

Report From Agency

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
ADOPTING RULES**

CR 08-048

The Wisconsin Department of Transportation proposes an order to amend TRANS 250.04, relating to Internet and telephone call-in fees.

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the chief clerks of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:

KATHLEEN CHUNG
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-8752

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 348.25(8)(e), Stats.

Statutory authority: ss. 85.16(1), 227.11(2)(a) and 348.25(3) and (8)(e), Stats.

Explanation of agency authority: The Department is authorized by s. 348.25(8)(e), Stats., to administer issuance of permits for overweight and over-sized transport, including charging a fee for issuance by internet and telephone call-in.

Related statute or rule: ss. 348.25, 348.26 and 348.27, and ch. Trans 250.

Plain language analysis: Section Trans 250.04 establishes the fee for obtaining an oversize and/or overweight routing permit or permit amendment that is applied for or issued by Internet or telephone call-in procedures. 2003 Wis. Act 33, Section 2604, amended s. 348.25(8)(e), Stats., to provide that the amount of the fee is to be established by the Department by rule, and shall approximate the cost to the Department for providing this service. The current \$5 fee was based on the Department's cost to provide telephone and internet service in 2003. Recently, the Department has determined that the current actual cost per transaction is about \$1.49, but that is subject to change in the future as the Department's annual cost assessment indicates.

This rule making amends s. Trans 250.04 to establish that the Department shall determine the fee annually to approximate the cost to the Department for providing the transaction, not to exceed \$5 per transaction. In determining the fee per transaction for the current year, the Department shall review, from the previous year, the total cost of the service, the number of transactions, and other material factors. The current fee shall be published on the Department's internet web site and in communication materials distributed to eligible motor carriers. This approach is modeled on ch. Trans 196 language that was promulgated in 2005 for Internet and phone registration renewal transactions.

Summary of, and preliminary comparison with, existing or proposed federal regulation: No federal regulations relate to this fee.

Comparison with Rules in the Following States:

Michigan: Michigan currently accepts credit cards for some transactions, and does not charge a convenience fee. Michigan anticipates expanding credit card acceptance without imposing a convenience fee.

Minnesota: Minnesota accepts credit cards, and does not charge a convenience fee. If customer uses a VitalChek product or interface, the customer pays that company's processing fee directly.

Illinois: Illinois accepts credit cards and does not charge a convenience fee for credit card usage per se, but does charge \$1 fee for transmission of permit via fax, regardless of method of payment.

Iowa: Iowa does not accept credit cards directly, as Iowa by law cannot use tax revenue to pay merchant fee nor create a related service fee. In Iowa, a private third-party vendor has a terminal in the Iowa main office, for use by customers who wish to pay oversized/overweight permit fees using credit cards. The vendor charges a fee based on cost of the transaction; the minimum fee is \$6.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: The Department has successfully implemented fee calculation and publication under ch. Trans 196. Under the proposed rule amendment, the convenience fee for oversized/overweight permit applications by internet and telephone call-in procedures will be treated similarly.

The Department has the capability to determine the fee annually to approximate the cost to the Department for providing the transaction, not to exceed \$5 per transaction. In determining the fee per transaction for the current year, the Department shall review, from the previous year, the total cost of the service, the number of transactions, and other material factors.

The Department recognizes that if the cost were to exceed the amount that the Legislature has previously approved (\$5 per transaction), the Department must seek Legislative oversight through the rule making process.

Analysis and supporting documentation used to determine effect on small businesses: Small businesses represent most motor carriers that apply for oversized/overweight permits, using the Internet or telephone call-in procedure. In 2007, almost 28,000 oversized/overweight charge-card transactions occurred. The average permit transaction amount was just under \$60, and the average transaction cost to DOT was \$1.49.

Effect on small business: The Department concludes that reduction of the convenience fee will reduce the cost to small businesses. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: The Department estimates that because it is prohibited from charging fees to any department of a county, town, or municipality or any branch of the United States government, or any foreign government for oversized/overweight permits by s. Trans 250.08, there will be no fiscal impact on the liabilities or revenues of any county, town, municipality, nor any branch of the United States government, nor any foreign government.

Anticipated costs incurred by private sector: The Department estimates that since oversized/overweight permit application by Internet or telephone call-in is a minor

portion of state or private sector activity, there will be no fiscal impact on state or private sector revenues or liabilities.

Agency contact person and copies of proposed rule. Copies of the proposed rule may be obtained upon request, without cost, by writing to Carson Frazier, Department of Transportation, Bureau of Vehicle Services, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Frazier by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 250.04 is amended to read:

Trans 250.04 Internet fee and telephone call-in fee. In addition to any other applicable fee under this chapter, the department shall charge a \$5 fee for each permit or amendment which is applied for or issued by the internet procedure or the telephone call-in procedure. The fee shall be determined by the department annually to approximate the cost to the department for providing the transaction, not to exceed \$5.00. In determining the fee per transaction for the current year, the department shall review, from the previous year, the total cost of the service, the number of transactions, and other material factors. The current fee shall be published on the department's internet web site and in communication materials distributed to eligible motor carriers. Only one internet fee or telephone call-in fee shall be charged when a permit or amendment is applied for and issued by the internet procedure or the telephone call-in procedure.

NOTE: The fee and process for obtaining a permit via the internet can be found at <http://www.dot.wisconsin.gov/business/carriers/osow-autosys.htm>

(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)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of
July, 2008.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

PART 4
CR 08-048

ANALYSIS OF FINAL DRAFT OF TRANS 250

(a) **Basis and Purpose of Rule.** Section Trans 250.04 establishes the fee for obtaining an oversize and/or overweight routing permit or permit amendment that is applied for or issued by Internet or telephone call-in procedures. 2003 Wis. Act 33, Section 2604, amended s. 348.25(8)(e), Stats., to provide that the amount of the fee is to be established by the Department by rule, and shall approximate the cost to the Department for providing this service. The current \$5 fee was based on the Department's cost to provide telephone and Internet service in 2003. Recently, the Department has determined that the current actual cost per transaction is about \$1.49, but that is subject to change in the future as the Department's annual cost assessment indicates.

This rule making amends s. Trans 250.04 to establish that the Department shall determine the fee annually to approximate the cost to the Department for providing the transaction, not to exceed \$5 per transaction. In determining the fee per transaction for the current year, the Department shall review, from the previous year, the total cost of the service, the number of transactions, and other material factors. The current fee shall be published on the Department's Internet web site and in communication materials distributed to eligible motor carriers. This approach is modeled on ch. Trans 196 language that was promulgated in 2005 for Internet and phone registration renewal transactions.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on July 9, 2008. No modifications were made as a result of testimony at the hearing.

(c) **List of Persons who Appeared or Registered at Public Hearing.** No one appeared/registered at the hearing.

(d) **Summary of Public Comments and Agency Response to those Comments:** No public comments were received.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** No changes were made.

(f) **Response to Legislative Council Recommendations:** The Legislative Council had only one recommendation which has been incorporated into the proposed rule.

(g) **Final Regulatory Flexibility Analysis:** The Department concludes that reduction of the convenience fee will reduce the cost to small businesses.