

September 6, 2011

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the State Department of Public Safety Governing the Training and Certification of Over-Dimensional Load Escort Drivers; Governor's Tracking #AR 600

Dear Librarian:

The Minnesota Department of Public Safety intends to adopt rules governing the training and certification of over-dimensional load escort drivers. We plan to publish a Dual Notice of Intent to Adopt Rules without a Public Hearing in the September 12, 2011 State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me via email at Thomas.j.nelson@state.mn.us or by phone at 320-202-6430.

Yours very truly,

Tom Nelson
Lieutenant, MN State Patrol

Enclosure: Statement of Need and Reasonableness

Minnesota Department of Public Safety

STATEMENT OF NEED AND REASONABLENESS

Proposed Rules Governing Training and Certification of Over Dimensional Load Escort Drivers, Minnesota Rules, Chapter 7455

INTRODUCTION

Purpose

The primary purpose of the Department of Public Safety's Minnesota State Patrol is to: protect and serve all people in the state through assistance, education, and enforcement; provide support to allied agencies; and provide for the safe, efficient movement of traffic on Minnesota's roadways.

Scope

The proposed rules are about establishing uniform training and certification requirements for over dimensional load escort drivers, vehicles, and equipment in an effort to promote the safe and efficient operation of over dimensional loads on Minnesota's roadways based on best practices guidelines currently being used on North American roads.

Notification to Persons Affected by the Proposed Rules

A steering committee consisting of several entities in the motor carrier industry have been meeting periodically with a consultant regarding the certification and training of over dimensional load escort drivers. These meetings have been held to assist in the development of these proposed rules to ensure uniform training and certification regarding vehicle, driver, and safety equipment standards for over dimensional load escort drivers in conjunction with the best practices guidelines currently being used in other states.

A request for comments was published in the State Register on January 3, 2011. This notice described the specific subject of the proposed rules, the statutory authority of the proposed rules, and the parties that could be affected by the proposed rules.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Lt. Tom Nelson at the Minnesota State Patrol, 3725 12th Street North, St. Cloud, MN 56303, Phone 320/202-6430, FAX 320/654-5395 and email Thomas.J.Nelson@state.mn.us. TTY users may call the Minnesota State Patrol at 651/282-6555.

STATUTORY AUTHORITY

The Department's statutory authority to adopt the rules is stated in Minnesota Statutes section 299D.085 subdivision 5, which provides: The Commissioner of Public Safety shall adopt rules for the training and certification of over dimensional load escort drivers.

Under this statute, the Department has the necessary statutory authority to adopt the proposed rules.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the agency's response.

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

- Those persons most affected by these rules will be the companies that provide over dimensional load escort services as well as the motor carrier companies that utilize their services.
- Those affected who will bear the cost of the proposed rules will be the companies that provide over dimensional load escort services. The costs associated with these proposed rules will be for the training and certification of their employees.
- Those affected who will benefit from the proposed rules will be those who provide over dimensional escort services, the motor carriers who utilize over dimensional load escort services, and the general public. These rules will ensure uniform training and certification regarding vehicle, driver, and safety equipment standards currently recognized as best practice guidelines in several other states.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

- The proposed rules will not result in any costs to the Department of Public Safety.
- There is not anticipated cost to other state agencies.
- There will be on effect on the state revenues.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

- These rules have been drafted to provide as little cost and intrusiveness as possible. The proposed rules provide for training and certification in driver, vehicle, and safety equipment standards and are required by statute.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

- No other methods were considered for achieving the purpose of the proposed rule.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

- The training and certification program for over dimensional load escort drivers is anticipated to be modeled after the successful Minnesota State Patrol commercial vehicle safety inspection program and is expected to be efficient, affordable and accessible. The current cost of the safety inspection certification is \$180.00. It is anticipated that the cost of the over dimensional load escort training and certification will be similar.
- The entire portion of the cost will be borne by the companies that hire and employ over dimensional wide load escort drivers.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”

- The consequence of not adopting these proposed rules is that it would not enable the Department of Public Safety to fulfill statutory responsibilities recently added to MN state statutes 169.06, 169.86, and 299D.085. Not adopting these rules also would not enable uniform training and certification regarding vehicle, driver, and safety equipment standards for over dimensional load escort drivers. This would not ensure that escort companies operating within the State of Minnesota would be in line with the best practices guidelines currently being used in other states.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

- There are no differences between the proposed rules and existing federal regulations regarding the training and certification of over dimensional load escort drivers.

PERFORMANCE-BASED RULES

- In developing these proposed rules, the Department of Public Safety carefully considered the need for performance-based standards that are expected to be efficient, affordable and accessible. The proposed rules enhance the Department's performance goal of ensuring uniform training and certification standards recognized as best practice guidelines on other states.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a January 4, 2011 letter by Administrative Law Judge Eric Lipman.

Additional notice of the proposed rules will be provided to persons or classes of persons who could be affected using the following methods:

- Posting the notice to adopt rules on the website of the Minnesota Trucking Association (MTA).
- Posting the notice to adopt rules on the website of the Association of General Contractors (AGC).
- Sending letters regarding the notice to adopt rules to the business addresses of all licensed protective agencies that do business in the State of Minnesota as many of them provide over dimensional load escort services in the State (mailing list attached).
- Notifying members of the Pilot Car Steering Committee of the notice to adopt rules (email addresses attached).

Our Notice Plan also includes giving notice required by statute as follows:

- Sending letters regarding the notice to adopt rules to the following individuals who responded to the request for comments on the proposed rules:

Daniel Seman, CEO
Avalon
2407 109th Avenue NE, Suite 110
Blaine, MN 55449

Justin Brevik
Perkins Specialized Transportation Contracting
1800 Riverview Drive
Northfield, MN 55057

Tom Kohrs
Tom Kohrs Pilot Cars

Robert Swift
Swift House Movers

2063 Pioneer Road
Red Wing, MN 55066

16138 149th St. SE.
Big Lake, MN 55309

Rick Rassow
Rick Rassow House Moving
59453 CSAH 3
Litchfield, MN 55355

- We will mail the Notice of Intent to Adopt to everyone who has registered to be on the Department's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a.
- We will also give notice to the following Legislators per Minnesota Statutes, section 14.116.

Rep. Michael Beard, Chair
House Transportation Policy and Finance Committee

Rep. Frank Hornstein, Lead DFL
House Transportation Policy and Finance Committee

Sen. Joe Gimse, Chair
Senate Transportation Committee
303 Capitol

Sen. Scott Dibble, Lead DFL
Senate Transportation Committee
115 State Office Building

Sen. Kenneth Kelash
129 State Office Building

Rep. Michael Nelson
229 State Office Building

Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

Our Notice Plan did not include notifying the state Council on Affairs of Chicano/Latino People because the rules do not have their primary effect on Chicano/Latino people.

CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Department will consult with Minnesota Management and Budget (MMB)). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Department's publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

The administration and enforcement of these proposed rules are the responsibility of the Department of Public Safety, and do not impact any units of local government.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The agency has determined that they do not because, as stated in the previous paragraph, the administration and enforcement of these proposed rules are the responsibility of the Department of Public Safety.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

The Department has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR on pages 2-4.

LIST OF WITNESSES

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Mr. Randy Sorenson, RSA Network, will testify about best practice guidelines for pilot car escort services.
2. Mr. Gene Halverson, Minnesota Office of Freight and Commercial Vehicle Operations will testify about over dimensional load permit issues involving pilot car escorts.
3. Mr. Tim Worke, Associated General Contractors of Minnesota, Inc. (AGC), will testify about the need for and the development of this AGC inspired legislation.

RULE-BY-RULE ANALYSIS

7455.0100 DEFINITIONS

Subpart 1. Scope. The terms used in this chapter have the meanings given them in this part.

Subpart 2. Certified licensed peace officer. “Certified licensed peace officer” means a law enforcement officer operating an authorized emergency vehicle that can direct and control traffic and require traffic to yield to an overdimensional load.

Subpart 3. Certified pilot/escort driver (CPED). “Certified pilot/escort driver (CPED)” means an individual authorized to control and direct traffic as a flagger during the movement of an over dimensional load following the Manual on Uniform Traffic Control Devices (MUTCD) standards as defined by the Federal Highway Administration (FHWA) and adopted by reference under Minnesota Statutes, section 169.06. A certified pilot/escort driver is prohibited from allowing the driver’s vehicle to cross the roadway center during traffic direction and shall not control traffic within an intersection controlled by a lighted traffic control device.

Subpart 4. Commissioner. “Commissioner” means the commissioner of the Minnesota Department of Public Safety.

Subpart 5. Department. “Department” means the Minnesota Department of Public Safety.

Subpart 6. MUTCD. “MUTCD” means the Manual on Uniform Traffic Control Devices.

Subpart 7. Overdimensional load. “Overdimensional load” has the meaning given in Minnesota Statutes, section 299D.085, subdivision 1.

Subpart 8. Section. “Section” means the Commercial Vehicle Enforcement Section of the Minnesota State Patrol.

The rule is necessary for proper and uniform implantation of the rules that follow and it is reasonable in that it uses common definitions of each term.

7455.0200 OVERDIMENSIONAL LOAD ESCORT REQUIREMENT. This rule establishes the only two entities that are to be utilized when escort services are required on the movement of an overdimensional load; a certified licensed peace officer, and a certified pilot/escort driver. This rule is necessary to comply with state statute and is reasonable because it imposes only restrictions that are in the interest of public safety and defines those entities allowed for safe oversize load transportation. It is reasonable in that it gives two choices to those needing oversize load transportation services.

7455.0300 PILOT/ESCORT DRIVER CERTIFICATION PROCESS. This rule ensures a uniform certification process for pilot/escort drivers and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of permitted overdimensional loads on North American roads as follows:

Subpart 1. **Certification course.** This subpart requires that drivers domiciled in Minnesota shall complete a pilot/escort certification course accepted, approved, or authorized by the department.

Subpart 2. **Certification period.** This subpart establishes a certification period of four years for initial certification and allows for one additional four year certification period to be obtained through mail-in or online process provided by a Minnesota authorized training program.

Subpart 3. **Certification reciprocity.** This subpart establishes requirements for pilot/escort drivers domiciled outside of Minnesota to operate within the state with another states credentials, provided that the other state's certification meets the minimum requirements outlined in the Pilot/Escort Manual-Best Practices Guidelines as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, in cooperation with the Commercial Vehicle Safety Alliance, which is incorporated by reference. This subpart also allows the department to enter into a reciprocal agreement with another state if that state demonstrates that its course materials are comprehensive and meet the requirements outlined by the department, which must include flagging, height pole operations, insurance, instructor credentials, and auditing of the state's program.

Subpart 4. **Driver's license requirements.** This subpart requires pilot/escort drivers to provide a certified and current (within 30 days) driver's license record to the Minnesota-authorized training program at the time of the course.

Subpart 5. **Expiration.** This subpart establishes that pilot/escort driver certification expires four years from the date issued and that, upon expiration, an operator must again comply with the department's certification process. This subpart also establishes that it is the responsibility of the driver to maintain certification.

This rule is necessary to comply with state statute and is reasonable because it does not impose undue educational standards and requires only the amount of instruction necessary to provide for the safety of the oversize load transporter and the driving public.

7455.0400 SUSPENSIONS AND REVOCATIONS OF CERTIFICATION. This rule provides for a uniform suspension and revocation policy. It states that the commissioner shall

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deny, suspend, or revoke driver certification if a pilot/escort driver has committed a disqualifying offense.

A. This section describes what traffic violation convictions will be deemed as disqualifying offenses.

B. This section details how long the department shall suspend certifications following convictions for first and subsequent disqualifying offenses.

This rule is necessary as it provides for the oversight of the certification process and constitutional requirements and protections. It is reasonable because it imposes only restrictions that are in the interest of public safety. It is reasonable because it provides due process requirements to protect the licensed individuals.

7455.0500 APPEALS PROCESS. This rule establishes a uniform appeal process for driver's whose certification is denied, suspended, or revoked.

This rule is necessary as it allows for due process and is reasonable as it follows a hearing process established in state statute.

7455.0600 PILOT/ESCORT DRIVER REQUIREMENTS. This rule establishes uniform pilot/escort driver requirements and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of permitted overdimensional loads on North American roads. Based on the best practices guidelines, driver requirements are as follows:

A. An individual must be a minimum of 18 years of age.

B. The individual must possess a valid operator's license for the type of vehicle being operated.

C. The certification card must be in the driver's possession at all times.

D. A driver operating a vehicle in excess of 10,000 pounds gross vehicle weight or gross vehicle weight rating must comply with certain regulations of the Federal Motor Carrier Safety Administration (FMCSA).

E. A front or rear pilot car driver may not perform as a tillerman/steerman for the load being escorted and that a tillerman/steerman may not be in the pilot/escort vehicle when steering activity is being performed.

This rule is necessary to comply with state statute and is reasonable because it imposes restrictions that are in the interest of public safety. It is reasonable because it provides for the requirements that exist in other states to allow for uniform operation and allow for interstate oversize load transportation without having to comply with differing requirements in each state one travels through with an oversize load.

7455.0700 PILOT/ESCORT VEHICLE REQUIREMENTS. This rule establishes uniform pilot/escort vehicle requirements and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of permitted overdimensional loads on North American roads. Based on the best practices guidelines, the vehicle requirements are as follows:

A. Vehicles must be in sound and safe operating condition.

B. Vehicles must be properly licensed and registered based on state of registration.

C. Vehicles must be a passenger automobile, light duty van, or a two-axle pickup or a two-axle single unit truck.

- D. The minimum wheel base of the vehicle must be 100 inches.
- E. The vehicle must not use equipment designated for use by emergency vehicles.
- F. Vehicles must not carry loads of cargo that reduce the visibility of the driver of the vehicle.
- G. Trailers must not be towed during the movement of the overdimensional load.
- H. A vehicle must not contain a passenger under 16 years of age during the movement of the overdimensional load.
- I. A vehicle must contain a two-way simplex communication device with the transmission and receiving range of a minimum of one-half mile. It also addresses what entities the communication device must be compatible with.
- J. Vehicles must have identification showing a company name, a federal Department of Transportation (USDOT) identification, or a city, state, and contact number, which must be legible from a distance of 50 feet.

This rule is necessary to establish uniform vehicle requirements for the newly created overdimensional load escort driver statute and is reasonable because it imposes only restrictions that are in the best interest of public safety and its requirements protect and promote safe roads for other drivers.

7455.0800 PILOT/ESCORT VEHICLE SIGNING REQUIREMENTS. This rule establishes uniform vehicle signing requirements on pilot/escort vehicles and will put Minnesota in line with current best practices guidelines currently being used in the safe movement of overdimensional loads on North American roads. Based on the best practices guidelines, vehicle signing requirements are as follows:

- A. A pilot/escort vehicle must display a “LONG LOAD” or “WIDE LOAD” sign mounted on the top of the vehicle. Signs must be displayed so that it is visible to both overtaking and oncoming traffic at all times during the pilot/escort operation. The signs must be clearly readable and legible at all times of operation. Bumper-mounted signs only are prohibited on the pilot/escort vehicle.
- B. The signs must be five feet in width, have ten inches of vertical visible surface space, and display black letters that are eight inches in height.
- C. Red/orange flags utilized by pilot/escort vehicles must be mounted in line with the signs and mounted approximately a 45-degree angle towards the sides of the pilot/escort vehicle.
- D. Signs and flags must be removed or covered when pilot/escort vehicles are not providing services.
- E. Signs must be removed or covered when pilot/escort vehicles are performing route surveys and prohibits route surveys from being performed while escorting an overdimensional load.
- F. A sign, light or flag must not extend more than six inches beyond the widest part of the body of the pilot/escort vehicle.

This rule is necessary to establish uniform vehicle signing requirements for the newly created overdimensional load escort driver statute and is reasonable because it imposes restrictions that are in the best interest of public safety. It is reasonable in that it provides for uniformity among oversize load drivers so they know specifically what is required and they do not have to produce differing notification devices.

7455.0900 PILOT/ESCORT VEHICLE LIGHTING REQUIREMENTS. This rule establishes uniform lighting requirements for pilot/escort vehicles and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of overdimensional loads on North American roads. Based on the best practices guidelines, the vehicle lighting requirements are as follows:

A. Pilot/escort vehicles must be equipped with at least one flashing yellow or amber light. These lights must be mounted on the top of the pilot/escort vehicle and be visible for 360 degrees for all traffic. Two types of approved lighting are listed in (1) and (2) below.

(1). Two AAMVA/SAE/USDOT-approved yellow or amber, flashing or oscillating, strobe lights must be used with one mounted on each side of a top-mounted sign. These lights must be visible for 360 degrees, illuminated at all times of operation, and visible from a minimum distance of 500 feet under normal atmospheric conditions.

(2). An AAMVA/SAE/USDOT-approved yellow or amber, flashing or oscillating, strobe beacon light bar must be used, mounted on top of the pilot/escort vehicle. The light bar must have a minimum of two lights within the housing of the light bar. This light bar must be unobstructed and visible for 360 degrees.

B. Incandescent, strobe, or diode (LED) lights may be used if they meet the criteria listed in item A.

C. A light is defined as a single housing.

D. Pilot/escort vehicle must not be equipped with lighting or equipment that is reserved for emergency vehicles.

- This rule is necessary to establish uniform vehicle lighting requirements for the newly created overdimensional load escort driver statute and is reasonable because it imposes only restrictions that are in the best interest of public safety. It is reasonable because it promotes safety and uniformity and lists specific requirements so oversize load drivers know the minimum requirements.

7455.1000 PILOT/ESCORT VEHICLE SAFETY EQUIPMENT REQUIREMENTS. This rule establishes uniform pilot/escort vehicle safety equipment requirements and will put Minnesota in line with the current best practice guidelines currently being used in the safe movement of overdimensional loads on North American roads. Based on the best practices guidelines, the vehicle safety equipment requirements are as follows:

A. A minimum of one 18-to-20 inch STOP/SLOW paddle. This sign must be reflectorized for nighttime flagging operations. A 24-inch orange/red flag on a 36-inch staff may be used in an emergency flagging operation only.

B. A hardhat approved by the federal Occupational Safety and Health Administration, for use by the pilot/escort driver.

C. A class 3 safety vest approved by the American National Standards Institute for use during any time the pilot/escort driver is outside the pilot/escort vehicle on any roadway as per current MUTCD standards.

D. One flashlight with a lens width of 1.5 inches with extra batteries or charger. Emergency self-charging flashlights do not meet this requirement.

E. One six-inch long orange/red cone to fit the flashlight. Traffic wands are an acceptable alternative to the orange/red cone.

F. Nine reflective triangles or reflectorized 18-inch orange traffic cones with a single reflective band of six inches in height.

G. Eight fuses, flares, red glow sticks, or USDOT-approved alternative red-light producing devices.

H. Three standard 18-inch orange traffic cones.

I. One yellow, vinyl, or mesh "OVERSIZE LOAD" sign, seven feet wide by 18 inches tall with the letter a minimum height of ten inches with a 1.41-inch brush stroke.

J. First aid kit clearly marked and labeled.

K. A height pole, if required as a condition of the overdimensional load permit, which must be nonconductive, nondestructive, flexible, and frangible and installed and in use by the front pilot car at all times when an overdimensional load exceeds 15 feet six inches in height.

L. One ten-pound capacity or two five-pound capacity serviceable fire extinguishers with an ABC rating.

M. One handheld simplex two-way communication device with a minimum transmission and receiving range of one-half mile. This device must be used in a flagging situation where the pilot/escort diver is outside the pilot/escort vehicle.

This rule is necessary to establish uniform vehicle safety equipment requirements for the newly created overdimensional load escort driver statute and it is reasonable because it imposes only restrictions that are in the best interest of public safety. It is necessary and reasonable to protect other drivers and properly warn other drivers of an oversize load so they may take safe driving measures when encountering the oversize load.

7455.1100 INSURANCE REQUIREMENTS.

Subpart 1. This subpart established uniform insurance requirements in the movement of overdimensional loads on Minnesota roads. It states that a driver must possess a current certificate of insurance or endorsement that indicates coverage for bodily injury and property damage as a result of the operation of the escort vehicle. It also states that the insurance or endorsement must not be less than \$1,000,000 combined single limit or \$1,000,000 per occurrence of commercial liability coverage which must be maintained at all times during the term of certification.

Subpart 2. This subpart states that pilot/escort vehicles must have minimum of \$1,000,000 liability insurance and that it is not a cumulative amount.

This rule is necessary as it provides an avenue for indemnification and is it is reasonable to require insurance of drivers that are using roadways for economic purposes and imposing some additional risk to the driving public.

7455.1200 CERTIFIED PILOT/ESCORT DUTIES. This rule identifies the duties of a certified pilot/escort and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of overdimensional loads on North American roads. Based on these best practices guidelines, the pilot/escort duties are as follows:

A. A pilot/escort vehicle is prohibited from escorting more than one overdimensional vehicle or load at the same time, unless expressly authorized by the commissioner.

B. When the pilot/escort vehicle is in front of the overdimensional vehicle or load being escorted, the operator shall:

(1). Warn oncoming traffic of the presence of the vehicle or load by use of lights and signs as provided within this chapter;

(2). Notify the driver of the overdimensional vehicle or load by two-way radio of all hazards; overhead clearances; obstructions; traffic congestion; pedestrians; and any other circumstances evident to the operator that could affect either the safe movement of the overdimensional vehicle or load, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the overdimensional vehicle or load to take remedial action as necessary;

(3). To the extent necessary, locate safe places, if available, adjacent to the highway and notify the driver of the overdimensional vehicle or load thereof to allow the overdimensional vehicle or load and the pilot/escort vehicles to clear the highway, so that following traffic can safely pass or for any other reason necessary to protect public safety and the efficient movement of traffic; and

(4). Be far enough in front of the overdimensional vehicle or load to signal oncoming motorists to stop in a timely manner, before the motorists enter any narrow structures or other restrictions on the highway to permit the safe passage of the vehicle or load.

C. When the pilot/escort vehicle is behind the overdimensional vehicle or load, the pilot/escort driver shall:

(1). warn traffic approaching from the rear of the presence of the overdimensional vehicle or load ahead, by use of lights and signs as provided within this chapter;

(2). notify the driver of the overdimensional vehicle or load by two-way radio of flat tires or other problems with the overdimensional vehicle or load; objects coming loose from the overdimensional vehicle or load; other traffic approaching or passing the overdimensional vehicle or load; and any other circumstances evident to the operator that could affect either the safe movement of the overdimensional vehicle or load, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the overdimensional vehicle or load to take remedial action, as necessary.

(3). Notify the front pilot/escort driver and the driver of the overdimensional vehicle or load by two-way radio of traffic buildup and other delays to the normal flow and efficient movement of traffic caused by the movement of the overdimensional vehicle or load;

(4). notify the driver of the vehicle or load by two-way radio of other vehicles attempting to pass the overdimensional vehicle or load; and

(5). Ensure the pilot/escort vehicle is far enough behind the overdimensional vehicle or load to signal motorists following the overdimensional vehicle or load to slow or stop in a timely manner, before structures or other restrictions on the highway, to permit the safe passage of the overdimensional vehicle or load.

D. Traffic light procedure.

(1). If the front pilot/escort vehicle goes through a traffic light but the overdimensional vehicle or load does not, then the driver of the front pilot/escort vehicle shall pull the vehicle over to the right side of the highway, where practicable, to wait for the overdimensional vehicle or load.

(2). If the overdimensional vehicle or load goes through the traffic light but the rear pilot/escort vehicle does not, then the overdimensional vehicle or load must reduce speed until the pilot/escort resumes position behind the load.

(3). Pilot/escort drivers are responsible for the requirements utilizing pilot escorts as directed in this chapter.

This rule is necessary as it creates uniform job duties for pilot/escort drivers in the newly created overdimensional load escort driver statute and is reasonable because it imposes only restrictions that are in the best interest of public safety. It is reasonable to require such operators to have basic requirements to ensure safe transportation and operation of oversize loads.

7455.1300 PRETRIP COORDINATION MEETING. This rule establishes a uniform requirement for pretrip coordination meetings to ensure the safe movement of overdimensional loads and will put Minnesota in line with the best practices guidelines currently being used in the safe movement of overdimensional loads on North American roads. Based on the best practices guidelines, the pretrip coordination meeting requirements are as follows:

Subpart 1. Meeting requirements generally. A pretrip planning and coordination meeting must be conducted as follows:

A. The meeting must be held before load movement. The meeting may be held at the roadside when the required parties come together to organize the trip.

B. The required parties include the drivers carrying or pulling oversize loads, the pilot escort vehicle drivers, law enforcement officers (if assigned), department personnel (if involved), and public utilities representatives (if involved).

C. This meeting must include discussion and coordination on the conduct of the move.

D. The permittee or a designated representative shall conduct the meetings.

Subpart 2. Meeting requirements for drivers. In addition, the operator of the overdimensional vehicle or load and the pilot/escort driver shall comply with the following procedures:

A. Pilot/escort drivers shall ensure that all copies of permit and routing documentation are distributed to all appropriate individuals involved with the permitted load movement.

B. The meeting must also:

(1) Coordinate the communication and signals to be used; and

(2) Verify or measure the load dimensions, with permitted dimensions verified jointly by the operator of the overdimensional vehicle or load and the pilot/escort driver.

C. The pilot/escort driver shall provide proof of a valid pilot/escort driver certification and proof of insurance.

D. Drivers and operators shall also:

(1) discuss aspects of the move, including the overdimensional vehicle or load, the route, and specific responsibilities;

(2) review the permit conditions and distribute copies of the overdimensional permit to each pilot/escort driver;

(3) review the permitted route with any specified highway restrictions;

(4) determine the proper position of the pilot/escort vehicles;

- (5) check mandatory equipment;
- (6) mount signs, adjust mirrors, and turn on lights; and
- (7) Check each two-way radio to ensure clear communication on the selected channel.

This rule is necessary as it creates uniform pretrip coordination meeting requirements in the newly created overdimensional load escort driver statute and is reasonable because it imposes restrictions that are in the best interest of public safety. It is reasonable in that it only requires a meeting of those responsible for the trip to coordinate and discuss the job, planning and safe operations.

7455.1400 PILOT/ESCORT FLAGGING REQUIREMENTS. This rule establishes uniform pilot/escort flagging requirements and will put Minnesota in line with the current best practices guidelines currently being used in the safe movement of permitted overdimensional loads on North American roads. Based on the best practices guidelines, the pilot/escort flagging requirements are as follows:

During the movement of an overdimensional load, the pilot/escort driver, in the performance of the flagging duties required by this chapter, may control and direct traffic to stop, slow, or proceed in any situation when deemed necessary to protect the motoring public from the hazards associated with the movement of the overdimensional load. The pilot/escort driver, acting as a flagger, may aid the overdimensional load in the safe movement along the highway designated on the overdimensional load permit and shall;

- A. assume the proper flagger position outside the pilot/escort vehicle and, as a minimum standard, have in use the necessary safety equipment as defined in section 6E.1 of the MUTCD;
- B. use “STOP” or “SLOW” paddles or a 24-inch red/orange square flag to indicate emergency situations, or other equipment as described in section 6E.1 of the MUTCD; and
- C. comply with the flagging procedures and requirements as set forth in the MUTCD and the Department of Transportation Flagger Training Handbook.

This rule is necessary as it creates uniform requirements in the newly created overdimensional load escort driver statute and is reasonable because it imposes restrictions that are in the best interest of public safety. It is reasonable to protect other drivers and properly warn them so they can take safe driving measures when encountering oversize loads.

LIST OF EXHIBITS

In support of the need for and reasonableness of the proposed rules, the Department anticipates that it will enter the following exhibits into the hearing record:

08-12-11 Draft SONAR- Pilot car

1. Pilot Car Escort Best Practices Guidelines manual as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance.
2. Law Enforcement Escort Best Practices Guidelines manual as endorsed by the Special Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance.
3. Minnesota Pilot/Escort Steering Committee's proposed standards and training program documentation.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

[Date]

[Name]

[Title]