



# MOTOR CARRIER NEWS

Newsletter of the Oregon Department of Transportation Motor Carrier Transportation Division • April 2000

## Notice of Rulemaking Hearing

# Road authorities ready a one-stop variance permitting system

State, county, and city officials expect to meet a July 1, 2000, deadline to implement a one-stop system for issuing truck over-dimension permits that are good for travel throughout the state. Legislation passed in 1999 (House Bill 2635), directed the Oregon Department of Transportation to work with other road authorities to find a way to simplify the issuance of continuous operation (annual) variance permits.

Beginning July 1 over-dimension truckers traveling through several cities or counties will no longer have to contact each jurisdiction to get a permit for extended truck weight, from 80,001 to 105,500 pounds, or extended length. These two kinds of permits, the most common issued, will be the first offered in the program. Other variance permits will be available in this same one-stop-shop manner in the future. The

actual locations where the permits will be issued is still being determined, but it may include some county offices and truck stops.

will authorize travel on state, county, and/or city roads. The vehicle-specific permits will honor size and weight restrictions set by each jurisdiction for highways and bridges in their area.

After the legislation passed last year, managers at the Motor Carrier Transportation Division (MCTD) formed a task force of city, county, and trucking industry representatives to design the permit program. As a result of the task force's work, MCTD is holding a public hearing in Salem on Friday, April 28, 2000, to consider adopting administrative rules related to implementing the new "Continuous Operation Variance Permit Program."

Because MCTD will contract with road authorities and private contractors to issue permits, one proposed rule describes three levels of participation road authorities can have in the program. Some cities and counties will issue permits; some will just provide highway restriction information and let others issue permits on their behalf.

Another proposed rule would set permit fees at a maximum \$8 for each jurisdiction included on the permit. An additional \$1.50 processing charge could be assessed for each jurisdiction that doesn't charge for permits. The fees are designed to cover costs associated with the program.

The April 28 hearing is scheduled to begin at 9 a.m. in Room 122 of the Transportation Building located in Salem at 355 Capitol Street NE. Written testimony will be accepted at the hearing or by mail. Copies of the draft rules are available by contacting MCTD at 503-378-4851.

## Oregon voters to decide weight-mile tax repeal in May election

Ballots for the May 16, 2000 Oregon Primary Election will arrive in voters' mailboxes as early as April 28. The vote-by-mail ballot includes Measure 82, the referendum on House Bill 2082, legislation passed in 1999 that, among other things, repeals the weight-mile tax and replaces it with a 29 cent-per-gallon diesel fuel tax and higher truck registration fees. If voters approve, the weight-mile tax repeal takes effect March 1, 2001. Here is how Measure 82 will appear on the ballot:

### **MEASURE 82 REPEALS TRUCK WEIGHT-MILE TAX; ESTABLISHES AND INCREASES FUEL TAXES**

**RESULT OF "YES" VOTE:** "Yes" vote repeals truck weight-mile tax; establishes diesel tax; increases gas tax, registration fees.

**RESULT OF "NO" VOTE:** "No" vote retains weight-mile highway tax on trucks; rejects increasing gas tax, registration fees.

**SUMMARY:** Currently, motor carriers pay highway tax based on truck weight, miles driven. Measure repeals weight-mile tax. Establishes diesel fuel tax (29 cents per gallon). Increases gasoline tax by five cents to diesel tax rate. Raises vehicle registration fees. Additional revenue to be used primarily for road and bridge modernization, maintenance, and preservation. Requires licenses for diesel fuel suppliers, distributors, others. Requires recordkeeping, monthly tax reports by licensees. Authorizes transportation department to enforce requirements. Provides remedies for violations, including fines, penalties, criminal sanctions. Other provisions.

# MCTD cancels fees, gives transponders to users Green Light changes to boost usage and ensure transponder interoperability

Faced with a stalled transponder distribution program and the recent adoption by other states of a restrictive transponder interoperability policy, the Motor Carrier Transportation Division (MCTD) has announced dramatic changes to its Oregon Green Light weigh station bypass program.

In late-February, MCTD decided to end the contract with its Transponder Administrator and stop charging an annual administrative fee for transponders used to identify trucks. It also decided to give away its supply of 10,000 transponders.

Green Light Program Manager Randal Thomas said the changes were needed to spur usage of the system. "We had about 5,000 trucks equipped with a Green Light transponder, but our original goal was to put transponders in at least

25,000 trucks," Thomas said. "So now we've completely removed cost as a factor in whether or not a company joins Green Light."

In a February 28 letter sent to the 811 trucking companies participating in Green Light, Thomas announced that Oregon was canceling its contract with TransCore and dropping the \$45 annual fee it was charging for each transponder. TransCore had been acting as the Transponder Administrator since 1997. Now MCTD staff will take on the administrative functions itself at no cost to users.

In his letter, Thomas also told the companies they can consider themselves the owner of their transponders. He explained that Oregon was doing that so Green Light transponder users can go to any other state, enroll in its weigh

station preclearance program, and enjoy interoperability from state to state.

Green Light uses the same weigh-in-motion and vehicle identification technology used in weigh station systems throughout the country. The type of transponder used in Green Light is the most common truck transponder in use today.

But other states recently reached an agreement that they will only enroll truckers in their systems if they first have permission of the transponder owner. "Oregon always

thought that if its transponder users wanted to use their transponder in another state they should be free to do that," Thomas said. "Now as transponder owners they're free to use them anywhere."

In March, MCTD began contacting companies with trucks that regularly stop at Oregon weigh stations to offer free transpon-

ders to them, too. In just two weeks it handed out about 3,500 transponders. If it can place all of the transponders currently in supply, MCTD is considering handing out another 12,000 it would purchase later this year.

Green Light systems are up and running at Oregon's six Ports of Entry and at nine weigh stations. Six other Oregon weigh stations are under construction.

Green Light sites currently preclear about 35,000 trucks each month. If bypassing a weigh station saves five minutes, Green Light saves Oregon truckers more than 2,900 hours of travel time each month.

Carriers can enroll in Green Light by calling MCTD at 503-378-6054.

## Agreement gives transponder owners, rather than users, right to determine where they're used

Disagreement over the terms of a "one-way" transponder interoperability agreement has forced Oregon to withdraw from an organization of states it helped create and completely revamp its Green Light weigh station preclearance program.

In January, the NORPASS group of seven states<sup>1</sup> completed negotiations with the HELP group of 16 states<sup>2</sup> regarding how NORPASS transponders can be used in HELP's PrePass weigh station preclearance system. The states were bargaining for "one-way" interoperability because HELP would not even discuss letting its PrePass transponders work in NORPASS states.

After negotiation, HELP agreed to accept NORPASS transponders if it had the express permission of the transponder owner and users agreed to pay a per-pass charge for using the PrePass system.

When NORPASS states were asked to ratify the agreement, Oregon objected because it gives transponder owners far-reaching rights. Finding itself at odds with the others, Oregon decided to withdraw from participation in the organization. In a January 28 letter to NORPASS, Green Light Manager Randal Thomas said, "From Day 1 of the design of our Green Light Mainline Preclearance System, we have held fast to a core principle that transponders used in our system should be freely available for use in other systems if that's what the

(continued on page 3)

1. The original states in the North America Preclearance and Safety System (NORPASS) included FL, GA, ID, KY, OR, UT, and WA.

2. States that are members of Heavy Vehicle Electronic License Plate (HELP) include AL, AZ, AR, CA, CO, IL, IN, MS, MT, NE, NV, NM, OK, TN, WV, and WY.

## Interoperability

(continued from page 2)

transponder user wants. If an Oregon carrier wants to use its Green Light transponder to obtain weigh station preclearance privileges in another state, the carrier should not have to first seek Oregon's permission. The matter is rightfully one between the carrier and the other state."

Thomas explained that Oregon has never objected to HELP charging for weigh station preclearance, if transponder users agree to it. But he worries that HELP crafted a precedent-setting agreement that could be used to dictate terms for using a PrePass transponder in the Green Light system. That could include, for example, requiring that Oregon collect per-pass fees for every weigh station bypass that occurs here through the use of a PrePass transponder. "By rejecting the terms of this interoperability agreement," Thomas said, "we protect carriers from such future potential demands for additional user fees."

The disagreement between Oregon and HELP over the use of transponders dates back to 1998 when Oregon, at the request of several trucking companies, entered their PrePass transponders in Green Light. In December 1998, HELP sent ODOT Director Grace Crunican a litigation warning letter, claiming that Oregon was misappropriating property and breaking a federal telecommunications law. According to HELP, Oregon needs its permission before it can lawfully recognize a PrePass transponder signal.

Thomas emphasizes, however, that a transponder is simply an electronic license plate. It automatically broadcasts its number and can't be turned on and off. In fact, transponder readers at Green Light sites constantly read PrePass transponders and give every one of them a red light signal because the numbers are not in the Oregon database.

In 1998, the Oregon Department of Justice weighed in on the matter and ruled that a transponder's identification number is as much public information as a regular license plate. Reading the signal cannot be construed to be misappropriation of property and the telecommunications law HELP cites relates to cell phone-like point-to-point transmissions. Later the Federal Highway Administration's Chief Counsel reviewed that opinion and found it "thoroughly reasonable."

## Rulemaking leads to no change in splash and spray suppressant device requirements

A rulemaking proceeding initiated last year at the request of the Oregon Forest Products Transportation Association and the Oregon Trucking Associations has led to no change in Oregon rules requiring that truck combinations over 80,000 pounds must be equipped with splash and spray suppressant devices. The trucking associations had sought to change the rules so they would only apply to triple trailer combinations.

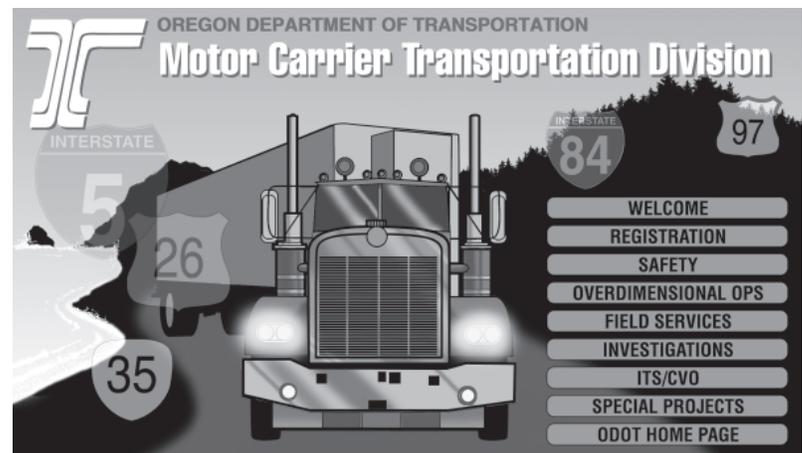
On March 10, Oregon Department of Transportation Director Grace Crunican announced that there would be no revisions to the current administrative rule, OAR 734-074-0051. The decision was made in cooperation with the trucking associations, which actually withdrew their request to change the rule.

## Survey gauges interest in computer services

The Motor Carrier Transportation Division (MCTD) is currently surveying 1,200 trucking companies to ask about their interest in using computers to do trucking-related business with the state. MCTD is looking ahead and considering its computer system enhancement budget for the 2001-2003 biennium. If enough carriers say they would go "online" and use computers to do things like check the status of their Oregon account, register trucks, obtain trip permits, and pay taxes and fees, for example, MCTD will consider developing those services. It imagines offering internet-based systems that a carrier could access with a web browser from a personal computer at the home or office.

Two groups of carriers are receiving a one-page survey form. One group consists of the 200 largest trucking companies operating in Oregon. This group includes 85 Oregon carriers, 28 Washington carriers, 13 California carriers, 10 Idaho carriers, and 64 based in another state. The second group receiving a survey form consists of 1,000 carriers randomly selected from a list of more than 9,000 Oregon-based carriers.

Results of the survey will appear in the June Motor Carrier News. Carriers with questions about the survey can contact MCTD at 503-373-1578.



[www.odot.state.or.us/trucking](http://www.odot.state.or.us/trucking)

The Motor Carrier Transportation Division has moved to a simpler address on the World Wide Web. Please point your web browser to the new URL (Uniform Resource Locator)— [www.odot.state.or.us/trucking](http://www.odot.state.or.us/trucking)— and update any bookmarks.

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# Companies often fail to check truck drivers' background

When safety specialists from the Motor Carrier Transportation Division (MCTD) visit a trucking company to conduct a comprehensive Safety Compliance Review, there's one problem they're likely to find. Among other things, they check compliance with drug and alcohol testing requirements. Invariably they find the company did not do a background check of its truck drivers before putting them behind the wheel.

"Of the carriers I've checked, probably 80 percent failed to contact former employers to ask if the driver had any positive tests for controlled substances or alcohol," Safety Specialist Terry Evert said. "Meeting this requirement may take some effort on the employer's part, but it's necessary to prevent problem drivers from jumping from one company to the next without being discovered."

According to federal safety regulations, anyone hiring a driver with a commercial driver license must contact the previous employers

for the past two years to ask if the driver ever tested positive for controlled substances or alcohol, or ever refused a test (FMCSR Part 382.413). A driver's refusal to take a test is treated as a positive test. The law requires employers to get the prospective driver's written consent to do the background check and that authorization is forwarded to the previous employers. Another part of the law requires employers to release the information when authorized (Part 382.405).

"The law is intended to help an employer obtain the information before the new hire is allowed to drive a truck, or perform a 'safety sensitive' function," Safety Specialist Doug Pierovich said. "Employers must at least make a 'good faith effort' to get the information within 14 days. That means attempting to get the information more than once if necessary. If they still can't get it, a record of their efforts must be placed in the driver qualification file."

Employers are required to keep drug and alcohol testing records in a secure location with controlled access. When they get an inquiry about a former driver, they are allowed to relay the information by any means (letter, phone, e-mail, etc.) as long as confidentiality is ensured.

Evert advises that carriers do background checks at the same time they check employment history and dates. "Companies should look for any false dates or gaps in time," Evert said. "If they want to hire a driver who had a positive test in the past two years, they should be sure the driver saw a substance abuse professional and met rehabilitation requirements that are also part of the federal law."

Forms carriers can use for the driver's consent to release information, and the request for information from a previous employer, are available from several sources, including J.J. Keller and Associates, the Willamette Traffic Bureau, the Oregon Trucking Associations, and the American Trucking Associations.

Carriers with questions about background checks should contact MCTD at 503-378-6166.

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## Truck Safety Inspection Statistics for 1999

Number of truck safety inspections conducted in Oregon:.....	<b>46,456</b>
Compared to 1998, percentage increase in inspections: .....	<b>4.4%</b>
Rate at which truck inspections occur: .....	<b>One every 11.3 minutes</b>
Most inspections conducted in a single day:.....	<b>439</b>
Average minutes needed to conduct a complete inspection: .....	<b>28.43</b>
Hours spent inspecting trucks: .....	<b>19,358</b>
Miles all trucks inspected, parked end to end, would extend: .....	<b>528</b>
Percent of inspections conducted using laptop computers: .....	<b>51%</b>
Average violations per inspection of Oregon-based trucks:.....	<b>2.34</b>
Average violations per inspection of trucks based elsewhere: .....	<b>1.58</b>
Percent of inspections with ten or more violations:.....	<b>1.2%</b>
Most violations found in one inspection: .....	<b>33</b>
Number of carriers inspected more than 100 times: .....	<b>20</b>
Number of truck drivers caught falsifying log books: .....	<b>3,120</b>
Number of drivers caught using radar detectors: .....	<b>220</b>
Number of drivers caught using alcohol or drugs: .....	<b>52</b>
Number of drivers placed out-of-service: .....	<b>4,534</b>

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## Correction

The December 1999 Motor Carrier News included a summary of the requirements related to controlled substances and alcohol testing and erroneously reported the percent of a company's drivers that must be subject to random alcohol testing. Federal regulations changed in 1998 so that now a company's alcohol testing program must randomly check 10 percent of the average number of driver positions (Part 382.305). It was reduced to 10 percent when it was found that 1/2 of 1 percent of drivers test positive for alcohol while on duty.

# Enforcement

## 4th Quarter 1999

During the fourth quarter, October through December 1999, Motor Carrier Transportation Division staff finalized a total of 147 formal enforcement actions. The number following each name indicates the number of violations confirmed in the process.

- ◆ Denotes failure to comply with an out-of-service notice.
- \*\* Denotes second complaint within five years.
- Denotes failure to produce records, which may result in suspension of authority.
- Denotes failure to produce records a second time, which may result in cancellation of authority.
- ❖ Denotes failure to file an annual financial report, as required of intrastate household goods carriers and passenger carriers with full-service, regular-route operations.

### Safety Violations

A total of 44 enforcement actions involved violations discovered during safety compliance reviews at carriers' terminals, or a violation related to failure to comply with an out-of-service notice.

- Andy's Custom Excavating 15
- APC Underground, Inc. 14
- Bandon Concrete & Development Co. 7
- Dennis Ray Beavers 152\*\*
- Black Distributing, Inc. 13, including two violations related to hazardous materials
- Brotherton Pipeline, Inc. 42, including one violation related to submitting a false certification
- Denny Chancler Equipment Co. 27\*\*
- Chemical Transfer Co. 7
- Christensen Sanitary Service, Inc. 8
- Countryside Disposal Service 8
- Crystal Ship 7
- Dental's Towing 20
- Detwiler Log Co. 44
- F R S T 15

- Fleury Trucking, Inc. 45
- Forest Products Systems Transportation, Inc. 15
- Hamlin & Son Construction, Inc. 2
- Harney Rock & Paving 28
- Hofenbredl Logging 23
- Imperiale Trucking & Supply 1, a violation related to submitting a false certification
- Insituform Technologies, Inc. 7
- Jack Paul Kalina 29◆, including one violation for a driver "jumping out of service"
- Jefferson State Pumping, Inc. 9
- The Jolly Corporation 15
- Julius, Inc. 8
- Konen Rock Products, Inc. 11
- Larry H Lillegren Trucking 7
- Juan Lopez 32
- Shawn F Montgomery Construction 17
- Morris Transfer 9\*\*
- Nippon Express USA, Inc. 11, including one violation related to hazardous materials
- Northwest Metal Fab and Pipe, Inc. 13
- P C P Concrete Pumping, Inc. 18
- T R Points Trucking 77
- Rabe's Valley Fruit & Produce LLC 16
- Rogers Excavating, Inc. 21\*\*
- Roofline Supply & Delivery 8
- Charles Sheffell Trucking Co. 13
- Guy & Robin Torgersen 18
- Tri Agg, Inc. 19
- V J Logging Co. 11
- Wayne Grippin Construction 7
- West Winds Trucking 11\*\*
- Williams Trucking 32

### Other Safety Violations

A total of 33 enforcement actions involved failure to return a Driver or Equipment Compliance Check Form after a safety inspection, or failure to produce safety-related records.

- B & L Paving, Inc. 1
- C R S T, Inc. 1
- Church Roofing 1
- Connie's, Inc. 1
- Crestview Construction, Inc. 1
- D & S Trucking 1
- D Danielson Construction, Inc. 1
- Dwight Trucking, Inc. 1
- Flamingo Trucking, Inc. 1
- Groundhog Excavation LLC 1
- Judy Ann Hale 1
- Hyde Out Cattle Co. 2
- Industrial Mill Supply, Inc. 10•
- James W & Samuel S Jeffries 1
- Randy Jones Trucking 1
- Kuenzi Excavating, Inc. 1
- Landscape Logging 1
- Leonardo Truck Lines, Inc. 1\*\*
- Lone Wolf Express 1
- T J Lund & Son, Inc. 1
- M & J Trucking 2
- Make A Way, Inc. 1

- Pas'n Thu Truck'n 1
- Quality Rock Products, Inc. 1
- Andrew M Riojas 1
- George Roberts Trucking 1
- S Allen Rolfness III 1
- Sager Creek Ranch 1
- Sitton Motor Lines, Inc. 1
- Victor L Snider 1
- Pok Wan Contracting, Inc. 1
- WMT, Inc. 1
- Wurdinger Recycling, Inc. 1

### Other Violations

A total of 70 enforcement actions involved violations related to operating without valid registration, permit, plates and passes, operating without a required size or weight variance permit, failure to produce records related to trucking operations, or failure of a household goods or passenger carrier to file an annual financial report.

- L S American Maintenance 4
- Barber Truck Lines, Inc. 3
- Baseline Transport, Inc. 2
- Bekins Moving & Storage Co. 1❖
- Walt Bear Trucking 4
- Bower Transportation 1❖
- E F Burlingham & Sons 2
- Bret Calaway Transport 7
- Carry Boy 3
- Central Premix Concrete Co. 4
- Ken Clark & Son 6
- Coast Recycling & Enterprises, Inc. 5
- Collins Transport Services, Inc. 3
- Concrete Barrier, Inc. 6
- Connie's, Inc. 1❖
- Dry Creek Farms (WA) 2
- Evergreen Septic Service, Inc. 4
- Fair Ace Transport 2
- Farwest Freight Systems, Inc. 5
- First Choice Movers 1
- First Choice Movers 1\*\*
- David Gabriel Trucking 2
- Tito Garza 4
- J & R Giesbrecht 1
- Maurice Golladay 2\*\*
- Gunter Brothers, Inc. 2
- Harold Hamilton Logging 3
- Heckman Trucking, Inc. 1
- Jim Heltemes Trucking 13
- J & D Trucking Tillamook, Inc. 2
- Pat Jensen 2
- J J & C Delivery 10
- Kris's Trucking, Inc. 2
- L & L Excavating (Mt. Vernon OR) 9
- Lakeside Industries 4
- Lamprecht Logging 40\*\*
- Lile International Companies 1❖
- M & D Trucking, Inc. (ID) 2
- M A G Transport, Inc. 2
- Bill Maahs 2
- L C Martin Trucking 2
- Jon J McDonald, Inc. 4
- Dean McWhirk Trucking 3
- Morgan & Son, Inc. 2
- Mushroom Express, Inc. 4

- Nor Cal Seafood 2
- Northwest Hay Growers, Inc. 4
- Pacific Bros. Moving 1\*\*
- George Payne, Inc. 2
- Potelco, Inc. 2
- R Y Ranch 3
- R & B Trucking Co. (OR) 10•
- Rainydays Trucking, Inc. 2
- Recycling Systems, Inc. 20••
- Edward E Ronney Trucking 2
- Rogue Valley Oil Co. 7
- Savage Wholesale Building Materials 2
- J R Settlemier Trucking 3
- Donald Schott 2
- Silver Eagle Company 1❖
- Small Progress Company 4
- D Smerski Logging 2
- Stalcup Truck & Supply 5
- Steele Trucking (WA) 1
- Lee Traynham Trucking, Inc. 5
- Triple E's Trucking 2
- Tualatin Valley Transport, Inc. 1❖
- Terry Tucker 2
- Viking Freight, Inc. 1❖
- Doug Wagner Truck 1

### Other Enforcement 4th Quarter 1999

Following are results of certain enforcement functions performed by Motor Carrier Enforcement Officers in the field during the fourth quarter, October through December 1999:

**Warnings Issued**  
4,829

**Truck Weight-Related Citations**  
3,408

**Truck Size-Related Citations**  
444

**Trucks Required to "Legalize" (Correct) Size and/or Weight**  
2,214

**Other Citations Issued**  
1,498

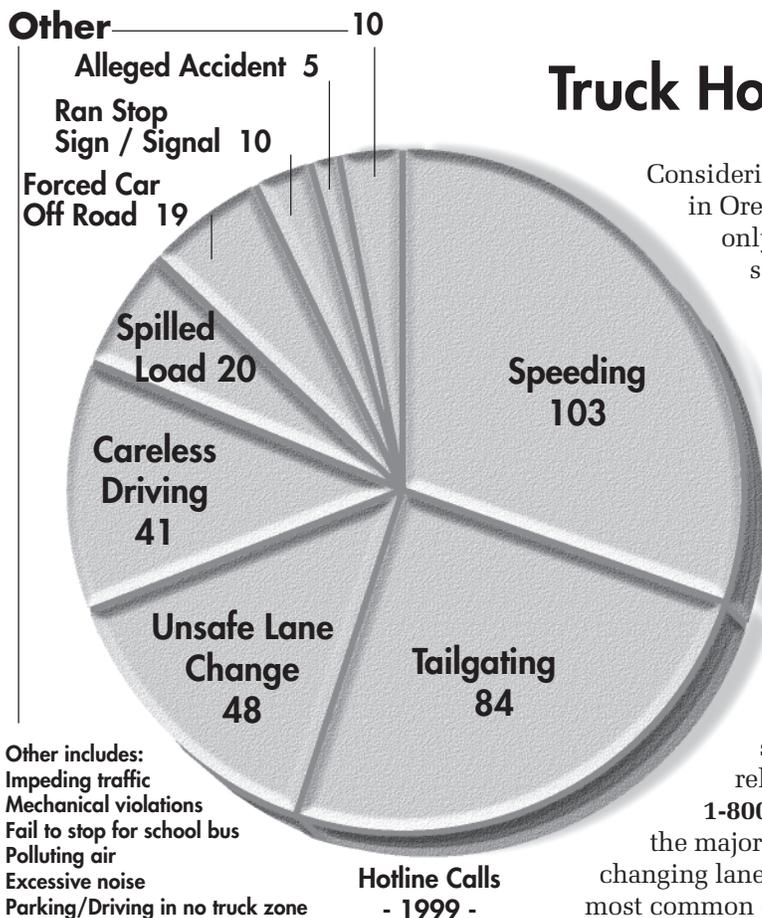
**Citations for No Operating Permit**  
2,595

The enforcement actions reported here do not include enforcement actions taken by Oregon State Police or city and county law enforcement officers.

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## Truck Hotline calls level off in 1999

Considering that truck drivers traveled more than 2 billion miles in Oregon last year, some would say it's remarkable there were only 1,096 calls to the state's Truck Safety Hotline to report some kind of truck-related problem. In a total of 340 of the calls received last year, enough information was provided to clearly identify the vehicle and company involved. Compared with 1998, this represents just a four percent increase in identifiable incident reports.

The Motor Carrier Transportation Division sent each of the 340 companies a safety advisory letter asking that it look into the complaint, more than half of which involved reports of speeding or tailgating. In 201 of the cases, companies responded that they either counseled and/or reprimanded the driver involved.

Oregon established the toll-free Hotline in 1988 as a sane outlet for road rage. Motorists who spot trucking-related hazards can simply pick up a phone and call **1-800-248-6782**, 24 hours a day, 7 days a week. Historically, the majority of calls report trucks speeding, tailgating, and changing lanes unsafely. Those bad driving habits are among the most common causes of truck-at-fault crashes.