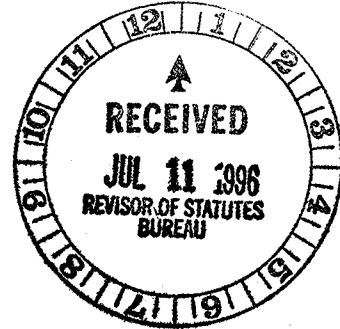


Clearinghouse Rule 96-057

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 **seed potato overweight permits**, was duly approved and adopted by this Department on July 10, 1996.

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 July, 1996.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary

The Wisconsin Department of Transportation adopts an order to create chapter TRANS 258, relating to Seed Potato Overweight Permits.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.02, 85.16, 227.11(2)(a), 348.25(3) and 348.27(9t), Stats., as created by 1995 Wisconsin Act 163

STATUTE INTERPRETED: ss. 348.25(3), (5) and (6) and 348.27(9t), Stats., as created by 1995 Wisconsin Act 163

General Summary of Rule. 1995 Wis. Act 163 created s. 348.27(9t), Stats., which directs the Department to issue permits for divisible loads of seed potatoes to be hauled at weights in excess of the statutory maximum weights of 80,000 pounds. These permits are to allow transportation of seed potatoes on a year round basis, including through the spring thaw when all other types of overweight permits are ordinarily suspended to prevent road damage. This permit type is only valid along the "seed potato route," State Trunk Highway 64 from Antigo to Marinette, and then along U.S. Highway 41 to the Michigan border. Michigan potato farmers use high quality Wisconsin potatoes from the Antigo Wisconsin area for seed.

The law provides that the Department may specify configuration requirements for the trucks used to carry such loads and may establish an alternate route to be used by trucks by administrative rule. This rulemaking addresses both those issues and sets forth the other administrative procedures needed for the issuance of these overweight permits in a manner consistent with the Department's other overweight permit rules in Chapters Trans 250 to 280.

Section Trans 258.06 sets forth the basic eligibility requirements for the permit. First, the vehicle may only be used empty or when hauling seed potatoes under the permit. The vehicle may not weigh more than 90,000 pounds when loaded nor exceed the statutory weight limits of s. 348.15(3)(c), Stats., by more than 10,000 pounds. Because of the special vehicle configuration requirements needed to reduce the risk of highway damage caused by hauling through the spring thaw, maximum axle weights that are lower than the normal axle weights for legal loads are required as well. This is possible because most of these trucks are expected to come from the state of Michigan which allows such trucks to operate legally under its weight laws. Maximum vehicle size is limited to 65 feet in length, 13 feet 6 inches in height and 8 feet 6 inches in width.

Under s. Trans 258.07(4), overweight seed potato trucks may be operated within 15 road miles of the route in order to drop off and retrieve loads and to acquire supplies or engage in other normal trucking activities. The shipper is expected to obey other

traffic laws and obtain such local permits as are required as would any other overweight permit holder. Trans 258.07.

Permits may be suspended, revoked, or denied for the same types of reasons as any other overweight permit, such as operating in violation of the permit or altering a permit. Trans 258.10(1). Because the trucks that are expected to utilize this permit are expected to be primarily Michigan trucks, s. Trans 258.10 permits the Department to suspend, revoke or deny a permit upon request of the State of Michigan if that state has taken similar action against the shipper for good cause. Trans 258.10(1)(h).

Insurance requirements for permitted vehicles are laid out in s. Trans 258.09. Carrying insurance is required as a condition of the permit.

Section Trans 258.11 sets forth a proposed alternative seed potato route. There are currently three wooden timber bridges located along State Trunk Highway 64 between Langlade and Mountain. The Department conducts regular inspection of these bridges. If it appears that these overweight trucks are causing damage to these bridges, the Department may require that the alternate route specified in s. Trans 258.11(2) be used in order to avoid these three bridges. The Department may make the declaration either by either publishing a notice in an Antigo area newspaper or by mailing notice to all permit holders.

If the Department determines it must specify a different alternative route, the administrative rule will need to be amended in order to meet the statutory requirements of s. 348.27(9t), Stats. as created by 1995 Wis. Act 163.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Final Regulatory Flexibility Analysis. This rule will have no adverse impact on small businesses.

Copies of Rule. Copies of the rule may be obtained upon request, without cost, by writing to Kathleen Nichols, Wisconsin Department of Transportation, Division of Motor Vehicles, Motor Carrier Services Section, Room 151, P. O. Box 7980, Madison, WI 53707-7980, or by calling (608) 266-6648. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. **Alternate formats of the rule will be provided to individuals at their request.**

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.02, 85.16, 227.11(2)(a), 348.25(3) and 348.27(9t), Stats., as created by 1995 Wis. Act 163, the department of transportation hereby proposes an order to create ch. Trans 258, Wisconsin Administrative Code, interpreting ss. 348.25(3), (5) and (6) and 348.27(9t), Stats., relating to seed potato overweight permits.

SECTION 1. Chapter Trans 258 is created to read:

CHAPTER TRANS 258

SEED POTATO OVERWEIGHT PERMITS

Trans 258.01 PURPOSE. The purpose of this chapter is to establish standards and procedures for the issuance of overweight permits for the transportation of seed potatoes, and the configuration standards for vehicles engaged in seed potato transportation pursuant to s. 348.27(9t), Stats.

Trans 258.02 DEFINITIONS. Unless otherwise stated, the definitions of words and phrases in ss. 340.01 and 348.01(2), Stats., and s. Trans 250.02 apply to this chapter. In this chapter:

(1) "Permit" means a seed potato overweight permit authorized under s. 348.27(9t), Stats..

(2) "Seed potatoes" means potatoes intended to be planted as a crop.

(3) "Seed potato route" means the route designated under s. Trans. 258.10.

(4) "STH" means state trunk highway.

Trans 258.03 SEED POTATO OVERWEIGHT PERMITS. (1) The department may issue annual or consecutive month permits for the transportation of seed potatoes

in vehicles meeting the requirements of this chapter. A permit issued under this chapter shall also permit operation of the unladen vehicle on the seed potato route for the purpose of picking up a load of seed potatoes. A permit issued under this chapter is not suspended by a general suspension of multiple trip divisible load permits unless such a suspension specifically includes seed potato overweight permits. The permit shall consist of one or more cover pages, all attachments thereto, and a copy of this chapter.

(2) A permit issued under this chapter is not a guarantee of the sufficiency of any highway or structure for the transporting of the vehicle or load, or both.

Trans 258.04 PERMIT APPLICATION. (1) An application for a permit shall be submitted on a department form and shall include the following:

(a) The name, address and telephone number of the applicant.

(b) The name, address and telephone number of the applicant's insurer and the applicant's policy number and policy expiration date.

(c) The date on which the applicant seeks to have the permit first become valid, not more than 60 days later than the date of application.

(d) The overall weight and height of the vehicle, trailer length, and the gross weight of the vehicle.

(e) An indication of whether the vehicle is a combination vehicle and the type of combination, a description of the vehicle power unit and the complete vehicle identification number for the power unit.

(f) The make, year and vehicle identification number for any trailer.

(g) An indication of the number of pneumatic tires and maximum gross weight for each axle on the vehicle.

(h) An indication of the spacing between each axle.

(i) An indication as to whether any axle is steerable.

(j) An affirmation that the owner has insurance in the amounts required by this chapter or such higher amount as may be required by the department and that the person accepts the terms of the issuance of a permit under this chapter.

(k) For each access route permitted under s. Trans 258.06(4)(b) for which the applicant seeks authority to operate, written proof that permission for operation on access routes has been granted by any local authority or person in charge of maintaining those highways.

(2) A permit application may be submitted in person or by mail to the motor carrier services section permit unit.

NOTE: Permit application procedures are specified in s. Trans 250.025. The Motor Carrier Services Section Permit Unit of the Wisconsin Department of Transportation is located at 4802 Sheboygan Avenue, Room 151, P.O. Box 7980, Madison, WI 53707. Permit applications may be obtained from that unit.

Trans 258.05 ELIGIBILITY. The department may issue permits for combination vehicles under this chapter only to applicants that meet all of the following requirements:

(1) **STATUTORY REQUIREMENTS.** The vehicle and any load satisfies the requirements for a permit under s. 348.25, Stats.

(2) **SEED POTATO TRANSPORTATION ONLY.** The application may not seek authority to transport any commodity or goods other than seed potatoes.

(3) **MAXIMUM SIZE.** The vehicle may not exceed 8 feet 6 inches in width, nor 13 feet 6 inches in height, nor may any trailer exceed 53 feet in length.

(4) **PNEUMATIC TIRES.** The combination vehicle shall be equipped with pneumatic tires.

(5) **NON-STEERING AXLE TIRES.** All of the vehicle's non-steering axles shall be equipped with at least 4 tires.

(6) **SIX AXLE MINIMUM.** The vehicle shall have a minimum of 6 axles, 3 of which are part of the trailer.

(7) **MAXIMUM GROSS WEIGHT.** The vehicle, including any load, may not exceed 90,000 pounds gross weight, nor the weight limitations of s. 348.15(3)(c), Stats., by more than 10,000 pounds.

(8) **MAXIMUM AXLE WEIGHTS.** Axle weights may not exceed any of the following:

(a) 20,000 pounds on a single steering axle.

(b) 18,000 pounds on a single non-steering axle.

(c) 16,000 pounds for each axle of a tandem axle, except that on combination vehicles with a gross weight of more than 73,280 pounds, only one tandem axle may have weight above 16,000 pounds, and each additional tandem axle may have an axle weight of not more than 13,000 pounds.

(d) 16,500 pounds on each trailer axle of a 3 axle group separated by no less than 3 feet 6 inches and no more than 9 feet.

(e) 13,000 pounds on each trailer axle in a group of 4 or more separated by no less than 3 feet 6 inches.

(9) **FOUR TIRES PER AXLE.** Axles with less than 4 tires may not be considered for purposes of completing any weight calculation under sub. (8).

(10) **BALANCED LOAD.** Wheels on one side of the vehicle may not carry more than 60 percent of the load.

Trans 258.06 VALIDITY. A permit issued under this chapter is valid only if all of the following conditions are met:

(1) **PERMITTED VEHICLE ONLY.** It is used for the combination vehicle described in the application and permit.

(2) **PERMIT CONDITIONS FOLLOWED.** All conditions of the permit are met, including all maximum axle, axle combination, total weight and length limitations, and restrictions on speed, time or route of travel.

(3) **VEHICLE ELIGIBLE FOR PERMIT.** The vehicle meets all the requirements of this chapter.

(4) **AREA OF OPERATION.** The vehicle is operated on either of the following:

(a) The seed potato route.

(b) Within 15 highway miles of the seed potato route in order to access the seed potato route, or to reach fuel, food, maintenance, repair, rest, staging, terminal facilities or points of loading and unloading if the driver possesses written proof that permission for operation on such access routes has been granted by any local authority or person in charge of maintaining the highway being used.

(5) **LAWFUL OPERATION.** The driver of the vehicle is obeying all Wisconsin laws contained in chapters 194 and 340 to 349, Stats., and chapters Trans 305 and 325 to 328.

(6) **PERMIT CARRIED ON VEHICLE.** The driver carries the permit in the vehicle and has the permit available for inspection by any police officer, representative of the department or any local authority or person in charge of maintaining the highway being used.

(7) OBEY POSTED WEIGHT LIMITS. The vehicle does not exceed any posted weight limit for a bridge or highway or any temporary weight restriction due to construction or seasonal conditions.

(8) MINIMUM FOLLOWING DISTANCE MAINTAINED. The driver maintains a distance of 1000 feet between the vehicle and any preceding vehicle on the highway, whenever reasonable and practical.

(9) ALLOW PASSING. The driver allows approaching or overtaking traffic to pass.

(10) INSURANCE MAINTAINED. Insurance on the vehicle is maintained in accordance with s. Trans 258.08.

(11) PROPER REGISTRATION. The vehicle is registered at not less than the permit weight or at the maximum available registration weight, whichever is less.

(12) OPERATION ON PAVEMENT SURFACE. The right wheels of the vehicle do not leave the roadway, except to allow traffic to pass.

(13) ALCOHOL USE PROHIBITED. The driver does not:

(a) Consume any alcohol beverage within 4 hours of being on duty time, regardless of alcohol content.

(b) Have an alcohol concentration above 0.0.

(c) Possess an intoxicating beverage, regardless of alcohol content.

NOTE: Section 346.63(7)(a), Stats., is applicable to all drivers of commercial motor vehicles.

(14) DRIVER PROPERLY LICENSED. The driver holds all required licenses bearing the proper classes and endorsements needed to operate the vehicle.

(15) ALL OTHER NEEDED PERMITS OBTAINED. All other operational permits required by the department or other agencies having jurisdiction over the highways used by the permittee are obtained.

NOTE: Wisconsin does not apply time of day restrictions to permits issued under this chapter. These permits are valid through spring thaw and other seasonal permit suspensions, unless the suspension specifically includes seed potato overweight permits. Trans 258.03(1).

Trans 258.07 TRANSFERS. In the event of a breakdown or other circumstance requiring a change of the power unit or trailer identified on the permit, the permit holder may transfer the permit to another vehicle, under the control of the permittee, following the completion of a new application and the issuance of a new permit. The words, "This is a transfer from permit #<original permit number>," shall be written on the bottom of the application.

Trans 258.08 INSURANCE AND LIABILITY CONDITIONS. (1) A permittee shall:

(a) Pay any claim for any bodily injury or property damage resulting from operation under the permit for which the permittee is legally responsible.

(b) Hold the state, its subdivisions, officers, employees and agents harmless from any claim which may arise from operation over public highways under the permit.

(c) Be liable for all damage which any highway or its appurtenances may sustain by reason of any operation under the permit.

(2) The department may waive insurance requirements for permits issued to units of government.

(3) Where a certificate of insurance is required, no insurer may cancel the certificate of insurance without providing the department 10 days advance written notice of the cancellation.

(4) Except as provided under sub. (5) or (6), the permittee shall carry insurance in either of the following minimum amounts:

(a) For bodily injury, \$150,000 coverage for each person and \$450,000 coverage for each accident; for property damage, \$300,000 coverage for each accident.

(b) \$750,000 combined single limit coverage.

(5) A permittee shall certify, and may be required to present satisfactory written evidence, that the amount of insurance coverage required under sub. (4) or (5), or a bond in a form satisfactory to the department, shall be in effect for the vehicle and load designated in the permit while operating on the public highway, unless this requirement is expressly waived by the department.

Trans 258.09 DENIAL, SUSPENSION OR REVOCATION OF PERMIT. (1) The department may deny, suspend, or revoke a permit for good cause, pursuant to s. 348.25(7), Stats. Grounds for the denial, suspension, or revocation of a permit include the following:

(a) Violation of any condition of a permit.

(b) Preventing an employe of the department or a law enforcement officer from performing his or her official duties, or interfering with the lawful performance of his or her duties.

(c) Physically assaulting an employe of the department or a law enforcement officer while performing his or her official duties.

(d) Making a material misstatement in an application for a permit.

(e) Unauthorized alteration of a permit.

(f) Refusal or failure, without just cause, to produce required records.

(g) Nonpayment of the application fee or payment by a check that is subsequently dishonored by the drawee or bank.

(h) Upon the request of the state of Michigan if that state has refused to issue permits to the permit holder or has suspended, revoked or cancelled a permit or license held by the permit holder for cause.

(i) Violation of any other applicable provision under ch. 348, Stats., or this chapter.

(2) A permittee shall immediately return a suspended or revoked permit to the department after receiving notice from the department of the suspension or revocation of the permit.

Note: If a permit is denied, suspended, or revoked, an applicant or permittee may request a hearing before the Department of Administration Division of Hearings and Appeals, s. 348.25(9), Stats.

Trans 258.10 DESIGNATION OF SEED POTATO ROUTE. (1) Except as provided in this subsection, the seed potato route shall be the route specified in sub. (2). In the event the department concludes that all or any portion of the potato route defined in sub. (2) should not be traversed by trucks under a permit issued pursuant to this chapter, the department may declare the establishment of an alternative potato route. The declaration of an alternative potato route shall have the effect of changing the definition of "seed potato route" in s. Trans 258.02(3) to the route described in sub. (3). During any period when an alternative potato route is in effect, a permit issued under this chapter is not valid for the purpose of crossing any bridge along the seed potato route described in sub. (2) that is not part of the declared alternative route, even if such location would otherwise be within 15 road miles of the declared alternative route upon which travel would normally be permitted under s. Trans 258.06(4)(b). Traversing any bridge in violation of this subsection shall be grounds for revocation of the permit.

(2) "Seed potato route" means STH 64 between Langlade County Trunk "H" and U.S. highway 41 in Langlade, Oconto and Marinette counties and U.S. highway 41 between STH 64 and the Wisconsin-Michigan border, unless an alternative potato route is declared under this section.

(3) The alternative potato route shall be STH 64 between Langlade County Trunk "H" and STH 55 at Langlade, STH 55 from STH 64 at Langlade to STH 52 in Lily, STH 52 from STH 55 in Lily to STH 32 west of Wabeno, STH 32 from STH 55 west of Wabeno to STH 64 in Forest county, STH 64 from its intersection with STH 32 in Forest county to U.S. highway 41 in Marinette county, and U.S. highway 41 between STH 64 and the Wisconsin-Michigan border.

(4) The department may declare the alternate route specified in sub. (3) by doing any of the following:

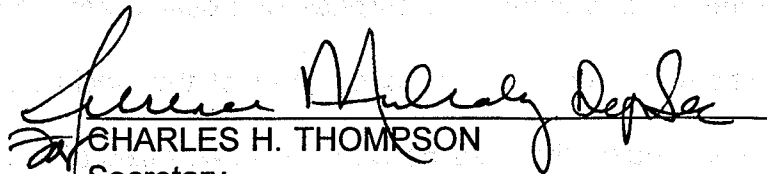
(a) Publishing notice of the declaration of alternative route in a newspaper of general distribution in the Antigo area.

(b) Mailing a notice to each permit holder.

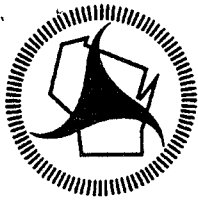
(END OF RULE TEXT)

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 July, 1996.


CHARLES H. THOMPSON

Secretary
Wisconsin Department of Transportation



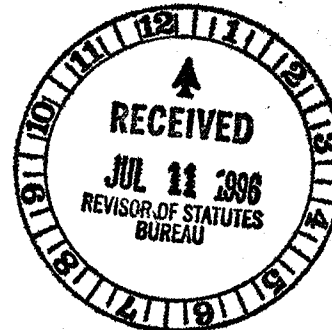
Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

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

July 11, 1996



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

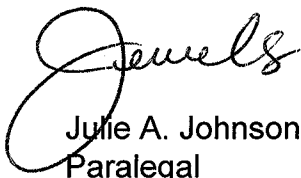
RE: **CLEARINGHOUSE RULE 96-57**

In the Matter of the Adoption of **TRANS 258**, Wisconsin Administrative Code,
relating to **seed potato overweight permits**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 96-57**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Ann Agnew
Dorothy Kapke
Jim McDonnell
Roger Cross
Jim Gruendler
Kathleen Nichols
Mark Morrison
Carson Frazier