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Details: Emergency Rules by Department of Transportation.
(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

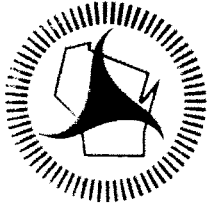
COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Jim Doyle
Governor

Frank J. Busalacchi
Secretary

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Robert J. Marchant
Senate Chief Clerk
Room B-20 Southeast, State Capitol
Madison, Wisconsin 53707

January 5, 2009

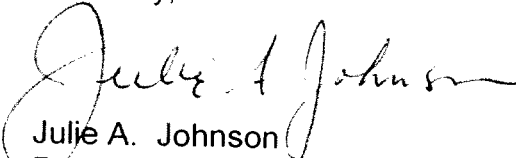
Patrick E. Fuller
Assembly Chief Clerk
17 West Main, Room 401
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 145**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 08-080

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **08-080**, relating to **neighborhood electric vehicles**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,


Julie A. Johnson
Paralegal

Enclosure

cc: David Schmiedicke, DOA State Budget Director
Bruce Hoesly
Senator Jim Holperin
Rep. Josh Zepnick
Lynne B. Judd
Carson Frazier



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The Honorable Senator Jim Holperin
Chairman, Senate Transportation Committee
Room 409 South
State Capitol
Madison, Wisconsin 53707

January 5, 2009

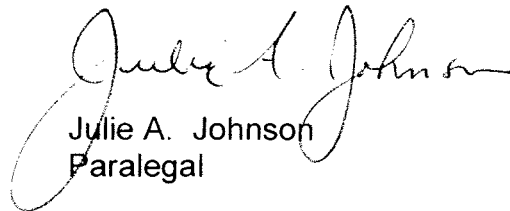
The Honorable Representative John Steinbrink
Chairman, Assembly Transportation Committee
Room 104 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 145**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 08-080

Dear Senator Holperin and Representative Steinbrink:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rule making actions, enclosed is a courtesy copy of Final Draft rule **Trans 145**, relating to **neighborhood electric vehicles**, which is being submitted to the Legislature for committee review.

Sincerely,



Julie A. Johnson
Paralegal

Enclosure

cc: Lynne B. Judd
Carson Frazier

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

CR 08-080

The Wisconsin Department of Transportation proposes an order to create ch. TRANS 145, relating to neighborhood electric vehicles.

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

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

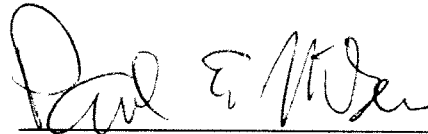
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

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

Submitted by:



PAUL NILSEN
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 261-0126

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

Statutes interpreted: ss. 349.26, 341.04(1), 341.297(1), Stats.

Statutory authority: ss. 84.01(2), 227.10(1), 227.11(2)(a), 342.255(3), 349.26, 340.01(36r), 341.04(1) and 341.297(1), Stats.

Explanation of agency authority: Current law prohibits the operation of any motor vehicle on any public road unless the motor vehicle is registered, or for which registration application is made. The Department of Transportation is required to issue biennial registration for a neighborhood electric vehicle for which it receives a proper application. Municipalities may authorize the operation of neighborhood electric vehicles on public roads under its jurisdiction having a speed limit of 35 miles per hour or slower. Current law contains no specific prohibition against the driver of a neighborhood electric vehicle operating on any public road not approved by the municipality for such operation. The Department concludes that the registration of a neighborhood electric vehicle is effective only on public roads authorized by municipalities for such travel, and that traveling on any other public road is done without valid registration.

Related statute or rule: ss. 340.01(36r), 341.04(1), 341.297(1) and 349.26, Stats.

Plain language analysis: Section 349.26, Stats., allows a city, town or village by ordinance to authorize operation of Neighborhood Electric Vehicles (NEVs) on its roadways that have speed limits of 35 mph or less. The law specifies that the ordinance may apply to State Trunk Highways (STH) in only two circumstances: (1) crossing an STH at a location approved by DOT; or (2) traveling longitudinally upon a connecting highway segment approved by DOT.

While s. 349.26, Stats., implies that NEVs cannot operate on local roads not specified in the ordinance or at any unapproved location on STHs, statutes do not specifically prohibit NEV operation on those roads. Sections 341.25(1)(b) and 341.297, Stats., establish NEV registration under Chapter 341, Stats. Because NEVs bear DMV-issued registration plates, NEVs traveling on unapproved roads may appear to violate no laws, despite s. 349.26 restriction on approved roads for NEV operation. This proposed rule clarifies that NEV registration is valid only on approved roads under s. 349.26, Stats.

Summary of, and preliminary comparison with, existing or proposed federal regulation: Federal motor vehicle safety standards, promulgated by the National Highway Traffic Safety Administration, define an NEV as a lightweight, four-wheeled motor vehicle incapable of exceeding a top speed of 25 miles per hour. The federal regulations do not address registration and operation of NEVs, leaving that to states to determine.

Comparison with Rules in the Following States:

Michigan: An NEV (low speed vehicle) may not be operated on any street with a posted speed limit greater than 35 mph. A low speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low speed vehicles are required to be registered by the state.

Minnesota: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph. NEVs are required to be registered by state.

Illinois: An NEV may not be operated on a street with a posted speed limit greater than 35 mph. An NEV may cross a street with a posted speed limit greater than 35 mph, only at an intersection. NEVs are required to be registered by state.

Iowa: An NEV (low-speed vehicle) may not be operated on a street with a posted speed limit greater than 35 mph. A low-speed vehicle may cross a street with a posted speed limit greater than 35 mph. Low-speed vehicles are required to be registered by state.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: This proposed rule clarifies that NEVs, while registered under ch. 341, Stats., are authorized to operate only on roadways authorized under local ordinance, under s. 349.26, Stats. The Department uses only this statutory intent in determining this proposed rule.

Analysis and supporting documentation used to determine effect on small businesses: This rule clarifies that NEV operation is only allowed on roadways designated by local authorities under s. 349.26, Stats. Any NEV owner, including any small business, is subject to the same operation limitations.

Effect on small business: This proposed rule will have no effect on small business other than limitation on NEV operation to which all NEV owners are subject. The Department's Regulatory Review Coordinator may be contacted by e-mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect: The Department estimates that 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.

Anticipated costs incurred by private sector: 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 rule: Copies of the proposed rule may be obtained, without cost, by writing to Carson P. Frazier, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI

53707-7911. You may also contact Ms. Frazier regarding the proposed rule by phone at (608) 266-7857 or via e-mail: carson.frazier@dot.state.wi.us.

PART 2
TEXT OF PROPOSED RULE

SECTION 1. Chapter Trans 145 is created to read:

CHAPTER TRANS 145
NEIGHBORHOOD ELECTRIC VEHICLE

Trans 145.01 Purpose. The purpose of this chapter is to state that registration of neighborhood electric vehicles under s. 341.25(1)(b), Stats., is valid only on roadways designated under s. 349.26, Stats.

Trans 145.02 Roadway designation. Section 349.26, Stats., authorizes the governing body of any city, town or village to enact an ordinance allowing the use of a neighborhood electric vehicle on a roadway that has a speed limit of 35 miles per hour or less and over which the city, town or village has jurisdiction.

Trans 145.03 Registration. Sections 341.25(1)(b) and 341.297(1), Stats., authorize biennial registration of a neighborhood electric vehicle with the department.

Trans 145.04 Registration limited. Registration of a neighborhood electric vehicle is valid only on roadways designated in an ordinance adopted under s. 349.26, Stats. Operation of a neighborhood electric vehicle on any highway not designated in an ordinance adopted under s. 349.26, Stats., is unregistered operation subject to penalties provided in s. 341.04, 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)(intro.), Stats.

Signed at Madison, Wisconsin, this 18th day of **December**, 2008.



FRANK J. BUSLACCHI
Secretary
Wisconsin Department of Transportation



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

PART 3 CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **08-080**

AN ORDER to create chapter Trans 145, relating to neighborhood electric vehicles.

Submitted by **DEPARTMENT OF TRANSPORTATION**

08-14-2008 RECEIVED BY LEGISLATIVE COUNCIL.

09-11-2008 REPORT SENT TO AGENCY.

RNS:LAK

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO

PART 4
CR 08-080

ANALYSIS OF FINAL DRAFT OF TRANS 145

(a) **Basis and Purpose of Rule.** Section 349.26, Stats., allows a city, town or village by ordinance to authorize operation of Neighborhood Electric Vehicles (NEVs) on its roadways that have speed limits of 35 mph or less. The law specifies that the ordinance may apply to State Trunk Highways (STH) in only two circumstances: (1) crossing an STH at a location approved by DOT; or (2) traveling longitudinally upon a connecting highway segment approved by DOT.

While s. 349.26, Stats., implies that NEVs cannot operate on local roads not specified in the ordinance or at any unapproved location on STHs, statutes do not specifically prohibit NEV operation on those roads. Sections 341.25(1)(b) and 341.297, Stats., establish NEV registration under Chapter 341, Stats. Because NEVs bear DMV-issued registration plates, NEVs traveling on unapproved roads may appear to violate no laws, despite s. 349.26 restriction on approved roads for NEV operation. This proposed rule clarifies that NEV registration is valid only on approved roads under s. 349.26, Stats.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on October 15, 2008. As a result of testimony at the hearing, a word change was made in s. Trans 145.04 when it was pointed out that the word "operation" should be substituted for "registration" in the second sentence. See par. (d) below. No other modifications were made a result of testimony at the hearing.

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

Tim Thompson, Green Autos, Janesville, WI – spoke in favor of the rule and provided written testimony.

Paul Brickson, Cambridge, WI – spoke in favor of the rule.

Ed Blume, Madison Peak Oil Group, Madison, WI – spoke for information on the rule and provided written testimony.

William Martin, Martin's Garage, Union Grove, WI – spoke for information on the rule.

Steven Sobiek, Economic Development/Energy Sustainability Director, Columbus, WI – spoke for information on the rule.

Bob Mair, Major Accounts Manager/Fleet Manager, MEE Material Handling/Columbia Par Car, Sheboygan, WI – spoke for information on the rule.

Jay Goldbeck, Columbia Par Car representative, Stoughton, WI – spoke for information.

Mike Zweep, Partner, Ozee Cars, LLC, Columbia Par Car, Stoughton, WI – spoke for information on the rule.

Earl Huebner, Columbia Par Car Corp. representative, Reedsburg, WI – spoke for information.

Representative Sheryl Albers, 50th Assembly District, Reedsburg, WI – spoke in favor and for information on the rule.

(d) Summary of Public Comments and Agency Response to those Comments: Listed below are the public comments received at the hearing and the Department's responses. No written comments were received.

Tim Thompson questioned the apparently inconsistent use of "roadway" and "highway" in the rule. The terms are used correctly in the rule and will not be changed. The statutes authorize ordinances for the use of NEVs on a "roadway," which is defined as the paved travel portion of a highway. Local ordinances cannot approve the use of NEVs off of the paved travel portion of a highway. The term "roadway" is consistent with the statutes. The term "highway" includes the full width of the right-of-way, including the "roadway" and any unpaved shoulder. Use of the term "highway" in proposed s. Trans 145.04 is intended to apply to this broader area, to clarify that travel on the unpaved portion of the highway is not permitted.

Tim Thompson questioned the use of the term "Registration" in the last sentence of proposed s. Trans 145.04. The Department agrees that this appears to be a typographical error. The correct word should be "Operation." The Department made this change to the rule.

Paul Brickson supported Neighborhood Electric Vehicles in general, rather than any rule provision, and their propensity to reduce speeds of all traffic within the areas that they would be operating within, which could increase safety of all vehicle operators and pedestrians.

Ed Blume described the peak and trend of oil production and consumption, arguing for increased use of not only NEVs but also all electric cars. He recommended that the Department review all its statutes and rules to anticipate increased popularity, and encouragement, of electric cars.

Steven Sobiek described the City of Columbus' twin objectives of "green sustainability" as well as economic development. He suggested that any NEV statutes allow cities flexibility in how they allow NEV operation, including on state trunk highways, so that cities could establish "NEV corridors" maximizing NEV (green) operation among businesses and jobs (economic development).

Bob Mair sought clarification of NEV operation on state trunk highways, and crossing state trunk highways.

Jay Goldbeck was interested in changes to allow more state trunk highway operation, concluding that his interest would be addressed in statutory changes.

Mike Zweep sought clarification on operation on and crossing state trunk highways, which is a statutory change.

Earl Huebner requested that the Department suggest to communities that they give NEV operators a map of NEV routes and place a sticker on NEV windshield, as has one community in Western Wisconsin. This is not an appropriate role for the Department, and general discussion suggested this might be appropriate role for the local governments' associations to disseminate such best practices ideas.

Representative Sheryl Albers stated that the rule should not be delayed, and that if statutory changes are needed they could be made even if the rule advances.

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

(f) **Response to Legislative Council Recommendations.** The Legislative Council report contained no recommendations.

(g) **Final Regulatory Flexibility Analysis.** This proposed rule will have no effect on small business other than limitation on NEV operation to which all NEV owners are subject.





Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P O Box 7910
Madison, WI 53707-7910

Jim Doyle, Governor
Frank J. Busalacchi, Secretary
Internet: www.dot.wisconsin.gov
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Robert J. Marchant
Senate Chief Clerk
Room B-20 Southeast, State Capitol
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January 5, 2009

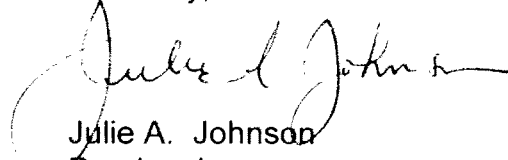
Patrick E. Fuller
Assembly Chief Clerk
17 West Main, Room 401
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 276**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 08-101

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **08-101**, relating to **allowing the operation of certain 2-vehicle combinations on certain highways without a permit**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,



Julie A. Johnson
Paralegal

Enclosure

cc: David Schmiedicke, DOA State Budget Director
Bruce Hoesly
Senator Jim Holperin
Rep. Josh Zepnick
Ashwani Sharma



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4802 Sheboygan Ave., Rm. 115B
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The Honorable Senator Jim Holperin
Chairman, Senate Transportation Committee
Room 409 South
State Capitol
Madison, Wisconsin 53707

January 5, 2009


The Honorable Representative John Steinbrink
Chairman, Assembly Transportation Committee
Room 104 North, State Capitol
Madison, Wisconsin 53702

RE: Proposed Administrative Rule **TRANS 276**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 08-101

Dear Senator Holperin and Representative Steinbrink:

In accordance with the Department of Transportation's efforts to keep you informed of its ongoing rule making actions, enclosed is a courtesy copy of Final Draft rule **Trans 276**, relating to **allowing the operation of certain 2-vehicle combinations on certain highways without a permit**, which is being submitted to the Legislature for committee review.

Sincerely,


Julie A. Johnson
Paralegal

Enclosure

cc: Ashwani Sharma

**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.

Submitted by:



JOHN J. SOBOTIK
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 267-9320

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

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

overall length in 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.
- 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 12th day of **December**, 2008.



FRANK J. BUSALACCHI

Secretary

Wisconsin Department of Transportation



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

**PART 3
CLEARINGHOUSE REPORT TO AGENCY**

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 08-101

AN ORDER to amend Trans 276.07 (14) and (35m), relating to allowing the operation of certain 2-vehicle combinations on certain highways without a permit.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-29-2008 RECEIVED BY LEGISLATIVE COUNCIL.

11-14-2008 REPORT SENT TO AGENCY.

RS:WF

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 08-101

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

In SECTION 1, both occurrences of “Trans 276.01” should be replaced with “Trans 276.07.”

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.