

3139

RECEIVED
IRRC

2016 MAR 30 AM 10: 28

From: [Roman, Richard](#)
To: [Hendricks, Clara](#)
Subject: FW: Ch. 189 Proposed Rulemaking Comments
Date: Tuesday, March 29, 2016 7:49:10 AM
Attachments: [Comments on Proposed Rulemaking.pdf](#)

FYI

Richard N. Roman, P.E. | Director
Bureau of Maintenance and Operations
PA Department of Transportation
400 North Street – 6th Floor | Harrisburg PA 17120
Phone: 717.787.6899 | Fax: 717.705.5520
www.dot.state.pa.us

From: Weimer, Branden [mailto:bweimer@chevron.com]
Sent: Sunday, March 27, 2016 11:02 PM
To: Roman, Richard <RIROMAN@pa.gov>
Cc: Eisenman, Chad <ceisenman@chevron.com>
Subject: Ch. 189 Proposed Rulemaking Comments

Richard-

Attached is a document containing comments regarding the proposed rulemaking changes to Ch. 189 – Hauling in Excess of Posted Weight Limits.

If you have any questions, please feel free to let me know.

Thanks,

Branden Weimer
Permitting Team Lead

Appalachian/Michigan Business Unit
Chevron North America Exploration and Production Company
a division of Chevron U.S.A Inc.
800 Mountain View Drive
Smithfield, PA 15478
Tel (724)564-3745 Fax (724)564-3894 Mobile (724)323-5408
bweimer@chevron.com

Comments on Proposed Rulemaking:

67 PA Code Ch. 189 – Hauling in Excess of Posted Weight Limit

General Comments:

Concern of certain language in the proposed rulemaking leaving the possibility of rules being interpreted differently among regional districts or areas

Positive comment to associate the 700 load count per year with Minimum Use permits

Section 189.2 Definitions

At-risk industry sector—Industry sectors defined by the Department of Labor and Industry as having experienced a 20% or more decline in Statewide employment between March 2002 and March 2011 and additional industry sectors that the Department determines, in consultation with the Department of Labor and Industry, to show evidence of economic decline.

Comment: Guidance needed to understand process of determining how industry is considered to be labeled At-Risk

Excess maintenance—[] **Repairs** or restoration, or both (but not betterment), of a posted highway in excess of normal maintenance

Comment: Further clarification of definition. Suggest not removing “caused by use of over posted-weight vehicles”

Reachable only through posted highways—One or more posted highways needed to travel to a location from the nearest nonposted highway or from the location to the nearest nonposted highway by the most direct route possible. The most direct route may not include posted highways which can be avoided by travel on nonposted highways. If available, a reasonable alternate nonposted highway must be taken.

Comment: A concern for safety should be considered in the designation of the route traveled to and from the location. Safety of traffic may require certain roads to be utilized.

Section 189.3 Local Traffic

(a) ***General rule.*** Local traffic user vehicles may exceed posted weight limits unless the posting authority determines that a user vehicle or vehicles being driven to or from a particular location or locations are likely to cause damage to the highway. User vehicles related to natural resource development, harvesting or extraction are not local traffic when going to or coming from a site at which minerals, gas or natural resources are developed, harvested or extracted, notwithstanding whether the site is located at a residence, a commercial site, farmland, or a local government or Department facility.

Comment: Proposed rule clearly singles out Natural Resource development industries as not qualifying for Local Traffic. Options should be considered for Local Traffic when development does not require high volume traffic in later sequence of production. All language associated with “over weight traffic” has been removed which does not provide appropriate designation of responsibility between Local heavy users vs. non-qualified local heavy users.

Section 189.4 Use under permit

(a) *General rule.* No **user vehicles**, except local traffic **user vehicles** authorized under § 189.3(a) (relating to local traffic), shall be driven on a posted highway with a gross weight in excess of the posted weight limit unless the posting authority has issued a permit for the user vehicle or vehicles in accordance with this section. **A user shall, at all times, carry evidence of the user vehicle's destination, which must consist of the type of documents in § 189.3(c). A single permit may authorize permit categories for local determination highways, annual bonded highways and seasonal bonded highways. An original or copy of the issued permit must be carried in the user vehicle at all times. The Department may determine through policy to allow use of electronic permits and self-certification documents to be utilized as acceptable proof of authorized hauling.**

Comment: Liabilities between bond holders and local traffic need distinguished. Determine how responsibilities are assessed when road repairs needed

(b) Types of permits – being removed from rule

Comment: Current model structure for permits allows for different levels of liability in repairs for various users. Proposed rule does not reflect difference between heavy vs. non-heavy users.

(iv) *Minimum use.* **The Department may use a minimum use permit category when the user responsible for generating user vehicles is not a heavy user for a particular highway. This category is restricted during the designated freeze-thaw period unless written authorization from the Department is provided.**

Comment: Need more clarification/guidelines around how to qualify for this scenario. Can Unconventional O&G qualify for Minimum use with reduced volume of traffic?

(B) \$12,500 per linear mile for paved highways to be maintained at a level consistent with the type of highway. The posting authority may alternatively elect \$10,000 per county for state highways or \$10,000 per municipality for local government highways.

Comment: Further clarification of process of how posting authority will elect \$10,000/county from \$12,500/mile

(iii) *Schedule of bonding amounts.* The Department **may** from time to time, but not more often than annually, publish a revised schedule of bonding amounts based on increased or decreased maintenance costs.

Comment: Public fee schedule should be required to be posted. Recommend not changing language from “will” to “may”

(1) *Agreement to share excess maintenance responsibility.* If two or more **users wish to obtain bonded authorization to operate** vehicles on the same posted highway or portion thereof, they may agree among themselves as to their relative responsibility for the cost of excess maintenance and the posting authority will enter into agreements and accept security on the basis of the agreed shares.

Comment: Department’s position needs to be clearly defined as responsibility party to determine obligations of user liability of roadways

(2) *Determination by posting authority.* If multiple **bonded users** cannot agree on their relative responsibility, the posting authority **may** determine their relative shares, and enter into agreements with and accept security from any person agreeing to **the** determination.

Comment: Department’s position needs to be clearly defined as responsibility party to determine obligations of user liability of roadways

(1) *Inspection.* Representatives of the posting authority and of the **user or users** will make an onsite inspection of the posted highway immediately before issuance of a **permit** to determine its condition.

Comment: Need consistency between districts on fees and timing of work to be completed.