

“Captain of ship” is default doctrine in bad weather

Every year with the arrival of Winter, Motor Carrier Transportation Division (MCTD) managers find they must again explain policy regarding the issuance of over-dimension permits and travel by permitted trucks during periods of inclement weather. Every year someone asks the question: “Why are you issuing over-dimension permits when there’s packed snow on the road?”

“The answer to that question is we issue permits every day we’re open and in so doing make no attempt to predict the weather during the 10-day lifespan of a single trip permit,” MCTD Administrator Gregg Dal Ponte said. “Instead, Oregon administrative rules and language included in the permit attachments make it clear under what circumstances travel under the permit is not allowed.”

Administrative rules related to over-dimension permits that govern the movement of mobile homes, modular buildings, and non-divisible loads make it clear that movement is prohibited when road surfaces are hazardous due to ice, snow, or frost. Movement is also prohibited when visibility is reduced to less than 500 feet or when wind conditions are such that it’s difficult for vehicles to safely move (see rules in sidebar on this page).

Reasonable people might disagree, however, that a road surface is hazardous or visibility is limited. That’s why MCTD often reminds trucking company officials that it can’t make management decisions for them. And it often reminds individual truck drivers that in a very real sense they are the captains of their own ship.

“Generally speaking, if ODOT district staff has not closed a highway or posted a sign advising of an adverse condition as discussed in the rules, then it’s up to motor carriers and their drivers to make the call,”

Dal Ponte said. “MCTD staff does not substitute its judgment and tell drivers that they may or may not go in the absence of a highway closure decision or

placement of advisory signs. In these situations we’ve left the decision up to motor carriers and their drivers. If they decide to go, they risk being subject to enforcement action if that decision proves to be incorrect. In most cases it’s up to State Police and local law enforcement to address on-highway situations and observe, in windy conditions for example, that a vehicle is swerving, whipping, swaying, or failing to follow substantially in the path of the towing vehicle. We can’t, of course, see any of that.”



Movement of Over-Dimensional Mobile Homes and Modular Building Units

Oregon Administrative Rule 734-075-0060 — Weather Restrictions

(1) Movement is prohibited when road surfaces are hazardous due to ice, snow or frost or when visibility is less than 500 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions.

(2) Movement is prohibited when wind conditions exist which cause excessive swaying or weaving, or tip-over of the towed unit, or are such that the towed unit cannot maintain its lane of travel.

(3) To assist the permittee in complying with restrictions caused by weather conditions, the Department of Transportation may place signs in areas where winter weather conditions may cause travel to be hazardous. When restrictions are displayed, movement of units is prohibited.

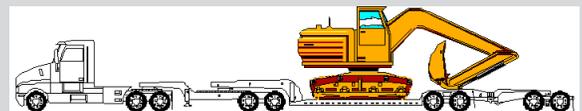


Variance Permits Issued for Non-Divisible Loads

Oregon Administrative Rule 734-082-0023 — Weather Restrictions

(1) Movement of a vehicle or combination of vehicles exceeding eight feet six inches in width is prohibited: (a) When road surfaces are hazardous due to ice, snow or frost; (b) When visibility is less than 500 feet due to snow, mist, rain, dust, smoke, fog or other atmospheric conditions; or (c) When wind or other conditions exist which could cause the vehicle or vehicles to swerve, to whip, to sway, or fail to follow substantially in the path of the towing vehicle.

(2) To assist the permittee in complying with restrictions caused by weather conditions, the



Department of Transportation may place signs in areas where winter weather or wind conditions may cause travel to be hazardous. In addition to the prohibitions found in section (1) of the rule, when restrictions are displayed, movement of overwidth vehicles or combinations of vehicles is prohibited.