

CR 85-70

CERTIFICATE

STATE OF WISCONSIN )  
 ) s.s.  
DEPARTMENT OF TRANSPORTATION )

**RECEIVED**

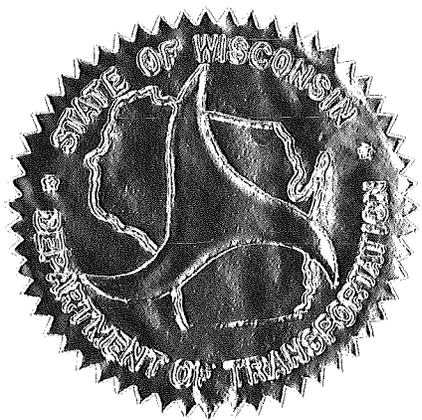
NOV 8 1985  
9:40 am  
Revisor of Statutes  
Bureau

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lowell B. Jackson, Secretary of the Wisconsin Department of Transportation and custodian of the official records do hereby certify that the rule relating to Motor Carrier Safety Requirements for Transportation of Hazardous Materials, was duly approved and adopted by this department on November \_\_\_, 1985.

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, this 6th day of November, 1985.



*Lowell B. Jackson*  
\_\_\_\_\_  
LOWELL B. JACKSON, P.E.  
Secretary

## OFFICE OF THE SECRETARY

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An Order of the Department of Transportation to create section TRANS 326, Wisconsin Administrative Code, relating to Motor Carrier Safety Requirements for Transportation of Hazardous Materials.

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CR 85-70

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Analysis Prepared by the Wisconsin Department of Transportation

General summary of the rule. These rule provisions adopt federal requirements governing motor vehicle transportation of hazardous materials by interstate carriers.

Under §402 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 2302 (Public Law 97-424, January 6, 1983), the U.S. Secretary of Transportation is empowered to make grants to states for the development or implementation of programs to enforce federal regulations applicable to commercial motor vehicles. A portion of the provision in the Act is reproduced below:

Grants to States

- (a) Under the terms and conditions of this section, subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.
- (b)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety, or compatible State rules, regulations, standards, and orders. Such plan shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—
- (A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;
  - (B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;
  - (C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;
  - (D) provides a right of entry and inspection sufficient to enforce such rules, regulations, standards, and orders;
  - (E) provides that all reports required pursuant to this section be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;
  - (F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and
  - (G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

In order to be eligible for these grants, it is necessary to adopt the applicable federal regulations on transportation of hazardous materials. Therefore, the rule adopts by reference the following parts of Title 49 of the Code of Federal Regulations:

- Part 107 - Hazardous Materials Program Procedures
- Part 171 - Hazardous Materials Regulations
- Part 172 - Hazardous Materials Tables and Hazardous Materials Communications Regulations
  - ~ Hazardous Materials Tables
  - ~ Shipping Papers
  - ~ Marking
  - ~ Labeling
  - ~ Placarding
- Part 173 - General Requirements for Shipments and Packages
  - ~ Preparation of Hazardous Materials for Transportation
  - ~ Class A, B and C Explosives; Definitions
  - ~ Flammable, Combustible, and Pyrophoric Liquids; Definitions and Preparation
  - ~ Flammable Solids, Oxidizers and Organic Peroxides; Definitions and Preparation
  - ~ Corrosive Materials; Definition and Preparation
  - ~ Compressed Gases; Definition and Preparation
  - ~ Poisonous Materials, Etiologic Agents and Radioactive Materials; Definitions and Preparation
  - ~ Other regulated materials
- Part 177 - Carriage by Public Highways
- Part 178 - Shipping Container Specifications

These regulations are adopted and will be enforced under the provisions of ss. 110.07, 110.075, 194.38 and 346.45(4), Stats. Violations of ss. 110.07 and 110.075 and rules adopted thereunder are punishable by a forfeiture of not less than \$10 nor more than \$200. Violations of ch. 194 and rules adopted thereunder are punishable by a forfeiture of not less than \$50 nor more than \$100. Violations of rules promulgated under s. 346.45(4), Stats., are punishable by a forfeiture of not less than \$30 nor more than \$300. No demerit points may be assessed to a person's driving record for violations of these rules.

The only persons and vehicles which will be subject to these rules are persons and vehicles which are already subject to the federal rules. The adoption of Trans 326 will give the Department of Transportation the authority to enforce federal regulations governing transportation of hazardous materials. The rule will primarily be enforced by troopers and inspectors of the Wisconsin State Patrol.

Fiscal Estimate. Adoption of this rule allows the Wisconsin Department of Transportation, Division of State Patrol, to continue to qualify for enforcement assistance grant funds from the U.S. Department of Transportation. The Department was eligible for \$253,000 in grant money for federal fiscal year 1985 (October 1, 1984-September 30, 1985). The Department does not anticipate that any additional costs will accrue to the motor carrier industry since the only individuals and vehicles subject to this rule are already subject to the federal regulations which this rule adopts by reference.

Final Regulatory Flexibility Analysis. This rule does not affect small business because all parties covered by this rule are already subject to the federal regulations which this rule incorporates.

The Attorney General and Revisor of Statutes have reviewed this proposed action and have concluded that the matters to be incorporated herein fall within the scope of s. 227.025, Stats.

This analysis was prepared by Joe Maassen, Assistant General Counsel, Wisconsin Department of Transportation, P.O. Box 7910, Madison, Wisconsin 53707 (608-266-8810). A copy of the proposed rule may be obtained upon request from the Wisconsin Department of Transportation, Division of State Patrol, Room 201 Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702 (608-266-3212).

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ORDER ADOPTING RULE

Pursuant to the authority vested in the Wisconsin department of transportation by ss. 110.07, 227.014, 346.34(4) and ch. 194, Stats., the department hereby adopts Trans 326 interpreting the provisions of ss. 110.07, 346.45(4) and ch. 194, Stats., as follows:

SECTION 1. Trans 326 is created to read:

TRANS 326

MOTOR CARRIER SAFETY REQUIREMENTS

FOR TRANSPORTATION OF HAZARDOUS

MATERIALS

Trans 326.01 Federal Rules Adopted. The following federal regulations adopted by the United States department of transportation and in effect on March 28, 1985, 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 federal regulations were set out in full in this rule:

- (1) Title 49, Code of Federal Regulations, part 107, Hazardous Materials Program Procedures.
- (2) Title 49, Code of Federal Regulations, part 171, Hazardous Materials Regulations.
- (3) Title 49, Code of Federal Regulations, part 172, Hazardous Materials Tables and Hazardous Materials Communications Regulations.
- (4) Title 49, Code of Federal Regulations, part 173, General Requirements for Shipments and Packagings.
- (5) Title 49, Code of Federal Regulations, part 177, Carriage by Public Highway.
- (6) Title 49, Code of Federal Regulations, part 178, Shipping Container Specifications.

Trans 326.05 The provisions of Trans 326.01 shall be enforced under the provisions of ss. <sup>110.07</sup> 110.01, 346.45(4) and ch. 194, Stats.

*Typo  
11/20/85  
C&P*

Trans 326.07 The provisions of Trans 326.01(6) do not apply to cargo tanks and portable tanks used in intrastate commerce and placed in operation prior to the effective date of this rule.

Trans 326.09 DEMERIT POINTS NOT APPLICABLE. No demerit points may be assessed for violations of s. Trans 326.01.

Trans 326.15 COPIES OF RULES. The department shall advise

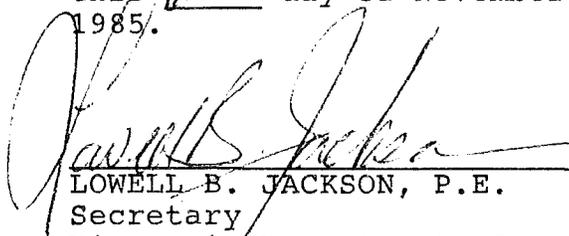
carriers that copies of the federal regulations cited in s. Trans 326.01 may be obtained by contacting the Division of State Patrol.

(End)

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This rule shall take effect upon the first day of the month following publication as provided in s. 227.026(1)(intro.), Wis. Stats., whichever is later.

Signed at Madison, Wisconsin,  
this 16<sup>th</sup> day of November,  
1985.



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



State of Wisconsin \ DEPARTMENT OF TRANSPORTATION



PLEASE REPLY TO:

OFFICE OF GENERAL COUNSEL

4802 Sheboygan Avenue  
P.O. Box 7910  
Madison, WI 53707-7910  
Telephone: (608) 266-8810

November 5, 1985

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**NOV 8 1985**

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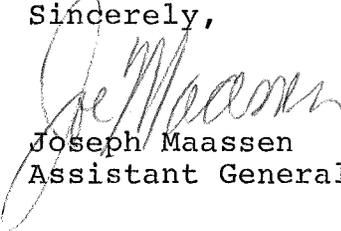
Mr. Gary Poulson  
Assistant Revisor of Statutes  
30 West Mifflin Street, Suite 904  
Madison, Wisconsin 53703

RE: Clearinghouse Rule 85-70;  
In the Matter of the Adoption of TRANS 326,  
Wisconsin Administrative Code, Relating to  
Motor Carrier Safety Requirements for  
Transportation of Hazardous Materials

Dear Mr. Poulson:

Enclosed for filing, pursuant to sec. 227.023, Wis. Stats., is a certified copy of CR 85-70, an administrative rule relating to motor carrier safety requirements for transportation of hazardous materials. An additional, uncertified copy of CR 85-70 is enclosed to be used as a printer's copy. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,

  
Joseph Maassen  
Assistant General Counsel

JM/mk

Enclosures

cc: K. Sue Gallagher  
Maynard Schneider  
James Van Sistine  
Tom Cantwell  
Lyle Walheim