

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY	Arkansas Highway Commission/Arkansas Department of Transportation		
DIVISION	Arkansas Highway Police		
DIVISION DIRECTOR	Jay Thompson, Chief		
CONTACT PERSON	Gill Rogers		
ADDRESS	10324 Interstate 30, Little Rock, AR 72209		
PHONE NO.	501.569.2108	FAX NO.	501.569.2428
E-MAIL	Gill.rogers@ardot.gov		
NAME OF PRESENTER AT COMMITTEE MEETING	Randy Ort, Jay Thompson, Gill Rogers		
PRESENTER E-MAIL	Randy.ort@ardot.gov ; jay.thompson@ardot.gov		

INSTRUCTIONS

- A. Please make copies of this form for future use.**
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.**
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

PERMITS FOR OVERWEIGHT VEHICLES CARRYING AGRONOMIC OR HORTICULTURAL PRODUCTS

1. What is the short title of this rule? AGRONOMIC OR HORTICULTURAL PRODUCTS
2. What is the subject of the proposed rule? To provide a process for ARDOT and AHP to issue permits in accord with Act 1085 of 2017 to allow overweight agricultural trucks up to 100000 pounds
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes ☒ No ☐
July 19, or otherwise upon approval by ALC
If yes, what is the effective date of the emergency rule? Executive Committee

When does the emergency rule expire? November 16, 2018, or 120 days from adoption

Will this emergency rule be promulgated under the permanent provisions of the Administrative
Revised January 2017

Procedure Act?

Yes ☒

No ☐

5. Is this a new rule? Yes ☒ No ☐

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule?

Yes ☐

No ☒

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Act 1085 of 2017, A.C.A. § 27-35-210(q)

7. What is the purpose of this proposed rule? Why is it necessary? For the identified products, the law allows only up to 85,000 pound loads from the field to the processor. Legislation was passed in 2017 allowing up to 100,000 pounds with a permit, and directed ARDOT and the Arkansas Dept. of Agriculture to draft rules

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes ☐ No ☒

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e).

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Farmers and the farm community, and related organizations. Positions varied and unknown.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Highway Commission/Arkansas Department of Transportation

DIVISION Governmental Relations

PERSON COMPLETING THIS STATEMENT Gill Rogers

TELEPHONE 501.569.2108 **FAX** 501.569.2428 **EMAIL:** Gill.rogers@ardot.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE **PERMITS FOR OVERWEIGHT VEHICLES CARRYING AGRONOMIC OR HORTICULTURAL PRODUCTS**

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____

Next Fiscal Year

General Revenue _____
Federal Funds _____

Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 _____

Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 _____

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

333 per
permit
\$ issued

Next Fiscal Year

\$ N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

See
\$ attached

Next Fiscal Year

\$ See attached

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☒ No ☐

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following: **See Attached**

- (1) a statement of the rule's basis and purpose;

- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Response pursuant to A.C.A.
§ 25-15-204(e)(4)

Since it answered YES to question #7, ARDOT is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

This rule was prompted by the passage of Act 1085 of 2017, A.C.A. § 27-35-210(q) which directs the Arkansas Department of Transportation in cooperation with the Department of Agriculture to promulgate rules allowing the Arkansas Highway Commission to issue a permit valid for one (1) year authorizing the movement of a truck tractor and semi-trailer combination with a minimum of five (5) axles hauling agronomic or horticultural crops in their natural state that exceed the maximum gross weight as provided in § 27-35-203 but do not exceed a total gross weight of one hundred thousand pounds (100,000 lbs.). A truck tractor and semi-trailer combination issued such a permit shall not exceed the height, length, or width restrictions set out in Chapter 35 of Title 27 of the Arkansas Code;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

ARDOT drafted rules in cooperation with the Agriculture Department as directed by A.C.A. § 27-35-210(q). In so doing the Department took into consideration the objective of the legislation, to allow up to 100,000 pound loads for certain qualifying entities going from the field to point of first processing. The objective appears to be to allow those so inclined to increase efficiency by increasing possible load weight to 100,000 pounds;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule;

ARDOT drafted rules in cooperation with the Agriculture Department as directed by A.C.A. § 27-35-210(q), which states: "The Arkansas Department of Transportation in coordination with the Arkansas Agriculture Department shall promulgate rules necessary to implement this subsection, including without limitation the criteria required to qualify for the issuance of a special permit."

and

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

ARDOT has attempted to meet the statutory objectives by providing for permits that may only be issued to vehicles which have been inspected and pre-qualified on routes that have been determined to be safe for the traveling public and do not have any intermediate weight restricted roads or bridges.

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

The rule allows for permitted vehicles to drive upon weight restricted roads when their origin or destination is on a weight restricted road. These roads are particularly susceptible to damage from traffic that weighs in excess of the road rating. (Note, travel on weight restricted bridges or upon the interstate is still prohibited).

An analysis of the effect on roadways by the Department's System Information and Research Division determined that, at the level between the existing 85,000 pounds and the mandated 100,000 pounds, the damage to the roadway is exponential, resulting in three times the damage.

The only alternative to these situations is to not permit the activity, but to do so would make the statutorily required rule almost ineffective.

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

This is the initial submission in accord with Subcommittee Rule (d)(2); as such, public comment has not yet occurred.

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response;

No.

and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:

- (a) the rule is achieving the statutory objectives;
- (b) the benefits of the rule continue to justify its costs; and
- (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

The Department will continually, and annually, review the rule for determination of its continued effectiveness compared to its costs and damage to the system, and attempt to make corrections and revisions as technology and funding allow.

Summary

Permits for Overweight Vehicles Carrying Agronomic or Horticultural Products

Pursuant to Act 1085 of 2017, codified at § 27-35-210(q), the Arkansas Department of Transportation in cooperation with the Arkansas Department of Agriculture created Permit Rules for Overweight Vehicles Carrying Agronomic or Horticultural Products To provide a process for ARDOT and AHP to issue permits to allow qualified overweight agricultural trucks to carry up to 100000 pounds.

The Rules allow for a permit for one tractor and multiple, identical, trailers, to be issued for five different origin and destination routes. Each tractor and trailer is required to undergo a safety inspection prior to issuance of the permit, and the rule calls for additional driver requirements.

The ARDOT was made aware of the date of the upcoming harvest season, and that the standard rulemaking procedure would not be timely, resulting in harm to farmer and consumer alike. As a result, the emergency rules were passed by the Arkansas Highway Commission at its July 6, 2018 meeting, to be effective pending review and approval by the Executive Committee Arkansas Legislative Council.

Permanent rules to replace these rules are being pursued separately.

Permit fees have been set at \$333 for this 120 day permit.

Draft Emergency Permit Rules
for the Movement of Oversize and Overweight Vehicles On the State Highway System

Rule 19 – PERMITS FOR OVERWEIGHT VEHICLES CARRYING AGRONOMIC OR HORTICULTURAL PRODUCTS

A. INTRODUCTION

Pursuant to Arkansas Code Annotated § 27-35-210(q), the Commission may issue a permit valid for one (1) year authorizing the movement of a truck tractor and semi-trailer combination with a minimum of five (5) axles hauling agronomic or horticultural crops in their natural state that exceed the maximum gross weight as provided in § 27-35-203 but do not exceed a total gross weight of one hundred thousand pounds (100,000 lbs.). A truck tractor and semi-trailer combination issued such a permit shall not exceed the height, length, or width restrictions set out in Chapter 35 of Title 27 of the Arkansas Code, or as set out in these rules.

THESE RULES ARE BEING ADOPTED AS EMERGENCY RULES AND PURSUANT TO A.C.A. § 25-15-204 WILL BE IN EFFECT FOR 120 DAYS FROM APPROVAL BY THE LEGISLATIVE COUNCIL. ANY PERMIT ISSUED PURSUANT TO THESE RULES EXPIRES AT THE EXPIRATION OF THE RULES.

B. APPLICATION INFORMATION

1. Each applicant may apply for up to **five (5)** different routes.
2. Any application for a Route Permit pursuant to this Rule shall be accompanied by a specific point of origin and destination for each route.
3. In addition to the Application Information Required in Rule 2 B, each request for an annual permit shall be accompanied by proof of a North American Standard Level I Inspection with no critical violations noted for the specific power unit and all towed units to be permitted.

C. BOND/FEE INFORMATION

1. No bond is required.
2. The fee for a permit to move overweight agronomic and horticultural products under Rule 19 shall be three hundred and thirty-three dollars (\$333.00).

D. ADDITIONAL PERMIT INFORMATION

1. During operation of the permitted vehicle on state highways pursuant to this Rule, each permittee is required to carry proof of a North American Standard Level I Inspection;
2. During operation of the permitted vehicle on state highways pursuant to this Rule, each driver is required to be 21 years of age, and to maintain within the permitted vehicle their current DOT Medical Certification;
3. Upon application for an Annual Route Permit under this Rule as set out in 19(B), a permit technician will review the origin and destination information provided, and attempt to identify the shortest route from the origin to the destination within the following parameters:
 - a. ABSOLUTELY NO TRAVEL ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS;
 - b. No travel on weight restricted bridges;
 - c. No travel on weight restricted highways except as provided in subsection (d);
 - d. Permitted vehicles that have an origin or final destination on a weight restricted highway may travel on those weight restricted highways on their origin or final destination for loads within the permit limits.
4. A permit may be issued for a combined tractor/trailer, or a tractor with up to **five (5)** identified trailers, provided the number of axles and axle spacings remain the same when towing the various trailers.

E. DEFINITIONS

1. "Agronomic crops" means the species in each of the following plant groupings belonging to the domain of agronomy: cereal or grain crops; grain legumes or pulses and oilseed crops for food, feed or industrial use; pasture and forage crops; fiber crops; sugar crops; and starchy root and tuber crops.
2. "Horticultural crops" means vegetable crops, fruit crops and edible nuts, other ornamental crops, and nursery crops. In addition, the aromatic crops and the medicinal crops are included.
3. "Natural state" means unfinished or unprocessed agronomic or horticultural crops originating in Arkansas from the first point of severance to a point in the state at which they first undergo any finishing, processing, preparation for processing, conversion, or transformation.
4. Agricultural and horticultural crops do not include timber or forestry products in any form.

Permit Rules for the Movement of Oversize and Overweight Vehicles On the State Highway System

Rule 19 – PERMITS FOR OVERWEIGHT VEHICLES CARRYING AGRONOMIC OR HORTICULTURAL PRODUCTS

A. INTRODUCTION

Pursuant to Arkansas Code Annotated § 27-35-210~~(up)~~, the Commission may issue a permit valid for one (1) year authorizing the movement of a truck tractor and semi-trailer combination with a minimum of five (5) axles hauling agronomic or horticultural crops in their natural state that exceed the maximum gross weight as provided in § 27-35-203 but do not exceed a total gross weight of one hundred thousand pounds (100,000 lbs.). A truck tractor and semi-trailer combination issued such a permit shall not exceed the height, length, or width restrictions set out in Chapter 35 of Title 27 of the Arkansas Code, or as set out in these rules.

THESE RULES ARE BEING ADOPTED AS EMERGENCY RULES AND PURSUANT TO A.C.A. § 25-15-204 WILL BE IN EFFECT FOR 120 DAYS FROM APPROVAL BY THE LEGISLATIVE COUNCIL. ANY PERMIT ISSUED PURSUANT TO THESE RULES EXPIRES AT THE EXPIRATION OF THE RULES.

B. APPLICATION INFORMATION

1. ~~All permits issued pursuant to this Rule shall be considered Annual Route Permits. Each permit applicant~~ may apply for up to **five (5)** different routes.

2. Any application for ~~an Annual~~ Route Permit pursuant to this Rule shall be accompanied by a specific point of origin and destination for each route.

3. In addition to the Application Information Required in Rule 2 B, each request for an annual permit shall be accompanied by ~~the following:~~

~~a. Proof of a North American Standard Level I Inspection with no critical violations - noted for the specific power unit and all towed units to be permitted.~~

~~b. Name and driver's license number for each person that will drive the permitted vehicle. Each driver identified for the vehicle combination must, at the time of the permit request, be 21 years of age or older.~~

~~c. A copy of the Department of Transportation (DOT) Medical Certificate for each driver.~~

C. BOND/FEE INFORMATION

1. No bond is required.

2. The fee for a permit to move overweight agronomic and horticultural products under Rule 19 shall be three hundred and thirty-three dollars (\$333.00).

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D. ADDITIONAL PERMIT INFORMATION

1. During operation of the permitted vehicle on state highways pursuant to this Rule, each permittee is required to carry proof of a North American Standard Level I Inspection;
2. During operation of the permitted vehicle on state highways pursuant to this Rule, each driver is required to be 21 years of age, and to maintain within the permitted vehicle ~~their current~~their current DOT Medical Certification;
3. Upon application for an Annual Route Permit under this Rule as set out in 19(B), a permit technician will review the origin and destination information provided, and attempt to identify the shortest route from the origin to the destination within the following parameters:
 - a. ABSOLUTELY NO TRAVEL ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS;
 - b. No travel on weight restricted bridges;
 - c. No travel on weight restricted highways except as provided in subsection (d);
 - d. ~~Notwithstanding (c) above, p~~Permitted vehicles that have an origin or final destination on a weight restricted highway may travel on those weight restricted highways on their origin or final destination for loads within the permit limits. ~~that are the origin or destination of permitted routes.~~
4. A permit may be issued for a combined tractor/trailer, or a tractor with up to **five (5)** identified ~~towed units~~trailers, provided the each identified towed unit has the same trailer length, number of axles, and axle spacings remain the same when towing the various trailers.

E. DEFINITIONS

1. "Agronomic crops" means the species in each of the following plant groupings belonging to the domain of agronomy: cereal or grain crops; grain legumes or pulses and oilseed crops for food, feed or industrial use; pasture and forage crops; fiber crops; sugar crops; and starchy root and tuber crops.
2. "Horticultural crops" means vegetable crops, fruit crops and edible nuts, other ornamental crops, and nursery crops. In addition, the aromatic crops and the medicinal crops are included.
3. "Natural state" means unfinished or unprocessed agronomic or horticultural crops originating in Arkansas from the first point of severance to a point in the state at which they first undergo any finishing, processing, preparation for processing, conversion, or transformation.
4. Agricultural and horticultural crops do not include timber or forestry products in any form.

ARKANSAS STATE HIGHWAY COMMISSION

MINUTE ORDER

District: Statewide
County: Statewide
Category: Miscellaneous

Page 1 of 2 Pages

WHEREAS, Act 1085 of 2017 authorizes the issuance of a special permit to allow agricultural trucks carrying agronomic or horticultural products to have a total gross weight of up to one hundred thousand (100,000) pounds, under certain circumstances; and

WHEREAS, Act 1085 of 2017 directs the Arkansas State Highway and Transportation Department (now Arkansas Department of Transportation), in coordination with the Arkansas Agriculture Department, to promulgate rules necessary to implement the permit issuance, including without limitation, the criteria required to qualify for the issuance of the special permit; and

WHEREAS, a coordinated effort has resulted in the development of an amendment to the Permit Rules for the Movement of Oversize and Overweight Vehicles On the State Highway System with the addition of Rule 19 – Permits for Overweight Vehicles Carrying Agronomic or Horticultural Products; and

WHEREAS, this Commission has been made aware that the harvest season for Arkansas' farmers is set to begin on or about September 1, and pursuing standard notice and publication requirements of the Administrative Procedures Act will prevent these rules from being adopted in time for the harvest, resulting in increased costs to the farmer and consumer; and

WHEREAS, this Commission finds that an emergency exists that warrants adoption of these rules upon less than thirty (30) days' notice in accord with A.C.A. § 25-15-204(c)(1).

ARKANSAS STATE HIGHWAY COMMISSION

MINUTE ORDER

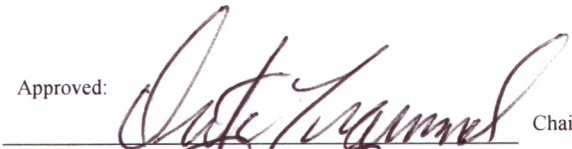



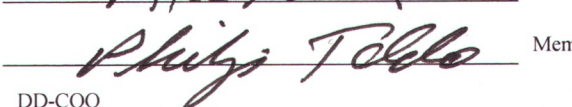
District: Statewide
County: Statewide
Category: Miscellaneous

Page 2 of 2 Pages

NOW THEREFORE, Rule 19 – Permits for Overweight Vehicles Carrying Agronomic or Horticultural Products is adopted, and the Permit Rules for the Movement of Oversize and Overweight Vehicles On the State Highway System, as authorized by A.C.A. § 27-35-210, and adopted, published and amended under direction of Commission Minute Order 2014-125, are hereby amended to attach and incorporate Rule 19 .

FURTHERMORE, the Director is authorized to submit the amended Permit Rules for the Movement of Oversize and Overweight Vehicles on the State Highway System to the Executive Committee of the Arkansas Legislative Council for its review and approval. The rules so approved will be in effect for 120 days from the date of approval, in accord with A.C.A. § 25-15-204(c)(3).

Approved:


 Chairwoman
 Vice-Chairman
 Member
 Member
 Member

DD-COO

Submitted By:

 Julie Judon
Deputy Director and Chief Operating Officer

Approved:

 David Bennett
Director

Minute Order No.

2018 065

Date Passed

JUL 11 2018

Draft Emergency Permit Rules
for the Movement of Oversize and Overweight Vehicles On the State Highway System

Rule 19 – PERMITS FOR OVERWEIGHT VEHICLES CARRYING AGRONOMIC OR HORTICULTURAL PRODUCTS

A. INTRODUCTION

Pursuant to Arkansas Code Annotated § 27-35-210(q), the Commission may issue a permit valid for one (1) year authorizing the movement of a truck tractor and semi-trailer combination with a minimum of five (5) axles hauling agronomic or horticultural crops in their natural state that exceed the maximum gross weight as provided in § 27-35-203 but do not exceed a total gross weight of one hundred thousand pounds (100,000 lbs.). A truck tractor and semi-trailer combination issued such a permit shall not exceed the height, length, or width restrictions set out in Chapter 35 of Title 27 of the Arkansas Code, or as set out in these rules.

THESE RULES ARE BEING ADOPTED AS EMERGENCY RULES AND PURSUANT TO A.C.A. § 25-15-204 WILL BE IN EFFECT FOR 120 DAYS FROM APPROVAL BY THE LEGISLATIVE COUNCIL. ANY PERMIT ISSUED PURSUANT TO THESE RULES EXPIRES AT THE EXPIRATION OF THE RULES.

B. APPLICATION INFORMATION

1. Each applicant may apply for up to **five (5)** different routes.
2. Any application for a Route Permit pursuant to this Rule shall be accompanied by a specific point of origin and destination for each route.
3. In addition to the Application Information Required in Rule 2 B, each request for an annual permit shall be accompanied by proof of a North American Standard Level I Inspection with no critical violations noted for the specific power unit and all towed units to be permitted.

C. BOND/FEE INFORMATION

1. No bond is required.
2. The fee for a permit to move overweight agronomic and horticultural products under Rule 19 shall be three hundred and thirty-three dollars (\$333.00).

D. ADDITIONAL PERMIT INFORMATION

1. During operation of the permitted vehicle on state highways pursuant to this Rule, each permittee is required to carry proof of a North American Standard Level I Inspection;
2. During operation of the permitted vehicle on state highways pursuant to this Rule, each driver is required to be 21 years of age, and to maintain within the permitted vehicle their current DOT Medical Certification;
3. Upon application for an Annual Route Permit under this Rule as set out in 19(B), a permit technician will review the origin and destination information provided, and attempt to identify the shortest route from the origin to the destination within the following parameters:
 - a. ABSOLUTELY NO TRAVEL ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS;
 - b. No travel on weight restricted bridges;
 - c. No travel on weight restricted highways except as provided in subsection (d);
 - d. Permitted vehicles that have an origin or final destination on a weight restricted highway may travel on those weight restricted highways on their origin or final destination for loads within the permit limits.
4. A permit may be issued for a combined tractor/trailer, or a tractor with up to **five (5)** identified trailers, provided the number of axles and axle spacings remain the same when towing the various trailers.

E. DEFINITIONS

1. "Agronomic crops" means the species in each of the following plant groupings belonging to the domain of agronomy: cereal or grain crops; grain legumes or pulses and oilseed crops for food, feed or industrial use; pasture and forage crops; fiber crops; sugar crops; and starchy root and tuber crops.
2. "Horticultural crops" means vegetable crops, fruit crops and edible nuts, other ornamental crops, and nursery crops. In addition, the aromatic crops and the medicinal crops are included.
3. "Natural state" means unfinished or unprocessed agronomic or horticultural crops originating in Arkansas from the first point of severance to a point in the state at which they first undergo any finishing, processing, preparation for processing, conversion, or transformation.
4. Agricultural and horticultural crops do not include timber or forestry products in any form.

Information on 100,000-pound Agricultural Permit Rules

Current Conditions

- Arkansas' current maximum legal limit for trucks, including agricultural vehicles, is 80,000 pounds.
- However, Arkansas law provides some vehicles with five axles, including agricultural and timber trucks, an 8% weight variance provided the total gross weight does not exceed 85,000 pounds when hauling unfinished and unprocessed products from the point of severance to the first point of processing. This weight variance is only allowed on non-Interstate highways.
- Oversize/Overweight permits (OS/OW) can be issued by the Highway Police Permit Section in certain instances for non-divisible loads. Historically, agricultural trucks have not been eligible for these permits because they are divisible loads.

Proposed Changes

- Act 1085 of 2017 instructed ARDOT to work with the Arkansas Department of Agriculture in developing rules for the issuance of an annual permit that allows agricultural trucks hauling agronomic or horticultural products to have a total gross weight of up to 100,000 pounds in certain circumstances.
- Draft rules have been jointly developed with the Department of Agriculture and are ready for consideration by the Highway Commission. As with other OS/OW permits, travel will be restricted to routes identified by the Permit Section and would only be allowed from the field to the first point of processing.
- The normal rule promulgation process involves review and approval by the Legislative Council and includes a public comment period. Adhering to that process at this point in time would not have the new rules/new permit in place for the upcoming harvest season.

- Representative Dan Douglas, Chair of the House Agriculture, Forestry, and Economic Development Committee has requested that the Commission implement an 'emergency rule' as allowed by law. Under this process, the emergency rule would go into effect immediately upon approval by the Legislative Council, without a comment period, and would be in effect for 120 days. That process would get a rule/permit in place for use in the upcoming harvest season.
- Therefore, at the July 11 Commission meeting, two Minute Orders and two sets of Rules will be considered. One will be for the emergency rule, which calls for a \$333 permit fee, and a permit effective window of 120 days beginning upon approval of the rules by the Legislative Council.
- The second Minute Order will pertain to the permanent rule which will go through the normal rule promulgation process, including approval by the Legislative Council and a public comment period. The permanent rule will be for an annual permit with a fee of \$1,000.
- Both the emergency rule and the permanent rule would only apply to 'agronomic crops' and 'horticultural crops' as defined in the rule. These rules would not apply to timber or forestry products in any form.

REPRESENTATIVE

Dan M. Douglas
6251 SW Regional Airport Boulevard
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479-619-9231 Business
479-273-1877 Residence
dan-douglas@sbglobal.net

DISTRICT 91

Counties:
Fert Benton

COMMITTEES:

Revenue and Taxation
Income Taxes--Personal and Corporate
Subcommittee

Chairperson,
Agriculture, Forestry and Economic
Development

Joint Budget



STATE OF ARKANSAS

House of Representatives

June 26, 2018

RE: Scott Bennett, Director, Arkansas Department of Transportation

Dear Scott:

As Chair of the House Agriculture, Forestry, and Economic Development Committee, I have been contacted by a number of people in the farming community, as well as a few of my colleagues in the House, about permit rules being drafted by the Department to implement Act 1085. There is concern about whether time allows the rules to be adopted by the harvest season starting around September 1st. I believe given the time involved, it will take adoption of an emergency rule by the Commission, and then approval by the ALC Executive Committee at either the July or August meetings. Please let me know whether the Commission would be willing to explore that as an option so that we may work on getting the rules passed.

I also have some concerns about the rules themselves, and would like to discuss revising them prior to any action of the Commission to adopt. Please let me know as soon as possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Douglas".

Dan M. Douglas
State Representative
District 91

RECEIVED

JUN 26 2018

DIRECTOR'S OFFICE
ARKANSAS DEPARTMENT
OF TRANSPORTATION



State of Arkansas
Bureau of
Legislative Research

Marty Garrity, Director
Kevin Anderson, Assistant Director
for Fiscal Services
Tim Carlock, Assistant Director
for Information Technology
Matthew Miller, Assistant Director
for Legal Services
Richard Wilson, Assistant Director
for Research Services

Memorandum

TO: ALC—Executive Subcommittee

FROM: Laura Kehler Shue, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

CC: Marty Garrity, Director, Bureau of Legislative Research; Jillian E. Thayer, Legal Counsel to the Director; Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

DATE: July 17, 2018

SUBJECT: Legal Authorization for an Arkansas Department of Transportation Emergency Rule—regarding permits for overweight vehicles carrying agronomic or horticultural products

The Arkansas Department of Transportation's stated purpose for its emergency rule is to allow the Arkansas Highway Commission to issue a permit valid for one (1) year authorizing the movement on a state highway of a truck tractor and semi-trailer combination with a minimum of five (5) axles hauling agronomic or horticultural crops in their natural state that exceed the maximum gross weight for vehicle load limits but do not exceed a total gross weight of one hundred thousand (100,000) pounds. A truck tractor and semi-trailer combination issued such a permit shall not exceed height, length, or width restrictions.

The emergency rule allows for a permit for one tractor and multiple, identical trailers for up to five (5) different origin and destination routes. Each driver has additional requirements, and each tractor and trailer is required to undergo a safety inspection prior issuance of the permit. The permit fee is \$333.00.

The Arkansas State Highway Commission approved this emergency rule on July 11, 2018, after it was made aware of the immediate need for a permit to allow for qualified overweight agricultural vehicles as the harvest season for Arkansas' farmers is set to begin on or about September 1, 2018. The Department drafted the rule in cooperation with the Agriculture Department as directed by Act 1085 of 2017, sponsored by Representative Michael John Gray. The Department states that its authority for this rule is Arkansas Code Annotated § 27-35-210(q), and that a permanent rule will be promulgated. Arkansas Code Annotated § 27-35-210(q) allows the Department to promulgate rules necessary to implement this special permit for transporting agronomic or horticultural products.