

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
USH 12	STH 65 E Jct	STH 63 N Jct	X
USH 12	STH 63 S Jct	STH 79 N.W. of Menomonie	X
USH 12	STH 58 N Jct	STH 58 S Jct	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	
STH 16	IH 90 E. of Sparta	IH 90/94 Portage	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 Memorial Dr. in Milwaukee	
STH 20	STH 36 32	STH 31 in Racine	X
STH 20	STH 36 in Waterford	STH 83	X
STH 21	USH 41 in Oshkosh	USH 45 in Oshkosh	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	

Route	From	To	Change
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 Ave. in Sheboygan Falls	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	
STH 35	STH 93/53 N. of Holmen	STH 93/53 in Centerville	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 Franklin	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	
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	

Route	From	To	Change
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 54	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 STH 11	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	
<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</u> Loretta	STH 13 in Fifiel	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	

Route	From	To	Change
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 175	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)	
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

Route	From	To	Change
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
STH 175	USH 45 at Scott St.	USH 45 in Winnebago County	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	
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	

Route	From	To	Change
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

Route	From	To
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
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

Route	From	To
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
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

Route	From	To
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
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

Route	From	To
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
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, Iowa	USH 51 in Janesville
	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.