

CR 84-154

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C E R T I F I C A T E

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF TRANSPORTATION )

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed administrative rule relating to motor carrier insurance requirements was duly approved and adopted by this Department on the 15th day of November, 1984.

I further certify that the annexed 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 here-  
onto set my hand and affixed the  
official seal of the Department  
at the Hill Farms State Office  
Building in the City of Madison,  
Wisconsin, this 7th day of  
November, 1984.



*Lowell B. Jackson*  
\_\_\_\_\_  
LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation

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STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

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IN THE MATTER OF THE ORDER	:	
OF THE WISCONSIN DEPARTMENT	:	
OF TRANSPORTATION AMENDING	:	ORDER
§ TRANS 176, <u>WIS. ADMIN. CODE</u> ,	:	ADOPTING RULE
RELATING TO MOTOR CARRIER	:	
INSURANCE REQUIREMENTS	:	

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Clearinghouse Rule 84-154

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Analysis Prepared by the  
Wisconsin Department of Transportation

General summary of rule. Chapter 347, Laws of 1981, made numerous changes in the laws governing the "for-hire" motor carrier industry in Wisconsin. One of the changes required the Department of Transportation to set the minimum financial responsibility levels at the same levels required by the Federal Motor Carrier Act of 1980. On October 1, 1982, the Department adopted the minimum limits set out by the federal law and the federal rules adopted thereunder. The federal minimum limits, and therefore the state minimum limits, were scheduled to increase on July 1, 1983. However, on January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (P.L. 97-424, 96 Stat. 2097). Section 406(a) of the Surface Transportation Assistance Act of 1982 amended Section 30 of the Motor Carrier Act of 1980 (P.L. 96-296, 94 Stat. 820) to allow the Secretary of the U.S. Department of Transportation to extend the "phase-in period" for the lower minimum levels of financial responsibility from 2 years to up to 3½ years. In a Notice of Proposed Rulemaking published in the April 11, 1983 Federal Register, Vol. 48, No. 70, page 15499, the Secretary of Transportation proposed to amend the current regulations regarding the minimum levels of financial responsibility by revising the Schedule of Limits table in 49 C.F.R. §§ 387.9 and 387.15 to reflect the additional 18-month "phase-in period" permitted by Section 406 of the Surface Transportation Assistance Act of 1982. The comment period on this rulemaking closed on May 26, 1983. The U.S. Department of Transportation published an emergency rule extending the reduced limits for an additional 12 months on June 28, 1983. Federal Register, Vol. 48, No. 125, page 29698. In June 1984, the U.S. Secretary of Transportation decided to extend the reduced limits for an additional 6 months until December 31, 1984.

Since § 194.41(6), Stats., requires that the Wisconsin Department of Transportation set the minimum limits at the same level as required under the federal law, it is necessary to amend TRANS 176 to reflect the additional 6 months of reduced limits. Therefore, this rule provides that the current levels of \$500,000 for non-hazardous property, \$500,000 for certain types of hazardous property, and \$1,000,000 for more dangerous types of hazardous property will be continued until December 31, 1984. As of January 1, 1985, these levels will be raised to \$750,000, \$1,000,000 and \$5,000,000, respectively, in accordance with the federal law. In addition, in the June 28, 1983 Federal Register, Vol. 48, No. 125, page 29698, the U.S. Department of Transportation published a technical correction to the definition of "large quantity radioactive materials." This rule is revised in accordance with the federal definition. The rule also adds the words "compressed gas" to the hazardous substance insurance requirement to conform to the federal rule. These words were inadvertently omitted earlier.

All of the above changes were made in an emergency rule effective July 1, 1984. This amendment makes the changes permanent.

The remaining portion of this rule creates a new insurance form and endorsement which authorize aggregation of limits. These forms are virtually identical to the federal forms used by the U.S. Department of Transportation and the Interstate Commerce Commission.

Finally, this amendment eliminates the requirement that the Department keep a card file of authorized insurance agents. The Department has found that the file serves no useful purpose, and few, if any, other states maintain such a file.

Fiscal Estimate. This rule will have no fiscal impact independent of the fiscal effect of the law. The Department does not anticipate that the promulgation of this rule will have any fiscal impact on its operations. The rule will reduce the economic burden on the motor carrier industry by delaying the substantial insurance increases by 6 months. The addition of 2 new forms has been requested by the insurance industry and will promote uniformity of filings.

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Pursuant to the authority vested in the Wisconsin Department of Transportation by §§ 194.41 and 227.014, Stats., the Department hereby amends Trans 176 as follows:

RULE TEXT

SECTION 1. Chapter Trans 176.02(1)(a) and (b) are amended to read:

Trans 176.02(1)(a) ~~The~~ Except as provided in (c), the certificate of insurance shall be made on FORM E, Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance. (Appendix I)

(b) The endorsement shall be attached to the policy and shall be a part of the policy. ~~The~~ Except as provided in (d), the endorsement shall be made on FORM F, Uniform Bodily Injury and Property Damage Liability Insurance Endorsement. (Appendix II)

SECTION 2. Chapter Trans 176.02(1)(c) and (d) are created to read:

Trans 176.02(1)(c) In lieu of the FORM E certificate required under (a), a certificate of insurance may be made on FORM EX, Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance. (Appendix X)

(d) If a FORM EX certificate is filed in lieu of FORM E, an endorsement shall be made on FORM FX, Motor Carrier Automobile Bodily Injury and Property Damage Liability Insurance Endorsement. (Appendix XI)

SECTION 3. Chapter Trans 176.06(1)(a)(intro.) and 1. is amended to read:

TRANS 176.06(1)(a)(intro.) For-hire property carriers:

	OCTOBER 1, 1982 THROUGH <del>JUNE 30, 1983</del> DECEMBER 31, 1984	ON AND AFTER <del>JULY 1, 1984</del> JANUARY 1, 1985
1. Vehicles transporting hazardous substances, as defined in 49 C.F.R. 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3500 water gallons; or in bulk Class A and B explosives, poison gas (Poison A), liquified compressed gas or compressed gas; <del>or large quantity radioactive materials as defined in 49 C.F.R. 173.309</del> or highway route controlled quantity radioactive materials as defined in 49 C.F.R. 173.455.	\$1,000,000	\$5,000,000

SECTION 4. Chapter Trans 176.07(3) is amended to read:

Trans 176.07(3) The forms shall be signed by an authorized representative of the insurer or surety, ~~whose signature is on file with the department of transportation. A letter of authorization, signed by a corporate officer of the insurer or surety, together with a 3x5 signature card for each authorized representative shall be kept on file by the department of transportation.~~

SECTION 5. Chapter Trans 176 Appendix X is created to read:

APPENDIX X (Front)

MAILING INSTRUCTIONS: Mail first three parts to the Wisconsin Department of Transportation. Retain fourth part for your file.

FORM EX

MOTOR CARRIER AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE

DATE RECEIVED: \_\_\_\_\_

Filed (in Triplicate) with:  
WISCONSIN DEPARTMENT OF TRANSPORTATION  
4802 Sheboygan Avenue  
P.O. Box 7967  
Madison, Wisconsin 53707

This is to certify, that the \_\_\_\_\_ (name of company) \_\_\_\_\_  
(hereinafter called Company) of \_\_\_\_\_ (home office address of company) \_\_\_\_\_  
has issued to \_\_\_\_\_ (name of motor carrier) \_\_\_\_\_  
of \_\_\_\_\_ (address of motor carrier) \_\_\_\_\_

insurance under terms described on the back of this form, to provide coverage as follows: (CHECK AS APPLICABLE)

\_\_\_\_\_ FULL SECURITY LIMITS REQUIRED IN SECTION 194.41, WIS. STATS., AND TRANS 176, WISCONSIN ADMINISTRATIVE CODE.

SECURITY LIMITS REQUIRED UNDER SECTION 194.41, WIS. STATS., AND TRANS 176, WISCONSIN ADMINISTRATIVE CODE, AS FOLLOWS:

\_\_\_\_\_ This insurance is primary and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident.

\_\_\_\_\_ This insurance is excess and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident in excess of the underlying limit of \$ \_\_\_\_\_ for each accident.

Effective from .....(12:01 a.m., standard time at the address of the Insured as stated in said policy or policies)  
and continuing until cancelled as provided in the rules and regulations under TRANS 176, Wisconsin Administrative Code.

SIGNED AT \_\_\_\_\_ (street) \_\_\_\_\_ (city) \_\_\_\_\_ (state) \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_ (issuing office--full name of agency or branch) \_\_\_\_\_  
\_\_\_\_\_ (signature of authorized company representative) \_\_\_\_\_

INSURANCE COMPANY POLICY NO. \_\_\_\_\_

APPENDIX X (Back)

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The receipt of this certificate by the Department certifies that a policy or policies of Public Liability (or Automobile Bodily Injury and Property Damage Liability) insurance has been issued by the Company identified on the face of this form, that the Company is qualified to make this filing, and that by attachment of the endorsement prescribed by the Wisconsin Department of Transportation (FORM FX), is amended to provide, within the limits stated herein, the coverage or security for the protection of the public required under section 194.41, Wis. Stats., and TRANS 176, Wisconsin Administrative Code. The amendment governs the operation, maintenance or use of motor vehicles under certificate of public convenience and necessity or permit issued to the Insured by the Office of the Commissioner of Transportation or the Wisconsin Department of Transportation, and the pertinent rules and regulations of the Commissioner and the Department, regardless of whether such motor vehicles are specifically described in the policy or policies or not. The liability of the Company extends to all losses, damages, injuries or deaths occurring within the authority granted to the Insured by the Commissioner or the Department or elsewhere.

The endorsement(s) described may not be cancelled without notification to the Department. Such cancellation may be affected by the Company or the Insured giving thirty (30) days' notice in writing to the Wisconsin Department of Transportation at its office in Madison, Wisconsin, said thirty (30) days' notice to commence to run from the date notice is actually received at the Department.

SECTION 6. Chapter Trans 176 Appendix XI is created to read:

APPENDIX XI (Front)

FORM FX

MOTOR CARRIER AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE  
LIABILITY INSURANCE ENDORSEMENT

Issued to \_\_\_\_\_ of \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Amending Policy No. \_\_\_\_\_ Effective Date \_\_\_\_\_

Name of Insurance Company \_\_\_\_\_

Countersigned by \_\_\_\_\_  
Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "  " "  X  ", for the limits shown:

\_\_\_\_ This insurance is primary and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident.

\_\_\_\_ This insurance is excess and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident in excess of the underlying limit of \$ \_\_\_\_\_ for each accident.

Whenever required by the Wisconsin Department of Transportation, the Company agrees to furnish the Department a duplicate of said policy and all its endorsements. The Company also agrees, upon telephone request by an authorized representative of the Department, to verify that the policy is in force as of a particular date.

Cancellation of this endorsement may be effected by the Company or the Insured by giving thirty (30) days' notice in writing to the other party, and by providing thirty (30) days' notice to the Department (said 30 days' notice to commence from the date the notice is received by the Department at its office in Madison, Wisconsin).



APPENDIX XI (Back)

FORM FX

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The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with sec. 194.41, Wis. Stats., and TRANS 176, Wis. Admin. Code, and the rules and regulations of the Wisconsin Department of Transportation.

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability (automobile, bodily injury and property damage liability) resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of sec. 194.41, Wis. Stats., and TRANS 176, Wis. Admin. Code, regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or to property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation or limitation contained in the policy,

this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

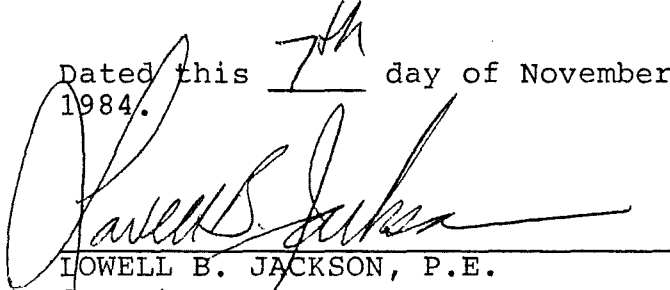
The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident, and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

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(End)

The rule contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in sec. 227.026(1)(intro.), Wis. Stats.

Dated this 7<sup>th</sup> day of November, 1984.



LOWELL B. JACKSON, P.E.  
Secretary  
Wisconsin Department of  
Transportation



State of Wisconsin \ DEPARTMENT OF TRANSPORTATION



DIVISION OF MOTOR VEHICLES  
4802 Sheboygan Avenue  
Madison, WI 53702

November 15, 1984

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NOV 15 1984

Revisor of Statutes  
Bureau

Mr. Gary Poulson  
Assistant Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

RE: Clearinghouse Rule 84-154  
In the Matter of the Amendment of § Trans 176,  
Wisconsin Administrative Code, Relating to  
Motor Carrier Insurance Requirements

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats., is a certified copy of CR 84-154, an administrative rule relating to motor carrier insurance requirements. An additional, un-certified copy of CR 84-154 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

Mary M. Runkel  
Executive Assistant  
Division of Motor Vehicles

MMR:ck  
Enclosure  
cc: Sue Gallagher  
Skip Schneider  
Norbert Anderson  
Carl Johnson  
Dean Terhall