

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 5/4/21
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Wisconsin Administrative Code Chapter Trans 230; Permits for Loads Exceeding Size, Weight, and Vehicle Combination Limits	
4. Subject General oversize/overweight vehicle permitting authority	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected 20.395 (3)(bq); 20.395 (3)(cq); 20.395 (3)(eq)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input checked="" type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule <p>When weather-related or health emergencies arise, the Department of Transportation (department) must facilitate the movement of essential goods and services while ensuring the safety of the public and highway infrastructure throughout the state. Severe emergencies can lead to critical shortages of trucks and drivers for those trucks needed to haul goods to the area affected, or haul debris from it. Thus, a need arises to transport more goods or debris on the existing fleet of commercial motor vehicles for a temporary period in order to alliviate the emergency situation.</p> <p>Under normal circumstances, commercial trucking operations are not permitted to carry loads above statutory weight limits if the materials being transported can be divided into multiple loads. For example, if semi trucks can transport 25 tons of groceries per truck at the legal gross weight of 80,000 pounds, and 30 tons of groceries must be transported, the 30 tons are transported in two trips. This requires two trucks and two drivers. The requirment to divide loads in this fashion is a national and state requirement and exists to preserve roadway surfaces, bridges and other highway facilities from premature wear caused by the exponentially increased damage caused by heavier loads on standard truck configurations. The heavier vehicles also pose an increased safety risk because braking distance and handling can be affected by the increased vehicle weight. That safety risk is offset, however, by a decrease in the number of vehicle miles travelled. In Wisconsin law, the prohibition on issuance of overweight vehicle permits for divisible loads was codified decades ago in Ch. Trans 230, Wis. Admin. Code.</p> <p>Chapter Trans 230, Wis. Admin. Code provides general permitting guidance to vehicle users and law enforcement authorities for safe and lawful operations in conformance with Wisconsin vehicle size, weight and combination laws. However, the current administrative rule does not allow the department flexibility to waive the divisible load requirement and respond quickly to emergency situations.</p>	

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The proposed changes to Ch. Trans 230, Wis. Admin. Code will allow the department flexibility to waive the divisible load requirement to respond to declared emergency situations and facilitate the movement of essential goods and services, especially in situations where truck or driver shortages exist, with due consideration of the effect of the increased loads on the highway infrastructure and the effect on public safety.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.

None.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

While the proposed changes could potentially impact every industry or business who uses or relies upon goods shipped by truck in the state of Wisconsin, the proposed changes would only impact industries or businesses involved in responding to the immediate emergency situation and no impact is anticipated on the day to day oversize/overweight permitting program. Each emergency situation will be different, impacting different industries and businesses, and overall the department believes the effect to all businesses, governmental units and individuals will be positive as the department will be able to respond to industry and emergency needs much faster. Additionally, the department anticipates these businesses would see some positive economic impact through fewer trips, which will reduce labor and fuel costs, and result in less depreciation to equipment. The primary costs created by the proposed permitting authority would be seen in the form of increased depreciation of the state's highway infrastructure and potentially increased risk to driver safety resulting from the heavier vehicle weights.

Because each emergency situation poses unique transportation challenges, it is difficult to quantify the overall impact of potential future waivers of divisible load requirements. Department decision makers will need to quantify each individual emergency and explain the costs and economic impact of granting or declining authority to transport divisible overweight loads and the effect on public safety.

Overall, however, the department believes that the department can manage the authority that would exist under the proposed rule to minimize the impact state infrastructure, taxpayers, and highway safety. While allowing heavier than legal weight loads to be transported does reduce the life expectancy of the infrastructure, overall the department would look to limit the use of the authority to direct emergency relief, and condition permits so as to protect the infrastructure and public safety. In addition, the limited duration of the emergency permits would help minimize these costs and risks.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Allowing increased weights will result in fewer trips, lower labor costs, lower fuel costs, and less depreciation to equipment. The department anticipates businesses would see some positive economic impact. Without an emergency rule, emergency response may be hampered and public welfare may be jeopardized if the department is unable to quickly respond to industry, local government and emergency provider needs during an emergency situation.

While allowing heavier than legal weight loads to be transported does reduce the life expectancy of the infrastructure, overall the department would balance the heavier loads with appropriate permit conditions to help protect the infrastructure and public safety. In addition, the limited duration of the emergency permits would also help minimize the infrastructure and public safety impacts.

Additionally, it is not unusual in emergency situations for the U.S. Department of Transportation to waive requirements ordinarily affecting the industry to facilitate emergency response. For example, if a driver shortage is limiting

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emergency response, the Federal Motor Carrier Safety Administration has waived some hours-of-service restrictions on drivers to increase the number of driver hours available for the emergency response. Similarly, USDOT might waive weight restrictions for certain emergency hauling.

This proposed rulemaking will allow the department to align more quickly with any waivers of federal laws, as well as coordinate with our neighboring states to help provide seamless border transitions for permit users.

16. Long Range Implications of Implementing the Rule

Continued timely response to emergency situations as they arise.

17. Compare With Approaches Being Used by Federal Government

During periods of national emergency, federal law allows states to issue special permits allowing transportation of emergency relief supplies in overweight vehicles notwithstanding divisibility of the loads. 23 U.S.C. s. 127(i)(1). Permits making use of this provision of federal law must expire not later than 120 days after the date of the national emergency declaration. 23 U.S.C. s. 127(i)(2). Transportation of debris is not permitted under the federal law. Federal law also provides for increased weight limits for “emergency vehicles” that transport personnel and equipment and are supporting fire suppression or mitigation of other hazardous situations. 23 U.S.C. s. 127(r).

Federal agencies have waived certain federal requirements for past emergencies, such as responding to Hurricane Katrina. This proposed rulemaking would allow the department to align more quickly with any waivers of federal laws, as well as coordinate with our neighboring states to help provide seamless border transitions for permit users.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

Illinois Code Section 625 ILCS 5/15-101(b) allows oversize/overweight vehicles to be operated by special permit in excess of generally applicable Illinois weight limits. No emergency declaration is required. State officials advise they issue emergency divisible load special permits to allow overweight transportation in response to emergencies. The permits specify the routes of travel permitted and directs permit holders around size or weight-restricted structures and roadways. Public utility vehicles are simply exempt from weight limits when transporting equipment required for emergency repair of public utility facilities, properties or water wells. 625 ILCS 5/15-111(a)(4).

Iowa

Iowa generally prohibits transportation of divisible loads in excess of statutory weight limits. IA Stat. s. 321E.2.1. Iowa allows divisible loads to be transported above those weight limits under permits related to disaster relief activities. IA Stat. s. 321E.29. Permits are issued by the authority with jurisdiction over the highway(s) over which operation is allowed.

Iowa officials advise that state practice is to issue permits only if authorized by a Governor’s emergency declaration that suspends the regulatory provisions of Iowa Code §§ 321.463(6) (a) and (b) and 321E.29 and Iowa Admin. Code chapter 7 61-511, to the extent those provisions restrict the movement of loads related to disaster relief. The Governor has authority under Iowa Code 29C.6 to issue a proclamation of disaster emergency which lasts 30 days, unless sooner terminated or extended in writing by the governor.

Michigan

Michigan allows oversize/overweight vehicles to be operated by permit in order to mitigate issues related to public emergencies; however, the law simply requires “a written application and good cause being shown” and is not restricted to emergencies. Michigan Compiled Law Section 257.725(1) states: “Upon receipt of a written application and good cause being shown, a jurisdictional authority may issue a written special permit authorizing an applicant to operate upon or remove from a highway maintained by that jurisdictional authority a vehicle or combination of vehicles that are any of

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the following: a. Of a size, weight, or load exceeding the maximum specified in this chapter; b. Otherwise not in conformity with this chapter.” An expiration date must be included in the permit. MI Stat. s. 257.725(4).

Minnesota

Minnesota oversize/overweight permitting is regulated by statute; there is no administrative rule specific to oversize/overweight permits to dictate process/decisions. Minnesota allows oversize/overweight vehicles to be operated by permit during public emergencies. The Minnesota commissioner of transportation has broad oversize/overweight permit issuing authority under Minnesota Statutes section 169.86, including authority to allow divisible loads to be transported in excess of statutory weight limits on highways under state jurisdiction. Local authorities must permit operations on highways under their jurisdiction. Authority is not limited to emergencies, specific materials or commodities and does not limit the commissioner’s authority with respect to permitting operation of divisible loads above statutory weight limits as part of an emergency response. The law simply requires “upon application in writing and good cause being shown therefore.” The focus is to protect the public from an imminent threat to health and safety.

19. Contact Name Ehren Bittorf	20. Contact Phone Number (608) 261-2573
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

There are no implementation or compliance costs for small businesses.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

No data analysis was performed.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

The Department did not consider these methods because there is no economic impact on small businesses.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

Failure to comply with the requirements of a permit subject a hauler to a citation for exceeding statutory size or weight limitations.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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