

Report From Agency

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

CR 08-101

The Wisconsin Department of Transportation proposes an order amending TRANS 276.07(14), (24) and (35m), relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit.

**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.

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PART 1
Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: s. 348.07, Stats.

Statutory authority: s. 348.07, Stats.

Explanation of agency authority: Section 348.07(4), Stats., requires the secretary to designate by rule the highways to which s. 348.07 (2)(f), Stats., [no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway], (fm) [no length limitation for a truck tractor or road tractor when such truck tractor or road tractor is operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway], (gm) [28 feet 6 inch length limit for a semitrailer or trailer operated as part of a double bottom], and (gr) [53 feet for a semitrailer whose length from kingpin to axle does not exceed 43 feet and which is operated as part of a 2-vehicle combination], and s. 348.08(1)(e), Stats., [double bottom trucks] apply. The designation of highways under this subsection may not be inconsistent with the designation of highways made by the U.S. secretary of transportation under P.L. 97-424, section 411.

Related statute or rule: s. 348.07, Stats., and ch. Trans 276, Wis. Admin. Code

Plain language analysis: This rule proposes to amend s. Trans 276.07(14), (24) and (35m), Wisconsin Administrative Code, to add three segments of highway to the designated highway system established under s. 348.07(4), Stats. The actual highway segments¹ that this rule proposes to add to the designated highway system are:

<u>Hwy.</u>	<u>From</u>	<u>To</u>
STH 66	West of Rosholt	CTH A East of Rosholt
CTH A in Portage Co.	STH 66 near Rosholt	STH 161
STH 161	CTH A	USH 10

The long trucks to which this rule applies are those with 53-foot semitrailers, double bottoms and vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet², a combination of vehicles with an overall length in

¹ The rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

² 45-foot buses are allowed on the National Network and Interstate system by Federal

excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this rule will be to extend the provisions of s. 348.07(2)(f), (fm), (gm) and (gr), and s. 348.08(1)(e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highway. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segment. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segment provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on this highway segment provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 15 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Summary of, and preliminary comparison with, existing or proposed federal regulation: In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor-semitrailer combinations and to truck tractor-semitrailer-trailer combinations. (See Jan. 6, 1983, Public Law 97-424, § 411) The uniform standards provide that:

- No state may impose a limit of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination.
- No state may impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination.
- No state may limit the length of truck tractors.

law. Section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991.

- No state may impose an overall length limitation on commercial vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations.
- No state may prohibit operation of truck tractor-semitrailer-trailer combinations.

The State of Wisconsin complied with the federal requirements outlined above by enacting 1983 Wisconsin Act 78 which amended § 348.07(2), Stats., and § 348.08(1), Stats. This act created §§ 348.07(2)(f), (fm), (gm) and 348.08(1)(e) to implement the federal length requirements. In 1986 the legislature created § 348.07(2)(gr), Stats., to add 53 foot semitrailers as part of a two vehicle combination to the types of vehicles that may operate along with STAA authorized vehicles. (See 1985 Wisconsin Act 165)

The vehicles authorized by the STAA may operate on the national system of interstate and defense highways and on those federal aid primary highways designated by regulation of the secretary of the United States Department of Transportation. In 1984 the USDOT adopted 23 CFR Part 658 which in Appendix A lists the highways in each state upon which STAA authorized vehicles may operate. Collectively these highways are known as the National Network. In 1983 Wisconsin Act 78, the legislature enacted § 348.07(4), Stats., which directs the Wisconsin Department of Transportation to adopt a rule designating the highways in Wisconsin on which STAA authorized vehicles may be operated consistent with federal regulations.

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in § 348.07(4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 15 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

Comparison with Rules in Adjacent States:

Michigan: Allows 53 ft. semi-trailers on designated highways only approved by the state transportation department or a local authority. Maximum length from kingpin to axle is 37.5 ft. to 40.5 ft. There is no restriction on maximum overall tractor-semitrailer length. Allows 5-mile access provision on state highways for food, fuel, repairs or rest.

Minnesota: Allows 53 ft. semi-trailers on any road with an overall length restriction of 75 ft. No restriction on divided highways. Commissioner may designate other than divided highways, subject to local approval, for the purpose of providing reasonable access between divided highways.

Illinois: Allows 53 ft. semi-trailers on designated highways on Class I, II and III highways. Maximum length from kingpin to axle is 45.5 ft. There is no restriction on maximum overall tractor-semitrailer length for Class I and II highways, but a 65 ft. restriction on Class III highway, and a 55 ft. restriction on non-state highways. Allows a 5-mile access provision off a state route.

Iowa: Allows 53-ft. semi-trailers on any highway and no maximum overall semi-trailer length restriction.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: Due to the federal requirement that requests for access to the designated highway system in a state be decided within 90 days of the request, a proposed rule making to add requested routes is initiated without investigation. The public hearing and Department investigation undertaken in preparation for the hearing provided the engineering and economic data needed to make a final decision to proceed to final rule making.

Effect on small business and, if applicable, any analysis and supporting documentation used to determine effect on small businesses: The provisions of this proposed rule adding three highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses that are shippers or carriers using the newly designated routes. 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 of the rule, and anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency contact person and copies of proposed: Copies of the proposed rule may be obtained by writing to Ashwani Sharma, Department of Transportation, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, WI 53707-7986. You may also contact Mr. Sharma by phone at (608) 266-1273 or via e-mail at ashwani.sharma@dot.state.wi.us.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 276.07(14) and (35m) are amended to read:

	<u>Route</u>	<u>From</u>	<u>To</u>
Trans 276.07(14)	STH 65	USH 10 in Ellsworth	STH 64 at New Richmond
	STH 66	USH 51 at Stevens Point	<u>CTH A E. of Rosholt</u>
	STH 67	IH 94 S. of Oconomowoc	STH 28 in Mayville
	STH 67	CTH B S. of St. Cloud	USH 151 N. of Kiel
	STH 68	STH 33 at Fox Lake	STH 49 at Waupun
	STH 69	IL Line	CTH PB at Paoli
(24)	STH 150	STH 110 at Winchester	USH 41 at Neenah
	USH 151	IA Line at Dubuque, IA	S. Park St. in Madison
	USH 151	IH 90-94 in Madison	USH 41 in Fond du Lac
	USH 151	STH 23 in Fond du Lac	USH 10 at Manitowoc
	USH 158	IH 94 W. of Kenosha	STH 31 in Kenosha
	<u>STH 161</u>	<u>CTH A in Portage County</u>	<u>USH 10</u>
	STH 164	STH 36	USH 18 E. of Waukesha
	STH 164	IH 94 N. of Waukesha	STH 190 E. of Pewaukee
	STH 164	CTH VV in Sussex	CTH Q W. of Colgate
	STH 165	IH 94 W. of Kenosha	STH 31 in Kenosha
	STH 170	STH 128 in Glenwood City	STH 79 in Boyceville
	STH 172	USH 41 in Ashwaubenon	IH 43 S.E. of Green Bay
	STH 173	STH 21 W. of Wyeville	STH 73 in Nekoosa
	STH 175	STH 67 in Lomira	CTH P S. of Theresa
	STH 178	CTH S N. of Chippewa Falls	Jim Falls

(35m) PORTAGE COUNTY

CTH A STH 66 E. of Rosholt STH 161

CTH B USH 10 IH 39

(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
December, 2008.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

PART 4
CR 08-101

ANALYSIS OF FINAL DRAFT OF TRANS 276

(a) **Basis and Purpose of Rule.** Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to make changes to the long truck route network. Chapter Trans 276 is the existing rule designating the long truck network. A group of citizens and businesses from the Rosholt, Wisconsin, area petitioned WisDOT to designate CTH A in Portage County a long truck route. The purpose of designation would be to provide a direct route to STH 10 south and east of Rosholt.

Because CTH A is a county trunk highway and not a State Trunk Highway, the recent changes to Ch. 348, Stats., made in 2005 Wis. Act 363 do not permit 75 foot trucks to run on CTH A. Currently designated STH 49 runs to Rosholt, Wisconsin from Waupaca. It is a fairly twisty road that goes through a number of small towns and is inappropriate for overlength trucks. In fact, it is one of the State Trunk Highways the Department limited with a 65' length restriction after the passage of 2005 Wis. Act 363.

The hearing draft of the proposed rule was drafted to implement the exact request forwarded by the Rosholt constituents and proposed to amend s. Trans 276.07(14) and (35m), Wisconsin Administrative Code, to add two segments of highway to the designated highway system established under s. 348.07(4), Stats. The actual highway segments that the initial hearing draft of this proposed rule would have added to the designated highway system were:

<u>Hwy.</u>	<u>From</u>	<u>To</u>
STH 66	West of Rosholt	CTH A. E. of Rosholt
CTH A in Portage Co.	STH 66 near Rosholt	USH 10 in Amherst

The Department considered the factors of safety, economics, energy savings, industry productivity and competition as required by s. 348.07(4), Stats., testimony received at hearing, and information submitted by DOT staff and the Wisconsin State Patrol in assessing that proposal.

Testimony from the witnesses at hearing, and information received from DOT staff and the State Patrol all indicated that the portion of CTH A from the Rosholt area south to Hwy. 161 is relatively straight with gradual curves and wide shoulders and is capable of handling overlength truck traffic. CTH A south from Hwy. 161 to Amherst, in contrast, has very narrow shoulders, 15 and 20 mph "S" curves and is not capable of safely handling such

traffic. DOT engineering staff believe it would be unsafe to add this highway segment to the long truck route network. Long trucks on this highway would cross the centerline or drive off the roadway on curves, present unsafe obstacles to passing, and generally present a traffic hazard.

Lawrence R. Kielblock, of L.C.K. Transport, Rosholt, Wisconsin, and Bill Weronke, Jr. of the Portage Co. Highway Commission both testified at hearing that the segment of Portage County Highway A from STH 161 north to Rosholt was appropriate for long truck traffic, but that the portion south of STH 161 was not. Kielblock suggested long trucks be directed from the intersection of STH 161 and CTH A to USH 10 using STH 161 and CTH Q. Weronke testified that CTH Q had been recently transferred to county jurisdiction and STH 161 upgraded and rebuilt between CTH A and USH 10. He also pointed out that STH 161 does not travel through any additional municipalities. He recommended that STH 161 be used to access USH 10 from its intersection with Portage County Highway A. Mr. Kielblock agreed that the STH 161 route recommended by Weronke is an appropriate route for long trucks and would satisfy the long truck route request submitted by the Rosholt area businesses.

Department engineers concur with the route change recommendation made by Commissioner Weronke. This is a much better and safer route; the highways' engineering attributes more properly support the potential for over-length and over-sized traffic. Using STH 161 to access USH 10 minimizes intersection conflicts and keeps the truck traffic on through highways.

Long truck use of CTH A (actually CTH A/T) south of STH 161 to CTH A/B and USH 10 is inappropriate because the roadway is narrower and poses more hills and curves which cause sight interruptions for motorists. This is not a problem on STH 161 between USH 10 and Portage County Highway A. County Trunk A south of STH 161 also has more intersection conflict points that necessarily create a higher risk of accidents. That highway segment does not include any businesses or industrial users that would require origin and destination heavy truck traffic. It is primarily a residential route.

Accordingly, the Department has amended the initial proposed draft of this proposed rule to incorporate Commissioner Weronke's recommendations.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on December 3, 2008. Modifications made as a result of testimony at the hearing are discussed in the preceding section, the plain language analysis above, and in par. (d) below.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following two individuals spoke for information at the hearing:

Lawrence R. Kielblock, L.C.K. Transport, Rosholt, Wisconsin.

Bill Weronke, Portage County Highway Commission, Plover, Wisconsin.

(d) **Summary of Public Comments and Agency Response to those Comments:** Listed below are the summary of the public comments and the Department's response to those comments:

Mr. Kielblock of L.C.K. Transport, Rosholt, WI, testified at hearing that the segment of Portage County Highway A from STH 161 north to Rosholt was appropriate for long truck traffic, but that the portion south of STH 161 was not. Kielblock suggested long trucks be directed from the intersection of STH 161 and CTH A to USH 10 using STH 161 and CTH Q. After Mr. Weronke recommended that STH 161 be used to access USH 10 from its intersection with Portage County Highway A, Mr. Kielblock agreed that the STH 161 route recommended by Weronke is an appropriate route for long trucks and would satisfy the long truck route request submitted by the Rosholt area businesses.

Commissioner Weronke testified that CTH Q had been recently transferred to county jurisdiction and STH 161 upgraded and rebuilt between CTH A and USH 10. He also pointed out that STH 161 does not travel through any additional municipalities. He recommended that STH 161 be used to access USH 10 from its intersection with Portage County Highway A.

The written comment period was held open until close of business the day of the hearing. Written comments were received from:

Michael Juris, Village President, Village of Amherst – Mr. Juris submitted a letter in which the village recommended additional on-right-of-way signs be installed for village exits to provide route clarification for new truck traffic. The route proposed in this amended draft of the rule bypasses Amherst and obviates the need to address this concern.

The Department elected to adopt the recommendation of Commissioner Weronke and amended the proposed route to avoid Portage County CTH A south of STH 161 and to use STH 161 to access USH 10.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** The plain language analysis is changed to reflect the changes made in the proposed rule and the decision to route trucks on STH 161 to USH 10 from that highway's intersection with Portage County Highway A.

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained only one comment that has been adopted.

(g) **Final Regulatory Flexibility Analysis.** The provisions of this proposed rule adding three highway segments to the designated system have no direct adverse effect on

small businesses, and may have a favorable effect on those small businesses that are shippers or carriers using the newly designated routes.