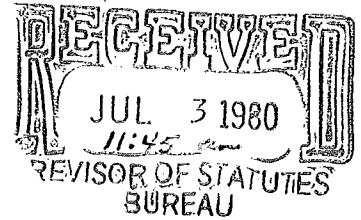


CR 80-67

C E R T I F I C A T E



STATE OF WISCONSIN)
DEPARTMENT OF TRANSPORTATION) ss

TO ALL TO WHOM THESE PRESENTS COME:

I, Lowell B. Jackson, Secretary of the Department of Transportation and custodian of the official records of the Department, do hereby certify that the annexed rule relating to operation of double bottoms (three-vehicle combinations consisting of a truck tractor, semitrailer and trailer) on three highway segments leading into the City of Racine, and certain other highways (CR 80-67) was duly approved and adopted by this Department on June 25, 1980.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Hill Farms State Office Building in the City of Madison, this 25th day of June, 1980.

Lowell B. Jackson

LOWELL B. JACKSON, P.E.
Secretary
Wisconsin Department of Transportation

Cent eff. 9-1-80.

CR 80-67

A RULE to amend Hy 30.20(4)(b) 9 and 10 and adopt Hy 30.20(4)(b) 11, 12, 13 and 14, relating to operation of double bottoms (three-vehicle combinations consisting of a truck tractor, semitrailer and trailer) on three highway segments leading into the City of Racine, and certain other highways.

ORDER ADOPTING RULES

Analysis Prepared by the Department of Transportation

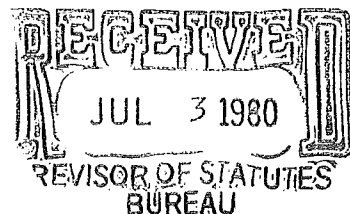
Background

On February 21, 1978, the Supreme Court of the United States decided unanimously (8-0) that Wisconsin's prohibition of the operation of vehicle combinations consisting of a truck tractor, semitrailer and trailer that are 65 feet in length on limited-access, four-lane divided highways violated the Commerce Clause of the Constitution of the United States because it unconstitutionally burdened interstate commerce. The Supreme Court concluded that this prohibition substantially increased the cost of the interstate movement of goods, slowed the movement of goods in interstate commerce and made no more than the most speculative contribution to highway safety on limited-access, four-lane divided highways.

On March 16, 1978, the Department of Transportation issued an emergency rule that designated the highways on which these vehicle combinations could operate.

Shortly after the emergency rule was established, the United States District Court for the Western District of Wisconsin entered a judgment as directed by the Supreme Court which incorporated the substance of the emergency rule. The Court's judgment prohibited the Department of Transportation from restricting the operation of these vehicle combinations on "divided highways with two or more lanes for travel in each direction and with full or partial control of access."

Two additional qualifying highway segments were added by emergency rule effective May 8, 1978.



On April 20, 1978, the Department of Transportation held a hearing to establish the emergency rules as a permanent rule in accordance with the controlling decisions of the Supreme Court of the United States and the United States District Court for the Western District of Wisconsin. At the hearing to establish the present rule on April 20, 1978, in Room 421 South of the State Capitol, there were no appearances or registrations either in favor of the rule, against the rule, or for information, and the rule was adopted as written without change. It became effective July 1, 1978.

On December 14, 1979, Consolidated Freightways asked the Department of Transportation for permit authority to operate these vehicle combinations on three additional highway segments between I-94 and the City of Racine that had recently been reconstructed as divided highways with two or more lanes for travel in each direction and with full or partial control of access. On January 16, 1980, the Department of Transportation responded that the highway segments did qualify and that it intended to change the existing rule regarding operation of these vehicle combinations to add the appropriate portions of the state highway system to the list of highways expressly eligible for issuance of permits. The Department indicated it intended to follow emergency rule procedures.

On February 22, 1980, the Joint Committee for Review of Administrative Rules (JCRAR) wrote the Department of Transportation and stated its "strong opposition to the Department of Transportation's promulgation of an emergency rule to add Highway 20 to the list of highways that can be used by twin trailers." The JCRAR suggested that "the Department use the formal rulemaking route, particularly since the request for the rule is from a special interest group, and we would not wish to deny the public and their elected officials a reasonable opportunity to review and comment on the proposal." The Department had explained to the JCRAR that the rule change was mandated by the United States Supreme Court decision.

On March 20, 1980, the Department of Transportation called the JCRAR and asked whether the JCRAR had reconsidered its position on the emergency rule procedure. The JCRAR indicated the matter would be reviewed and a response made to the Department of Transportation no later than March 27, 1980.

By letter dated March 31, 1980, the JCRAR withdrew its opposition to the emergency rule procedure. The emergency rule went into effect on April 3, 1980. The JCRAR stated, "In the future we recommend that DOT avoid creating emergencies and become more diligent in initiating rulemaking through the normal rulemaking process."

On April 3, the Wisconsin Legislature passed the annual budget review bill. It appears to contain significant changes in the permit fee procedure for overweight and oversize vehicles, including double bottoms. These changes are to be effective by July 1, 1980. To accomplish this legislative change, the Department of Transportation will have to promulgate an emergency rule affecting Chapter Hy 30, Wisconsin Administrative Code. At about the same time, normal rulemaking procedures will be initiated to accomplish the necessary substantive changes and other renumbering and remedial revisions.

General Summary of the Rule

This rule amends current Hy 30.20(4)(b) 9 and 10, and creates Hy 30.20(4)(b) 11, 12, 13 and 14. The amendment eliminates unnecessary language. The newly adopted Hy 30.20(4)(b) 11, 12 and 13 add three additional highway segments between I-94 and the City of Racine upon which double bottoms (three-vehicle combinations consisting of a truck tractor, semitrailer and trailer) may operate. The newly adopted Hy 30.20(4)(b) 14 adds a general provision allowing the Department of Transportation to permit these vehicle combinations to operate on any other highway or segment of highway on the State Trunk Highway System which in the future shall be a divided highway with two or more lanes for travel in each direction and with full or partial control of access.

This rule has not been preceded by notice and public hearing because it is designed solely to bring the language of the existing rule into conformity with the controlling judicial decisions. Section 227.02(1)(b), Stats.

Fiscal Estimate. The rule will have no direct fiscal effect on the state or any other unit of government. It assists in the orderly administration and enforcement of the law.

Forms. Existing double bottom permit forms will be revised to reflect the three additional highway segments on which double bottom operations may be permitted.

Any additional highway segments that may qualify in the future under the Federal Courts' decisions will be expressly identified. Copies of such forms may be obtained at no charge from the Chief Traffic Engineer, Department of Transportation, P.O. Box 7916, Madison, Wisconsin 53707.

This analysis has been prepared by James S. Thiel, Director, Office of General Counsel, Wisconsin Department of Transportation, 608-266-8810.

Pursuant to authority vested in the Department of Transportation by secs. 110.06(1), 348.25(3), 348.26(3) and 348.27(6), Stats., the Department of Transportation hereby amends Hy 30.20(4)(b) 9 and 10 and adopts Hy 30.20(4)(b) 11, 12, 13 and 14, under the procedure of sec. 227.02(1)(b), Stats., as follows:

SECTION 1. Hy 30.20(4)(b) 9 and 10 of the Wisconsin Administrative Code are amended to read:

Hy 30.20(4)(b) 9. US 51 from its junction with STH 54 at Stevens Point to the north end of its divided roadway north of Merrill. A permit issued under the emergency rule published March 15, 1978, is valid for operation on the highway designated in this subdivision.

10. US 141 from its junction with STH 144 near Cedar Grove to the junction of STH 23 at Sheboygan. A permit issued under the emergency rule published March 15, 1978, is valid for operation on the highway designated in this subdivision.

SECTION 2. Section Hy 30.20(4)(b) 11, 12, 13 and 14 of the Wisconsin Administrative Code are adopted to read:

Hy 30.20(4)(b) 11. STH 20 from its junction with I-94 to its junction with STH 31. A permit issued under the rule effective July 1, 1978, and the emergency rule published April 3, 1980, is valid for operation on the highway designated in this subdivision.

12. STH 31 from its junction with STH 11 to its junction with STH 20. A permit issued under the rule effective July 1,

1978, and the emergency rule published April 3, 1978, is valid for operation on the highway designated in this subdivision.

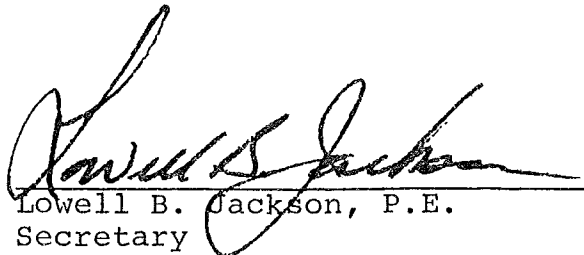
13. STH 11 from its junction with STH 31 to its junction with Racine County Highway Y in the City of Racine. A permit issued under the rule effective July 1, 1978, and the emergency rule published April 3, 1980, is valid for operation on the highway designated in this subdivision.

14. Any other highway, or segment of highway, on the state trunk highway system which is a divided highway with two or more lanes for travel in each direction and with full or partial control of access and which is expressly designated by the chief traffic engineer and described on the face of the double bottom permit.

(End)

The rule amendments and rule adoptions contained in this order shall take effect upon publication as provided in sec. 227.026(1)(intro.), Wis. Stats.

Dated: June 25th, 1980



Lowell B. Jackson, P.E.
Secretary

Wisconsin Department of Transportation

Date: July 1, 1980

File Ref:

To: Orlan L. Prestegard
Revisor of Statutes
Room 411 West, State Capitol

From: James S. Thiel, Director
Office of General Counsel
Wisconsin Department of Transportation



Subject: Clearinghouse Rule 80-67

Attached for filing please find a certified copy and one photocopy of CR 80-67, a rule relating to operation of double bottoms (three-vehicle combinations consisting of a truck tractor, semitrailer and trailer) on three highway segments leading into the City of Racine, and certain other highways.

This rule amends Hy 30.20(4)(b)9 and 10 and adopts Hy 30.20(4)(b)11, 12, 13 and 14.

JST:ck
Attachments

