

## **ITD’s Permitted Truck Negotiated Rulemaking Comments on Proposed Rules**

Below is a listing of the comments submitted for ITD’s proposed rules published in the September 7<sup>th</sup> Administrative Bulletin. The comments are for the following proposed rules:

- 39.03.06 – Rules Governing Allowable Vehicle Size
- 39.03.12 – Rules Governing Safety Requirements of Overlegal Permit
- 39.03.22 – Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to 129,000 Pound Vehicle Combinations
- 39.03.23 – Rules Governing Revocation of Overlegal Permits

To review the comments, please go to the listed page numbers. Thank you!

<b>Date</b>	<b>Name/Organization</b>	<b>Pages</b>
9/21/16	Trucking Advisory Council	2
9/23/16	Transystems	3-4
9/28/16	Idaho Farm Bureau Federation	5-7
9/28/16	Idaho Trucking Association	8

September 21, 2016

Idaho Transportation Department  
Attn: Ramón S. Hobdey-Sánchez  
P.O. Box 7129  
Boise, ID 83707-1129

RE: TAC Comments on Proposed Rules

Dear Mr. Hobdey-Sánchez,

Thank you for the opportunity to comment on ITD's proposed rules published in the September 7<sup>th</sup> Idaho Administrative Bulletin. The Trucking Advisory Council does want to express concern regarding 2 of the negotiated rules.

Both, IDAPA 39.03.12 and 39.03.22 contain the following new language as it relates to brakes and brake systems, "No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers." This sentence is both vague and unclear. The Council believes that this rule language could negatively impact many small business owners as well. We understand and respect the intentions of the Department; however, the language proposed does not clearly identify what "mixed" brake systems means. Additionally, it is not clear what types of brakes the Department is referring to or referencing.

So, it is the request of the Council that this sentence be removed from *both* IDAPA rules that address brakes.

Again, thank you for the opportunity to comment. It is evident to the Council that the Department has diligently worked through this rulemaking process with transparency, professionalism and openness at the forefront.

Respectfully,

  
John Pocock  
TAC Chairman



September 23, 2016

Ramón S. Hobdey-Sánchez  
Government Affairs Program Specialist  
Idaho Transportation Department  
P.O. Box 7129  
Boise, ID 83707

RE: IDAPA 39 Title 03 Chapter 22  
39.03.22 – Rules Governing Over-legal Permits for extra-length, excess weight, and up to 129,000 pound vehicle combinations.

Dear Mr. Hobdey-Sánchez

Thank you for reviewing my earlier letter. I appreciate that you will accept a replacement letter written within the time constraints of the comment period.

My concern is with the 39.03.22 proposed rule.

In part it says: “09. Brakes. Brakes shall meet the Federal Motor Carrier Safety Regulation and shall be maintained to the Federal Motor Vehicle Safety Standard No. 121 in effect at the time the commercial motor vehicle was manufactured. No vehicle or vehicle combination shall operate with mixed brake systems between the tractor and trailer.”

The words “mixed brake systems” are vague and potentially lead to confusion.

Some might interpret “mixed” as a combination of disc and drum systems. Others might be thinking air versus hydraulic. A third take might be ABS combined with non-ABS.

I had an email exchange with Ms McCarty from ITD a few weeks ago and she explained that indeed it was the intended to be ABS versus non-ABS.

I believe it might be clearer to simply substitute “ABS versus non-ABS” for the word “mixed”.

My second area of concern is the science behind this restriction. Although my knowledge of the hearing and written comments is not complete, I did not see any scientific studies or findings highlighting the “mixed systems” as inherently less safe.

ITD has been meticulous about basing its findings on science and that should be applauded.

A third area of concern is this rule would apply to trucks weighing in excess of 80,000 pounds passing through Idaho. The mixed brake system requirement is more restrictive than the federal requirements so many trucks would unwittingly be breaking Idaho law when they cross the border.

I am unsure of the solution to this issue but I wanted to raise it.

Perhaps a delayed implementation until the science was clarified and the out of state truck impact were better understood would be a reasonable middle ground.

Again, thank you for the work on this. Sometimes the final details are left until after the celebration. Often these are the toughest. Thank you for handling them.

Best

A handwritten signature in black ink, appearing to be 'Dan Rice', written over a vertical line that extends from the word 'Best' above.

Dan Rice  
Chairman  
Transystems LLC



## **Idaho Farm Bureau Federation**

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Boise, Idaho 83702  
(208) 342-2688 Fax (208) 342-8585

September 20, 2016

Mr. Ramon Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
P.O. Box 7129  
Boise, Idaho 83707-1129

**RE: IDAPA 39 Title 03 Chapter 12- Rules Governing Safety Requirements of Overlegal Permits (July 28, 2016 draft)**

**IDAPA 39 Title 03 Chapter 22- Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and up to 129,000 pound vehicle combinations (July 28, 2016 draft)**

Dear Mr. Hobdey-Sanchez:

Thank you for the opportunity to provide our thoughts on the above-referenced proposed rules. For purposes of convenience I will refer to them as 39.03.12 and 39.03.22 or .12 and .22.

Idaho Farm Bureau Federation (IFBF) is concerned, as are many industry members, about the use of different terms to describe what we assume is the same brake system. We acknowledge that three alternative rules were proposed with respect to brake systems.

The first, **without restriction** on brake systems, in .12 at .060 Brakes- .01 and .22 at 200.01 Brakes says "Brakes shall meet the Federal Motor Carrier Safety Regulations and *shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured.*"

The second, **with restriction** on brakes systems, same citations: The proposed rule utilizes the language in the "without restriction" proposal followed by this additional sentence, "No vehicle or vehicle combinations shall operate with "**multiple brake systems.**" Note the use of "multiple brake systems."

The third proposed rule requires antilock brake systems (ABS) on truck and trailer- same citations: “In order to avoid **mixed braking systems**, all axles shall be equipped with ABS brakes. The ABS brakes shall meet and be maintained to the FMVSS No. 121 in effect at the time the motor vehicle was manufactured.” Note the term “mixed braking systems.”

Please note the following comments IDAPA 39.03.12 and 39.03.22:

- We assume the drafter has attempted to define the same system with using different terms and without providing definitions for either.
- No definitions have been provided for mixed or multiple braking systems. Does this mean disc v. drum, air v. hydraulic or ABS v. non-ABS?
- None of the proposed rules specifically mentions trailer brake system requirements.
- Year of truck manufacture sets the standard for the trailer brake system.
- It is our understanding there is no current Federal requirement for antilock braking systems on trailers. If Idaho imposes this requirement, the Idaho rule becomes more stringent than the Federal, creating a preemption issue.
- Different drafts of .12 and .22 use different terms “mixed” versus “multiple” address undefined combinations of differing brake systems.
- We assume the intent means a mix of standard and ABS systems because of the all ABS requirement of the proposed rule requiring all ABS

We acknowledge that agricultural haulers are exempt from driver and equipment regulations if the truck is operated by the farmer or his agent, hauling the farmer’s crop and within a 150 radius of the commodity’s origin.

However, some farmers and ranchers; grain producers, grass seed growers, loggers, cattlemen, license their trucks commercially so they can haul-for-hire during the off-season. Restrictions against “mixed braking systems” or “multiple brake systems”, and/or an all ABS requirement would idle hundreds of existing trailers. The proposed brake system requirements could put these individuals out of business or impose significant financial hardship because of the expense of buying or converting equipment to make their truck-trailer combinations compatible with the proposed rules.

We understand cost of conversion from non-ABS to an ABS brake system is approximately \$2,500.00 per axle. All braking axles on the trailer must be converted when changing to ABS.

September 20, 2016

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During this proceeding, IFBF is not aware of evidence indicating that “mixed braking systems” or “multiple brake systems” are unsafe, although the proposed rules strongly imply they are. A number of drivers have indicated to IFBF staff that they do not want ABS equipped trailers, as it is their opinion that standard brakes offer better “feel” and truck/trailer control under certain conditions.

Idaho Farm Bureau Federation recommends the following:

- Each unit, truck and trailer, should conform to the FMVSS No. 121 of the year of manufacture of the respective unit.
- Year of truck manufacture should not set the standard for the trailer brake system.
- Any repair or modification must conform to the FMVSS No. 121 of the unit's year of manufacture.
- Repairs or modifications can be upgrades from the year of manufacture, but cannot be downgrades from the year of manufacture.

Sincerely,



Bryan Searle, President  
Idaho Farm Bureau Federation

cc: Sen. Bert Brackett  
Rep. Joe Palmer

From: Julie Pipal  
Sent: **Wednesday, September 28, 2016 2:53 PM**  
To: Ramon Hobdey-Sanchez  
Subject: Comments on Draft Rules 39-0322-1601 and 39-0312-06001, Brake Systems

Dear Mr. Hobdey-Sánchez,

Thank you for the opportunity to comment on the proposed rules that were published in the September 7, 2016 Administrative Bulletin. On behalf of the Idaho Trucking Association and our more than 260 members, I respectfully submit that the rules containing the language about mixed brake systems would cause undue confusion and are likely unenforceable as no federal statute exists to require vehicles engaged in interstate commerce to comply with Idaho's over legal permits should they contain this restriction.

We believe the rules should read: "01. Brakes. All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured." The second sentence, "No vehicle or vehicle combinations shall operate with mixed brake systems between tractor and trailers" should be completely removed in both rules.

Please note that Federal Motor Vehicle Safety Standard No. 121 already mandates antilock braking systems (ABS) on all new air-braked vehicles with a GVWR of 10,000 pounds or greater. ABS is already required on tractors manufactured on or after March 1, 1997, *and* air-braked semi-trailers and single-unit trucks manufactured on or after March 1, 1998. This standard, which has been touted as significantly improving safety during the almost 20 years it has been in effect, is clearly sound criteria to cite in permit enforcement. In addition, the Idaho State Police already have the authority to put commercial vehicles with insufficient brakes out of service.

Again, thank you for this opportunity to comment.

Sincerely,  
Julie

**Julie Pipal**  
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**Idaho Trucking Association**  
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