

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY**

**NOTICE OF PUBLIC HEARING
CLEARINGHOUSE RULE 21-045 and EMERGENCY RULE 2115**

NOTICE IS HEREBY GIVEN that, pursuant to ss. 227.17 and 227.24 (4), Stats., the State of Wisconsin Department of Transportation (“WisDOT”) will hold a public hearing on Emergency rule EmR2115 and the corresponding proposed permanent rule (CR 21-045) Wisconsin Administrative Code ch. Trans 230 relating to permits for loads exceeding size, weight, and vehicle combination limits. Additionally, a draft categorical exclusion environmental document has been prepared for this proposed rule, a copy of which can be found at the bottom of this Notice of Public Hearing.

HEARING INFORMATION:

Date: Wednesday, July 7, 2021
Time: 8:30 a.m.
Location: Hill Farms State Office Building
4822 Madison Yards Way, Room N134
Madison, WI 53705

Appearances at the Hearing and Submittal of Written Comments: Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their written comments.

Written comments will be accepted until Wednesday, July 14, 2021 at 4:30 p.m. and may be sent to Ehren Bittorf, Division of Transportation System Development, State of Wisconsin Department of Transportation, 4822 Madison Yards Way, Third Floor South, Madison, Wisconsin 53705, or by email DOTAdminRules@dot.wi.gov. Comments can also be made through the Legislature’s Administrative Rules website at <http://docs.legis.wisconsin.gov/code/comment>.

Accessibility: If you have special needs or circumstances regarding communication or accessibility at a hearing, please contact Kathey Bilek, Administrative Rulemaking Coordinator, KatherineS.Bilek@dot.wi.gov prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audio format will be made available upon request to the fullest extent possible.

Initial Regulatory Flexibility Analysis: Implementation of the proposed changes is anticipated to have an overall minimal impact to small businesses and industries in Wisconsin as the department will be able to quickly facilitate the movement of essential goods and services to respond to the ongoing needs of industries during emergency situations. Businesses may individually decide whether they need to apply for the emergency permits to meet their business needs. The proposed rule merely provides another option for business and industry to move essential goods and services.

The proposed rule will potentially impact all trucking businesses involved in providing emergency relief. Allowing increased weights will result in fewer trips, lower labor costs, lower fuel costs, and less depreciation to equipment. The department anticipates these businesses would see some positive economic impact.

The proposed rule is expected to have minimal economic impact to the department and taxpayers. While allowing heavier than legal weight loads to be transported does reduce the life expectancy of the infrastructure, overall, the department would balance the heavier loads with appropriate axle configurations to more evenly distribute the weight and help protect the infrastructure. In addition, the limited duration of the emergency permits would also help minimize the infrastructure impact costs.

The proposed rule, fiscal estimate, and other related documents may be viewed at: <https://docs.legis.wisconsin.gov/code>.

Agency Contact Person/ Agency Small Business Regulatory Coordinator:

Ehren Bittorf,

Supervisor of OSOW Permit Unit

Wisconsin Department of Transportation - Division of Transportation Systems Development

(608) 261-2573.

DOTAdminRules@dot.wi.gov

ADMINISTRATIVE RULES ENVIRONMENTAL DOCUMENTATION

Wisconsin Department of Transportation (May 2021)

Administrative Rule No.: TRANS 230	Relating To: Permits for loads exceeding size, weight, and vehicle combination limits		
Permanent Rule or Emergency Rule: <input checked="" type="checkbox"/> Permanent <input checked="" type="checkbox"/> Emergency	Statement of Scope Approval Date: 02/19/2021 (both)	Administrative Rule Fiscal Estimate: Minimal economic impact to the department and taxpayers.	
Trans 400 Action Type and Text: Trans 400.08(2)(e) – Actions which individually or cumulatively do not significantly affect the quality of the human environment and do not involve unresolved conflicts in the use of available resources.			

This document is considered a draft version until it is signed. Section III of the Categorical Exclusion (CE) shall be updated with testimony and responses to testimony following the Administrative Rule Hearing. The CE may then be signed, the Preferred Alternative in Section I becomes the Selected Alternative and the CE becomes the final environmental document.

WisDOT Central Office BTS-EPDS Staff:

I certify that I have reviewed this document and agree with the determination that the proposed Administrative Rule action and resultant impacts meet the definition of a CE as described in [Trans 400.08\(2\)\(e\)](#), and if applicable [23 CFR 771.117\(a\) & \(b\)](#), and will not result in significant economic and environmental impacts. I recommend this CE for approval.

(Signature)

(Print Name and Affiliation)

(Date)

WisDOT Administrative Rule Sponsor:

I certify that I am familiar with this proposed Administrative Rule scope and its impacts and that the information contained in this document is accurate and can be relied upon for documentation decisions.

(Signature)

(Print Name and Affiliation)

(Date)

This template may be used for Wisconsin Environmental Policy Act (WEPA) CE documentation for Administrative Rules.

A determination that this rule satisfies the criteria for a WEPA Categorical Exclusion (CE) does not relieve the applicant of the requirement to comply with other laws and regulations. Any correspondence or documentation used to prepare this CE documentation for Administrative Rules should be maintained in the project file and provided with this document upon request.

I. Description of Objective of the Proposed Rule, Alternatives and the Preferred Alternative

Description of the objective of the proposed rule:

Provide the detailed description of the objective of the proposed Administrative Rule from the Approved Statement of Scope. The description must be consistent with the Trans 400.08(2)(e) description listed above:

The proposed emergency rule would allow the Department flexibility to waive the divisible high load requirement for oversize/overweight (OSOW) permitting of vehicles and allow it to respond in a timelier manner to declared emergency situations.

The proposed emergency rule would facilitate the expedited movement of essential goods and services during declared emergencies, while ensuring the Department's ability to safeguard the State's transportation infrastructure and health and safety of the public.

Alternatives:

A description of proposed Administrative Rule alternatives considered should be included here. The discussion of alternatives may be limited to the No-action alternative and the proposed Administrative Rule as the preferred alternative. If more than one alternative was considered during Administrative Rule scoping, briefly discuss the alternative(s) considered as well as the proposed Administrative Rule and the No-action alternative.

No-action: This alternative would result in doing nothing and require trucks to continue hauling at the legal weight. This alternative would help preserve the highway infrastructure to a certain extent. It would also require more drivers and more trips, resulting in higher labor costs and less fuel efficiency. While the No-action alternative does not meet the objective of the proposed rule, it does serve as a baseline for the comparison on other action alternatives.

Proposed Rule: The proposed emergency rule would amend the general permit conditions in Ch. Trans 230 in a manner that would allow the department to issue permits for loads exceeding statutory size or weight restrictions, or both, for vehicles responding to declared emergency situations.

This proposed amendment would not change the general requirements of section Trans 230.01(3)(e)10. that permit holders must comply with all state and local ordinances rules and regulations, including vehicle weight limits, unless otherwise provided in the permit. Typically, in non-emergency situations, permits are issued for state highways and permit holders apply to the jurisdiction with maintaining authority over local or county highways if they seek permits to traverse those highways.

In extreme situations, such as the 2019 southern Wisconsin flood emergency, the department consults with local jurisdictions as needed if authority for transportation will necessarily impact both state and local routes. Using the department as a single permitting authority assists local jurisdictions already reeling with the demands of responding to the natural disaster from dealing with a variety of requests for emergency permits to provide emergency transportation to their jurisdiction. The department undertakes this role only in emergencies and after extensive consultation with local governments for their direction; the state does not have sufficient information about local streets and highways, their composition, structures, traffic, and other data, nor the staff, necessary to administer local government permitting on a regular basis.

This alternative would require fewer trucks and trips, which would increase fuel efficiency. Heavier weight vehicles do cause more damage to the highway infrastructure, but the department proposes to limit damage by limiting the duration of emergency permits, performing engineering analyses for each permit request, and requiring vehicle configurations and weight limits as appropriate.

Other Alternatives Considered (in none, include N/A): N/A

Preferred Alternative:

Proposed Rule. Waive the divisible load requirement when necessary, with limitations, during a declared emergency.

II. Categorical Exclusion Definition

Check all boxes that apply to the proposed Administrative Rule. If you are unable to check a box in this section, you cannot use this document and must prepare an EA or EIS.

[Trans 400.08\(1\)\(c\)](#) **Categorical exclusions (CEs) actions are categorically excluded from the requirement to prepare environmental documentation because, based on past experience with similar actions, they do not involve significant environmental impacts. They are actions which:**

- Do not induce significant impacts to planned growth or land use for the area
- Do not require the relocation of significant numbers of people
- Do not have a significant impact on any natural, cultural, recreational, historic or other resource
- Do not involve significant air, noise, or water quality impacts
- Do not have significant impacts on travel patterns

Do not otherwise, either individually or cumulatively, have any significant environmental impacts

III. Comments and Testimony Related to Environmental Impacts of the Proposed Administrative Rule Provided During the Administrative Rule Availability Period and Administrative Rule Hearing

Provide a brief description of comments and testimony related to environmental impacts of the proposed Administrative Rule. Describe any concerns expressed, how those concerns were resolved and how any unresolved concerns will be resolved. Attach documentation provided by those providing comment or testimony as applicable:

Will be completed following the availability period and hearing.

IV. Environmental Resources Matrix (check all that apply)

Resource	Adverse Impact	Beneficial Impact	No Impacts Identified	If impacts related to the proposed Administrative Rule action are identified, include a discussion for the specific resources. If supporting documentation is required, include documentation as an attachment. If no impacts are identified, include N/A.
Business and Economic	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed rule will potentially impact all trucking businesses involved in providing emergency relief. Allowing increased weights will result in fewer trips, lower labor costs, lower fuel costs, and less depreciation to equipment. The department anticipates these businesses would see some positive economic impact.
Community	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	It is anticipated the proposed rule will have minimal economic impact to the department and taxpayers
Aesthetics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Agriculture	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed rule will potentially impact all trucking businesses involved in providing emergency relief. Allowing increased weights will result in fewer trips, lower labor costs, lower fuel costs, and less depreciation to equipment. The department anticipates these businesses would see some positive economic impact.
Real Estate and/or Relocations	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Indirect Impacts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Indirect impacts are defined as impacts caused by the action which occur later in time or farther removed in distance, but are still reasonably foreseeable. The proposed rule action should result in no changes to land use or land use planning. The economic impact to business will be positive, but not substantial. While allowing heavier than legal weight loads to be transported does reduce the life expectancy of the infrastructure, overall, the department would balance the heavier loads with appropriate axle configurations to more evenly distribute the weight and help protect the infrastructure. In addition, the limited duration of the emergency permits would also help minimize the infrastructure impact costs. It has therefore been determined that the proposed rule action will cause no impacts which are later in time or farther removed in distance which are reasonably foreseeable.
Cumulative Impacts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cumulative impacts are defined as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. For an action to have a cumulative impact, the action must have a direct or indirect impact on the resource being

				considered. Since it has been determined the proposed rule action will not have substantial direct or indirect impacts on resources, it is therefore determined the proposed rule action will cause no substantial cumulative impacts when added to other past, present, and reasonably foreseeable future actions.
Environmental Justice	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Historic Properties	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Burial Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Tribal	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Surface Water Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Groundwater, Wells, and Springs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Coastal Zones	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Unique Wildlife and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Threatened, Endangered and Protected Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Hazardous Substances, Contamination and Asbestos		<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Stormwater	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Erosion and Sediment Control	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

V. Documentation Attachment Table of Contents

List additional supporting documentation or agency correspondence used in this CE determination related to environmental impacts of the proposed Administrative Rule included as attachment(s):

N/A, at this time