This rulemaking will also allow seasonal operators of vehicles being driven on behalf of canning, freezing and processing companies to obtain limited CDL licenses as "custom harvesters."

Custom harvester operations are confined to operations related to the harvest of crops. Thus, under this license, a custom harvester may transport harvest equipment to the fields for harvest and may transport harvested crops to a storage facility or processing plant. Subsequent transportation of the crops, however, must be performed by persons holding full CDLs. Transportation between storage facilities and processing plants or transportation of finished products by custom harvesters is not permitted under the license.

The waivers to the CDL law being granted to seasonal employment operators by this rulemaking are:

- permitting the transportation of liquid fertilizer in vehicles or implements of husbandry with total capacities of 3000 gallons or less;

- permitting the transportation of solid fertilizers that are not transported with any organic substance;
- permitting the transportation of 1000 gallons or less of diesel fuel;

No combination of these materials may be permitted.

Fiscal Effect. The Department anticipates no material fiscal impact from promulgation of this rule. The Department has issued 121 farm service licenses through July 27, 1993.

Final Regulatory Flexibility Analysis. The proposed rule will benefit small farm service businesses by allowing them to employ and utilize temporary employees without the need to have each go through the training and testing required to obtain regular CDL licenses. Although Farm Service CDLs are severely restricted, they will permit almost all of the seasonal operation small business employers expect of their seasonal help.

Preparation and Copies of Rule. Copies of this rule can be obtained upon request, without cost, from the Division of Motor Vehicles, Bureau of Driver Services, P.O. Box 7917, Madison, WI 53707-7917. For further information, contact Wes Geringer (608) 266-0614 or Julie Clark (608) 266-2239.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 343.02(1), Stats., the department of transportation hereby amends a rule interpreting s. 343.17(3)(d)1g, Stats., relating to operator's licenses and identification cards.

SECTION 1. Trans 102.20(2)(d) and (j), and (8)(b) and (h) are amended to read:

Trans 102.20(2)(d) "Custom harvester" means a business which is engaged solely in the provision of for hire harvesting services to farmers or engaged in canning, freezing or processing the crops being harvested.

NOTE: The licenses of temporary seasonal employees of custom harvester employers are limited to permit only transportation related to the harvesting of crops. See s. Trans 102.20(8)(fm). A driver in this category may, for example, haul harvesting equipment to and from the fields where the harvest is conducted, and may haul harvested crops from the fields where harvested to a storage facility or food processing plant. Subsequent transportation of the harvested crops, however, such as to haul harvested crops from storage facilities to processing plants or to haul processed crops to market, are not permitted under a Farm Service CDL.

(j) "Seasonal employment" ~~has the meaning set forth in s. 343.055(1)(f), Stats~~ means a period of employment that does not exceed 180 days per year.

(8)(b) The license may not permit transporting hazardous materials except liquid fertilizer in vehicles or implements of husbandry with total capacities of 3000 gallons or less, solid fertilizers that are not transported with any organic substance, or 1000 gallons or less of diesel fuel, but no combination of these materials.

(h) The license may not grant farm service CDL privileges for more than ~~14 weeks~~ 180 days in any calendar year.

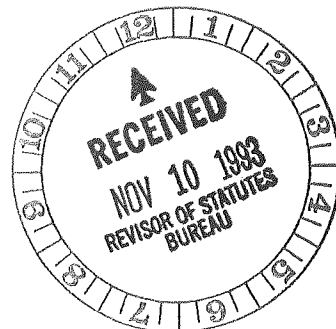
SECTION 2. Trans 102.20(8)(fm) is created to read:

Trans 102.20(8)(fm) The license may not permit operation by a custom harvester unless related to the harvesting of crops.

SECTION 3. Trans 102.20(10) is amended to read:

Trans 102.20(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 period.

(END OF RULE TEXT)

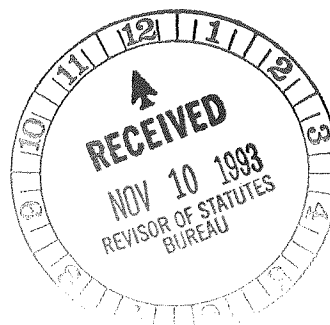


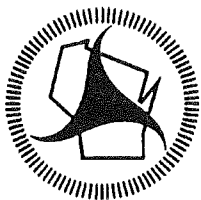
Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 10th day of November, 1993.

Charles H. Thompson

CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation





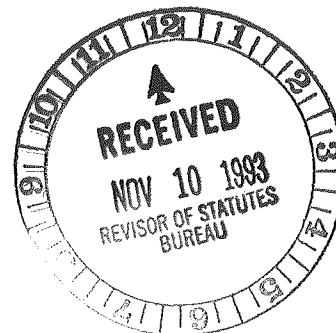
Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

November 10, 1993



Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703

RE: **CLEARINGHOUSE RULE 93-140**

In the Matter of the Adoption of **TRANS 102**, Wisconsin Administrative Code, relating to operator's licenses and identification cards.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 93-140**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Also, there is an incorrect reference to a statute in the note following s. Trans 102.14(4) pertaining to establishing Wisconsin residency. The correct cite should read s. 343.01(2)(g), rather than s. 340.01(2)(g). Would you please correct this error. Thanks, Gary.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

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