

Clearinghouse Rule 97-006

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

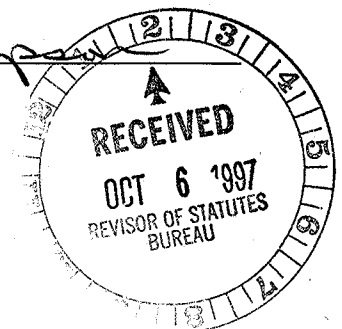
I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **overweight permits**, was duly approved and adopted by this Department on October 3, 1997.

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, Wisconsin, this 3 day of **October**, 1997.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary



The Wisconsin Department of Transportation adopts an order to repeal TRANS 259.02(2)(d); renumber TRANS 259.04(5) and (6); amend TRANS 259.02(2)(a) and 259.04(3); and create chapter TRANS 253, TRANS 255.06(6), and TRANS 259.04(5), relating to Overweight Permits.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 227.11(2)(a), and 348.25(3), Stats.

STATUTE INTERPRETED: ss. 348.06, 348.07, 348.15, 348.25, 348.26, and 348.27, Stats.

General Summary of Rule. 1995 Wis. Act 163 amended s. 348.27(9m), Stats., which allows the Department to issue permits for loads of bulk potatoes to be hauled at weights in excess of the statutory maximum weights of 80,000 pounds. These permits allow transportation of bulk potatoes from storage to rail loading facilities. The rule amends chapter Trans 259 to conform with this statutory amendment.

1993 Wis. Act 439 created a statutory definition of "raw forest products" in s. 348.01(bt), Stats. The rule repeals the previously existing definition of "raw forest products" in s. Trans 259.02(2)(d).

1995 Wis. Act 347 amended requirements for overweight and oversize vehicles operating within 11 miles of the Wisconsin/Michigan border, in s. 348.27(9)(a), Stats. The rule creates ch. Trans 253 that establishes standards and procedures for the issuance of these permits.

The rule creates s. Trans 255.06(6) that specifies that the person issued a permit for an overheight vehicle is responsible for ensuring that the vehicle clears all overhead structures by at least 3 inches.

The rule amends the definition of "fruit or vegetable" in s. Trans 259.02(2)(a), by expanding the meaning to include not only fruits and vegetables for human consumption but also fruits and vegetables not intended for human consumption (for example, field corn and soybeans).

Fiscal Impact. The Department estimates that there may be a fiscal impact on the liabilities or revenues of any county, city, village or town responsible for maintaining local roads.

Final Regulatory Flexibility Analysis. No regulatory flexibility analysis was prepared since the rule will have no adverse effect on small business beyond any effect imposed by 1995 Wisconsin Act 347, 1995 Wisconsin Act 163, and 1993 Wisconsin Act 439.

Copies of Rule. Copies of the rule may be obtained upon request, without cost, by writing to Susan Kavulich, Wisconsin Department of Transportation, Division of Motor Vehicles, Motor Carrier Services Section, Room 151, P. O. Box 7981, Madison, WI 53707-7981, or by calling (608) 261-6305. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the rule will be provided to individuals at their request.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1), 227.11(2)(a), and 348.25(3), Stats., the department of transportation hereby adopts an order creating and amending rules, interpreting ss. 348.06, 348.07, 348.15, 348.25, 348.26, and 348.27, Stats., relating to overweight and oversize permits.

SECTION 1. Chapter Trans 253 is created to read:

CHAPTER TRANS 253

MULTIPLE TRIP OVERWEIGHT AND OVERSIZE PERMITS FOR VEHICLES OPERATING NEAR THE WISCONSIN-MICHIGAN BORDER

Trans 253.01 PURPOSE. The purpose of this chapter is to establish standards and procedures for the issuance of overweight and oversize permits for the transportation of commodities and goods in Wisconsin, within 11 miles of the Wisconsin-Michigan border, pursuant to s. 348.27(9)(a), Stats.

NOTE: Mileage is measured as straight-line air distance from the Wisconsin-Michigan border.

Trans 253.02 DEFINITIONS. Unless otherwise stated, the definitions of words and phrases in ss. 340.01 and 348.01(2), Stats., and s. Trans 250.02 apply to this chapter. In this chapter, "permit" means multiple trip overweight or oversize permits

authorized under s. 348.27(9)(a), Stats., which includes permit pages, copies of all written approvals for movement on local highways, a copy of this chapter, a copy of ch. Trans 251, and any other written conditions of movement issued by the department.

Trans 253.03 OVERWEIGHT AND OVERSIZE PERMITS; GENERAL. (1) The department may issue annual or consecutive month permits for the transportation of overweight and overlength loads in vehicles meeting the requirements of this chapter.

(2) A permit issued under this chapter is not a guarantee of the sufficiency of any highway or structure for the transporting of the vehicle or load, or both.

Trans 253.04 PERMIT APPLICATION. An application for a permit shall be submitted on a department form and shall include the following:

(1) The name, address and telephone number of the applicant.

(2) The name and address of the applicant's insurer, and the applicant's policy number and policy expiration date.

(3) The date on which the applicant seeks to have the permit first become valid, not more than 60 days later than the date of application.

(4) The overall length of the vehicle, and the gross weight of the vehicle.

(5) An indication of whether the vehicle is a combination vehicle and the type of combination, the make, year, and vehicle identification number for the vehicle.

(6) An indication of the number of pneumatic tires and maximum gross weight for each axle on the vehicle.

(7) An indication of the spacing between each axle.

(8) An affirmation that the owner has insurance in the amounts required by this chapter or such higher amount as may be required by the department and that the person accepts the terms of the issuance of a permit under this chapter.

(9) For each local road or county highway permitted under s. Trans 253.06(4) on which the applicant seeks authority to operate, written proof that permission for operation has been granted by the officer in charge of the maintenance of the highway.

NOTE: Applications are available upon request from the Motor Carrier Services Section Permit Unit of the Wisconsin Department of Transportation, 4802 Sheboygan Avenue, P.O. Box 7980, Madison, WI 53707.

NOTE: Permit application procedures are specified in s. Trans 250.025. A permit application may be submitted in person or by mail to the Motor Carrier Services Section Permit Unit. The Motor Carrier Services Section Permit Unit of the Wisconsin Department of Transportation is located at 4802 Sheboygan Avenue, Room 151, P.O. Box 7980, Madison, WI 53707.

Trans 253.05 ELIGIBILITY. The department may issue permits for vehicles under this chapter only to applicants that meet all of the following requirements:

(1) **STATUTORY REQUIREMENTS.** The vehicle and any load satisfy the requirements for a permit under s. 348.25, Stats.

(2) **TRANSPORTATION IN LIMITED GEOGRAPHIC AREA.** The application may not seek authority to transport any commodity or goods on any highway located more than 11 miles from the Wisconsin-Michigan border.

(3) **MAXIMUM SIZE.** The vehicle may not exceed 8 feet 6 inches in width, nor 13 feet 6 inches in height, nor may any vehicle combination exceed 75 feet in overall length.

(4) **PNEUMATIC TIRES.** The vehicle shall be equipped with pneumatic tires.

(5) **MAXIMUM GROSS WEIGHT.** The vehicle, including any load, may not exceed 154,000 pounds gross weight.

(6) **MAXIMUM AXLE WEIGHTS.** Axle weights may not exceed those specified in s. Trans 251.03.

(7) AXLES WITH 2 TIRES. The maximum wheel load for any axle operating 2 tires may not exceed 700 pounds per inch of tire width as rated by the manufacturer.

(8) BALANCED LOAD. Wheels on one side of the vehicle may not carry more than 60 percent of the load.

Trans 253.06 VALIDITY. A permit issued under this chapter is valid only if all of the following conditions are met:

(1) PERMITTED VEHICLE ONLY. It is used for the vehicle described in the application and permit.

(2) PERMIT CONDITIONS FOLLOWED. All conditions of the permit are met, including all maximum axle, axle combination, total weight and length limitations, and restrictions on speed, time or route of travel.

(3) VEHICLE ELIGIBLE FOR PERMIT. The vehicle meets all the requirements of this chapter.

(4) AREA OF OPERATION. The vehicle is operated in Wisconsin, within 11 miles of the Wisconsin-Michigan border.

(5) LAWFUL OPERATION. The driver of the vehicle is obeying all Wisconsin laws contained in chapters 194 and 340 to 349, Stats., and chapters Trans 305 and 325 to 328.

(6) PERMIT CARRIED ON VEHICLE. The driver carries the permit with attached local road approval letters in the vehicle and available for inspection by any police officer, representative of the department or any local authority or person in charge of maintaining the highway being used.

(7) OBEY POSTED WEIGHT AND SPEED LIMITS. The vehicle does not exceed any posted weight limit for a bridge or highway or any temporary weight restriction due to construction or seasonal conditions, and does not exceed any posted speed limits.

(8) MINIMUM FOLLOWING DISTANCE MAINTAINED. The driver maintains a distance of 500 feet between the vehicle and any preceding vehicle on the highway, whenever reasonable and practical.

(9) ALLOW PASSING. The driver allows approaching or overtaking traffic to pass.

(10) INSURANCE MAINTAINED. Insurance on the vehicle is maintained in accordance with s. Trans 253.08.

(11) PROPER REGISTRATION. If the vehicle is required to be registered by Wisconsin or Michigan law, registration shall be at not less than the permit weight or at the maximum available registration weight, whichever is less.

(12) OPERATION ON PAVEMENT SURFACE. The right wheels of the vehicle do not leave the roadway, except to allow traffic to pass.

(13) ALCOHOL USE PROHIBITED. The driver does not:

(a) Consume any alcohol beverage within 4 hours of being on duty time, regardless of alcohol content.

(b) Have an alcohol concentration above 0.0.

(c) Possess an intoxicating beverage, regardless of alcohol content.

NOTE: Section 346.63(7)(a), Stats., is applicable to all drivers of commercial motor vehicles.

(14) DRIVER PROPERLY LICENSED. The driver holds all required licenses bearing the proper classes and endorsements needed to operate the vehicle.

(15) ALL OTHER NEEDED PERMITS OBTAINED. All other operational permits required by the department or other agencies having jurisdiction over the highways used by the permittee are obtained.

(16) ADVERSE WEATHER AND ROAD CONDITIONS. A permit is not valid during periods when adverse weather or road conditions, such as fog, smoke, heavy rain, snow or ice, or wind velocity, impair the safety of a movement under the permit.

Trans 253.065 TIMES OF OPERATION. (1) Except as otherwise specified in a permit, a vehicle or load, or both, that is overweight, but not oversize, may operate 24 hours a day, including weekends and holidays.

(2) Except as otherwise specified in a permit, no oversize vehicle or vehicle combination operating under a permit that is equal to or less than 12 feet in width, 13 1/2 feet in height, and 100 feet in length may operate:

(a) Between 4:00 p.m. and 11:00 p.m. on Sunday.

(b) Between 4:00 p.m. and 11:00 p.m. on Friday between the 4th Friday in May and Labor Day.

(c) Between 4:00 p.m. and 11:00 p.m. on any holiday, or when Independence Day falls on Sunday, on the following Monday.

(d) Between 4:00 p.m. and 11:00 p.m. on the day before any holiday, except that this restriction does not apply to Independence Day when it falls on a Sunday.

(3) In addition to the conditions provided in sub. (2), no oversize vehicle or vehicle combination operating under a permit that exceeds 12 feet in width, 13 1/2 feet in height, or 100 feet in length, may operate:

(a) During the hours of darkness.

(b) During the period beginning at 12:00 noon on the day preceding and continuing until sunrise on the day following every Sunday and holiday.

(4) The department may issue a permit for times other than those specified in sub. (1), (2) or (3), under extraordinary circumstances when, in the opinion of the department, public health and welfare is better served, and may impose additional conditions to promote the safe operation of the vehicle and load.

Trans 253.07 TRANSFERS. In the event of a breakdown or other circumstance requiring a change of the power unit or trailer identified on the permit, the permit holder may transfer the permit to another vehicle, under the control of the permittee, following the completion of a new application and the issuance of a new permit. The words, "This is a transfer from permit #<original permit number>," shall be written on the bottom of the application.

Trans 253.08 INSURANCE AND LIABILITY CONDITIONS. (1) A permittee shall:

(a) Pay any claim for any bodily injury or property damage resulting from operation under the permit for which the permittee is legally responsible.

(b) Hold the state, its subdivisions, officers, employees and agents harmless from any claim which may arise from operation over public highways under the permit.

(c) Be liable for all damage which any highway or its appurtenances may sustain by reason of any operation under the permit.

(2) The department may waive insurance requirements for permits issued to units of government.

(3) Where a certificate of insurance is required, no insurer may cancel the certificate of insurance without providing the department 10 days advance written notice of the cancellation.

(4) Unless different amounts are required under sub. (5), the permittee shall carry insurance in either of the following minimum amounts:

(a) When the permitted load is not overweight by more than 25 percent:

Bodily injury liability-each person.....	\$150,000	or \$750,000
Bodily injury liability-each accident.....	\$450,000	combined single
Property damage liability-each accident....	\$300,000	limit

(b) When the permitted load exceeds the weight limitations in par. (a):

Bodily injury liability-each person.....	\$200,000	or \$1,000,000
Bodily injury liability-each accident.....	\$600,000	combined single
Property damage liability-each accident....	\$400,000	limit

(5) The department may require a permittee to provide more bodily injury or damage liability coverage than the minimum amounts specified in sub. (4).

(6) A permittee shall certify, and may be required to present satisfactory written evidence, that the amount of insurance coverage required under sub. (4) or (5), or a bond in a form satisfactory to the department, shall be in effect for the vehicle and load designated in the permit while operating on the public highway, unless this requirement is expressly waived by the department.

Trans 253.09 DENIAL, SUSPENSION OR REVOCATION OF PERMIT. (1) The department may deny, suspend, or revoke a permit for good cause, pursuant to s. 348.25(7), Stats. Grounds for the denial, suspension, or revocation of a permit include the following:

(a) Violation of any condition of a permit.

(b) Preventing an employe of the department or a law enforcement officer from performing his or her official duties, or interfering with the lawful performance of his or her duties.

(c) Physically assaulting an employe of the department or a law enforcement officer while performing his or her official duties.

(d) Making a material misstatement in an application for a permit.

(e) Unauthorized alteration of a permit.

(f) Refusal or failure, without just cause, to produce required records.

(g) Nonpayment of the application fee or payment by a check that is subsequently dishonored by the drawee or bank.

(h) Upon the request of the state of Michigan if that state has refused to issue permits to the permit holder or has suspended, revoked or cancelled a permit or license held by the permit holder for cause.

(i) Violation of any other applicable provision under ch. 348, Stats., or this chapter.

(2) A permittee shall immediately return a suspended or revoked permit to the department after receiving notice from the department of the suspension or revocation of the permit.

Note: If a permit is denied, suspended, or revoked, an applicant or permittee may request a hearing before the Department of Administration Division of Hearings and Appeals, s. 348.25(9), Stats.

SECTION 2. Trans 255.06(6) is created to read:

Trans 255.06(6) When a vehicle operating under a permit is overheight, the permittee is responsible for ensuring that the vehicle clear, by at least 3 inches, all overhead structures along the route. If an overheight vehicle hits an overhead structure, the permit becomes invalid immediately at the time the overhead structure is hit.

NOTE: Examples of overhead structures are bridges, overpasses, power lines, utility lines and traffic devices.

SECTION 3. Trans 259.02(2)(a) is amended to read:

Trans 259.02(2)(a) "Fruit or vegetable" means the edible part of ~~a plant~~ plants ~~cultivated for human consumption~~ and the inedible part of plants which are commonly harvested and sold with the edible part, ~~and includes sweet corn but does not include field corn, grains, nuts, herbs, and spices~~ parts.

SECTION 4. Trans 259.02(2)(d) is repealed.

SECTION 5. Trans 259.04(3) is amended to read:

Trans 259.04(3) A permit may be issued for the transportation of raw forest products ~~only from the land on which they are cut but not from another location where they are further altered by any manufacturing process~~ as defined in s. 348.01(2)(bt), Stats. Operation under a permit may include movement from a location where raw forest products ~~are have been cut, stored but not or~~ processed.

SECTION 6. Trans 259.04(5) and (6) are renumbered Trans 259.04(6) and (7).

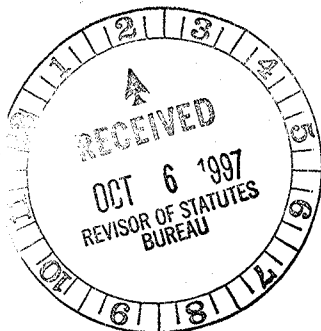
SECTION 7. Trans 259.04(5) is created to read:

Trans 259.04(5) A permit may be issued for the transportation of bulk potatoes from storage to railroad loading facilities in accordance with s. 348.27(9m)(a)2, Stats.

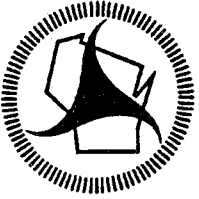
(END OF RULE TEXT)

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), Stats.

Signed at Madison, Wisconsin, this 3 day of October, 1997.



Charles H. Thompson
CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF THE SECRETARY
P. O. Box 7910
Madison, WI 53707-7910

October 6, 1997

Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703


RE: **CLEARINGHOUSE RULE 97-006**

In the Matter of the Adoption of **TRANS 253/255/259**, Wisconsin Administrative Code, relating to **overweight permits**.

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 97-006**, an administrative rule relating to the above-mentioned matter.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Gene Kussart
Mike Goetzman
Director/OPB
Roger Cross
Jim Gruendler
Bill Singletary
Tom Cantwell
Kathleen Nichols
Susan Kavulich
Mark Morrison
Carson Frazier

