

**THE CHALLENGES TO HARMONIZATION OF INTER-
JURISDICTIONAL TRADE LAWS: A STUDY OF TRANSPORTATION
REGULATION DISPARITIES WITHIN THE NORTHERN GREAT
PLAINS REGION**

PATRICK M. GARRY[†]

CANDICE SPURLIN^{††}

MICHELLE DEWAELSCHÉ^{†††}

I. INTRODUCTION: THE HARMONIZATION MOVEMENT

Economic harmonization has become a pervasive theme, with the globalization movement focusing on the creation of free trade zones. Indeed, the latter part of the twentieth century has seen considerable efforts at the harmonization of international commercial and trade laws through agreements such as the North American Free Trade Agreement, which was instituted as a means of achieving economic growth by removing trade barriers within a particular region.¹ This same motivation underlies plans for the European Union and the Central American Free Trade Agreement.² The economic challenge for the future, experts contend, is to remove blockages caused by incompatible and inconsistent regulations imposed by individual countries within a particular world region.³

However, this theory of economic growth through harmonization of trade regulations is not confined to world regions. It can also be applied to the states and provinces within individual countries. In fact, the need to create or ensure uniformity of commercial laws within the United States has prompted much recent debate and commentary.⁴ Perhaps as a result of the focus that the

[†] Patrick Garry, Assistant Professor of Law, University of South Dakota School of Law. Ph.D., J.D., University of Minnesota.

^{††} Candice Spurlin, Computer Assisted Legal Research Librarian, University of South Dakota School of Law, B.A., Augustana College; M.S., University of North Carolina at Chapel Hill.

^{†††} Michelle DeWaelche is a third-year J.D. candidate at the University South Dakota School of Law. She has an M.A. in Writing from DePaul University and a B.A. in English from Arizona State University.

1. See Timothy R. Holbrook, *The Treaty Power and the Patent Clause: Are There Limits on the United States' Ability to Harmonize?*, 22 CARDOZO ARTS & ENT. L.J. 1, 1 (2004).

2. Starting in the mid-1980s, the European Union became more involved in crafting a common transportation policy. T. R. Lakshmanan & William P. Anderson, *Transport Governance Systems and Trade Expansion*, (Boston Univ. Center for Transportation Stud., Working Paper No. CTS2001B, 2001), available at <http://www.bu.edu/transportation/wpseries.html>.

3. See T.R. Lakshmanan, et al., *Techno-Economic Innovations in Transport and Trade Expansion: The Case of NAFTA*, (Boston Univ. Center for Transportation Stud., Working Paper No. CTS2002D, 2002), available at <http://www.bu.edu/transportation/wpseries.html> [hereinafter Lakshmanan et al.]. See also ELIOT GLASSHEIM ET AL., TOWARD NEW HORIZONS: TRENDS IN TRANSPORTATION AND TRADE-MOVING THE NORTHERN GREAT PLAINS REGION TO A STRONGER ECONOMIC FUTURE 9-11 (Northern Great Plains Inc. 2002) [hereinafter GLASSHEIM, ET AL.].

4. See George A. Hisert, *Uniform Commercial Code: Does One Size Fit All?*, 28 LOY. L.A. L. REV. 219 (1994); Nim Razook, *Uniform Private Laws, National Conference of Commissioners for Uniform State Laws Signaling and Federal Preemption*, 38 AM. BUS. L.J. 41 (2000); Larry E. Ribstein & Bruce H. Kobayashi, *State Regulation of Electronic Commerce*, 51 EMORY L.J. 1 (2002).

globalization movement has put on the issue of trade harmonization, commentators and regulators have begun examining the disparities in trade regulations that exist even among the individual states of a particular country. Thus, although the impetus for trade harmonization has come from the international arena,⁵ it has filtered down to local levels, with the realization that the best trading partners of a state or region are those that are closest to that state or region.⁶

In an effort to study the actual degree of uniformity or disparities in the trade laws of a particular region, the University of South Dakota Law School (USD Law School) recently conducted a comprehensive survey of certain commercial transportation regulations of the five states within the Northern Great Plains region — North Dakota, South Dakota, Nebraska, Iowa and Minnesota.⁷ This study found disparities within every category of regulation surveyed and significant disparities in the areas of weight, long combination vehicles (LCVs), and permitting practices particularly on “non-designated roads.”⁸ The degree of these disparities was somewhat surprising, given the commonality among the five states and the degree of trade conducted between those states.⁹ Although the study focused primarily on identifying the existence of such disparities, its findings can also be used to shed light on the larger question of why trade harmonization among individual states, much less

5. See Lakshmanan, et. al, *supra* note 3.

6. ELIOT GLASSHEIM, JERRY NAGEL, JOE ABE & FRED HELMSTETTER, TOWARD NEW HORIZONS: TRENDS IN TRANSPORTATION AND TRADE—MOVING THE NORTHERN GREAT PLAINS REGION TO A STRONGER ECONOMIC FUTURE: EXECUTIVE SUMMARY 2 (Northern Great Plains, Inc. 2002). This study cites a growing desire by state, provincial and local governments around the world to be more in control of their own future. Thus a new “collaborative regionalism” is emerging as a strategy for addressing shared interests. *Id.*

7. The USD Law School’s study is indebted to the research initiatives of Jerry Nagel and the Northern Great Plains Institute. Over the years, as reflected by the studies cited below, Nagel and the NGP have conducted comprehensive research on the connection between regional economic growth and the existence of disparities in the trade laws among the states in the region.

8. Laura L. Franke, Impacts of Regulatory Inconsistencies on Highway Freight Transport in the Upper Midwest Region 39 (2004) (unpublished M.S. thesis, University of Wisconsin-Madison) (on file with authors).

Size and weight regulations on highways are organized into two main networks by roadway designation: federal (designated) roads and state (non-designated) roads. The designated roads include the NN, Interstates, and any other federal road. All other roads are considered to be non-designated, and include roads classified as supplemental truck routes, states roads that are not federally funded, and roads not on the NN. . . .

Federal guidelines and regulations are uniform on designated roads, and consequently there are very few differences in size and weight maximums from state to state on designated roads. . . . On the other hand, most inconsistencies arise when traveling on non-designated roads. It is there that jurisdictions are allowed to regulate truck size and weight as they see fit. Lengths, trailer combinations, widths, and axle weights vary from jurisdiction to jurisdiction.

Id. at 39-40.

9. See Joe Abe, et al., *Trade Patterns and the Economy of the Northern Great Plains: A Baseline Report*, (The Northeast-Midwest Institute in partnership with Northern Great Plains, Inc. 2001), available at <http://www.ngplains.org/documents/FinalCopy.pdf> [hereinafter Abe, et al.].

The predominant land use and historical economy of the NGP region is agricultural. Thousands of farms were homesteaded in the 1800’s and early 1900’s shaping the future challenges and opportunities of the Region. In addition to agricultural development, timber, fur trading, mining, hunting, and fishing have shaped the Region’s identity, history, and culture.

Id. at 11.

individual nations, can be so difficult to achieve.¹⁰ Thus, the study might be useful as providing a microcosm for examining the larger issues that arise within the international movement of globalization.

The USD Law School study follows in the wake of previous studies examining the economic effects of trade law disparities among states and regions.¹¹ Some of these studies have focused specifically on the Northern Great Plains region and found that uniform trade regulations within the region would have a significant and positive effect on economic growth.¹² In connection with these studies, the USD Law School set out to discover and document the actual existence of trade law disparities, and therefore to prove or disprove the prevailing theory that such disparities did in fact exist among the states of the Northern Great Plains region.

II. DESCRIPTION OF THE STUDY

USD Law School confined its study to state regulations of commercial trucking. This specific focus was chosen for several reasons. First, various state and private research institutes had already been studying the economic growth effects of removing confusing and contradictory trucking regulations existing between the different states — what was unknown, however, was the precise degree of such disparities.¹³ Second, the trucking industry provided the main

10. Fred Helmstetter, *An Overview of Transportation Infrastructure and Services in the Northern Great Plains*, (The Northeast-Midwest Institute in association with The Northern Great Plains Initiative for Rural Development 2000).

Truck dimension and weight regulations vary among the states, among the provinces, and between the U. S. and Canada. The regulatory environment includes different limits on specific roadway types for tire and axle loads, gross vehicle weights, vehicle heights and widths, trailer and semi-trailer lengths, and combination vehicle lengths. . . .

The result of this regulatory system is a rather complex web of regulations that can be difficult to navigate for shippers and service providers.

Id. at 91. See NORTH DAKOTA DEPARTMENT OF TRANSPORTATION, CROSS BORDER REGIONAL TRUCK TRANSPORTATION CONFERENCE REPORT: A FIRST STEP TO IMPROVING REGIONAL ECONOMIC COMPETITIVENESS (June 15 & 16, 2005) (unpublished report) (on file with authors) [hereinafter NORTH DAKOTA DEPARTMENT OF TRANSPORTATION]. This conference identified a list of barriers to achieving uniform truck size and weight regulations and permitting.

11. See generally NORTH DAKOTA DEPARTMENT OF TRANSPORTATION, *supra* note 10; Franke, *supra* note 8. See also Lakshmanan, et al., *supra* note 3; UNITED STATES DEPARTMENT OF TRANSPORTATION, COMPREHENSIVE TRUCK SIZE AND WEIGHT STUDY REP. NO. FHWA-PL-00-029 (2000).

12. See GLASSHEIM, ET AL., *supra* note 3, at 9-11.

The trend toward cooperative, regional economic associations confirms the idea of thinking of the Northern Great Plains region as a nation. The trend provides a backdrop for the states and provinces in the Region to work together voluntarily to gain global trading advantages and establish new market opportunities for regional businesses. . . . [A] very important role for the federal, state and provincial governments serving the Region, will be to ensure that the Region's transportation policies and infrastructure facilitate trade development and, importantly, not hinder it through unnecessary policy barriers.

Id. at 11. See also UPPER GREAT PLAINS TRANSPORTATION INSTITUTE, SUMMARY REPORT, NORTH DAKOTA STRATEGIC FREIGHT ANALYSIS: NORTH DAKOTA DEPARTMENT OF TRANSPORTATION REGIONAL STRATEGIC FREIGHT STUDY ON MOTOR CARRIER ISSUES (2005) [hereinafter UPPER GREAT PLAINS TRANSPORTATION INSTITUTE], available at <http://www.ugpti.org/conference/pdf/summary.pdf>. "Cooperation among states, provinces, and private and public sector leaders is needed to bring about a plan for uniform regulations and a seamless truck freight transportation system that enhances commerce within the region." *Id.* at v.

13. Franke, *supra* note 8, at 73. Franke notes:

avenue of trade within the region.¹⁴ Truck transportation serves as the primary mode for transporting goods and commodities,¹⁵ since much of the region is without water transportation and has only limited rail competition and service.¹⁶ Third, trucking laws are especially amenable to harmonization. Because such laws focus on very objective matters — *e.g.*, the weight, height and length of a truck — harmonization among different states is more possible than with laws concerning more subjective matters. Fourth, the geography and economic base of the states of the region are somewhat similar.¹⁷ In other words, the physical condition of the roads in North Dakota, a state of fairly flat prairies, are similar to those in Iowa, another state of flat prairies. Also, since all the states of the Northern Great Plains region are based heavily on an agricultural economy, the type of goods being transported by trucks tends to be somewhat similar.¹⁸ And fifth, the trucking sector was chosen because of its ability to indicate disparities in other areas of regulation. If disparities exist in the transportation laws of the five states, it is reasonable to assume that they also exist in other categories of trade laws. This assumption is based on the fact that commercial trucking is highly regulated, is an integral part of each state's economy, is represented by well-entrenched industry groups, and is overseen by a myriad of government agencies.¹⁹ Consequently, any significant disparities in regulations should be apparent within the industry and to state regulators. And since there is a strong

There is an overabundance of research studies available discussing truck size and weight issues, with almost all of the literature identifying impacts of increasing truck size and weight maximums to raise productivity. These impacts usually fell into the following categories: highway infrastructure, motor carrier safety, traffic congestion, economic productivity, trucking industry and modal competitiveness, the environment, finance and energy, and compliance and enforcement.

Id.

14. Abe, *supra* note 9, at 96-98. In 1997, *Trade Patterns and the Economy of the Northern Great Plains* reported that trucks led rail, water, and air in percentage of weight both in outbound and inbound freight to the Northern Great Plains Region. In trade value trucks carried 69%, followed by rail with 18%, air with 10%, and water with 3%. *Id.* at 98.

15. TRANSPORTATION RESEARCH BOARD, REGULATION OF WEIGHTS, LENGTHS, AND WIDTHS OF COMMERCIAL MOTOR VEHICLES — SPECIAL REPORT 267 (2002), available at <http://www.nap.edu/execsumm/030907701X.html>.

“Federal and state regulations govern the weight and dimensions of trucks, buses, and trailers on U. S. highways. The regulations have important economic consequences because trucking accounts for four-fifths of expenditures on freight transportation in the United States, and trucking costs are influenced by truck size and weight.” *Id.*

16. UPPER GREAT PLAINS TRANSPORTATION INSTITUTE, *supra* note 12, at iii. Furthermore, since much of the region's economy is based upon the movement of natural resources, truck transportation provides a vital and sometimes the only means of movement. *Id.* at i.

17. Abe, *supra* note 9, at 32-35. The NGP region, considered the breadbasket of North America, leads the country in the production of wheat, rye, barley, and oats. *Id.* The region is also a major producer of beef, pork, poultry, honey, and oil seeds. *Id.*

18. *Id.* at 34. Agriculture is the predominant use of the region's land; 80.6% of the land is farmed or ranched. *Id.* “Nebraska reported the highest percentage of agricultural land (92%), . . . while South Dakota reported the lowest (74%).” *Id.*

19. See Lakshmanan, et al., *supra* note 3.

In addition to economic regulation, transportation is subject to a host of technical regulations and standards. These include: size and weight for trucks[,] . . . age, language, licensing and health regulations for vehicle operators[,] conventions for road signs and traffic signals[,] procedures for ensuring vehicle safety[,] [and] procedures of transportation of hazardous goods[.]

Id.

industry incentive to try to cure those disparities, it can be assumed that such disparities are not simply the result of ignorance or indifference. Furthermore, commercial trucking regulations are vigorously administered by various law enforcement agencies, and such agencies would obviously have an interest in the establishment of uniform regulations between neighboring states.²⁰ All these factors support the assumption that if disparities exist in the area of commercial trucking, they will probably exist in many other areas. For these reasons, commercial trucking seemed a particularly appropriate area in which to analyze the existence of trade law disparities between states and the NAFTA nations.²¹

Focusing primarily on state laws covering commercial trucking, the study did not address the matter of federal regulations, since those regulations provide for a fairly uniform treatment of the interstate system and the primary federal-aid highway system.²² On the state level, however, commercial trucking is governed by a complex regulatory environment.²³ This environment includes state departments of transportation, rural municipal councils, major urban transportation agencies, the U.S. Department of Transportation, national parks, public works, and other government agencies and services. Moreover, although this study provides a snapshot of current regulations and conditions, these laws and regulations are continually evolving.

In conducting the study, the USD Law School first conducted a survey of businesses, regulatory agencies, law enforcement personnel, and industry associations across the five-state region. This survey attempted to identify the major areas of disparities, as perceived by the various groups. After conducting this survey, which included hundreds of participants, the USD Law School identified five areas of trucking regulations which appeared to contain significant disparities. These areas included: truck width, length, height, weight, and the permitting process.

20. *Id.*

Truck size and weight regulations can be complex. For example, not only the gross weight of the truck, but also the weight per axle, the way the weight is distributed to the front and back axles, and the distance between the axles, may be included in the regulations. Truck length regulations may be defined on overall length, on the length of tractor and trailer independently or even on the length of the trailer beyond the back-most axle.

Id.

21. *Id.*

Recognizing the potential problems arising from inconsistencies in technical regulation of transportation, a provision of NAFTA established the Land Transportation Standards Subcommittee with responsibility for harmonization in all of the categories of technical regulation. . . . A special working group has concluded that complete harmonization is probably an unrealistic goal, but that it may be possible to eliminate some of the most onerous inconsistencies.

Id.

22. See 23 C.F.R. § 658 (2005).

23. Jeanette Montufar & Alan Clayton, *Seasonal Weight Limits on Prairie Region Highways: Opportunities for Rationalization and Harmonization*, 29 CAN. J. CIV. ENG. 8, 8 (2002) (stating that “[t]here are a myriad of laws, regulations, and policies . . . governing the operating weights and dimensions of trucks”).

III. RESULTS OF THE STUDY

A. REGULATIONS ON TRUCK HEIGHT

As Table 1.1 shows, the five states have three different height standards. Furthermore, even though each state in the region has established a maximum height limit, bridges and overpasses need not comply with that height limit. Therefore, commercial drivers are responsible for seeking alternate routes if bridges or overpasses are below the height restriction established in each state.

Table 1.1—Maximum Height

State	Statutory Authority	Maximum Height (feet)
Iowa	IOWA CODE § 321.456 (1997 & Supp. 2005)	13.5
Minnesota	MINN. STAT. § 169.81(a) (2001 & Supp. 2006)	13.5
Nebraska	NEB. REV. STAT. § 60-6,289(1) (2002)	14.5
North Dakota	N.D. CENT. CODE § 39-12-04(2)(a) (1997 & Supp. 2005)	14
South Dakota	S.D.C.L. § 32-22-14 (2004)	14
Federal Minimum	N/A	None

Aside from the disparities in the maximum height allowances in each state, there are also numerous exceptions to these general rules. These exceptions are outlined in Table 1.2 below. Thus, with respect to the matter of truck height, as with respect every other regulatory subject, there are two levels of regulation. The first level sets out the general standard, and the second contains a more complex and often confusing array of exceptions to those general standards.

Table 1.2—Height Exceptions

State	Statutory authority	Type of Vehicle	Maximum Height (feet)
Iowa	IOWA CODE § 321.456 (1997 & Supp. 2005)	A vehicle or combination of vehicles coupled together and used exclusively for the	14

		transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, or recreational vehicle chassis	
	IOWA CODE § 321.456 (1997 & Supp. 2005)	Vehicles with over-dimensional permit	14
Minnesota	MINN. STAT. § 169.81(1)(b) (2001 & Supp. 2006)	Double-decker bus	14.25
Nebraska	NEB. REV. STAT. § 60-6,289(1)(a) (2002)	Combines or vehicles transporting combines driven during the daylight hours	15.5
	NEB. REV. STAT. § 60-6,289(1)(b) (2002)	Livestock forage vehicles	18
	NEB. REV. STAT. § 60-6,289(1)(c) (2002)	Farm equipment or implements of husbandry being driven, picked up, or delivered during daylight hours by farm equipment dealers	15.5
	NEB. REV. STAT. § 60-6,289(1)(d) (2002)	Rubber-tired crane with a fixed load	None
North Dakota	N.D. CENT. CODE § 39-12-04(2)(a)–(d) (1997 & Supp. 2005)	Implements of husbandry driven by a farmer during the daylight hours for no more than 60 miles (not on an interstate highway)	15.5
South Dakota	S.D.C.L. § 32-22-14 (2004)	Farm machinery	None
	S.D.C.L. § 32-22-14 (2004)	Fire department vehicles	None
	S.D.C.L. § 32-22-14 (2004)	Vehicles transporting baled hay	14.25

B. REGULATIONS AFFECTING TRUCK LENGTH

Table 2.1 lists the general standards of truck length for each state. The maximum length allowance for a single trailer or semitrailer combination in all states in the region, with the exception of Minnesota, is 53 feet. However, this apparent uniformity quickly disappears in connection with truck tractor-semitrailer-trailer combinations, which, unlike other Long Combination Vehicles (LCVs), may not be prohibited by any state on federal highways within that

state.²⁴ As can be seen, the difference in truck tractor-semitrailer-trailer combination length limitations among the five states is vast. While Iowa Code section 321.457(2)(g) does not specify an overall maximum length for these combinations and North Dakota allows an overall length of 110 feet, Nebraska limits the length of truck tractor-semitrailer-trailer combinations to a maximum of only 65 feet.

Table 2.1—Maximum Length

State	Statutory Authority	Single Semitrailer (feet) in a Truck Tractor-Semitrailer Combination	Single Trailer (feet) in a Truck Tractor-Semitrailer-Trailer Combination	
			Trailer	Overall
Iowa	IOWA CODE § 321.457 (1997 & Supp. 2005)	53	28.5	None
Minnesota	MINN. STAT. § 169.81 (2001 & Supp. 2006)	48 (53 if the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 43 feet)	28.5	75
Nebraska	NEB. REV. STAT. § 60-6,290 (2002)	53	None	65
North Dakota	N.D.CENT. CODE § 39-12-04 (1997 & Supp. 2005)	53	None	110
South Dakota	S.D.C.L. § 32-22-8.1; 32-22-11 (2004)	53	28.5	81.5
Federal Minimum	23 C.F.R. § 658.13(b)(1),	48	28 (28.5 if in	None

24. 23 C.F.R. § 658.13(b)(4) (2005). The federal provision reads: "No State shall prohibit commercial motor vehicles operating in truck tractor-semitrailer-trailer combinations." *Id.*

	(2) & (5); (e)(1)(iii) (2005)		operation before Dec. 1, 1982)	
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Again, as in the area of truck height, numerous exceptions to the general standards apply. Table 2.2 below lists these exceptions. As can be seen from this table, Iowa, Nebraska, and North Dakota have numerous exceptions, whereas South Dakota and Minnesota do not.

Table 2.2—Length Exceptions

State	Statutory Authority	Vehicle Type	Maximum Length (feet)
Iowa	IOWA CODE § 321.457(2)(e) (1997 & Supp. 2005)	Vehicles operating within the corporate limits of a city in an abutting state	That city/state's maximum length
	IOWA CODE § 321.457(2)(f) (1997 & Supp. 2005)	Single tractor-trailer hauling passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, or boats	May extend 3 feet beyond the front bumper of the power unit and up to 4 feet beyond the rear bumper of the trailer or semi-trailer
	IOWA CODE § 321.457(2)(f) (1997 & Supp. 2005)	"Lowboy" semitrailer hauling construction equipment	57
	IOWA CODE § 321.457(3) (1997 & Supp. 2005)	Vehicles transporting poles, pipe, machinery, or other objects of a structural nature	None
Minnesota	MINN. STAT. § 169.81(3)(b)(1) & (2)	Vehicles transporting telephone poles, electric light and power poles, piling, or pole-length pulpwood; or pipe or other objects by a public utility when required for emergency or repair of public service facilities or when operated under special permits	None

Nebraska	NEB. REV. STAT. § 60-6,290(1)(a)(iii) (2002)	Single tractor- trailer combination registered before December 1, 1982	None
	NEB. REV. STAT. § 60-6,290(1)(b)(i) (2002)	Single tractor-trailer hauling implements of husbandry	75 (truck and trailer)
	NEB. REV. STAT. § 60-6,290(2)(d) (2002)	Unbaled livestock forage vehicles	Not specified
	NEB. REV. STAT. § 60-6,290(2)(e) (2002)	Vehicles hauling public utility or other construction and maintenance material and equipment	None
	NEB. REV. STAT. § 60-6,290(2)(f) (2002)	Farm equipment dealers within the same county where dealer maintains	None
North Dakota	N.D. CENT. CODE § 39-12-04(3)(e) (1997 & Supp. 2005)	Single tractor-trailer combination registered before July 1, 1987	60
	N.D. CENT. CODE § 39-12-04(4)(a) (1997 & Supp. 2005)	Building moving equipment	None
	N.D. CENT. CODE § 39-12-04(4)(b) (1997 & Supp. 2005)	Emergency tow trucks towing disabled lawful combinations	None
	N.D. CENT. CODE § 39-12-04(4)(c) (1997 & Supp. 2005)	Vehicles and equipment owned and operated by the armed forces of the U.S. or the N.D. national guard	None
	N.D. CENT. CODE § 39-12-04(4)(d) (1997 & Supp. 2005)	Structural material of telephone, power, and telegraph companies	None
	N.D. CENT. CODE § 39-12-04(4)(e) (1997 & Supp. 2005)	Truck-mounted haystack moving equipment	56
South Dakota	S.D.C.L. § 32-22-12.3 (2004)	Vehicles transporting vehicles of husbandry (these, however, are not allowed on the federal highway system)	100

C. REGULATIONS GOVERNING TRUCK WIDTH

The states are fairly uniform in their width regulations, as can be seen from Table 3.1. Despite this uniformity, however, the exceptions are numerous and varied, as set forth in Table 3.2. This complex scheme of exceptions can be both confusing and burdensome to commercial vehicle operators traveling from state to state.

Table 3.1—Maximum Width

State	Statutory Authority	Maximum Width (feet)
Iowa	IOWA CODE § 321.454 (1997 & Supp. 2005)	8.5*
Minnesota	MINN. STAT. § 169.80 (2)(a) (2001 & Supp. 2006)	8.5
Nebraska	NEB. REV. STAT. § 60-6,288(1) (2002)	8.5
North Dakota	N.D. CENT. CODE § 39-12-04(1) (1997 & Supp. 2005)	8.5
South Dakota	S.D.C.L. § 32-22-3 (2004 & Supp. 2005)	8.5
Federal Minimum	23 C.F.R. § 658.15 (2005)	8.5 (the width limitation may not be more or less than 102 inches)

* Safety equipment, incidental appurtenances, retracted awnings may exceed up to 6 inches.

Table 3.2—Width Exceptions

State	Statutory authority	Type of Vehicle	Maximum Width (feet)
Iowa	IOWA CODE § 321.454 (1997 & Supp. 2005)	An implement of husbandry carrying hay, straw, or stover	None
Minnesota	MINN. STAT. § 169.80(2)(a) (2001 &	A vehicle owned by a political subdivision and	12

	Supp. 2006)	used exclusively for the purpose of handling sewage sludge from sewage treatment facilities to farm fields or disposal sites ²⁵	
	MINN. STAT. § 169.80(2)(c) (2001 & Supp. 2006)	A low bed trailer or equipment dolly, and the load, used exclusively for transporting farm machinery and construction equipment (permit required for operation on NN)	9
	MINN. STAT. § 169.80 (2)(d) (2001 & Supp. 2006)	Passenger motor bus, operated exclusively in a city or contiguous cities in the state	9
Nebraska	NEB. REV. STAT. § 60-6,288(2)(a) (2002)	Farm equipment in temporary movement, during daylight hours or during hours of darkness with clearance lights, in the normal course of farm operations	None
	NEB. REV. STAT. § 60-6,288(2)(b) (2002)	Combines in the normal course of farm operations and while being driven during daylight hours or during hours of darkness with clearance lights	18
	NEB. REV. STAT. § 60-6,288(2)(c) (2002)	Combines in the normal course of farm operations driven during daylight hours for distances of twenty-five miles or less on highways and while preceded by a well-lighted pilot vehicle or flagperson, or during hours of darkness with clearance lights	None
	NEB. REV. STAT. § 60-6,288(2)(d) (2002)	Combines and vehicles used in transporting	15

25. The vehicle “may not transport sludge for distances greater than 15 miles, nor may it be used for transportation of sewage sludge or return travel between the hours of sunset and sunrise” MINN. STAT. § 169.80(2)(b) (2001 & Supp. 2006).

		combines or other implements of husbandry ^D	
	NEB. REV. STAT. § 60-6,288(2)(e) (2002)	Farm equipment dealers hauling, driving, delivering, or picking up farm equipment, including portable livestock buildings not exceeding fourteen feet in width, or implements of husbandry ^D	14
	NEB. REV. STAT. § 60-6,288(2)(f) (2002)	Livestock forage vehicles loaded or unloaded that comply with subsection (2) of section 60-6,305	18
	NEB. REV. STAT. § 60-6,288(2)(g) (2002)	Vehicles en route to pick up, delivering, or returning unloaded from delivery of baled livestock forage (including load) ^D	12
	NEB. REV. STAT. § 60-6,288(2)(h) (2002)	Mobile homes or prefabricated livestock buildings ^D	16
	NEB. REV. STAT. § 60-6,288(2)(i) (2002)	A rubber-tired crane with a fixed load	None
North Dakota	N.D. CENT. CODE § 39-12-04(1)(a) (1997 & Supp. 2005)	Construction and building contractors' equipment and vehicles used to transport such equipment	10
	N.D. CENT. CODE § 39-12-04(1)(b) (1997 & Supp. 2005)	Implements of husbandry being moved by resident farmers, ranchers dealers, or manufacturers ^D	None
	N.D. CENT. CODE § 39-12-04(1)(c) (1997 & Supp. 2005)	Hay in the stack or bale being moved along the extreme right edge of a roadway between by someone other than a commercial mover ^D	None
	N.D. CENT. CODE § 39-12-04(1)(d) (1997 & Supp. 2005)	Commercial movement of haystacks or hay bales; self-propelled fertilizer spreaders and self-propelled agricultural chemical applicators, whether operating under	None

		their own power or being transported by another vehicle; portable grain cleaners; forage harvesters; and hay grinders, which may be moved on the highway	
South Dakota	S.D.C.L. § 32-22-3.2 (2004)	Any farm implement may exceed the width limitations if the equipment has flashing or rotating white or amber warning lights placed at each side of the equipment's widest extremity ^D	None

^D For operation during daylight hours only.

D. STATE REGULATIONS ON WEIGHT

Table 4.1 lists the maximum gross weight per axle and total gross weight allowed in each of the five states. The gross weight for federal and interstate highways in each state corresponds to the federal maximum of 80,000 pounds. Thus, commercial vehicles will encounter minimal variance in the weight limitations between the states when traveling on the federal highway system. The only variation is Minnesota's single axle weight allowance, which is 2000 pounds less than any of the other states.

Table 4.1—Maximum Gross Weight

State	Statutory Authority	Maximum Gross Weight (lbs.)
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		Single Wheel ²⁶	Single Axle ²⁷	Tandem Axle ²⁸	Tridem Axle ²⁹	Gross Vehicle Weight ³⁰
Iowa	IOWA CODE § 321.463 (1997 & Supp. 2005)	Not specified	20,000	34,000	42,500	80,000
Minnesota	MINN. STAT. §§ 169.823; 169.824 (2001 & Supp. 2006)	9,000	18,000	34,000	43,000	80,000 ³¹
Nebraska	NEB. REV. STAT. § 60-6,294 (2002 & Supp. 2005)	10,000	20,000	34,000	42,500	95,000
North Dakota	N.D. CENT. CODE § 39-12-05 (1997)	10,000 ³²	20,000 ³³	34,000 ³⁴	43,000	105,500

26. Single wheel is defined as “two or more wheels with centers less than 48 inches apart on an axle.” MINN. STAT. § 169.822(4) (2001 & Supp. 2006).

27. Single axle weight is “the total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.” 23 C.F.R. § 658.5 (2005).

28. A tandem axle is defined as two or more consecutive axles with centers spaced at least “40 inches and not more than 96 inches apart, extending across the full width of the vehicle.” *Id.*

29. A tridem axle is defined as three consecutive axles spaced not more than 9 feet apart. MINN. STAT. § 169.822(7) (2001 & Supp. 2006). These figures were taken from each state’s Gross Weight Table. *See* IOWA CODE § 321.463(5) (1997 & Supp. 2005); MINN. STAT. § 169.824 (2001 & Supp. 2006); NEB. REV. STAT. § 60—6294 (2002 & Supp. 2005); North Dakota Highway Patrol, *North Dakota Weight Limitations Chart*, NDHP 921 (Nov. 2005), <http://www.state.nd.us/ndhp/pdf/permits/ndhp921.pdf>; South Dakota Highway Patrol, *Bridge Gross Weight Table*, <http://hp.state.sd.us/weighttable.htm>. Note that the limits are slightly different if using the bridge weight formula (e.g., using the bridge weight formula for a tandem axle with axles spaced 9 feet apart would yield a limitation of 42,750 pounds, whereas the maximum weight on North Dakota’s bridge weight table for axles spaced 9 feet apart is 43,000 pounds).

30. The maximum gross vehicle weight allowable on any federal highway in any state is 80,000 pounds. 23 C.F.R. § 658.17(b) (2005).

31. The weight limit on city, county, and township roads is 73,280. MINN. STAT. § 169.824 (2006).

32. This weight limitation applies only if axles are spaced under 40 inches apart; if they are spaced more than 40 inches apart, then the maximum is 8,500 pounds. N.D. CENT. CODE § 39-12-05 (1997).

33. This applies only if axles are spaced less than 40 inches apart; if they are spaced more than 40 inches apart, then the maximum is 17,000 pounds. *Id.*

34. This applies if the first and last axles in the group are at least 36 feet apart. *Id.*

South Dakota	S.D.C.L. § 32-22-16 (2004 & Supp. 2005)	Not specified	20,000	34,000 ³⁵	43,000	129,000 ³⁶
Federal	23 C.F.R. § 658.17(b) (2005)	Not specified	20,000	34,000	42,750	80,000

Contrary to the uniformity on the federal highways, the maximum gross weight allowed on non-designated highways varies substantially. Thus, trucks traveling on state or local highways from one state to another will encounter drastic variances in the maximum allowable weight limitations.

Tables 4.2 and 4.3 illustrate the exceptions to the maximum weight allowances on nondesignated highways in each of the five states. These exceptions are separated into two categories — commodity exemptions and other special exemptions.

Table 4.2—Commodity Exemptions

State	Statutory Authority	Commodity	Maximum Weight (lbs.)
Iowa	IOWA CODE § 321.453 (1997 & Supp. 2005)	Fire apparatus; road maintenance equipment used for a contract with any state or local authority; implements of husbandry ^{NFH}	None
	IOWA CODE § 321.463(4) (1997 & Supp. 2005)	Fence-line feeder; grain cart; or tank wagon ^{NFH}	96,000 ³⁷
	IOWA CODE § 321.463(4)(b)(1) (1997 & Supp. 2005)	Tracked implements of husbandry ^{NFH}	96,000

35. This applies only if the distance between the first and last axles of consecutive sets of tandem axles is 36 feet or more. S.D.C.L. § 32-22-16 (2004 & Supp. 2005).

36. The maximum allowed by South Dakota's length limitation using South Dakota Highway Patrol's *Bridge Gross Weight Table*, <http://hp.state.sd.us/weighttable.htm>.

37. Not to exceed 24,000 pounds on any one axle between February 1 and May 31, or 28,000 pounds on any one axle between June 1 and January 31. IOWA CODE § 321.463(4)(b) (1997 & Supp. 2005).

	IOWA CODE § 321.463(6) (1997 & Supp. 2005)	Vehicles hauling livestock ^{NFH}	May exceed the maximum weight on any one axle, as long as the maximum weight is not exceeded for any group of axles
Minnesota	MINN. STAT. § 169.8261 (2001 & Supp. 2006)	Vehicles hauling raw or unfinished forest products, including wood chips ^{NFH}	90,000 (98,000 during seasonal increases)
	MINN. STAT. § 169.826(1a) (2001 & Supp. 2006)	Vehicles hauling sugar beets, carrots, and potatoes (during harvest season)	88,000
Nebraska	NEB. REV. STAT. § 60-6301(2) (2002)	Any vehicle carrying livestock	May exceed the maximum weight on any axle or group of axles if the first and last axle are 6 feet apart or less and the excess is due to a shift in the load
	NEB. REV. STAT. § 60-6301(4) (2002)	Any vehicle hauling a load that may shift during transport	May exceed the maximum weight on any axle or group of axles by 5%
	NEB. REV. STAT. § 60-6301(5) (2002)	Any motor vehicle, semitrailer, or trailer carrying grain or other seasonally harvested products from point of harvest to point of storage or sale (within 70 miles from point of harvest)	May exceed the maximum weight on any tandem axle, group of axles, and gross weight by 15%

North Dakota	N.D. CENT. CODE § 39-12-05.3(4) (1997 & Supp. 2005)	Vehicle hauling agricultural products from point of harvest to point of first unloading ^{NFH P}	105,500
	N.D. CENT. CODE § 39-12-05.3(5) (1997 & Supp. 2005)	Vehicle hauling sugar beets or potatoes from July 15 to Dec. 1 ^{NFH P}	105,500
	N.D. CENT. CODE § 39-12-05.3(6) (1997 & Supp. 2005)	Self-propelled fertilizer spreader or agricultural chemical applicator ^{NFH}	22,000 on any single axle ³⁸
South Dakota	S.D.C.L. § 32-22-42.2 (2004)	Vehicle hauling agricultural products from a combine to the point of first unloading ^{39 NFH}	May exceed the weight limit by 10%
	S.D.C.L. § 32-22-42.9 (2004)	Tractor-towed or truck-mounted haystack mover ^{NFH}	84,000

^{NFH} Not for operation on the federal highway system.

^P By permit only.

Table 4.3—Other Special Exemptions

State	Statutory Authority	Other Special Exemptions	
		Type of vehicle	Maximum Weight (lbs.)
Iowa	IOWA CODE § 321E.7(1) (2005)	Cranes temporarily moved on streets, roads, or highways	126,000 ⁴⁰
	IOWA CODE § 321E.7(1) (2005)	Construction vehicles temporarily moved on streets, roads, or highways	126,000 ⁴¹

38. Not to exceed 550 pounds per inch of tire width. N.D. CENT. CODE § 39-12-05.3(6) (1997 & Supp. 2005).

39. Not to exceed 50 mph or travel further than 50 miles from point of harvest. S.D.C.L. § 32-22-42.2 (2004).

40. Not to exceed 24,000 pounds per single axle. IOWA CODE § 321E.7(1) (2005).

41. Not to exceed 36,000 pounds per single axle on vehicles equipped with 26.5 x 25 inch pneumatic tires; not to exceed 20,000 pounds per single axle on vehicles equipped with 18 x 25 inch pneumatic tires. IOWA CODE § 321E.7(1) (2005).

	IOWA CODE § 321.453 (1997 & Supp. 2005)	Fire apparatus or road maintenance equipment used in the performance of a contract with any state or local authority	None
	IOWA CODE § 321.463(7) (1997 & Supp. 2005)	A vehicle transporting raw materials from a borrow site to construction project or transporting raw materials from a construction project ⁴²	The weight of any one axle, including a tandem axle, may exceed the maximum by 10%, as long as the gross weight for that group of axles is not exceeded
	IOWA CODE § 321.463(9) (1997 & Supp. 2005)	Vehicles towing disabled vehicles	None
Minnesota	MINN. STAT. § 169.80(e)	Fire apparatus vehicle	None
	MINN. STAT. § 169.829(1)–(2) (2001 & Supp. 2006)	Tow truck towing a disabled vehicle or a city vehicle operating exclusively within city limits	None
	MINN. STAT. § 169.829(3) (2001 & Supp. 2006)	Utility vehicles	Limited to 20,000 pounds per axle
Nebraska	NEB. REV. STAT. § 60-6,294(10) (2002 & Supp. 2005)	Rubber tired crane with a fixed load	None
	NEB. REV. STAT. § 60-6,297 (2002 & Supp. 2005)	A tow truck towing a disabled vehicle	None

42. The permit vehicle may not be operated on the federal highway system. IOWA CODE § 321.463(7) (2005).

	NEB. REV. STAT. § 60-6,301(3) (2002)	Any vehicle used for the collection and compaction of trash	May exceed the maximum gross weight on any one axle or group of axles by 20% (must not exceed the overall gross weight limitation) ^P
North Dakota	N.D. CENT. CODE § 39-12-05.3(4) (1997 & Supp. 2005)	Vehicles hauling solid waste ^{NFH P}	105,500
South Dakota	S.D.C.L. § 32-22-30.1 (2004)	Construction vehicles and equipment	None
	S.D.C.L. § 32-22-42.10 (2004)	Vehicles hauling solid waste	5% increase on any axle (but not exceeding total gross weight of 80,000 pounds)
	S.D.C.L. § 32-22-46 (2004)	National defense vehicles	None
	S.D.C.L. § 32-22-62 (2004)	Tow truck towing disabled vehicle to point of first unloading	88,000

^{NFH} Not for operation on the federal highway system.

^P By permit only.

E. REGULATIONS REGARDING PERMIT REQUIREMENTS

Each state regulates its own permitting process. Permits may be issued for indivisible loads that exceed each state's length, height, width and weight restrictions for travel on both the interstate system and other highways in each state.⁴³ The maximum dimensions and weight that can be allowed through a

43. There is no uniform definition of indivisible and divisible loads among the five states in the region. The federal definition reads:

Nondivisible is defined as any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

Require more than 8 workhours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

Federal Highway Administration, Freight Management and Operations, Oversize and Overweight Load Permit Information, *available at* http://ops.fhwa.dot.gov/freight/sw/permit_report.htm. Similarly, the Iowa statutes define indivisible loads as follows:

Indivisible means a vehicle or load which, if separated into small units, would:

[C]ompromise intended use of the vehicle (e.g. make it unable to perform the function for which

special permit vary from state to state. Most permits are issued for indivisible loads only; however, North Dakota's permit statutes make no mention of indivisible loads, indicating only that a permit may be issued if the load cannot be made to conform to size and weight limitations. In Iowa, divisible loads are allowed to be issued oversize permits in emergency situations or if the load carried is hay, straw or stover.⁴⁴

In general, permits must be obtained from the local permitting authority in the jurisdiction in which the vehicle will travel. These authorities are generally the governmental entity that has jurisdiction over and maintains the roads on which the vehicle will travel. Permits may be issued on a single-trip, multi-trip, or annual basis. In addition, each of the five states in the region issue seasonal permits, which allow for harvest and spring load increases. A single-trip permit may be issued for a round trip to or from a job or delivery site. Table 4.4 through 4.7 summarize each state's regulatory approach to single-trip permits.

Table 4.4—Single-Trip Permits—Oversize

State	Statutory/Regulatory Authority	Maximum Dimensions under Permit	Fee
Iowa	IOWA ADMIN. CODE r. 761-511.5(5) (2006) Indivisible load	May exceed statutory size or weight limits or both	\$10
Minnesota	MINN. STAT. § 169.86(1) (2001 & Supp. 2006) Vehicle or combination of vehicles	MINN. STAT. § 169.80 & .81 (2005). Size dimensions exceeding H-13 feet, 6 inches; W-8 feet, 6 inches; L-	MINN. STAT. § 169.86(5): \$15; Additional \$120 fee if width exceeds 72 inches while seasonal load limits are in

it was intended);

[D]estroy the value of load or vehicle (e.g. make it unusable for its intended purpose); or

[R]equire more than eight work hours to dismantle, using appropriate equipment.

Iowa Department of Transportation, *Iowa Truck Information Guide*,

<http://www.iamvd.com/omve/truckguide.pdf>. The only definition of a divisible load in Minnesota does not appear in the statutes, but rather is available on the Minnesota Department of Transportation website.

See Minnesota Department of Transportation, *General Conditions*,

http://www.dot.state.mn.us/motorcarrier/permits/General_Conditions_04.pdf. MNDOT defines a divisible load as an “[a]n over legal dimension and/or weight load which is divisible to legal dimensions” *Id.* The Nebraska Administrative Code provides a definition for both divisible and nondivisible loads. 408 NEB. ADMIN. CODE §§ 1-001.08, -001.18 (2005). A divisible load is defined as “[a]ny load consisting of a product, material, or equipment which can be reduced in weight and/or size to the specified regulatory limit.” *Id.* at .08. An indivisible load includes “[a] vehicle or load which cannot be dismantled, disassembled, or loaded so as to meet the requirements for vehicles in regular operation.” *Id.* at .18. In South Dakota, divisible loads are defined as “[l]oads that can be reduced to legal weight and dimensions within an 8-hour time period.” South Dakota Department of Transportation, *South Dakota Motor Carrier Handbook*, <http://www.sdtruckinfo.com/motorcarrierhandbook.asp>. Thus, Iowa's definition of indivisible load is almost identical with the federal definition, whereas Nebraska and South Dakota's definitions are much broader.

44. IOWA CODE § 321E.29 (2005).

		53 feet	effect ⁴⁵
Nebraska	408 NEB. ADMIN. CODE. § 1-002.05–.08 (2005)	Vehicle or combination of vehicles exceeding: W-8 feet, 6 inches; H-14 feet, 6 inches; L-53 feet ^{D NH}	NEB. REV. STAT. § 60-6,298(7) (2002 & Supp. 2005): \$25
	NEB. REV. STAT. § 60-6,298(1)(a)(iii) (2002 & Supp. 2005) Implement of husbandry	Not to exceed 12 feet, 6 inches in width ^{D NH}	NEB. REV. STAT. § 60-6,298(7) (2002 & Supp. 2005) \$25
North Dakota	N.D. ADMIN. CODE 38-06-02-06(1) (2006)	W-14 feet, 6 inches; L-120 feet; H-15 feet, 6 inches	N.D. CENT. CODE § 39-12-02(4)(f) (1997 & Supp. 2005) \$20
South Dakota	S.D. ADMIN. R. 70:03:01:02 (2005) ⁴⁶	Exceeds the size, weight, or size and weight in S.D.C.L. chapter 32-22	\$25 single-trip permit; \$250 book of 10 self-issuing permits

^D For travel during daylight hours only.

^{NH} No travel on holidays.

Table 4.5—Single-Trip Permits—Overweight

State	Statutory/Regulatory Authority	Maximum Dimensions under Permit	Fee
Iowa	IOWA CODE § 321E.9(3) (2005) Cranes	Weight-24,000 pounds per axle	IOWA ADMIN. CODE r. 761-511.5(5) (2006) \$10
	IOWA CODE §321E.12 (2005) Vehicles used for the transportation of buildings, except mobile homes and factory-built structures	May be registered for the combined gross weight of the vehicle and load on a single-trip basis	\$.05 per ton per mile exceeding the weight registered under section 321.122
	IOWA ADMIN. CODE r. 761-511.12(5) (2006)	36,000 pounds per axle with 26.5 x	IOWA ADMIN. CODE r. 761-

45. MINN. STAT. § 169.86(5)(d) (2001 & Supp. 2006).

46. The permit vehicle must travel on the state trunk highway system. The South Dakota Administrative Rules defines the state trunk highway system as “all highways, as defined by SDCL 31-1-5(1), administered and maintained by the Department of Transportation, including all the highways on the state highway system and the interstate highway system.” S.D. ADMIN. R. 70:03:01:01(26) (2005).

	Construction machinery	25 inch flotation pneumatic tires; 20,000 pounds per axle with 18 x 25 inch flotation pneumatic tires; or by the formula axle weight = 20,000 pounds + (tire width – 18) x 1,882 pounds; the weight is not to exceed 126,000 pounds GVW	511.5(5) (2006) \$10
Minnesota	MINN. STAT. § 169.86(5)(e) (2001 & Supp. 2006) Overweight vehicles	Axle weights exceeding the weight limitations of sections 169.822 to 169.829	MINN. STAT. § 169.86(5) (2001 & Supp. 2006) \$15 plus additional cost from 169.86(5)(e) (2001 & Supp. 2006); the additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in a graduated chart
Nebraska	408 NEB. ADMIN. CODE § 1-002.02 (2005) A vehicle or combination of vehicles, with or without load, on the Primary and Secondary highways	The weight of any single axle exceeds 20,000 pounds or when the weight of any tandem axle exceeds 34,000 pounds	NEB. REV. STAT. § 60-6,298(7) (2002 & Supp. 2005) \$25 ⁴⁷
	408 NEB. ADMIN. CODE § 1-002.03 (2005) A vehicle or combination	The weight of any single axle exceeds 20,000	NEB. REV. STAT. § 60-6,298(7) (2002 & Supp.

47. The Nebraska Administrative Code dictates that an overweight permit may not be issued for any vehicle not equipped with pneumatic tires. 408 NEB. ADMIN. CODE § 1-004.07 (2005).

	of vehicles, with or without load, on the National System of Interstate and Defense Highways	pounds or when the weight of any tandem axle exceeds 34,000 pounds	2005) \$25
North Dakota	N.D. ADMIN. CODE 38-06-03-01(4) (2006)	Loads in excess of 150,000 pounds	Graduated fee schedule from \$30 to \$70
	N.D. ADMIN. CODE 38-06-03-01(5) (2006)	Loads in excess of 200,000 pounds	Fee from graduated schedule plus \$.05 per ton per mile for excess
	N.D. ADMIN. CODE 38-06-03-01(2) (2006)	Not specified	\$10 per trip for overweight vehicles (\$5 if using interstate only approval form)
South Dakota	S.D. ADMIN. R. 70:03:01:02 (2005) ⁴⁸	Excessive loads (using a graduated weight schedule per axle)	\$25 single-trip permit (or \$250 book of 10 self-issuing permits) plus \$.02 per ton per mile
	S.D. ADMIN. R. 70:03:01:47 (2005)	Vehicles exceeding 80,000 pounds ⁴⁹ on interstate highways	\$20 for 10 single trip, self-issuing permits

Table 4.6—Single-Trip Permits—Oversize/Overweight

State	Statutory/Regulatory Authority	Maximum Dimensions under Permit	Fee
Iowa	IOWA CODE § 321E.9(1) (2005) Indivisible loads	Max: W-40 feet; L-120 feet; H-Not specified; Weight-100,000 pounds	IOWA ADMIN. CODE r. 761-511.5(5) (2006) \$10

48. Under South Dakota Administrative Rules 70:03:01:08, only single-trip (not annual, continuous-trip, etc.) permits may be issued for overweight loads on the interstate highway system. S.D. ADMIN. R. 70:03:01:08 (2005).

49. "The weight of the vehicle must conform to the tire, axle, and bridge weight requirements in SDCL §§ 32-22-16, 32-22-16.1 and 32-22-21, and the vehicle combination may not exceed the length limits in SDCL 32-22-8.1." S.D. ADMIN. R. 70:03:01:47 (2005).

	IOWA CODE § 321E.29 (2005) Divisible loads in emergency situations; divisible loads of hay, straw, or stover	May be in excess of the width, length, or height requirements of chapter 321	IOWA ADMIN. CODE r. 761-511.5(5) (2006) \$10
Minnesota	MINN. STAT. § 169.86(1) (2001 & Supp. 2006) Vehicle or combination of vehicles	MINN. STAT. §§ 169.80–.86 (2005) Size dimensions exceeding H-13 feet, 6 inches; W-8 feet, 6 inches; L-53 feet; Weight exceeding 80,000 pounds	MINN. STAT. § 169.86(5) (2001 & Supp. 2006) \$15
Nebraska	408 NEB. ADMIN. CODE. § 1-005.01 (2005) A vehicle or combination of vehicles having an indivisible load	Dimensions or weights in excess of the maximum limits provided by the statutes	NEB. REV. STAT. § 60-6,298(7) (2002 & Supp. 2005) \$25
North Dakota	None	None	None
South Dakota	S.D. ADMIN. R. 70:03:01:02 (2005) Single-trip permit	May exceed the size, weight, or size and weight limits in S.D.C.L. chapter 32-22	\$25 single-trip permit; \$250 book of 10 self-issuing permits
	S.D. ADMIN. R. 70:03:01:23 (2005) Construction equipment	Not specified	S.D. ADMIN. R. 70:03:01:02 (2005) \$25 single-trip permit; \$250 book of 10 self-issuing permits
	S.D.C.L. § 32-22-21.1 (2004) Single-trip permit to move to a scale site	Not specified	Movement of vehicle to a scale site with route approval ⁵⁰

Multiple or continuous trip permits are usually used for hauling

50. This can be an official receipt permit or a self-issuing permit for travel to an official or private scale site to determine if the load meets size and weight requirements. The permit is valid for twenty-four hours, or until it reaches the scale site. S.D. ADMIN. R. 70:03:01:90 (2005).

construction equipment to and from the construction site. These permits cover a specified period of time. Table 4.7 outlines each state's regulatory treatment of multiple or continuous trip permits.

Table 4.7 Multiple/Continuous Trip Permits

State	Statutory/Regulatory Authority	Maximum Dimensions under permit	Fee
Iowa	IOWA CODE § 321E.9A(1) (2005) Indivisible loads	W-16 feet; L-120 feet; H-Any; Weight-156,000 pounds	IOWA ADMIN. CODE r. 761-511.5(4) (2006) \$200
	IOWA CODE § 321E.9A(2) (2005); IOWA ADMIN. CODE r. 761-511.12(5) (2006) Construction machinery	W-16 feet; L-120 feet; H-Any; Weight-36,000 pounds per axle with 26.5 x 25 inch flotation pneumatic tires; 20,000 pounds per axle with 18 x 25 inch flotation pneumatic tires; or by the formula axle weight = 20,000 pounds + (tire width – 18) x 1,882 pounds; the weight is to exceed 126,000 pounds GVW	IOWA ADMIN. CODE r. 761-511.5(4) (2006) \$200
Minnesota	MINN. STAT. § 169.86(5)(b) (2001 & Supp. 2006) Job permit	Not specified	\$36 (2 month maximum)
	MINN. STAT. § 169.86(5)(i) (2001 & Supp. 2006) Implements of husbandry	Not to exceed 14 feet in width	\$24
Nebraska	NEB. REV. STAT. § 60-6,298(1)(a)(ii) (2002 & Supp. 2005) Vehicle carrying grain or other	May be loaded up to 15% greater than the maximum weight specified	NEB. REV. STAT. § 60-6,298(7)(b) (2002 & Supp. 2005) \$25 for 30

	seasonally harvested products from the field where such grain or products are harvested to storage, market, or stockpile in the field or from stockpile to market or factory (within 120 miles from point of origin)	by law and up to 10% greater than the maximum length specified by law (vehicles hauling sugar beets may be loaded up to 25% greater than the maximum length specified by law) ⁵¹	days; \$50 for 60 days
	NEB. REV. STAT. § 60-6,298(1)(a)(iii) (2002 & Supp. 2005) Implements of husbandry	Not to exceed 12 feet, 6 inches in length	NEB. REV. STAT. § 60-6,298(7)(a) (2002 & Supp. 2005) \$25 for 90 days; \$50 for 180 days; \$100 for 1 year
	NEB. REV. STAT. § 60-6,301(3) (2005) A truck with an enclosed body and a compacting mechanism, designed and used exclusively for the collection and transportation of garbage or refuse	May exceed the maximum load as permitted by such section by no more than twenty percent on only one axle, only one tandem axle, or only one group of axles when the vehicle is laden with garbage or refuse if the vehicle is within the maximum gross load	NEB. REV. STAT. § 60-6,301(3) (2005) \$10 per month; \$100 per year; the permit may be issued for one or more months up to one year
	408 NEB. ADMIN. CODE § 1-006.06-.07 (2005)	W-14 feet; H-15 feet, 6 inches; L-65 feet; Weight may not exceed 25,000 pounds on a single axle, 42,500 pounds on	NEB. REV. STAT. § 60-6,298(7)(a) (2002 & Supp. 2005) \$25 for 90 days; \$50 for 180 days; \$100 for 1 year

51. Vehicles hauling dry beans may exceed 120 miles from the point of origin; the permit may not authorize a weight greater than 20,000 pounds per axle. NEB. REV. STAT. § 60-6,298(1)(a)(ii) (2002 & Supp. 2005).

		a tandem axle, and 52,500 pounds on a triple axle	
	408 NEB. ADMIN. CODE § 1-006.10 (2005) Construction equipment or equipment used in agricultural land treatment	Must be equipped with flotation tires that are a minimum of twenty-six and five tenths inches - twenty-five inches and the axle load does not exceed a maximum of 34,000 pounds, or if equipped with flotation tires that are a minimum of twenty-nine and five tenths inches - twenty-nine inches and the axle load does not exceed a maximum of 45,000 pounds	NEB. REV. STAT. § 60-6,298(7)(a) (2002 & Supp. 2005) \$25 for 90 days; \$50 for 180 days; \$100 for 1 year
North Dakota	N/A	N/A	N/A
South Dakota	S.D. ADMIN. R. 70:03:01:45.01-.04 (2005) Construction equipment	W-20 feet; L-110 feet; the vehicle may be overweight with approval of permitting authority ^{52 D NFH}	NS

^D For operation during daylight hours only.

^{NFH} Not for operation on the federal highway system

Annual permits are issued mainly for implements of manufactured homes and utility vehicles. North Dakota and Nebraska do not issue annual permits, although a continuing permit for one year may be obtained in Nebraska. In some states, an all-systems permit may be obtained, which allows for travel on any of the highways under the jurisdiction of the issuing authority, without the need to obtain route approval.⁵³ Tables 4.8 and 4.9 list the various state laws governing

52. The vehicle may not exceed 20 mph. S.D. ADMIN. R. 70:03:01:45.01-.04 (2005).

53. See, e.g., IOWA CODE § 321E.8(d) (2004).

annual permits.

Table 4.8—Annual Oversize Permits

State	Statutory/ Regulatory Authority	Maximum Dimensions under permit	Fee
Iowa	IOWA CODE § 321E.8(1) (2005) Indivisible loads or manufactured homes with appurtenances	No route approval needed for dimensions up to W-12 feet, 5 inches; L-120 feet; H-13 feet, 10 inches; no route approval needed for interstate and primary highways with more than one lane (or other highways if the distance traveled does not exceed 50 miles) for dimensions up to W-14 feet, 6 inches; L-120 feet; H-15 feet, 5 inches; route approval needed for dimensions up to W-16 feet; L-120 feet; H-15 feet, 5 inches	IOWA ADMIN. CODE r. 761-511.5(1) (2006) \$25; r. 761-511.5(3) (2006) All-systems permit \$120
	IOWA CODE § 321E.10 (2005); IOWA ADMIN. CODE r. 761-511.7(5) (2006) Truck trailers manufactured in Iowa	May not exceed W-10 inches; L-53 feet; H-13 feet, 6 inches	IOWA ADMIN. CODE r. 761-511.5(1) (2006) \$25; r. 761-511.5(3) (2006) All-systems permit \$120
	IOWA ADMIN. CODE r. 761-511.7(6) (2006) Divisible loads of hay, straw, or stover	Width up to 12 feet, 5 inches	IOWA ADMIN. CODE r. 761-511.5(1) (2006) \$25; r. 761-511.5(3) (2006) All-systems permit \$120
Minne- sota	MINN. STAT. § 169.86(5)(c)(4) (2001 & Supp. 2006) Special pulpwood vehicles and vehicles with snowplow blades under 10 feet in	MINN. STAT. § 169.863(e) GVW less than 82,000 pounds (vehicle must have six axles)	MINN. STAT. § 169.86(5)(c) (2001 & Supp. 2006) \$60

	width		
	MINN. STAT. § 169.86(5)(c)(5) (2001 & Supp. 2006) Vehicles with snowplow blades	Blades must not exceed 10 feet in width	MINN. STAT. § 169.86(5)(c) (2001 & Supp. 2006) \$60
	MINN. STAT. § 169.86(5)(d)(1)–(6) (2001 & Supp. 2006) Mobile cranes; construction equipment, machinery, and supplies; manufactured homes; implements of husbandry; double-deck buses; commercial boat hauling	Not specified	MINN. STAT. § 169.86(5)(d) (2001 & Supp. 2006) \$120
	MINN. STAT. § 169.86(5)(d)(7) (2001 & Supp. 2006) Three-vehicle combinations with two empty, newly manufactured trailers	Not to exceed 28.5 feet per trailer; movement from trailer manufacturer to trailer dealer only	MINN. STAT. § 169.86(5)(d) (2001 & Supp. 2006) \$120
	MINN. STAT. § 169.862(1)(a) (2001 & Supp. 2006) Vehicle carrying round bales of hay, straw, or cornstalks	Width may not exceed 11 feet 6 inches	MINN. STAT. § 169.862(2)(f) (2001 & Supp. 2006) \$24
	MINN. STAT. § 169.862(1)(c) (2001 & Supp. 2006) Vehicle carrying square	Width may not exceed 15 feet	MINN. STAT. § 169.862(2)(f) (2001 & Supp. 2006) \$24

	bales of hay, each with an outside dimension of not less than 3' x 4' x 7'		
Nebraska	408 NEB. ADMIN. CODE § 1-011.01A1 (2005) A vehicle combination consisting of a truck-tractor, semi-trailer and two trailers; 408 NEB. ADMIN. CODE § 1-011.01A2 A vehicle combination consisting of a truck-tractor, semi-trailer and single trailer	Trailer may have an overall length of not more than 105 feet, the semi-trailer and trailers of which must be of approximately equal lengths	408 NEB. ADMIN. CODE § 1-011.02C (2005) \$250
	408 NEB. ADMIN. CODE § 1-011.01A3 (2005) A vehicle combination consisting of a truck-tractor, semi-trailer and single trailer	One trailer may not be more than 48 feet long and the other may not be more than 28 feet long or less than 26 feet long; the entire combination may not be more than 95 feet long; shorter trailer must be operated as the rear trailer	408 NEB. ADMIN. CODE § 1-011.02C (2005) \$250
North Dakota	N/A	N/A	N/A
South Dakota	S.D. ADMIN. R. 70:03:01:105.01 (2005) Indivisible loads for individual power unit	May exceed the limitations set forth in S.D.C.L. § 32-22	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:105.02	W-14 feet, 6 inches; H-14 feet; L-Single unit: 60 feet ⁵⁴ ;	S.D. ADMIN. R. 70:03:01:02.01

54. "The distance from the unit's turn center of its rear axle group to the rear end of the load may not exceed 75 percent of the unit's wheelbase. The unit's wheelbase is the distance measured from the

	(2005) Indivisible loads	two units-85 feet ⁵⁵	(2005) \$60
	S.D. ADMIN. R. 70:03:01:22 (2005) Structures moved on a flat-bed or lowboy trailer	May not exceed three times the axle width of the narrowest axle on the trailer, roof overhang excluded	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:22 (2005) Structures moved on a stack mover	May not be wider than 24 feet or be longer than the length of the bed of the stack mover, roof overhang excluded, and the stack mover with a load may not be overweight	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:110 (2005) Custom harvest fleet ⁵⁶	Vehicle may not exceed W-16 feet; H-15 feet; or a combination of these dimensions; a combine may travel on the interstate highway if vehicle does not exceed W-20 feet (escort required for over 16 feet); a combine may travel on other highways in the state if it exceeds W-20 feet, but must be accompanied by an escort	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:32.02 (2005) Self-propelled equipment	May be up to 10 feet wide, up to 55 feet long, or both, but not overheight or overweight	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:32.01 (2005) Vehicles designed for hauling	Vehicle up to 10 feet wide, up to 110 feet long, or both, but not overheight or overweight	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60

center of its front steering axle to the turn center of its rear axle group.” S.D. ADMIN. R. 70:03:01:105.02 (2005).

55. “The second unit’s wheelbase, as measured from the center of its hitching point to the turn center of its rear axle group, may not exceed 43 feet. The distance from the second unit’s turn center of its rear axle group to the rear end of the load may not exceed 75 percent of the second unit’s wheelbase.” S.D. ADMIN. R. 70:03:01:105.02 (2005).

56. A custom harvest fleet is “one or more units owned or operated by the custom harvester to provide custom harvesting services.” S.D. ADMIN. R. 70:03:01:110(1) (2005). The vehicle may not cause traffic delays longer than five minutes and may only be operated during daytime hours. *Id.* at (5).

	oversize/overweight loads ⁵⁷		
S.D. ADMIN. R. 70:03:01:41 (2005)	A licensed motorized vehicle towing a manufactured home	W-16 feet; H-15 feet; L-80 feet ⁵⁸	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
S.D. ADMIN. R. 70:03:01:56 (2005)	Overlength semitrailer	Trailer may not exceed 60 feet; tractor and trailer may not exceed 80 feet; the trailer must have been manufactured after Sept. 1, 1998	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
S.D. ADMIN. R. 70:03:01:32 (2005)	Farm implement dealers	W-16 feet on interstate; 20 feet on other highways; L-100 feet (45 feet for implement in a three-unit combination); H-18 feet; vehicle may not be overweight	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
S.D. ADMIN. R. 70:03:01:36.03 (2005)	Stack mover	L-60 feet; H-18 feet; W-20 feet (loaded), 17 feet (empty, built before July 1, 1991), 16 feet (empty, built after June 30, 1991)	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
S.D. ADMIN. R. 70:03:01:107 (2005)	Electric utility vehicle	May haul utility poles up to 85 feet in length ⁵⁹	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
S.D. ADMIN. R. 70:03:01:37 (2005)	Baled feed, Straw, or Solid Waste	Up to 12 feet in width	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60

57. "The permit vehicle may consist of a truck tractor pulling one or more units designed for hauling oversize or overweight loads. The units may consist of one or more of the following: a trailer, a jeep dolly, or a booster axle." S.D. ADMIN. R. 70:03:01:32.01 (2005).

58. "The motorized vehicle towing a manufactured home must be of sufficient size and power to safely handle the movement of the manufactured home and to maintain minimum speeds where posted." S.D. ADMIN. R. 70:03:01:41 (2005). If the manufactured home is between 8 and 10 feet wide, the towing vehicle must be at least 6,000 pounds GVWR (gross vehicle weight rating). *Id.* If the manufactured home is between 10 and 12 feet wide, the towing vehicle must be at least 8,000 pounds GVWR. *Id.* If the manufactured home is between 12 and 18 feet wide, the towing vehicle must be at least 9,000 pounds GVWR. *Id.* The permit vehicle may not travel if wind velocity is greater than 25 mph. *Id.*

59. For movement of utility poles over 85 feet, a single-trip permit must be obtained. S.D. ADMIN. R. 70:03:01:107 (2005).

Table 4.9—Annual Oversize/Overweight Permits

State	Statutory/Regulatory Authority	Maximum Dimensions under permit	Fee
Iowa	IOWA CODE § 321E.8(2) (2005) Indivisible loads or manufactured homes with appurtenances on non-interstate highways specified by the permitting authority for unlimited distances (after owner verifies road conditions have not changed)	No route approval needed for up to: W-13 feet, 5 inches; L-120 feet; H-15 feet, 5 inches; weight-156,000 pounds with route approval	IOWA ADMIN. CODE r. 761-511.5(2) (2006) \$300
	IOWA ADMIN. CODE r. 761-511.12(5) (2006) Construction machinery	36,000 pounds per axle with 26.5 x 25 inch flotation pneumatic tires; 20,000 pounds per axle with 18 x 25 inch flotation pneumatic tires; or by the formula axle weight = 20,000 pounds + (tire width – 18) x 1,882 pounds; the weight is to exceed 126,000 pounds GVW	IOWA ADMIN. CODE r. 761-511.5(2) (2006) \$300
Minnesota	MINN. STAT. § 169.86(5)(c)(4) (2001 & Supp. 2006) Special pulpwood vehicles	MINN. STAT. § 169.863(e) GVW less than 82,000 pounds (vehicle must have six axles)	MINN. STAT. § 169.86(5)(c) (2001 & Supp. 2006) \$60
	MINN. STAT. § 169.86(5)(e) (2001 & Supp. 2006)	Vehicles exceeding weight limitation on any axle or group of axles	Additional fee per mile for each axle or group of axles based on graduated table; an additional

		(up to 22,000 pounds per axle)	\$0.22 per ton for vehicles exceeding the maximum allowable weight under permit
	MINN. STAT. § 169.86(5)(f) (2001 & Supp. 2006) Overweight, or oversize and overweight, construction equipment, machinery, and supplies	Vehicles exceeding GVW limitation of 80,000 pounds (up to 145,000 pounds)	Fee ranges from \$200-\$800 depending on the gross weight
	MINN. STAT. § 169.86(5)(h) (2001 & Supp. 2006) Refuse compactor vehicles	Gross weight not to exceed: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or 46,000 pounds on a tridem rear axle (with GVW under 62,000 pounds)	\$85
	MINN. STAT. § 169.8261 (2001 & Supp. 2006) Vehicles hauling raw or unfinished forest products	Not to exceed 90,000 pounds GVW (98,000 pounds during seasonal load increases)	MINN. STAT. § 169.86(5)(j) (2001 & Supp. 2006) \$300
Nebraska	N/A	N/A	N/A
North Dakota	N/A	N/A	N/A
South Dakota	S.D. ADMIN. R. 70:03:01:85 (2005) Vehicle with lift axle	May exceed the weight limitation when its operator raises the lift axle to facilitate turning (must be raised and lowered within	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60

		100 feet of the turn) ^{NFH}	
	S.D. ADMIN. R. 70:03:01:36.07 (2005) Stack mover with lift axle	May exceed the weight limitation when its operator raises the lift axle to facilitate turning (must be raised and lowered within 100 feet of the turn) ⁶⁰	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60
	S.D. ADMIN. R. 70:03:01:32.04 (2005) Overweight booster axle installed before July 1, 1996	Straight truck equipped with a booster axle whose loaded weight exceeds that allowed by S.D.C.L. § 32-22-21 but does not exceed 600 pounds per inch of tire width	S.D. ADMIN. R. 70:03:01:02.01 (2005) \$60

^{NFH} Not for operation on the federal highway system.

A vehicle traveling from state to state in the region will face a variety of different standards covering the specific dimensions and weights that can be permitted. For example, in South Dakota, Administrative Rule 70:03:01:105.02 allows for an annual oversize permit to be issued for a vehicle up to only 85 feet long. In Iowa, however, the permit for indivisible loads allows for vehicles up to 120 feet in length.⁶¹

With respect to seasonal permits, most of the states in the region have either an increased weight or a weight exception for the winter and harvest seasons. Harvest season permits help to support the agricultural industries in each of the states. Winter season permits allow for increases in load limitations because there is less strain on the roads during the winter months. Likewise, the decreases in load limitations in two of the states serve to protect roads when they are most vulnerable during the spring thaw. Table 4.10 below outlines the seasonal permits and restrictions in each state.

60. Not valid on the interstate system; the lift axles must have been installed on the stack mover before July 1, 1991. S.D. ADMIN. R. 70:03:01:36.07 (2005).

61. Thus, a vehicle traveling from Iowa to South Dakota with an indivisible load would need to obtain a permit for a vehicle designed for hauling oversize/overweight loads, which would allow for 120 feet in length. Compare S.D. ADMIN. R. 70:03:01:105.02 (2005), with IOWA CODE § 321E.8(2) (2005).

Table 4.10—Seasonal Permits/Restrictions

State	Spring			Winter/Harvest		
	Statutory Authority	Increase/Decrease	Fee	Statutory Authority	Increase/Decrease	Fee
Iowa	N/A	N/A	N/A	N/A	N/A	N/A
Minnesota ⁶²	MINN. STAT. § 169.87(1) (2001 & Supp. 2006) Seasonal load restriction	Not specified: Decrease on roads designated by commissioner	N/A	MINN. STAT. § 169.826(1) (2001 & Supp. 2006) Winter load increase	10% increase	
				MINN. STAT. § 169.826(1a) (2001 & Supp. 2006) Harvest season load increase	10% increase from beginning of harvest to November 30 for transport of sugar beets, carrots, and potatoes.	N/A
Nebraska	N/A	N/A	N/A	N/A	N/A	N/A
North Dakota	N/A	N/A	N/A	N.D. CENT. CODE § 39-12-02(3)(a) (1997 & Supp. 2005) Winter and harvest	10% weight exemption	\$50 per month or \$250 per year
	N/A	N/A	N/A	N.D. ADMIN. CODE 38-06-03-01(3)		\$50 per year (additi-

62. “The commissioner or local authority may not deny a permit for the transport to a manufacturing plant of manufactured home frames not more than 15-1/2 feet in width during periods of seasonal weight restrictions unless the load exceeds the weight restrictions.” MINN. STAT. § 169.86(3)(a) (2001 & Supp. 2006).

				(2006)		onal)
South Dakota	S.D.C.L. § 32-22-24 (2004)	Not specified: Decrease from Feb. 14 – Apr. 30 of each year (determined by body having jurisdiction over the roads)	N/A	S.D.C.L. § 32-22-42.16 (2004) Vehicles moving hay grinding equipment	May move between Nov. 1 – Mar. 31; may not exceed 12 feet in width	\$50 per year

F. CONCLUSIONS

In conclusion, the differences between the maximum weight and size dimensions that can be permitted in each of the five states are vast and complex. Moving an oversize or overweight vehicle through the region can create much confusion as to which permits are needed in each state and whether or not the vehicle can even qualify for a permit. Minnesota and North Dakota, for example, have very few variations or allowances for certain loads — a permit is necessary for any commercial vehicle with a dimension or weight that exceeds that set forth in the statutes. Other states, in contrast, have many different variations and allowances for vehicles of varying dimensions and weights. However, while Iowa, South Dakota and Nebraska have attempted to create variations and allowances aimed at making travel within each state easier for certain haulers, the result for the region as a whole has been to add a confusing complexity to the statutes.

IV. CONCLUSION: THE CHALLENGES TO HARMONIZATION

There appear to be two opposing forces at work in the quest for harmonization. One force pushes for harmonization, and the other resists it.⁶³ These two forces are reflected in the two different regulatory approaches toward commercial trucking laws: the setting of general standards, and the creation of a complex array of exceptions to those general standards. Whereas the general standards often try to achieve uniformity between the states, the exceptions multiply the disparities between the states.⁶⁴

The drive for uniformity, as reflected in the general standards, often comes from economic and regulatory planners. These planners have set their focus

63. See NORTH DAKOTA DEPARTMENT OF TRANSPORTATION, *supra* note 10. This conference hosted by North Dakota's DOT identified the barriers to achieving uniformity of truck size and regulation including lack of leadership in states promoting laws and changes. *Id.*

64. Montufar & Clayton, *supra* note 23, at 15. There are highly complex and sometimes conflicting regulations pertaining to seasonal permitting in the prairie region. *Id.* "These regulations vary with respect to methods of determination, methods of application, intensity, introductory and termination dates, duration, . . . [and often have] different enforcement practices, polices and intensities among agencies." *Id.* (alteration in original).

primarily on the achievement of economic growth through the elimination of trade law disparities. Their single vision is economic growth through uniformity of industry regulation. On the other hand, state legislators are not so singularly driven by the goal of economic growth and uniformity of regulation. Legislators represent the unique outlooks of their individual constituencies, whereas economic and government planners often represent a more regional outlook, which is devoid of all the particular policy and values judgments of individual communities. Consequently, the more uniform general standards adopted by states in their trucking regulations are often the product of economic planners, whereas the exceptions are the work of individual state legislative committees.

The complex web of exceptions existing within the regulatory environment facing commercial trucking in the Northern Great Plains region essentially reflects a whole array of complicating factors, which in turn reflect all of the social complexities of a diverse array of democratic communities. Despite their many similarities, the five states possess unique and distinguishing characteristics that in turn are expressed in the body of their statutory exemptions to the general standards governing commercial trucks. Of the five states, for instance, Minnesota and Iowa are the most populous. Therefore, those states will have a higher number of highway accidents and more highway congestion. In addition, the more populated and congested states may have more acute concerns regarding pollution, as well as different attitudes toward truck traffic. Other factors that may be unique to each state include: budgetary considerations, status and conditions of roads, accident occurrences and patterns, railroad infrastructure and use, the type of commodities being shipped, the origin and destination of those commodities, and the overall nature of the state economy. Another factor complicating the drive for uniformity is the tendency for independent governmental entities — *e.g.*, states — to favor bilateral arrangements with other independent entities over participation in a governing arrangement requiring consensual action by a number of different governmental entities.⁶⁵

An examination of the commercial trucking laws and regulations of the five-state Northern Great Plains region reveals that disparities are not simply the result of regulatory ignorance or indifference. Instead, as often reflected in the

65. The South Dakota–Iowa Open City Free Zone Reciprocity Agreement states:

The States of South Dakota and Iowa have agreed that Sioux City, IA, and North Sioux City, SD are open cities for the movement of commercial vehicles licensed in either state, provided that the vehicles remain within the cities. In addition, Sioux Falls, SD is an open city for the movement of livestock via SD38 from the Iowa State Line directly to Sioux Falls. The vehicles must bear an Iowa license, and the movement must be interstate in nature.

South Dakota Department of Transportation, *South Dakota Motor Carrier Handbook* 60 (2005), http://www.sdtruckinfo.com/docs/MCHandbook_V028_chap4.pdf. The North Dakota–Minnesota Reciprocity Agreement states:

All Minnesota licensed vehicles are exempt from the 72-hour trip permit requirements. The movement however must be an interstate operation and within 20 miles of the ND/MN boundary. Travel does not have to be by the most direct route. The 20-mile free zone for MN licensed vehicles while operating in ND starts east of a line extending north to south as follows: ND/MB line on ND 32, south on ND 32 east on ND 17 to junction ND 18, south on ND 18 to the ND/SD state line.

State of North Dakota, *Reciprocity Agreement*, <http://www.state.nd.us/ndhp/permits/reciprocity.html>.

web of exemptions, these disparities are the deliberate result of the different policy goals and value judgments of a diverse group of democratic communities that are interested in more than just economic growth and regulatory uniformity.⁶⁶ And yet, despite these obstacles to harmonization, the economic and legal environment is clearly moving in the direction of further harmonization.⁶⁷

A study for the Center for Transportation Studies at Boston University states that “complete harmonization is probably an unrealistic goal[.]”⁶⁸ therefore, efforts may need to focus instead on goals such as those proposed in a 2006 informal meeting of the Minnesota, North Dakota, and South Dakota Departments of Transportation, hosted by the Northern Great Plains Institute.⁶⁹ This focus group concluded that a core group of states such as South Dakota, Minnesota, and North Dakota need to begin to minimize inconsistencies on several east/west and north/south routes and then add other borders states, naming Iowa, Nebraska, and Montana as likely states. The state DOTs would be encouraged to sign a Memorandum of Understanding,⁷⁰ which would commit them to moving forward with efforts toward uniform permitting of particular routes, which might include U.S. Highway 2 and 85, I-29 and I-94.⁷¹ Making a smaller start with early successes appears to be the best option for a daunting task for the Northern Great Plains Region.

66. UPPER GREAT PLAINS TRANSPORTATION INSTITUTE, *supra* note 12, at 17 (“For example, North Dakota allows a RMD (Rocky Mountain Double) to operate at 105,500 pounds on designated highways, but Minnesota does not allow these vehicles. Montana allows a double trailer semi to operate at a maximum of 131,060 pounds with permit and up to 137,800 from Shelby to Sweetgrass.”).

67. The issue of trade regulation disparities between states might be seen as contradicting the goals and purposes of the dormant Commerce Clause. Under the dormant Commerce Clause, for instance, courts can invalidate state laws that discriminate against interstate commerce, the theory being that interstate commerce should be free of any state-imposed blockages unless such blockages are supported by a governmental interest that outweighs the discriminatory effect of that blockage. *See, e.g.,* *Granholm v. Heald*, 125 S.Ct. 1885 (2005). On the other hand, in *Am. Trucking Ass’n v. Michigan Public Serv. Comm’n*, the Court unanimously held that Michigan’s flat \$100 fee on trucks engaged in intrastate commercial hauling did not violate the dormant Commerce Clause. 125 S.Ct. 2419 (2005).

68. *See* Lakshmanan, et al., *supra* note 3.

69. Memorandum, *Regional Truck Size and Weight Issues* (Jan. 4, 2006) compiled at meeting in Fargo, North Dakota, on the North Dakota State University campus.

70. *Id.*

71. *Id.*