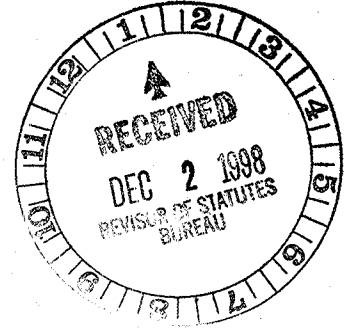


Clearinghouse Rule 98-105

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 **motor carrier safety regulations, motor carrier safety requirements for transportation of hazardous materials, and motor carrier safety requirements for intrastate transportation of hazardous materials**, was duly approved and adopted by this Department on November 23, 1998.

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 23 day of **November**, 1998.

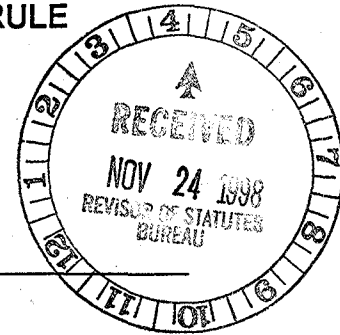
Charles H. Thompson

CHARLES H. THOMPSON
Secretary

5-1-99

The Wisconsin Department of Transportation adopts an order to renumber TRANS 326.07; amend TRANS 325.02(intro.), 325.05(1) and (2), 326.01(intro.) and 328.03(intro.) and (1); and create TRANS 325.02(8), 326.01(8), 326.07(2) and (3), 328.03(6) and 328.04, relating to motor carrier safety regulations, motor carrier safety requirements for transportation of hazardous materials, and motor carrier safety requirements for intrastate transportation of hazardous materials.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats.

STATUTES INTERPRETED: ss. 110.07, 110.075, 194.38 and 194.43, Stats.

General Summary of Rule. This rule making will amend three existing rules to bring them into compliance with changes to the federal regulations which have gone into effect as of January 1, 1998. These changes are as follows:

Chapter Trans 325 adopted motor carrier safety regulations of the United States Department of Transportation in effect on November 1, 1996. This amendment changes the date from November 1, 1996 to August 1, 1998. This change allows Wisconsin to enforce the most recent motor carrier safety regulations. All vehicles operating in interstate commerce are already subject, under federal law, to any changes that have been adopted between November 1, 1996 and August 1, 1998.

Chapter Trans 326 adopted motor carrier safety requirements for transportation of hazardous materials of the United States Department of Transportation in effect on November 1, 1996. This amendment changes the date from November 1, 1996 to August 1, 1998. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for transportation of hazardous materials. All vehicles operating in interstate commerce are already subject under federal law to any changes that have been adopted between November 1, 1996 and August 1, 1998.

The Department proposes to incorporate changes to federal hazardous material regulations that have been expanded to include intrastate transportation and provides for some agricultural exceptions for farmers, allows for the use of some non-specification

packages for intrastate transportation only, and provides exceptions for "materials or trades."

Chapter Trans 328 adopted motor carrier safety requirements for intrastate transportation of hazardous materials of the United States Department of Transportation in effect on November 1, 1996. This amendment changes the date from November 1, 1996 to August 1, 1998. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for intrastate transportation of hazardous materials and will include exceptions provided in revised federal rules.

In addition, the adoption of Trans 325, 326 and 328 will give the Department the authority to use federal standards by which traffic officers and state patrol inspectors declare vehicles and drivers out of service. The offices of the Attorney General and the Revisor of Statutes Bureau have consented to the incorporation by reference of the North American Uniform Out-of-Service Criteria under the provision of § 227.21(2), Stats.

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, sewerage district, or any federally-recognized tribes or bands.

Copies of Rule. This rule was prepared by Lyle Walheim, Division of State Patrol. Copies of the rule may be obtained upon request, free of charge, from the Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 266-6936. 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. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., the department of transportation hereby adopts an order amending a rule interpreting ss. 110.07, 110,075, 194.38 and 194.43, Stats., relating to motor carrier safety regulations, motor carrier safety requirements for transportation of hazardous materials, and motor carrier safety requirements for intrastate transportation of hazardous materials.

SECTION 1. Trans 325.02(intro.) is amended to read:

TRANS 325.02 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~November~~ August 1, 1996 1998 are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these rules apply in the same manner as though the regulations were set out in full in this chapter:

SECTION 2. Trans 325.02(8) is created to read:

TRANS 325.02(8) Every traffic officer and state patrol inspector employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out-of-service in accordance with the 1998 North American uniform out-of-service criteria.

NOTE: The North American Uniform Out-of-Service Criteria is on file with the offices of the Revisor of Statutes, the Secretary of State, and the Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, 5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814.

SECTION 3. Trans 325.05(1) and (2) are amended to read:

TRANS 325.05(1) The provisions of s. Trans ~~325.04(4)~~ 325.02(4) and (6)(title 49, Code of Federal Regulations, parts 393 and 396) shall be enforced under the provisions of s. 110.075, Stats.

(2) The provisions of s. Trans ~~325.04(2)~~ 325.02(2), (3), (5) and (7), (Title 49, Code of Federal Regulations, parts 391, 392, 395 and 397) shall be enforced under the provisions of ch. 194, Stats.

SECTION 4. Trans 326.01(intro.) is amended to read:

TRANS 326.01 Federal rules adopted. (intro.) The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~November~~ August 1, 1996 1998, are adopted by the department and shall be

enforced in relation to those carriers, drivers or vehicles to which these federal rules apply in the same manner as though the regulations were set out in full in this chapter:

SECTION 5. Trans 326.01(8) is created to read:

TRANS 326.01(8) Every traffic officer and state patrol inspector, employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out of service in accordance with the 1998 North American uniform out-of-service criteria.

NOTE: The North American Uniform Out-of-Service Criteria is on file with the offices of the Revisor of Statutes, the Secretary of State, and the Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to the Commercial Vehicle Safety Alliance, 5430 Grosvenor Lane, Suite 130, Bethesda, MD 20814.

SECTION 6. Trans 326.07 is renumbered Trans 326.07(1).

SECTION 7. Trans 326.07(2) and (3) are created to read:

TRANS 326.07(2) The provisions of s. Trans 326.01(4), (6) and (7) do not apply to a nonspecification, nonbulk metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than 119 gallons used by intrastate carriers in intrastate commerce only to transport flammable liquid petroleum products.

(3)(a) The provisions of s. Trans 326.01(3), (4), (6) and (7) do not apply to the transportation of agricultural products other than class 2 materials, or compressed gases, over local roads other than the national interstate and defense highway system between fields of the same farm by a farmer who operates as an intrastate private carrier.

(b) The transportation of an agricultural product to or from a farm within 150 miles of the farm is excepted from the requirements in s. Trans 326.01(3), 49 CFR part 172 subpart G, emergency response information, subpart H, training requirements, and from

the specific packaging requirements when it is transported by a farmer who is an intrastate private motor carrier and the total amount of agricultural products being transported in a single vehicle does not exceed any of the following:

1. 16,094 pounds of ammonium nitrate fertilizer properly classed as division 5.1 PG III in a bulk packaging.
2. 502 gallons for liquid or gases.
3. 5,070 pounds for solids of any other agricultural product.

SECTION 8. Trans 328.03(intro.) and (1) are amended to read:

TRANS 328.03 Federal rules adopted. The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on ~~November~~ August 1, 1996 ~~1998~~, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these rules apply in the same manner as though the regulations were set out in full in this chapter:

(1) Title 49, Code of Federal Regulations, part 171, hazardous materials regulations, ~~except 171.1(a)(1), 171.4, 171.5, 171.10, 171.12 and 171.12a; and 171.2(a) and (b) for cargo and portable tanks used in intrastate commerce and placed in operation prior to November 1, 1994~~ general information, regulations and definitions.

SECTION 9. Trans 328.03(6) is created to read:

TRANS 328.03(6) Every traffic officer and state patrol inspector, employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out of service in accordance with the 1998 North American uniform out-of-service criteria.

NOTE: The North American Uniform Out-of-Service Criteria is on file with the offices of the Revisor of Statutes, the Secretary of State, and the Department of Transportation, Division of State Patrol. Copies may be obtained by writing to the Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or to

SECTION 10. Trans 328.04 is created to read:

TRANS 328.04 Exclusions and exceptions. (1) The provisions of s. Trans 328.03(3), (4) and (5) do not apply to a nonspecification, nonbulk metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than 119 gallons used by intrastate carriers in intrastate commerce only to transport flammable liquid petroleum products.

(2)(a) The provisions of s. Trans 328.03(2), (3), (5) and (6) do not apply to the transportation of agricultural products other than class 2 materials, or compressed gases over local roads other than the national interstate and defense highway system between fields of the same farm by a farmer who operates as an intrastate private carrier.

(b) The transportation of an agricultural product to or from a farm within 150 miles of the farm is excepted from the requirements s. Trans 328.03(2), 49 CFR parts 172 subpart G, emergency response information, subpart H, training requirements, and from the specific packaging requirements when it is transported by a farmer who is an intrastate private motor carrier and the total amount of agricultural products being transported in a single vehicle does not exceed any of the following:

1. 16,094 pounds of ammonium nitrate fertilizer properly classed as division 5.1 PG III in a bulk packaging.
2. 502 gallons for liquid or gases.
3. 5,070 pounds for solids of any other agricultural product.

(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.

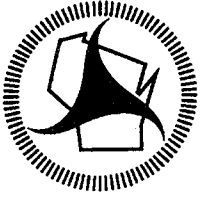
Signed at Madison, Wisconsin, this 23 day of November, 1998.



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 25, 1998

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

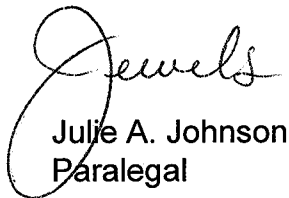
RE: **CLEARINGHOUSE RULE 98-105**

In the Matter of the Adoption of **TRANS 325/326/328**, Wisconsin Administrative Code, relating to **motor carrier safety regulations, motor carrier safety requirements for transportation of hazardous materials, and motor carrier safety requirements for intrastate transportation of hazardous materials**

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 98-105**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Gene Kussart
Mike Goetzman
Sandy Beaupre
Bill Singletary
Lyle Walheim
Frieda Andreas

