

**TESTIMONY BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE NORTH DAKOTA LEGISLATIVE COUNCIL
June 11, 2008
FRANCIS G. ZIEGLER, NDDOT DIRECTOR**

N.D. ADMIN. Code Chapter)	REPORT OF THE
37-06-04, Combinations of Two, Three,)	ND DEPARTMENT OF
Or Four Vehicles – Over Seventy-Five)	TRANSPORTATION
Feet, (Pages 75-76))	June 11, 2008

Good morning Mr. Chairman and Members of the Administrative Rules Committee. Through the administrative rules process the North Dakota Department of Transportation (NDDOT) working with the North Dakota Highway Patrol made three changes to the administrative rules.

1. The first change deals with previous rules which limited long vehicle combinations to 75 feet. This does not comply with Federal requirements listed in 49USC Section 3111, which is Federal law enacted August 10, 2005. The Federal law now requires that states must allow long vehicle combinations up to 97 feet.
2. The second change is cleanup language in the administrative rules to state Director instead of Commissioner and Department of Transportation instead of Highway Department.
3. The third change allows the long load sign to be on the last vehicle versus on a trailer.

Administrative Rules language for first change:

37-06-04-01.1. Authorized combinations of vehicles exceeding seventy-five feet, not to exceed ninety-seven feet. The following combinations of vehicles exceeding seventy-five feet [22.86 meters], but not exceeding ninety-seven feet [29.56 meters] in overall length may be operated on those highways described in section 37-06-04-02.

1. A motor vehicle may draw up to three motor vehicles attached to the towing motor vehicle by a saddlemount. In such a mount, the front wheels of the towed motor vehicle are mounted upon the bed of the towing vehicle, with any other towed motor vehicles being mounted in a like manner on the preceding motor vehicle.
2. A motor vehicle may draw up to three motor vehicles with no more than one smaller vehicle fully mounted on the frame of the first or last vehicle in the saddlemount. The drawn vehicles shall each be connected by a saddlemount. This combination of vehicles is commonly referred to as a drive-away saddlemount with fullmount vehicle transporter combination.

Administrative Rules language for second change:

37-06-04-02. Routes of operation. Authorized combinations of vehicles may be operated on all four-lane divided state highways and on those state highways designated by the ~~commissioner~~ director as shown on special highway maps available at the highway patrol and highway department of transportation headquarters in Bismarck and at the respective district offices in Williston, Minot, Devils Lake, Grand Forks, Fargo, Valley City, Jamestown, and Dickinson. Authorized combinations of vehicles may travel off the designated system a distance of ten miles [16.09 kilometers] on a state highway for the purpose of procuring food, fuel, repairs, obtaining sleeping quarters (rest), or going to a terminal or points of loading or unloading.

Administrative Rules language for third change:

37-06-04-05. Signing requirement. The last trailer or vehicle in any three or four unit combination must have a "LONG LOAD" sign mounted on the rear. The "LONG LOAD" sign must be a minimum twelve inches [30.48 centimeters] in height and sixty inches [152.4 centimeters] in length. The lettering must be eight inches [20.32 centimeters] in height with one-inch brush strokes. The letters must be black on yellow background.

In response to the May 23, 2008 letter from N.D. Legislative Council, the North Dakota Department of Transportation states:

1. The proposed amendments to N.D. Admin. Code Chapter 37-06-04 were not a result of statutory changes made by the Legislative Assembly. They were preemptive by Federal Law.

2. The proposed amendments to N.D. Admin. Code 37-06-04 arose from mandates under 49 U.S.C. Section 31111. It preempts States from prescribing or enforcing a regulation that "imposes a vehicle length limitation of not less than or more than 97 feet" on this vehicle combination. This amendment establishes a statutory maximum/minimum length limit of 97 feet for these vehicle combinations, in effect replacing the regulatory limit of 75 feet placed on these specialized equipment vehicles in the past.
3. The North Dakota Department of Transportation published a joint notice with the North Dakota Highway Patrol in all county newspapers advising generally of the content of the rulemaking, where copies of the proposed rules could be obtained for review and stating the location, date, and time of the public hearing. The rules were also published on the North Dakota Department of Transportation website. The North Dakota Department of Transportation conducted a joint public hearing with North Dakota Highway Patrol on Tuesday, October, 30, 2007, in Bismarck, ND. The public hearing was held with North Dakota Highway Patrol as the amendments to ND Admin. Code, Chapter 37-06-04 affects enforcement by the North Dakota Highway Patrol. The joint public hearing was recorded. The Department conducts public hearings on all substantive rulemaking. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any change occasioned by the comments.

4. No oral comments were received at the joint public hearing held in Bismarck on October 30, 2007. No written comments were received by 5:00 p.m. on November 09, 2007.
5. The approximate cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$ 900.00.
6. The new and amended rules N.D. Admin. Code Chapter 37-06-04 was made to comply with Federal Law. The following specific changes were made:

Section 37-06-04, is federally mandated under 49 U.S.C., Section 31111. It preempts States from prescribing or enforcing a regulation that "imposes a vehicle length limitation of not less than or more than 97 feet" on this vehicle combination. This amendment establishes a statutory maximum/minimum length limit of 97 feet for these vehicle combinations, in effect replacing the regulatory limit of 75 feet placed on these specialized equipment vehicles in the past.

Section 37-06-04-02, are for clean up purposes only. The language "commissioner" has been changed to "director", and "highway department" to "department of transportation."

Section 37-06-04-05, will require the last vehicle in a vehicle combination exceeding 75 feet to have a "Long Load" sign mounted on the rear vehicle.

7. No written requests for regulatory analysis have been filed by the governor or by any agency. The rules as adopted have no substantial regulatory impact over \$50,000 on the regulated

community. A regulatory analysis was prepared and is attached to this report.

8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. The rules as adopted will not limit the use of private real property. A Constitutional Takings Assessment was prepared and is attached to this report.
10. These rules were not adopted as emergency (interim final) rules.

Thank you for the opportunity to present these changes to you today.

REGULATORY ANALYSIS

The North Dakota Department of Transportation believes that the proposed amendments to existing rules in Chapter 37-06-04 will not have an impact on the regulated community in excess of \$50,000. The changes being suggested are to ensure that some of the proposed rules conform to a federal mandate.

SMALL ENTITY REGULATORY ANALYSIS

The North Dakota Department of Transportation believes that the amendments to Chapter 37-06-04 do not have a substantial small entity regulatory impact.

The proposed new rule to Chapter 37-06-04 is federally mandated under 49 U. S. C. Section 31111 and is therefore exempt from the small entity regulatory analysis requirement.

The proposed amendments to Section 37-06-04-02 are for clean up purposes only, and will not have a substantial small entity regulatory impact. The language "commissioner" has been changed to "director", and "highway department" has been updated to "department of transportation. "

The proposed amendment to Section 37-06-04-05 will require the last vehicle in a vehicle combination exceeding 75 feet to have a "Long Load" sign mounted on the rear vehicle. This change will not have a substantial small entity regulatory impact.

SMALL ENTITY ECONOMIC IMPACT STATEMENT

The North Dakota Department of Transportation believes that the amendments to Chapter 37-06-04 do not have a substantial small entity economic impact.

The proposed new rule to Chapter 37-06-04 is federally mandated under 49 U.S.C. Section 31111 and is therefore exempt from the small entity economic impact statement requirement.

The proposed amendments to Section 37-06-04-02 are for clean up purposes only, and will not have a substantial small entity economic impact. The language "commissioner" has been changed to "director", and "highway department" to "department of transportation."

The proposed amendment to Section 37-06-04-05 will require the last vehicle in a vehicle combination exceeding 75 feet to have a "Long Load" sign mounted on the rear vehicle. This change will not have a substantial small entity economic impact.

TAKINGS ASSESSMENT

The North Dakota Department of Transportation believes that the proposed amendments to existing rules to Chapter 37-06-04 will not take any or limit the use of private real property.