

Report From Agency

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

CR 06-129

The Wisconsin Department of Transportation proposes an order to repeal TRANS 276.075; renumber TRANS 276.02(2)(a); amend TRANS 276.01(1), 276.02(1), 276.04, 276.06, 276.07(title), (intro.), (3), (10), (20) and (note) and 276.075; and create TRANS 276.02(2)(ar), (cm), (fg), (fm) and (hm), 276.065, and 276.077, 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., as amended by 2005 Wis. Act 363

Statutory authority: ss. 348.07, Stats., as amended by 2005 Wis. Act 363, 85.16 and 227.11, Stats.

Explanation of agency authority: Section 7 of 2005 Wis. Act 363 requires the Department to adopt rules for purposes of implementing that Act.

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

Plain language analysis: Section 348.07(1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65-foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65-foot restricted routes by the Department. This proposed rule making establishes a list of such "65-foot restricted routes."

Prior to Act 363, s. 348.07(4), Stats., permitted the Department to designate "long truck routes" upon which no overall length limits apply. The Department designates the state's long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new "default" 75-foot overall length limit applies on state highways that are neither designated as 65-foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

In drafting this rule, the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department's view, deserve special legislative attention. First, Act 363 did not grant any authority for 75-foot vehicles using the new 75-foot routes to leave those routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department did not believe this oversight was intentional and, on an emergency basis, designated the intersection of each 75-foot route and any other highway as a long truck route under its authority in s. 348.07(4), Stats. The existing

emergency rule permits trucks to exceed the 65-foot default length limit on local roads to access such facilities and make deliveries.

The Department's initial draft of this rule for public hearing did not attempt to continue that emergency provision in this rule making, but included encouragement in the analysis for the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes. In response to comments at public hearing, WisDOT proposes to continue the emergency provision as part of its permanent rule, but to have the provision sunset effective January 1, 2009. The Department continues to believe that the lack of an access provision was a drafting oversight and that the nature and extent of any access provision should be legislatively determined and enacted. This proposed rule provides an interim solution for truckers during this legislative session, but eliminates the access provision by the end of the session unless there is legislative action to formally provide for one.

The second consequence of Act 363 the Department has discovered in drafting this proposed rule is that one statute that formerly restricted double-bottom tractor-trailer combinations to the state's long-truck network was repealed by the deletion of the reference to s. 348.07(2)(gm), Stats., by the Act's amendment of s. 348.07(4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08(1)(e), Stats., however, continues to provide that double-bottom trucks be restricted to highways designated by the department under s. 348.07(4). WisDOT believes this provision continues to limit double-bottom operation to long truck routes designated by the Department under s. 348.07(4), Stats. WisDOT would suggest the deleted reference to (2)(gm) in 348.07(4), Stats., be re-inserted into the statute to avoid confusion.

This permanent rule making proposes to repeal s. Trans 276.075. That regulation permitted an 11-mile stretch of U.S.H. 12 from its intersection with S.T.H. 128 east of Hersey to S.T.H. 79 Northwest of Menomonie to be used as an access route for food, fuel, and access to points of loading and unloading, notwithstanding the fact that it was longer than the 5-mile former limit for access routes used for such purposes. The provision is not needed because the length of the route is less than the 15-mile access now permitted by statute. Moreover, because this section of highway is a designated alternate to I-94, the Department believes it is appropriate to simply designate this stretch of highway as a long truck route. Accordingly, s. 276.07(3) is amended to extend U.S.H. 12's long truck route that currently runs from STH 79 to STH 25 in Menomonie through the intersection of U.S.H. 12 with S.T.H. 128 east of Hersey.

The long truck route designation for USH 45 was changed to run from USH 41 North of Oshkosh to the Michigan Line at Land O'Lakes because the highway has been rerouted onto freeway and no longer runs through Greenville.

The long truck route for STH 110 from USH 41 at Oshkosh to USH 10 East of Fremont is deleted because that stretch of highway is now USH 45 and is made a long truck route by the designation described in the preceding paragraph.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

Comparison with Existing Emergency Rule. This rule making differs from the Department's existing emergency rule in that it removes a number of highway segments from the 65-foot route system, thereby making them 75-foot routes. The following is a list of 75-foot routes with changed segments identified:

| Route | From | To | Change |
|---------------|--------------------------------------------|--------------------------------------------------|--------|
| USH 10 | IH 43 N. of Manitowoc | Car Ferry Dock in Manitowoc | |
| STH 11 | USH 51 in Janesville | IH 90 E. of Janesville | |
| STH 11 | USH 14-STH 89, 5 miles W. of Delavan | IH 43 E. of Elkhorn | |
| STH 11 | STH 31 in Racine | Junction STH 32 in Racine | |
| USH 12 | IH 90-94 at STH 35 E. of Hudson | STH 79 N.W. of Menomonie STH 65 W Jct | X |
| <u>USH 12</u> | <u>STH 65 E Jct</u> | <u>STH 63 N Jct</u> | X |
| <u>USH 12</u> | <u>STH 63 S Jct</u> | <u>STH 79 N.W. of Menomonie</u> | X |
| <u>USH 12</u> | <u>STH 58 N Jct</u> | <u>STH 58 S Jct</u> | X |
| USH 12 | STH 25 in Menomonie | IH 94-CTH "EE" W. of Eau Claire | |
| USH 12 | STH 27 at Black River Falls | IH 90-94 at Lake Delton | |
| STH 13 | STH 23 | STH 82 S. of Adams | |
| STH 15 | Jct. USH 41 at Appleton | USH 45 at New London | |
| STH 16 | MN State Line in La Crosse | CTH J N. of Rockland | |
| <u>STH 16</u> | <u>IH 90 E. of Sparta</u> | <u>IH 90/94 Portage</u> | X |
| USH 18 | STH 89 W. of Jefferson | STH 164 E. of Waukesha | |
| USH 18 | IH 94 E. of Waukesha | Michigan St. and N. Lincoln | |

| Route | From | To | Change |
|---------------|----------------------------------------------------------------|----------------------------------------------|--------|
| | | Memorial Dr. in Milwaukee | |
| STH 20 | STH 36 32 | STH 31 in Racine | X |
| <u>STH 20</u> | <u>STH 36 in Waterford</u> | <u>STH 83</u> | X |
| <u>STH 21</u> | <u>USH 41 in Oshkosh</u> | <u>USH 45 in Oshkosh</u> | X |
| STH 24 | Milwaukee/Waukesha County Line | STH 241 in Milwaukee 32 | X |
| STH 26 | USH 151 S.E. of Waupun | USH 151 N.E. of Waupun | |
| STH 27 | STH 40 in Radisson | Douglas CTH A | |
| STH 28 | I-43 in Sheboygan | STH 23/42 in Sheboygan | X |
| STH 29 | STH 35 in River Falls | North Jct STH 25/-29 in Menomonie | X |
| STH 29 | North Jct USH 12/-29 | IH 94 W. of Elk Mound | X |
| STH 29 | USH 41 in Green Bay | USH 141 at Bellevue | |
| STH 31 | STH 20 in Racine | STH 32 | |
| STH 32 | IL State Line | IH 43 in River Hills | |
| STH 32 | IH 43 E. of Grafton | IH 43 N. of Port Washington | |
| STH 32 | CTH C/Fond du Lac Rd <u>Ave. in Sheboygan Falls</u> | STH 23 | X |
| STH 32 | STH 57 in De Pere | USH 41 N. of De Pere | |
| STH 35 | IL State Line | STH 11 N.E. of E. Dubuque | |
| <u>STH 35</u> | <u>STH 93/53 N. of Holmen</u> | <u>STH 93/53 in Centerville</u> | X |
| STH 35 | IH 94 E. of Hudson | STH 243 in Osceola | |
| STH 36 | STH 120 in Springfield | STH 11 at Burlington | |
| STH 36 | USH 45 in Frankin | STH 241 in Milwaukee | |
| STH 37 | STH 35 N. of Alma | USH 10 at Mondovi | |
| STH 38 | STH 32 in Racine | STH 59 in Milwaukee | |
| USH 41 | Garfield Avenue in Milwaukee | 107th St. in Milwaukee | |
| B 41 | USH 41 | STH 32 DePere | |
| STH 42 | STH 23/28 in Sheboygan | IH 43 N.W. of Sheboygan | |

| Route | From | To | Change |
|-----------------------------|---------------------------------|-------------------------------------------------|--------|
| STH 42 | STH 32 at Howards Grove | IH 43 at Manitowoc | |
| STH 44 | USH 41 S.W. of Oshkosh | USH 45 in Oshkosh | |
| STH 46 | USH 8 S. of Balsam Lake | STH 35 in Milltown | |
| STH 47 | STH 114 in Menasha | USH 10 in Appleton | |
| STH 48 | STH 87 S. of Grantsburg | STH 35 in Frederic | |
| STH 50 | STH 11 in Delavan | USH 12 W. of Lake Geneva | |
| STH 50 | 45 th Ave in Kenosha | STH 32 in Kenosha | |
| USH 51 | IL State Line in Beloit | STH 11 in Janesville | |
| USH 51 | USH 14 at Janesville | IH 39/90 E. of Stoughton | |
| X 51 | USH 51 in Beloit | STH 213 in Beloit | |
| USH 53 | USH 10 in Osseo | IH 94 S.E. of Eau Claire | |
| USH 53 <u>54</u> | USH 53/STH 93 E. of Galesville | STH 71 at Melrose | X |
| STH 54 | USH 41 at Green Bay | IH 43 in Green Bay | |
| STH 55 | USH 151 N. of Brothertown | USH 41 in Kaukauna | |
| <u>STH 55</u> | <u>STH 54 in Seymour</u> | <u>STH 29</u> | X |
| STH 56 | STH 35 in Genoa | STH 80 N. of Richland Center | |
| STH 57 | STH 59 in Milwaukee | IH 43 /STH 32 in Mequon | |
| STH 57 | STH 172 S. of Green Bay | IH 43 in Green Bay | |
| STH 58 | USH 14 E. of Richland Center | STH 80 S. of Necedah | |
| STH 59 | USH 164 E. of Waukesha | STH 32 in Milwaukee | |
| STH 60 | USH 12 E. of Sauk City | STH 113 in Lodi | |
| USH 61 | STH 129 S.E. of Lancaster | STH 129 N.E. of Lancaster | |
| <u>STH 64</u> | <u>STH 35 W. Jct in Houlton</u> | <u>STH 65 in New Richmond</u> | X |
| STH 67 | IL State Line | IH 94 S. of Oconomowoc <u>STH 11</u> | X |
| <u>STH 67</u> | <u>STH 20</u> | <u>IH 94 S. of Oconomowoc</u> | X |
| STH 67 | STH 28 in Mayville | CTH B S. of St. Cloud | |

| Route | From | To | Change |
|----------------|------------------------------------|--------------------------------------------------------------------|--------|
| <u>Bus 67</u> | <u>STH 16 in Oconomowoc</u> | <u>STH 67 N. of Oconomowoc</u> | X |
| STH 69 | CTH PB at Paoli | US 18/151 E. of Verona | |
| STH 70 | USH 53 -63 in Spooner | STH 40 at Radisson | X |
| STH 70 | <u>CTH GG in Loretta</u> | STH 13 in Fifield | X |
| STH 72 | USH 10/63 at CTH C E. of Ellsworth | CTH S | |
| STH 72 | CTH P | STH 25 | |
| STH 74 | CTH VV in Sussex | USH 41/45 in Menomonee Falls | |
| STH 75 | STH 50 | STH 20 | |
| STH 76 | STH 21/USH 45 Oshkosh | USH 41 N. of Oshkosh | |
| STH 76 | USH 45 at Greenville | STH 22/USH 45 at Bear Creek | |
| <u>STH 76</u> | <u>USH 41</u> | <u>STH 15</u> | X |
| STH 77 | MN State Line | USH 53 in Minong | |
| <u>STH 77</u> | <u>USH 51</u> | <u>MI State Line</u> | X |
| STH 80 | IL State Line | STH 11 at Hazel Green | |
| STH 82 | IA State Line | STH 80 W. of Hillsboro <u>STH 27 E. of West Prairie</u> | X |
| <u>STH 82</u> | <u>STH 56 in Viroqua</u> | <u>STH 80 W. of Hillsboro</u> | X |
| STH 83 | IL State Line | STH 1750 | X |
| STH 91 | STH 49 (Berlin) | USH 41 (Oshkosh) | |
| STH 92 | STH 69 W. of Belleville | STH 78 in Mt. Horeb | |
| STH 96 | STH 47 <u>in Appleton</u> | IH 43 <u>W. of Denmark</u> | X |
| STH 100 | STH 32 (Oak Creek) | IH 94 (Oak Creek) | |
| <u>STH 100</u> | <u>IH 43 in Milwaukee County</u> | <u>N Jct USH 45</u> | X |
| STH 108 | Jackson County Line | STH 71 S. of Melrose | |
| STH 114 | USH 41 | STH 32/57 (Hilbert) | |
| STH 120 | IL State Line | IH 43 (East Troy) | |

| Route | From | To | Change |
|----------------|--------------------------------|-------------------------------------------------------------|--------|
| STH 125 | USH 41 in Appleton | STH 47 in Appleton | |
| STH 128 | STH 72 at Village of Elmwood | STH 29 | |
| STH 131 | STH 60 E. of Wauzeka | USH 61 at Soldiers Grove | |
| <u>STH 131</u> | <u>IH 90</u> | <u>USH 12 in Tomah</u> | X |
| STH 137 | USH 2 W. of Ashland | STH 13 in Ashland | |
| <u>STH 141</u> | <u>STH 29</u> | <u>USH 41 in Green Bay</u> | X |
| STH 142 | STH 11 at Burlington | IH 94 | |
| STH 144 | STH 175 at Slinger | STH 33 | |
| STH 145 | USH 41/45 | USH 41 in Washington County | |
| <u>STH 145</u> | <u>Wells St. in Milwaukee</u> | <u>McKinley Ave. in Milwaukee</u> | X |
| STH 147 | STH 42 at Two Rivers | IH 43 | |
| USH 151 | USH 41 in Fond du Lac | STH 23 in Fond du Lac | |
| STH 157 | STH 35 at Onalaska | STH 16 at La Crosse | |
| STH 158 | STH 31 in Kenosha | 52 ND Street & 6 TH Avenue in Kenosha | |
| STH 164 | STH 190 E. of Pewaukee | CTH VV in Sussex | |
| STH 164 | CTH Q W. of Colgate | STH 60 | |
| STH 165 | STH 31 in Kenosha | STH 32 in Kenosha | |
| STH 167 | STH 83 | STH 32/IH 43 | |
| STH 170 | STH 79 in Boyceville | STH 25 | |
| STH 172 | STH 54 in Brown County | USH 41 | |
| STH 175 | USH 41/45/STH 100 in Milwaukee | CTH P S. of Theresa | |
| STH 175 | STH 67 in Lomira | USH 45 in Winnebago County at Fond du Lac Ave | X |
| <u>STH 175</u> | <u>USH 45 at Scott St.</u> | <u>USH 45 in Winnebago County</u> | X |
| STH 178 | STH 124 in Chippewa Falls | CTH S in Chippewa Falls | |
| STH 178 | Jim Falls | CTH R | |
| STH 179 | At Eastman | STH 131 at Steuben | |

| Route | From | To | Change |
|---------|-----------------------------------------------------------------|-----------------------------|--------|
| STH 180 | At Marinette | USH 141 in Wausaukee | |
| STH 181 | STH 59 in West Allis | STH 60, Ozaukee County | |
| STH 187 | STH 54 at Shiocton | STH 156 in Shawano County | |
| STH 190 | STH 100 in Wauwatosa | STH 32 in Shorewood | |
| STH 193 | STH 60 N. of Muscoda | STH 80 in Richland County | |
| STH 241 | USH 41/IH 94 | STH 24 in Milwaukee | |
| STH 243 | MN State Line, Polk County | STH 35 in Osceola | |
| STH 253 | USH 53 N. of Sarona | USH 63 S. of Spooner | |
| STH 312 | IH 94 in Eau Claire USH 12/CTH T in Eau Claire | USH 53 and Bypass USH 53 | X |
| STH 341 | STH 59 at Miller Park | I-94 and US 41 in Milwaukee | |
| STH 441 | STH 47 in Menasha | USH 41 N. of Appleton | |
| STH 794 | IH 794/Carferry Drive | College Avenue in Cudahy | |

The following segments were removed from the 75-foot list for the reason stated:

| Route | From | To | Change |
|--------|---------------------------|----------------------------|---------------------------------------------------------------------------------|
| STH 16 | IH 90/94 W. of Wis. Dells | STH 33 in Portage | Should be a 65 foot route |
| STH 25 | STH 29 S. of Menomonie | STH 29 N. of Menomonie | Already a long truck route |
| USH 41 | IH 94 S.W. of Oak Creek | National Ave. in Milwaukee | Now runs on long truck route - freeway |
| USH 45 | West of Menasha | STH 76 at Greenville | Hwy. 45 is a rerouted long truck route. It no longer passes through Greenville. |
| STH 48 | STH 35 S. of Luck | STH 63 W. of Cumberland | Already a long truck route |
| STH 55 | STH 29 | MI State Line | Should be a 65 foot route |

As discussed above, the Department's initial draft of this rule for public hearing did not attempt to continue a provision in the Emergency Rules promulgated by the Department to provide access to and from 75-foot routes. Instead, the analysis included encouragement for the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes. In response to comments at public hearing, WisDOT proposes to enact the emergency provision as part of its permanent rule, but to have the provision sunset effective January 1, 2009. The Department continues to believe that the lack of an access provision was a drafting oversight and that the nature and extent of any access provision should be legislatively determined and enacted. This proposed rule provides an interim solution for truckers during this legislative session, but eliminates the access provision if there is, by the end of the session, no legislative action to formally provide for one.

The long truck route designation for USH 45 was changed to run from USH 41 North of Oshkosh to the Michigan Line at Land O'Lakes because the highway has been rerouted onto freeway and no longer runs through Greenville.

The long truck route for STH 110 from USH 41 at Oshkosh to USH 10 East of Fremont is deleted because that stretch of highway is now USH 45 and is made a long truck route by the designation described in the preceding paragraph.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Federal regulations are intended to identify a National Network of highways available to vehicles authorized by provisions of the Surface Transportation Act of 1982 as amended, and to prescribe national policies that govern truck and bus size and weight. The objective of those federal regulations, found in Part 658 of 23 CFR Chapter I, is to provide a safe and efficient network of highways that can safely and efficiently accommodate the large vehicles authorized in federal law. The network includes the

Interstate system and other qualifying primary highways. The federal regulation seeks to assure there is reasonable access to the National Network for commercial motor vehicles and to preserve the national network in order to accommodate large vehicles.

States are required to allow the following vehicles on the national network subject to the criteria listed:

- (1) A semitrailer operating in a truck tractor-semitrailer combination may not be subject to a length limitation of less than 48 feet. 23 CFR 658.13(b)(1).
- (2) Any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may not be subject to a length limitation of less than 28 feet. 23 CFR 658.13(b)(2).
- (3) Commercial vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations may not be subjected to an overall length limitation. 23 CFR 658.13(b)(3).
- (4) Commercial motor vehicles operating in truck tractor-semitrailer-trailer combinations ("double-bottoms") may not be prohibited. 23 CFR 658.13(b)(4).
- (5) Some vehicles types that were in use in 1982, and various specialized vehicles must be permitted to operate on the national network. 23 CFR 658.13.

This proposed rule making is consistent with federal regulation in that the objective is to provide a safe and efficient system for accommodating large vehicles that integrates with the national network. The rule making is intended to provide reasonable access while applying size limits to other highways as needed to preserve safety and efficiency in system operations. None of the changes made by 2005 Wis. Act 363 nor this rule making are in conflict with the federal length limitations.

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: The process for identifying routes of importance for commerce has been in place for many years. Most routes of importance have been reviewed for adequacy to accommodate long trucks based on requests from shippers or receivers. As a result, there is a reasonable basis for identifying those routes where 53-foot trailers may not be appropriate and require further consideration through the permanent rule making process. Department traffic engineers and law enforcement personnel familiar with the routes have been involved in these decisions, which have been made with the input of local highway officials and elected officials.

Of primary concern to local units of government was abuse of the 15-mile access provision for food and fuel. County authorities agree that permitting 15-mile access to points of loading and unloading would promote commerce and be enforceable. Food, fuel, maintenance and repair facilities, they point out, were reachable under the old 5-mile rule. They further contend the 15-mile limit for food and fuel leads to serious enforcement problems.

The Wisconsin Motor Carriers Association, on the other hand, pointed out that not having any provision for access to or from 75-foot routes would greatly reduce their utility. The roads could be used only as through routes; they deliveries and pickups would not be permitted from them. Of course, food, fuel and service may be harder to find as well.

Because the 15-mile access provision is statutory, the Department believes any changes to that limit should be made by the legislature. But, in the interest of maintaining the flow of commerce, the department has amended this proposed rulemaking, after the public hearing, to include a provision providing limited access to and from 75-foot highways. A fifteen-mile limit for all reasons was adopted as State Patrol's preference. This proposed rulemaking will sunset on January 1, 2009. The department is hopeful that the legislature will decide how to resolve the local government concerns and the trucking industries concerns during this legislative period and enact appropriate legislation to clear up this apparent drafting oversight.

Analysis and supporting documentation used to determine effect on small businesses: There has been no analysis to determine the effect on small business as the statutory change has provided significant additional opportunities to use longer trailers when accessing businesses that are not located on routes designated for long trucks, both on and off the state highway system, and therefore the impact is assumed to be positive for small businesses. This would not be the case had the Department not

included in the rule the provision to allow access by the designation of intersections of each 75-foot route as a designated long truck route. Since the majority of shipping points or destinations will be accessible based on the expanded access provision, these benefits are assumed to be substantially greater than the impacts of any remaining restrictions on routes that may be reconsidered for designation during the permanent rule making. If the 75-foot access provision is not legislatively adopted, the effect on small business will still be positive, but less so than if the ability to travel off of 75-foot routes were permitted.

Effect on small business: The rule expands freight access for small businesses by allowing delivery with 53-foot trailers when located within 15 miles of a designated route. The expanded freight opportunities are expected to benefit small businesses. There is no expectation that enforcement of the rule provisions will change. 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 fiscal effect of the rule is negligible. The Department is obligated to provide maps as deemed necessary, and those maps and materials require periodic updating. The results of this rule making will be incorporated in a routine update. The Department will take into consideration the potential impacts to infrastructure in determining those routes that are appropriate for specific truck lengths and types. Costs to be incurred by the private sector are voluntary. The rule change will not mandate any equipment changes, but rather will allow expanded use of certain types of existing equipment.

Agency contact person and copies of proposed rule: Copies of the proposed rule may be obtained, without cost, 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 e-mail: ashwani.sharma@dot.state.wi.us.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Trans 276.01(1) is amended to read:

Trans 276.01(1) SCOPE. This chapter administratively interprets ss. 348.07 and 348.08, Stats. In particular, it identifies and designates ~~a list~~ lists of ~~qualifying~~ highways for the operation of vehicles and combinations of vehicles ~~the overall lengths of which cannot be limited~~ upon which those statutes permit the secretary to set vehicle and

trailer length limits. In addition, this chapter clarifies other statutory provisions or federal rules affecting the weight, width and length of vehicles and combinations of vehicles and the number of vehicles in combination.

SECTION 2. Trans 276.02(1) is amended to read:

Trans 276.02(1) In this chapter words and phrases have the meanings designated set forth in chs. 340 and 348, Stats., and ch. Trans 250, unless a different meaning is expressly provided in this chapter.

SECTION 3. Trans 276.02(2)(a) is renumbered Trans 276.02(2)(ag).

SECTION 4. Trans 276.02(2)(ar), (cm), (fg), (fm) and (hm) are created to read:

Trans 276.02(ar) “Combination vehicle” or “combination” means a vehicle that is towing or pushing one or more vehicles, and the vehicles being pushed or towed.

(cm) “Long truck route” means a highway designated by the secretary pursuant to s. 348.07(4), Stats., and under ss. Trans 276.07 to 276.077.

(fg) “75-foot restricted route” means a highway that is part of the state highway system and is neither a long truck route nor a 65-foot restricted route.

NOTE: See s. 348.07(2)(fm), Stats., regarding the definitions in pars. (cm) and (fg). 2005 Wis. Act 363 amended s. 348.07, Stats, and made 75 feet the default permitted length on the state highway system. Wisconsin’s old default 65-foot overall length limit still applies on all local roads but only applies to state highways that are designated as 65-foot restricted routes under this chapter. Long truck route limits apply on highways identified in s. Trans 276.07. A 75-foot overall length limit applies on state highways that are neither 65-foot highways nor long truck routes. Significantly, vehicles may not leave 75-foot restricted routes to access food, fuel and to make deliveries in the manner that they may leave designated long truck routes for up to 15 miles.

(fm) “65-foot restricted route” means a highway designated by the secretary pursuant to s. 348.07(4m), Stats., and under s. Trans 276.065, upon which overall vehicle length of vehicles is limited to 65 feet under s. 348.07(1), Stats., and upon which

operation of 53 foot semitrailers with kingpin to axle lengths of 43 feet or less that are operated as part of 2-vehicle combinations are not permitted.

NOTE: 65-foot restricted routes are those designated by the Secretary under s. 348.07(4m), Stats.

(hm) "Straight vehicle" means a vehicle that is not a combination vehicle.

SECTION 5. Trans 276.04 is amended to read:

Trans 276.04 Width, metric equivalent. For purposes of enforcement of ch. 348, Stats., 23 CFR 658, and this chapter, the approximate metric equivalent of 102 inches is deemed to be within the ~~402-limit~~ 8 foot 6 inch length limit of s. 348.05, Stats. The approximate metric equivalent of 102 inches is 2.6 meters, which equals approximately 102.36 inches.

NOTE: The use of the metric equivalent of 102 inches (8 feet 6 inches) is authorized in 23 CFR 658.15.

SECTION 6. Trans 276.06 is amended to read:

Trans 276.06 Permits for vehicles operating in saddlemount combination or motor buses. For enforcement purposes, no permit is required for vehicles operating in double or triple saddlemount combination provided the overall length of the combination is 75 feet or less, or for the operation of any motor bus provided the overall length of the motor bus is 45 feet or less. This section applies to the national network and ~~5-mile~~ access routes.

NOTE: The provision of Wisconsin law requiring a permit for these combinations (s. 348.27(13), Stats.), was preempted by the federal rule (23 CFR 658.13(d)(1)iii.) when these vehicles operate on the designated system and access routes.

NOTE: The provision of Wisconsin law requiring a permit for the operation of motor buses in excess of 40 feet in length (s. 348.07(1), Stats.) was preempted by federal law (49 USC Appx. Section 2311(a) as amended by section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991) when these vehicles operate on the federally designated system and access routes.

SECTION 7. Trans 276.065 is created to read:

Trans 276.065 Designated 65-foot restricted routes. Section 348.07(4m), Stats., permits the department to designate those parts of the state highway system upon which paragraphs s. 348.07(2)(fs) and (gv), Stats., do not apply. The following highways are designated 65-foot restricted routes pursuant to s. 348.07(4m), Stats.:

| Route | From | To |
|--------------|---------------------------------|-------------------------------------------|
| STH 13 | I-90/94, W. of Wisconsin Dells | STH 23 |
| STH 13 | Bayfield | Jct. US 2/53 E. of Superior |
| STH 16 | I-90/94, W. of Wisconsin Dells | STH 33 in Portage |
| STH 17 | Phelps | MI State Line |
| STH 19 | US 14/STH 78 E. of Mazomanie | US 12 S. of Springfield Corners |
| STH 22 | STH 54 S. of Manawa | US 45 W. of Bear Creek |
| STH 23 | I-90/94 W. of Lake Delton | S Jct USH 12 |
| STH 23 | STH 12/16 in Wisconsin Dells | IH 39 in Endeavor |
| STH 26 | USH 51 in Janesville | IH 90 in Janesville |
| STH 27 | Douglas County CTH A | US 2 |
| STH 32 | STH 28 S. of Sheboygan Falls | CTH C/Fond du Lac Ave. in Sheboygan Falls |
| STH 32 | STH 55 in Crandon | US 45 in Three Lakes |
| STH 33 | STH 16/US 61/US 14 in La Crosse | STH 80 W. of Hillsboro |
| STH 33 | US 151 in Beaver Dam | De Clark St. in Beaver Dam |
| STH 35 | STH 48 in Frederic | STH 70 N. of Siren |
| STH 39 | US 18 in Edmund | US 151 in Mineral Point |
| STH 40 | STH 64 N. of Bloomer | STH 27/70 in Radisson |
| STH 42 | STH 57 N. of Sturgeon Bay | STH 57 at Sister Bay |
| STH 44 | STH 22 in Pardeeville | STH 73 at Manchester |

| Route | From | To |
|--------------|------------------------------|------------------------------|
| USH 45 | CTH B in Eden | US 41 N. of Oshkosh |
| STH 46 | US 8 S. of Balsam Lake | STH 35 in Milltown |
| STH 47 | STH 29 in Shawano | E Jct STH 22 in Shawano |
| STH 47 | W Jct STH 22 in Shawano | USH 45 N. of Aniwa |
| STH 47 | US 51 in Woodruff | STH 182 |
| STH 49 | US 10 at Waupaca | STH 29 W. of Wittenberg |
| US 51 | STH 16 S.E. of Portage | I-39 N. of Portage (exit 92) |
| STH 52 | US 51/STH 29 in Wausau | US 45 N. of Aniwa |
| STH 52 | STH 64 N.E. of Antigo | STH 32 W. of Wabeno |
| STH 54 | STH 80 at Dexterville | STH 73 in Port Edwards |
| STH 55 | STH 47 N.W. of Shawano | S Jct USH 8 in Crandon |
| STH 55 | N Jct. of USH 8 in Crandon | MI State Line |
| STH 59 | US 14 in Union | STH 26 in Milton |
| STH 60 | W Jct USH 12 | STH 23/USH 14 |
| STH 60 | USH 14 in Gotham | E Jct USH 61 |
| STH 60 | W Jct USH 61 | USH 35 |
| STH 64 | MN State Line | STH 35 West Jct in Houlton |
| STH 65 | STH 64 at New Richmond | US 8 |
| STH 72 | CTH S W. of Elmwood | CTH P in Elmwood |
| STH 73 | STH 64 E. of Gilman | US 8 at Ingram |
| STH 78 | IL State Line | STH 11 in Gratiot |
| STH 78 | Pecatonica River S. of Wiota | E Jct STH 81 in Argyle |
| STH 78 | USH 18/151 in Mt. Horeb | USH 14 in Black Earth |
| STH 78 | US 12 in Sauk City | I-39/90/94 |
| STH 79 | STH 170 at Boyceville | STH 64 in Connorsville |
| STH 81 | STH 133 in Cassville | STH 35 N.E. of Beetown |
| STH 81 | STH 23 in Darlington | STH 78 in Argyle |

| Route | From | To |
|--------------|--------------------------------------|---------------------------------------|
| STH 86 | STH 13 W. of Ogema | US 51 in Tomahawk |
| STH 88 | STH 35 N. of Fountain City | STH 37 S. of Mondovi |
| STH 92 | STH 78 at Mt. Horeb | US 14 E. of Brooklyn |
| STH 95 | STH 35 at Fountain City | CTH A in Arcadia |
| STH 96 | STH 47 in Appleton | I-43 W. of Denmark |
| STH 101 | US 8 at Armstrong Creek | STH 70 W. of Florence |
| STH 102 | STH 13 N. of Chelsea | STH 86 at Spirit |
| STH 104 | STH 11 at Brodhead | STH 92 at Brooklyn |
| STH 105 | MN State line | STH 35 |
| STH 106 | STH 73 E. of Albion | STH 59 at Palmyra |
| STH 107 | STH 153 E. of Halder | STH 64 W. of Merrill |
| STH 107 | STH 64 in Merrill | CTH S (south of the City of Tomahawk) |
| STH 108 | STH 16 E. of West Salem | Jackson County Line |
| STH 110 | STH 96 (Village of Fremont) | US 10 (Village of Fremont) |
| STH 110 | US 10 at Weyauwega | US 45 at Marion |
| STH 111 | US 8 E. of Catawba | STH 13 S. of Phillips |
| STH 112 | STH 13 N. of Marengo | STH 137 at Ashland |
| STH 113 | STH 60 in Lodi | STH 33 at Baraboo |
| STH 116 | STH 21 at Omro | STH 91 S. of Waukau |
| STH 118 | USH 63 N. of Mason (Bayfield County) | STH 112 S. of Ashland |
| STH 121 | STH 88 at Gilmanton | STH 93 S. of Elk Creek |
| STH 122 | STH 77 at Upson | MI Line |
| STH 123 | Devil's Lake State Park | STH 33 at Baraboo |
| STH 126 | STH 81 S. of Belmont | USH 151 at Belmont |
| STH 127 | STH 16 E. of Wisconsin Dells | STH 16 at Portage |
| STH 128 | STH 170 at Glenwood City | STH 64 E. of Forest |

| Route | From | To |
|--------------|-----------------------------------------------------|-----------------------------------------|
| STH 130 | STH 23 N. of Dodgeville | STH 154 W. of Hill Point in Sauk County |
| STH 131 | STH 56 at Viola | STH 71 at Wilton |
| STH 133 | STH 35/USH 61 at Tennyson | STH 35 at Bloomington |
| STH 133 | US 18 at Mt. Hope | USH 61 at Boscobel |
| STH 134 | US 12/18 at Cambridge | Main Street in London |
| STH 136 | STH 23/33 E. of Reedsburg | US 12 at West Baraboo |
| STH 138 | STH 59 at Cooksville | US 51 at Stoughton |
| STH 140 | IL State Line | US 14 N. of Avalon |
| STH 146 | STH 16 W. of Fall River | STH 33 N. of Cambria |
| US 151 | E Jct with US 14 in Madison (Exit 251, Park Street) | I-39/90/94 |
| STH 152 | STH 21 at Wautoma | Mt. Morris |
| STH 153 | STH 13 N. of Spencer | US 45 S. of Wittenberg |
| STH 154 | STH 58 S. of Lloyd | STH 23 at Loganville |
| STH 154 | STH 23 S. of Reedsburg | STH 136 at Rock Springs |
| STH 155 | STH 70 at St. Germain | Sayner |
| STH 156 | STH 22 at Clintonville | STH 29 W. of Howard |
| STH 159 | US 12 S. of Baraboo | STH 123 |
| STH 160 | STH 29 E. of Angelica | STH 32 at Pulaski |
| STH 161 | US 10 at Amherst Jct. | STH 22/STH 110 at Symco |
| STH 162 | USH 14 at Coon Valley | I 90 at Bangor |
| STH 169 | STH 13 in Mellen | US 2 N. of Gurney |
| STH 170 | STH 25 in Wheeler | STH 40 in Colfax |
| STH 171 | STH 35 at S. of Ferryville | US 14 N. of Boaz |
| STH 173 | STH 80 at Babcock | STH 73 at Nekoosa |
| STH 175 | Scott St./Peters Ave. in Fond du Lac | USH 45 at Fond du Lac Ave. |
| STH 178 | Chippewa County CTH R N. of Jim Falls | STH 64 in Cornell |

| Route | From | To |
|---------|--------------------------|-----------------------------------|
| STH 187 | STH 54 E. of Shiocton | STH 156 N. of Leeman |
| STH 188 | STH 12 E. of Sauk City | STH 113 W. of Okee |
| STH 191 | STH 23 in Dodgeville | STH 39 in Hollandale |
| STH 213 | STH 81 in Beloit | STH 11 in Orfordville |
| B 13 | US 10 in Marshfield | STH 13 in Marshfield |
| B 51 | I-39/US 51/STH 54 | IH 39/US 51 in Stevens Point |
| B51 | I-39/US 51 in Rothschild | US 51 in Wausau |
| X 42 | STH 42 S. of Gills Rock | Ferry Dock, Town of Liberty Grove |

NOTE: Section 348.07(2)(fs), Stats., permits tractor-semitrailer combinations of up to 75 feet in overall length to be operated on any part of the state trunk highway system, except where prohibited by the Department under s. 348.07(4m), Stats. Similarly, s. 348.07(2)(gv), Stats., permits the operation of 53-foot semitrailers whose lengths from kingpin to axle does not exceed 43 feet and which are operated as part of 2-vehicle combinations on any part of the state trunk highway system, except where prohibited by the Department under s. 348.07(4m), Stats. This section specifies those sections of the state trunk highway system where 75-foot tractor-semitrailer combinations and such 53-foot semitrailers are prohibited.

SECTION 8. Trans 276.07(title), (intro.), (3), (10), (20) and (note) are amended to read:

Trans 276.07 (title) ~~Designated highways~~ long truck routes. (intro.) The following highways are designated long truck routes for purposes of the operation of the ~~specified vehicles and combinations with lengths as stated in~~ described in ss. 348.07(2)(f), (fm) and (gr) and s. 348.08(1)(e), Stats., pursuant to s. 348.07(4), Stats.:

| | <u>Route</u> | <u>From</u> | <u>To</u> |
|-----|--------------|---------------------------|-----------------------|
| (3) | USH 10 | MN Line at Prescott | IH 43 N. of Manitowoc |
| | STH 11 | USH 61-151 E. of Dubuque, | USH 51 in Janesville |
| | | Iowa | |

| | | | |
|------|--------------------|----------------------------------------------------------------|--------------------------------------|
| | STH 11 | IH 90 E. of Janesville | USH 14-STH 89, 5 miles W. of Delavan |
| | STH 11 | IH 43 E. of Elkhorn | STH 31 in Racine |
| | USH 12 | STH 79 N.W. of Menomonie <u>128 E. of Hersey</u> | STH 25 in Menomonie |
| | USH 12 | IH 94-CTH "EE" W. of Eau Claire | USH 10 at Fairchild |
| | USH 12 | IH 90-94 at Lake Delton | IL Line at Genoa City |
| | STH 13 | STH 82 S. of Adams | Bayfield |
| | USH 14 | MN Line at LaCrosse | IL Line |
| (10) | USH 45 | IL Line S. of Bristol | CTH B in Eden |
| | USH 45 | USH 41 N. of Oshkosh | STH 150 W. of Menasha |
| | USH 45 | STH 76 at Greenville | MI Line at Land O'Lakes |
| | STH 46 | STH 64 S. of Deer Park | USH 8 S. of Balsam Lake |
| | STH 47 | USH 10 in Appleton | STH 29 in Shawano |
| | STH 47 | USH 45 N. of Aniwa | USH 51 in Woodruff |
| | STH 48 | STH 70 in Grantsburg | STH 87 S. of Grantsburg |
| | STH 48 | STH 35 in Luck | STH 40 |
| | STH 49 | USH 41 E. of Brownsville | USH 10 at Weyauwega |
| (20) | STH 110 | USH 41 at Oshkosh | USH 10 E. of Fremont |
| | STH 117 | STH 29-47 in Bonduel | STH 22 in Cecil |
| | STH 119 | IH 94 in Milwaukee | STH 38 in Milwaukee |

(note) ~~The county~~ County trunk highways and other local roads or streets designated as long truck routes by s. Trans 276.07(27) to (45) may be subject to weight restrictions imposed by local authorities and not known to the department. Seasonal weight restrictions may be imposed by local authorities under s. 349.16, Stats., but must be posted. Under s. 349.15, Stats., county trunk highways may be designated as Class "B" highways by the county highway committee. Similarly, other local authorities may designate highways they maintain as Class "B". Wheel, axle, axle group and gross weights are limited on Class "B" highways as provided by s. 348.16, Stats. Neither posting of Class "B" designations nor notification to the department is required. Therefore, the department recommends that motor carriers avoid overweight violations by verifying the applicable weight limits on these highways with the local authorities, ~~before use~~ operating upon those roads. Double bottom combination vehicles may be operated only on the highways set forth in this section. See s. 348.08(1)(e), Stats.

SECTION 9. Trans 276.075 is repealed.

SECTION 10. Trans 276.077 is created to read:

Trans 276.077 Designated access routes for 75-foot vehicles. Pursuant to s. 348.07(4), Stats., the intersection of any 75-foot restricted route and any other highway is designated as a highway upon which operation of vehicles with a maximum length of 75 feet are permitted to operate. The purpose of this provision is to permit such tractor–semitrailer combinations access to locations within 15 miles of 75-foot restricted routes to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading, as permitted by s. 348.07(4), Stats.

Note: This provision sunsets on January 1, 2009.

SECTION 11. Trans 276.077 is repealed.

(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., except that Section 11 shall take effect on January 1, 2009.

Signed at Madison, Wisconsin, this ____ day of
February, 2007.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation

PART 4
CR 06-129

ANALYSIS OF FINAL DRAFT OF TRANS 276

(a) **Basis and Purpose of Rule.** Section 348.07(1), Stats., historically has limited vehicle lengths on Wisconsin highways to 65 feet. Section 348.07(2), Stats., allowed vehicles meeting the specifications of that subsection to operate without permits despite exceeding the 65-foot limit of subsection (1).

2005 Wis. Act 363 amended s. 348.07, Stats., and essentially made 75 feet the default permitted length on the state trunk highway system. Wisconsin's old default 65-foot overall length limit still applies on all local roads but only applies to state trunk highways that are designated as 65-foot restricted routes by the Department. This proposed rule making establishes a preliminary list of such "65-foot restricted routes."

Prior to Act 363, s. 348.07(4), Stats., permitted the Department to designate "long truck routes" upon which no overall length limits apply. The Department designates the state's long truck routes in s. Trans 276.07. This rule making does not affect those longstanding designations.

The new "default" 75-foot overall length limit applies on state highways that are neither designated as 65-foot restricted routes under this rule making nor long truck routes under s. Trans 276.07.

Definitions have been added to the rule to make it easier to identify the nature of designations made by the Department in Ch. Trans 276.

This permanent rule making proposes to repeal s. Trans 276.075. That regulation permitted an 11-mile stretch of U.S.H. 12 from its intersection with S.T.H. 128 east of Hersey to S.T.H. 79 Northwest of Menomonie to be used as an access route for food, fuel, and access to points of loading and unloading, notwithstanding the fact that it was longer than the 5-mile former limit for access routes used for such purposes. The provision is not needed because the length of the route is less than the 15-mile access now permitted by statute. Moreover, because this section of highway is a designated alternate to I-94, the Department believes it is appropriate to simply designate this stretch of highway as a long truck route. Accordingly, s. 276.07(3) is amended to extend U.S.H. 12's long truck route that currently runs from STH 79 to STH 25 in Menomonie through the intersection of U.S.H. 12 with S.T.H. 128 east of Hersey.

In drafting this rule the Department noticed several items that it believes may be of special interest to the legislature and which, in the Department's view, deserve special legislative attention. First, Act 363 did not grant any authority for 75-foot vehicles using the new 75-foot routes to leave those routes to reach fuel, food, maintenance,

repair, rest, staging, terminal or vehicle assembly facilities or points of loading or unloading. The Department does not believe this oversight was intentional and, on an emergency basis, designated the intersection of each 75-foot route and any other highway as a long truck route under its authority in s. 348.07(4), Stats. The existing emergency rule permits trucks to exceed the 65-foot default length limit on local roads to access such facilities and make deliveries.

The Department's initial draft of this rule for public hearing did not attempt to continue that emergency provision in this rule making, but included encouragement in the analysis for the legislature to consider statutorily establishing access rights for vehicles using 75-foot restricted routes. In response to comments at public hearing, WisDOT proposes to continue the emergency provision as part of its permanent rule, but to have the provision sunset effective January 1, 2009. The Department continues to believe that the lack of an access provision was a drafting oversight and that the nature and extent of any access provision should be legislatively determined and enacted. This proposed rule provides an interim solution for truckers during this legislative session, but eliminates the access provision if there is, by the end of the session, no legislative action to formally provide for one.

The second consequence of Act 363 the Department has discovered in drafting this proposed rule is that one statute that formerly restricted double-bottom tractor-trailer combinations to the state's long-truck network was repealed by the deletion of the reference to s. 348.07(2)(gm), Stats., by the Act's amendment of s. 348.07(4), Stats. Under the amended statute, as revised by Act 363, it might appear to a reader that double bottom trucks of unlimited length may operate upon any highway in the state, including local roads and streets, without permits. Section 348.08(1)(e), Stats., however, continues to provide that double-bottom trucks be restricted to highways designated by the Department under s. 348.07(4). WisDOT believes this provision continues to limit double-bottom operation to long truck routes designated by the Department under s. 348.07(4), Stats. WisDOT would suggest the deleted reference to (2)(gm) in 348.07(4), Stats., be re-inserted into the statute to avoid confusion.

Finally, the Department notes that s. 348.07, Stats., is becoming difficult to decipher from a legal standpoint because of the many amendments that have been made to it over the years. It may be that recodifying the statute for the purpose of clarification of the length limitations of Wisconsin law would be helpful to truck and long vehicle operators in this state.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on January 11, 2007.

Of primary concern to local units of government was abuse of the 15-mile access provision for food and fuel. County authorities agree that permitting 15-mile access to points of loading and unloading would promote commerce and be enforceable. Food and fuel, they point out, was reachable under the old 5-mile rule. They further contend the 15-mile limit for food and fuel leads to serious enforcement problems.

The Wisconsin Motor Carriers Association, on the other hand, pointed out that not having any provision for access to or from 75-foot routes would greatly reduce their utility. The roads could be used only as through routes; the deliveries and pickups would not be permitted from them. Of course, food, fuel and service may be harder to find as well.

Because the 15-mile access provision is statutory, the Department believes any changes to that limit should be made by the legislature. But, in the interest of maintaining the flow of commerce, the Department has amended this proposed rulemaking, after the public hearing, to include a provision providing limited access to and from 75-foot highways. An across-the-board 15-mile authorization was adopted because the State Patrol preferred that scheme. This proposed rule making will sunset on January 1, 2009. The Department is hopeful that the legislature will decide how to resolve the local government concerns and the trucking industries concerns during this legislative period and enact appropriate legislation to clear up this apparent drafting oversight.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following persons appeared/registered at the hearing:

Tom Howells, President, Wisconsin Motor Carriers Association, P. O. Box 44849, Madison, WI 53744-4849—spoke for information.

Michael DeHaan, Field Services Director, Wisconsin Motor Carriers Association, P. O. Box 44849, Madison, WI 53744-4849—spoke for information.

(d) **Summary of Public Comments and Agency Response to those Comments:**

Melvin Shea, Carol's Permit Service, Inc., P. O. Box 252, Big Bend, WI 53103—Mr. Shea pointed out in written comments that a particular segment of highway is currently listed as a designated highway and that our proposed rule listed that segment on the list of "restricted" highways.

Agency Response: The Department erroneously placed this segment on the "restricted" list of highways in the hearing draft and has corrected the proposed rule.

Wisconsin Motor Carrier Association, 562 Grand Canyon Drive, P.O. Box 44849, Madison, WI 53744 provided written comments and oral testimony. Both largely supported the proposed rule making but pointed out problems the trucking industry would face in the absence of a provision permitting access from 75-foot routes.

WMCA comments included the following:

- Agreement with the Department's statement in the analysis that the current statutory provisions regarding truck length should be recodified to make them understandable.
- Agreement with the discussion in the rule summary on double bottom trucks.
- Expression of a desire that the Department provide additional information on maps.
- Concern about access to and from 75-foot routes.

Agency Response: The Department has amended the proposed rule to permit access from 75-foot routes through January 1, 2009, and encourages the legislature to balance local government and industry interests and statutorily provide appropriate access to and from 75-foot routes. The Department currently prepares a map of these various route systems and will work with the industry regarding the content and publishing of that map.

(e) **Explanation of any Changes Made to the Plain Language Analysis or Fiscal Estimate:** The changes in the plain language analysis relate to the changes made to the rule to include an access provision from 75-foot routes.

(f) **Response to Legislative Council Recommendations:** The Legislative Council Clearinghouse report contained only three recommendations, all of which have been incorporated into the proposed rule.

(g) **Final Regulatory Flexibility Analysis.** The proposed rule expands freight access for small businesses by allowing delivery with 53-foot trailers when located within 15 miles of a designated route. The expanded freight opportunities are expected to benefit small businesses. There is no expectation that enforcement of the rule provisions will change.