

SPECIAL SESSION OF THE IDAHO TRANSPORTATION BOARD

June 8, 2016

Idaho Transportation Board Chairman Jerry Whitehead called a special session of the Idaho Transportation Board at 10:30 AM on Wednesday, June 8, 2016. The following principals were present at the Idaho Transportation Department in Boise, Idaho:

Jerry Whitehead, Chairman
Julie DeLorenzo, Member – District 3
Jim Kempton, Member – District 4
Scott Stokes, Chief Deputy
Larry Allen, Lead Deputy Attorney General
Sue S. Higgins, Executive Assistant and Secretary to the Board

The following participated via videoconference or teleconference:

Lee Gagner, Vice Chairman – District 6
Jim Coleman, Member – District 1
Janice B. Vassar, Member – District 2
Dwight Horsch, Member – District 5

Negotiated Rule-Making Concepts for Permitted Vehicles. Governmental Affairs Manager (GAM) Mollie McCarty provided background on the negotiated rule-making process, which was undertaken due to concerns expressed during the 2016 legislative session and the Governor's recommendation to review issues related to permitted vehicles. She thanked Idaho State Police (ISP) for its partnership on this effort. Approximately 40 comments were received during the public comment period and at the public hearing. Those comments were categorized into 17 groups.

Governmental Affairs Program Specialist Ramon Hobdey-Sanchez summarized each category, elaborating on the germane issue, potential modifications to address the concern, staff's analysis or relevant information, and staff's recommendation, if applicable. The categories included safety inspections and enforcement – owner inspections, safety inspections and enforcement – law enforcement inspections, equipment/overlegal loads, driver qualifications, truck permitting, road characteristics, 129,000 pound regional harmonization, support for existing rules and regulations, the “overlegal” terminology, the rulemaking process, the rulemaking scope, enforcement and penalties, reasonable access, data collection, funding, local authority, and allowable vehicle size. The 17 concept papers are shown as Exhibit 470, which is made a part hereof with like effect.

One of the comments on the equipment/overlegal loads topic was to use emerging technologies like ABS braking systems. Member Vassar asked if brakes are often an issue during inspections. Overall, ISP Major Bill Reese does not believe brakes are a major problem. He said just over 5% of vehicles that are put out of service during post-crash inspections are due to brakes out of adjustment. Member Kempton asked how that compares to brakes malfunctioning. Major Reese said he has limited information on that because brakes malfunctioning is a general

term referenced in crash reports and could mean a number of different reasons. Not many ISP troopers are qualified to do post-crash inspections on brake systems at crashes. There are approximately 1,800 commercial vehicle crashes annually in Idaho and just over 200 have post-crash inspections by a certified trooper.

Some discussion was held on the proposal to increase the age of commercial driver's licenses from 18, including a concern with the nationwide shortage of truck drivers. Major Reese said increasing the driver's age to over 21 would conflict with federal regulations and could cause a preemption issue for Idaho. The recommendation also includes adopting the Federal Motor Carrier Safety Administration's rules governing the training requirements for long combination vehicles. Member Horsch believes training is a more important factor than the age of the driver.

Member Kempton expressed support to pursue the recommendation to issue a single statewide 129,000 pound truck permit. He understands some local public agencies allow 105,500 pound trucks to travel on its roads without permits. Because 129,000 pound vehicles have a lighter footprint, it seems local officials would not object to those commercial vehicles.

During discussion on the enforcement and penalties concept, Chairman Whitehead asked if truckers bypassing Ports of Entry is prevalent. Major Reese said a number of years ago it was fairly common, but most truckers comply now. Member Kempton asked for more information on citing drivers of illegally operated permitted vehicles. Major Reese said the fines can be thousands of dollars. He admitted that local jurisdictions have different rules. Enforcement personnel may not be aware of each jurisdiction's rules, making enforcement difficult. However, if ISP is aware of a problem, it can help with enforcement. He added that if local entities allow truckers to haul overlegal loads without permits, ISP does not have authority to issue citations for permit violations on those local roads, but could enforce all other applicable laws.

By general consensus, the Board agreed to pursue the following:

- Safety inspections and enforcement – owner inspections: revise Administrative Rule 39.03.12 to state the proper inspection requirements for all vehicles that are operating under the authority of an overlegal permit, with the agricultural exemption remaining in place;
- Equipment/overlegal loads: add language to the rules that address brakes stating that brakes are to be maintained to the Federal Motor Vehicle Safety Standards according to the standards that were in effect at the time the commercial motor vehicle was manufactured;
- Driver qualification: implement a training program in accordance with 49 CFR Part 380, which would be the responsibility of ISP to adopt in its Motor Carrier Rules;
- 129,000 pound truck regional harmonization: amend administrative rules to increase regional harmonization of 129,000 pound truck permitting; and
- Allowable vehicle size: remove language regarding the legal length limits for overhang from Administrative Rule 39.03.06 because it is defined in Idaho Code Section 49-1010.

Additionally, staff is to consider replacing “overlegal” with a different term and explore the feasibility of implementing a single, statewide 129,000 pound truck permit.

GAM McCarty summarized the next steps. Staff will draft the proposed rule changes, present them to the Board at its June 16 meeting, schedule a public hearing on the proposed rule changes at the end of June, incorporate the public comments into the rules as appropriate, and present the rules to the Board in July or August for approval.

Chairman Whitehead thanked staff for its work on this important project.

Executive Session on Legal Issues. Member DeLorenzo made a motion to meet in executive session at 12:25 PM to discuss legal issues as authorized in Idaho Code Section 74-206, (d) and (f). Member Vassar seconded the motion and it passed 5-0 by individual roll call vote. Member Coleman left the meeting earlier and did not participate in the executive session.

Discussions were held on legal matters.

The Board came out of executive session at 1:10 PM.

WHEREUPON the special session of the Transportation Board adjourned at 1:10 PM.

signed

Jerry Whitehead, Chairman
Idaho Transportation Board

Read and Approved
August 18, 2016
Rigby, Idaho