

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8357 SENATE LABOR & COMMERCE

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8 1



Alaska State Legislature

Senate

Office of the Secretary

OFFICIAL BUSINESS

P.O. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: 1/27/93

TO SENATE COMMITTEE: Labor and Commerce

Josh

FROM: Office of the Senate Secretary

~~The Senate President has added/changed the referral(s) on the following bill(s):~~

The Governor has requested the return to

EXECUTIVE ORDER NO. 81

Re: Alaska Science and Technology Foundation

Thank you. Joyce

*done -
Max B.*

Please give the bill file(s) and the signed letter (this note) to the page delivering this message.

Thank you for your prompt attention.

SIGNATURE OF PERSON RECEIVING THIS NOTE

JR/s

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

COPY

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

January 15, 1993

HAND DELIVERED

Ms. Deborah Behr
Assistant Attorney General
P.O. Box 110300
Juneau, Alaska 99811-0300

Re: E.O. 81 (1993)

Dear Ms. Behr:

Enclosed is a draft sponsor blank bill that I think accomplishes the same thing as E.O. 81, but avoids making the inadvertent substantive changes found in the E.O. I left the Alaska Science and Technology Foundation in AS 37.17 and added as a third article in AS 37.17 the same science and engineering advisory commission provisions you used in E.O. 81. While there is no particular reason for having the ASTF in AS 37 (other than its proximity to the Permanent Fund statutes), the legislature wanted it in AS 37 and there is no particular reason to move it at this point, especially since AS 44.33 is already so crowded. The approach I used is also simpler and avoids inadvertent changes in substantive duties and powers.

However, the following is a list of the changes that need to be made to E.O. 81, if you were to decide to use that drafting approach in a replacement E.O. next year instead of the approach in the attached draft bill.

1. Page 1, line 12: Add parentheses around "AS 44.33.900". This we can do editorially.
2. Page 2, line 2: Add the provisions of current AS 37.17.010(b)(2), which was added by ch. 133, SLA 1992.
3. Page 4, lines 9-16: Proposed AS 44.33.925(b)-(d) need to be deleted, and the provisions of AS 37.17.030, as amended by §§ 11-13, ch. 2, FSSLA 1992, inserted instead.

Ms. Deborah Behr
January 15, 1993
Page 2

4. In AS 10.13.930(c) and AS 37.17.390(5), the cross-reference to AS 37.17-010 (repealed in sec. 4 at page 7, line 23) needs to be changed.

5. AS 37.17.200 - 37.17.390 (BIDCO statutes) are still in AS 37.17, while the ASTF has been moved to AS 44.33. If the ASTF has to be moved to 44.33, the BIDCO statutes should probably go too. The revisor has the power to renumber, but it would be cleaner to do it now.

In addition, I am concerned (but did not discuss with you on the telephone) that the E.O. inadvertently has made substantive changes in addition to those mentioned above, regarding finances and powers by mixing provisions governing the ASTF and provisions governing the science and engineering advisory commission. I think that the ones I noticed can be untangled by making the following changes, though you should check to see if there are others I have missed:

6. Page 3, lines 21 and 22: Delete "AS 44.33.900 - 44.33.955" and insert "AS 44.33.900(b)(1) and this section" in order to keep these provisions applicable only to the commission's duties, as in current law.

7. Page 3, line 30: Delete "AS 44.33.900 - 44.33.965" and insert "AS 44.33-900(b)(2) and AS 44.33.925 - 44.33.965". Neither the BIDCOs nor the commission should be included. (Note that Michie failed to change "this chapter" to "AS 37.17-010 - 37.17.110" in AS 37.17.020, 37.17.090, and 37.17.110. We've asked them to correct this in the attached error memo 93-028.)

8. Page 4, line 15: This will be changed when the 1992 amendments are substituted, but again the correct spanned reference should be to AS 44.33.900(b)(2) and 44.33.925 - 44.33.965 so that BIDCOs and the commission are not included.

9. Page 6, line 31: Once again the correct spanned reference is to AS 44.33-900(b)(2) and 44.33.925 - 44.33.965.

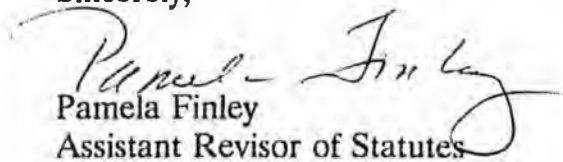
10. Page 7, line 22: The science and engineering advisory commission did not have the power to make regulations. To avoid a substantive change in powers, the spanned reference should be the same as set out in # 7 - 9 above, i.e., should not include the BIDCOs or the commission's duties. (This is also a subject of error memo 93-028.)

It is unfortunate that there is no easy mechanism for fixing this problem. Dave and I agree that the corrective amendments are too extensive and require too many policy choices for the revisor's bill. (Since a bill, unlike an E. O., can make substantive changes we would have to decide what to do with issues # 6 - 10 above.) If you decide to use my draft bill, we would be happy to provide you with a diskette. Also,

Ms. Deborah Behr
January 15, 1993
Page 3

please let me know if you have any questions about the enclosed draft or the issues noted above.

Sincerely,


Pamela Finley
Assistant Revisor of Statutes

PLF:pl
93-024.plm

Enclosure

cc: Senator Kelly, Chair
Senator Labor and Commerce Committee

Senators Frank and Pearce, Co-Chairs
Senator Finance Committee

Representative Vezey, Chair
House State Affairs Committee

Representative Hudson, Chair
House Labor and Commerce Committee

Representatives MacLean and Larson, Co-Chairs
House Finance Committee

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring duties and powers of the science and engineering advisory
 2 commission to the Alaska Science and Technology Foundation and transferring the
 3 Alaska Science and Technology Foundation from the Department of Revenue to
 4 the Department of Commerce and Economic Development; and providing for an
 5 effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 37.17.010(a) is amended to read:

8 (a) The Alaska Science and Technology Foundation is established as a public
 9 corporation in the Department of Commerce and Economic Development
 10 [REVENUE].

11 * **Sec. 2.** AS 37.17 is amended by adding new sections to read:

12 **ARTICLE 3. SCIENCE AND ENGINEERING RESEARCH AND EDUCATION.**

13 **Sec. 37.17.400. STATEMENT OF POLICY.** It is the policy of the state in

1 AS 37.17.400 - 37.17.420 to recognize the important role that scientific and
2 engineering research and science education play for the people of the state and the
3 entire nation. The policy will make it possible to

4 (1) find, develop, and manage the natural renewable and nonrenewable
5 resources of the state's land and water economically and in an environmentally
6 acceptable fashion;

7 (2) manage the unique features of the environment, fauna, and flora of
8 the state and protect them from harmful man-made and natural influences;

9 (3) investigate and mitigate the effects of natural hazards such as
10 earthquakes, volcanic eruptions, avalanches, permafrost, and other hazards that occur
11 in the state;

12 (4) construct, operate, and maintain transportation systems,
13 communications, housing, and other facilities suited to the state's conditions;

14 (5) develop new technologies adapted to the unique conditions and
15 needs of the state;

16 (6) improve the health and well-being throughout the life cycle of the
17 state's inhabitants; and

18 (7) identify and address future social and economic challenges facing
19 the state.

20 Sec. 37.17.410. PURPOSE. The purpose of AS 37.17.400 - 37.17.420 is to
21 establish state research policy, priorities, and goals and to provide a plan for basic and
22 applied scientific research for the state, including natural resources and materials,
23 physical, biological, and health sciences, and social and behavioral sciences.

24 Sec. 37.17.420. ADDITIONAL POWERS AND DUTIES OF THE
25 FOUNDATION. (a) In addition to its duties under AS 37.17.010 - 37.17.390, the
26 Alaska Science and Technology Foundation shall

27 (1) develop and recommend an integrated state research policy;

28 (2) provide policy information to the governor and the legislature on
29 matters that have scientific and engineering significance;

30 (3) receive scientific and engineering information from the academic
31 and industrial communities;

1 (4) act in an advocacy role for scientific and engineering issues and
2 science education important to the state that might otherwise be overlooked;

3 (5) assist state agencies in assessing research needs and establishing
4 priorities among them;

5 (6) facilitate cooperation between state agencies and the University of
6 Alaska and other academic institutions and industry;

7 (7) recommend methods to improve logistical planning and support for
8 scientific and engineering research conducted in the state by state, federal, or
9 international agencies, private industry, the general public, or private research
10 organizations;

11 (8) recommend methods for improving efficient acquisition, storage,
12 transfer, and dissemination of scientific and engineering data and information among
13 interested public and private institutions and the general public;

14 (9) promote science education and training for young scientists and
15 engineers to pursue careers in the state and the Arctic;

16 (10) cooperate with the federal Arctic Research Commission in the
17 formulation of the Arctic research policy; and

18 (11) not later than September 30 of each year, present to the governor
19 the foundation's recommended research priorities of the state under AS 37.17.400 -
20 37.17.420 for the next fiscal year.

21 (b) In addition to its powers under AS 37.17.010 - 37.17.390, the foundation
22 may

23 (1) receive money from private and government sources; and

24 (2) award contracts and grants to accomplish the purposes of
25 AS 37.17.400 - 37.17.420.

26 (c) Appropriations made for the purposes of AS 37.17.400 - 37.17.420 are not
27 one-year appropriations and do not lapse under AS 37.25.010.

28 * Sec. 3. AS 44.19.251, 44.19.255, 44.19.257, 44.19.259, 44.19.261, 44.19.263, 44.19.264,
29 and 44.19.265 are repealed.

30 * Sec. 4. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
31 pending under a law amended or repealed by this Order, or in connection with functions

1 transferred by this Order, continue in effect and may be continued and completed
2 notwithstanding a transfer or amendment or repeal provided for in this Order.

3 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
4 or repealed by this Executive Order, and in effect on July 1, 1993, remain in effect
5 notwithstanding this Order's taking effect. Records, equipment, appropriations, and other
6 property of agencies of the state whose functions are transferred under this Order shall be
7 transferred to implement the provisions of this Order.

8 * Sec. 5. This Act takes effect July 1, 1993.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

COPY

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 14, 1993

SUBJECT: Error in AS 37.17.020, 37.17.090, and 37.17.110
(93-028)

TO: Tom Cranfield
Senior Editor
The Michie Company

FROM: David R. Dierdorff
Revisor of Statutes

We have discovered the following error, which appears in the Alaska Statutes:

You failed to set out the three sections in the supplement to binder 7 with the changes dictated in our memo of August 11, 1992, although you did make the requested changes in the data base.

I don't know how you can fix this with an errata, but it needs to be fixed, as it has already created a problem in one of the governor's executive orders this year.

Please correct in AS by issuing an errata or the equivalent.

DRD:mi

cc: Division of Legal Services Staff

EO

89



U.S. Department
of Transportation
Federal Highway
Administration

Alaska Div

Post-It [®] brand fax transmittal memo 7871		# of pages
To	REP MULDER	From
Ca.		BOB RUBY
Dept.	LEGISLATURE	Ca.
Fax #	465-6790	Phone #
		536-7180

January 18, 1994

HWA-AK
PER 18

Rep. Eldon Mulder
State Capitol
Juneau, Alaska 99801-1182

Dear Rep. Mulder:

In accordance with our January 18 telephone conversation, I am providing you the following clarification of my August 18, 1993 letter to Commissioner Campbell concerning the Alaska Truck Size and Weight Enforcement Program.

Currently, the Alaska Program has been found adequate to avoid the loss of Federal-aid highway funds under Section 141 of 23 CFR. However, annual reviews by FHWA have identified several areas needing improvement including overweight tolerances, and the limited coverage by both the permanent weigh stations and the portable scales.

The purpose of the August 18 letter was to encourage improvement in these areas so that the program can continue to be certified as acceptable.

Sincerely yours,

Robert E. Ruby
Division Administrator

cc: Bruce Campbell, Commissioner
Alaska DOT&PF Juneau, Alaska

LETTER FROM THE U.S. FEDERAL
HIGHWAY ADMINISTRATION ON AK'S
VEHICLE SIZE & WGHT. ENFORCEMENT

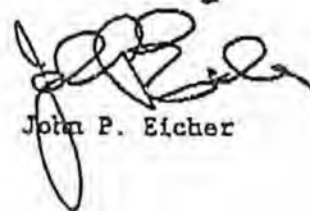
Executive Summary of a report which culminates a recent effort by Michigan to take a thorough look at its safety and weight enforcement activities. We believe many of the issues covered, including:

- improved data collection and reporting,
- cooperative multi-State enforcement efforts, and
- legislative initiatives concerning shipper responsibility for overloads and court responsibility for reporting disposition of citations

are universally important and should be considered by all States in the continuing efforts to maintain an effective weight enforcement program. If you, the divisions, or the States would like to learn more about the information presented in the Executive Summary, we will provide on request a copy of the full report.

Attachment 1 gives our specific comments for the States in your Region. Attachment 2 is a series of charts that compares enforcement measures for the Nation over the last 5 years. Attachment 3 is the Michigan summary.

If you have any questions about these or the State-Specific Comments, please contact Mr. Max Pieper at 202-366-4029.



John P. Eicher

3 Attachments

FHWA:HIA-20:TKLmek:sjr:8/3/93:62212
cc: HMT-RF, HIA-RF, HIA-20RF, HPS-RF
H:\HIA\TKLMEK\CERTS\92CERTS.R10

Attachment 1

STATE-SPECIFIC COMMENTS

Alaska

The State's certification is accepted with comment. Alaska increased the number of trucks weighed by 6 percent, while the number of citations issued declined by 2 percent.

The Division office is to be complimented on its evaluation of the State's vehicle size and weight enforcement program. It shows a thorough understanding of review guidelines and a desire to have an effective enforcement program in Alaska. We encourage the Division to continue to work with the State to develop specific measurable enforcement goals in the annual plan and then to evaluate the effectiveness of the State's enforcement efforts by comparing actual operations with planned enforcement.

The State certified compliance with Federal requirements, "with the possible exception of the granting of a weighing allowance for purposes of determining compliance with State weight regulations." Alaska apparently allowed a 2,500-pound tolerance until a few months ago, when the Department of Commerce and Economic Development (DCED) reduced it to 1,000 pounds by a Policy and Procedures memorandum (No. 420, effective April 15, 1993). Memo No. 420 states that "[v]ehicles more than 1,000 pounds in excess of their legal gross weight will be issued a Uniform Traffic Citation and the driver of the vehicle shall be required to offload the excess weight Drivers of vehicles that are over gross weight; but less than 1,000 pounds over gross weight, will be given an oral warning and allowed to proceed."

"If the gross weight of the vehicle is legal and the axle weight violation is under 2,000 pounds, the driver will be given an oral warning Vehicles that are over gross weight and more than 1,000 pounds overweight on an axle group will be cited for the most restrictive violation and directed to the nearest offloading facility."

Federal law [23 U.S.C. 127(a)] prohibits tolerances on the Interstate System. Alaska has no Interstate highways, so the prohibition does not apply. However, Federal law also requires States to certify annually that they are enforcing all State laws on the Federal-aid systems [23 U.S.C. 141(b)]. Does Alaska have a "law" that allows a weight tolerance? The issue is complex.

The Department of Transportation and Public Facilities (DTPF) is authorized to "establish limitations on weight, size, and load of vehicles . . ." [Alaska Stat. § 19.10.060 (1988)]. The DCED is directed to "operate motor vehicle weighing stations, issue special written permits authorizing the operation of overweight and oversize vehicles, establish fees for the overweight and oversize vehicle special permits, [and] enforce the size, weight, and load limitations adopted" by the DTPF [§ 44.33.020(25) (1992 Supp.)]. The DCED's authority to cite anyone who violates a weight limit is codified in the chapter on weights and measures [§ 45.75.131(a) (1992 Supp.)].

The director of weights and measures is required to "adopt regulations for the enforcement of this chapter . . . These have the effect of law" [§ 45.75.050(a) (1992 Supp.) (emphasis added)].

- (b) The regulations may include . . .
 - (5) in the implementation of AS 44.33.020(25), provisions governing the size, weight, and load limitations established under AS 19.10.060; the issuance of permits for overweight and oversize vehicles; and the operation of weigh stations.
 - (c) The regulations shall include specifications, tolerance, and regulations for weights and measures of the character of those specified in AS 45.75.080 designed to eliminate from use [inaccurate scales or other devices].
- [Alaska Stat. § 45.75.050(b), (c) (1992 Supp.) (emphasis added)]

This suggests that any scale tolerance adopted by the Director of Weights and Measures is State law. The DCED, therefore, would not violate Section 141(b) by granting truckers that tolerance. However, the "Offenses and penalties" section of the Weights and Measures Act implies that truckers are allowed no tolerance at all. It reads in part as follows:

- (a) A person commits a violation subject to the penalty specified in AS 12.55.035(b)(5) ["\$300 for a violation"] if the person does one or more of the following acts: . . .
 - (10) violates a provision of an overweight or oversize vehicle permit issued under AS 44.33.020(25); [or]
 - (11) violates a weight, load, or size limitation established under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.33.020(25), or AS 45.75.050(b)(5); . . .
 - (b) Notwithstanding the maximum fine for a violation provided under (a) of this section, a person who violates a regulation or special permit governing the weight limit of a motor vehicle shall pay a penalty of .05 for each pound of weight over the authorized weight limit for the vehicle.
- [Alaska Stat. § 45.75.380(a), (b) (1992 Supp.) (emphasis added)]

The State is asked to provide an Attorney General's opinion on the question whether a tolerance is allowed by § 45.75.050(c) or prohibited by § 45.75.380(b). If a tolerance is permissible, it appears to be limited to the amount allowed by the Director of Weights and Measures. The DCED has no obvious authority to create its own tolerances. In its program evaluation, the Division office found that enforcement personnel are allowing a 1,000-pound weighing tolerance. This practice is in accordance with DCED policy, but may violate State law. The State modified its certifying statement to indicate that this policy was contrary to Alaska statutes.

As stated earlier, this is an extremely complex issue. Obtaining the Attorney General's opinion referred to above is important to deciding what action is needed to resolve potential conflict over the State's ability to certify enforcement according to 23 U.S.C. 141(b).



U.S. Department
of Transportation
Federal Highway
Administration

Memorandum

Subject Vehicle Size and Weight Enforcement
Certifications for Fiscal Year (FY) 1992 Date AUG 20 1992

From Acting Associate Administrator for Motor Carriers
Washington, D.C. 20590 Reply to
Attn of HIA-20

To Mr. Clinton O. Magby
Regional Director, Office of Motor Carriers (HMC-10)
Portland, Oregon
THRU: Michael F. Trentacoste
Director, Office of Motor Carrier
Field Operations (HFO-1)

We have reviewed the FY 1992 certification packages for each State in your Region for adequacy of enforcement and consistency of State vehicle size and weight laws with Federal laws. Based on this review, we found that all States were adequately enforcing their vehicle size and weight laws as required by 23 U.S.C. 141(b).

In reviewing State laws for consistency with 23 U.S.C. 127 and the Surface Transportation Assistance Act of 1982 (STAA), the Office of Chief Counsel found no new conflicts with either law. However, one issue noted in last year's certification comments for Oregon--State law which prevents trucks from operating on the Interstate at maximum weights allowed by the bridge formula--remains open. We understand that steps are underway to resolve this issue, however, they need to be concluded as quickly as possible. If the issue remains unresolved, the FHWA intends to initiate sanction procedures to withhold the State's FY 1995 National Highway System apportionment effective October 1, 1994.

From a National perspective, we are again very pleased with the quality of program, plan, and certification reviews conducted by the Region and division offices during the year. Many of the Division Program Managers have shown real initiative in learning the regulatory requirements, getting acquainted with State personnel and problem areas, and completing their second certification review.

Each year as you review State plans and certifications, please look for innovative enforcement strategies and activities which can be shared with other States. We in Headquarters will pass your findings on to the other OMC field offices for sharing with the States. This year we are forwarding the



LETTER FROM THE U.S. FEDERAL
HIGHWAY ADMINISTRATION ON
VEHICLE SIZE & WEIGHT ENFORCEMENT

As indicated by the Division, the State's next certification can be improved by indicating the type of violation for all citations issued, and by identifying all changes to vehicle size and weight laws and regulations, including those related to permit fees and overweight fines. A copy of all changes needs to be included with the certification together with a brief discussion of how these changes will affect enforcement.

Idaho

The State's certification is accepted with comment. The number of trucks weighed in Idaho declined 5 percent, and the number of citations issued increased 2 percent. Idaho closed three weigh stations for short periods during the year for repairs, thus, accounting for the slight decline in the number of trucks weighed.

Several statutory issues have been resolved during the past year. Idaho Senate Bill No. 1065 brings Idaho's weight table into conformity with Section 127(a). The Idaho Transportation Department has also eliminated its 1,000-pound non-statutory tolerance. The State has extended the allowable length of a single motor vehicle, which includes buses, to 45 feet [Idaho Code § 49-1010(3)(a) (1993 Supp.)]. The State's administrative regulations have been amended to allow 75-foot saddle-mount combinations (IDAPA 39.C.06). The first two of these actions are especially important in that they correct problems noted last year that would have led to funding sanctions if not resolved.

All States are required to allow truck tractors and 48-foot semitrailer combinations and other Surface Transportation Assistance Act of 1984 (STAA) vehicles on the National Network (NN) and reasonable access routes. Idaho imposes "an overall combination length not to exceed 65 feet" on "[s]emitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions . . ." [§ 49-1010(3)(b)(1); IDAPA 39.C.07.5]. These highways are not on the NN, but may be access routes to or from the NN. Since a State may deny access to STAA vehicles on routes with unsafe curvature or deficient width [23 C.F.R. 658.19(1)(2)(ii)(A),(C)], it may also impose a lesser restriction, in this case an overall length limit of 65 feet. However, "heavy traffic conditions" do not justify denial of an access route. Drivers of automobiles often dislike sharing the road with large trucks, but Section 658.19 does not treat congestion as sufficient reason to deny an STAA vehicle reasonable access. The Division should investigate how the State is implementing the statute and regulation.

A new rule governing "extra-length vehicle combinations" prohibits the use of single tires on a single axle, except the steering axle (IDAPA 39.C.22). This appears to be an additional restriction on longer combination vehicles (LCVs) in operation on June 1, 1991. The State should be asked to provide a copy of the regulation so that it can be considered for inclusion in the FHWA's final LCV rule.

SENATE
 Introduced: 1/10/94
 Referred: L&C, TRA

HOUSE
 Introduced: 1/10/94
 Referred: TRA

EXECUTIVE ORDER NO. 89

1 Under the authority of art. III sec. 23, of the Alaska Constitution, and in accordance
 2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of
 4 efficient administration to move the enforcement of size, weight, and load standards for
 5 vehicles operating on the state highway system, and the authority to issue overweight and
 6 oversize permits for vehicles operating on the state highway system, from the Department of
 7 Commerce and Economic Development to the Department of Transportation and Public
 8 Facilities. Vehicular size, weight, and load standards are enforced, in part, through fixed
 9 weighing stations placed at strategic locations on the state highway system. Permits are
 10 issued to allow vehicles to carry loads on the state highway system that cannot be reduced
 11 to legal size and weight. Vehicular size, weight, and load standards are established by the
 12 Department of Transportation and Public Facilities. Overweight and oversize vehicle permits
 13 are issued by the Department of Commerce and Economic Development. Because the
 14 enforcement of these standards and the issuance of those permits directly impact the operation
 15 and maintenance of the state highway system, consolidating these two functions under the
 16 Department of Transportation and Public Facilities will improve the state highway system.

17 * **Sec. 2.** AS 19.05.020 is amended by adding a new subsection to read:

18 (b) In accordance with the Administrative Procedure Act (AS 44.62), the
 19 department specifically shall adopt regulations for the implementation and
 20 enforcement of AS 19.10.060(b). These have the effect of law. The regulations may
 21 include provisions governing the size, weight, and load limitations established under
 22 AS 19.10.060(a); the issuance of permits for overweight and oversize vehicles; and
 23 the operation of weighing stations.

1 * Sec. 3. AS 19.10.060 is amended by adding a new subsection to read:

2 (b) The department shall operate motor vehicle weighing stations, issue
3 special written permits authorizing the operation of overweight and oversize vehicles,
4 establish fees for the overweight and oversize vehicle special permits, enforce the size,
5 weight, and load limitations adopted by the department under (a) of this section, and
6 adopt regulations relating to pilot car services and the enforcement of the size, weight,
7 and load limitations adopted under (a) of this section.

8 * Sec. 4. AS 19.10 is amended by adding new sections to read:

9 Sec. 19.10.061 ISSUANCE OF CITATIONS. (a) A peace officer or an
10 employee of the department who is authorized by the commissioner to enforce the
11 size, weight, and load limitations adopted under AS 19.10.060 may issue a citation
12 to a person who violates

13 (1) a weight, size, or load limitation;

14 (2) the terms of an overweight or oversize vehicle permit issued under
15 AS 19.10.060(b); or

16 (3) a regulation adopted under AS 28.05.011(2) or under
17 AS 19.05.020(b) or AS 19.10.060(b).

18 (b) A citation issued under this section must be in writing. A person
19 receiving the citation is not required to sign a promise to appear in court.

20 (c) The time specified in the notice to appear on a citation issued under this
21 section must be at least 15 days after the issuance of the citation, unless the person
22 cited requests an earlier hearing.

23 (d) The commissioner of public safety is responsible for the issuance of books
24 containing appropriate citations and shall maintain a record of each book and each
25 citation contained in it. The commissioner of public safety shall require and retain
26 a receipt for every book issued to an employee of the Department of Transportation
27 and Public Facilities designated by the commissioner of transportation and public
28 facilities to provide investigative services to enforce provisions of this chapter.

29 (e) A peace officer or an employee who issues a citation under this section
30 shall deposit the original or a copy of the citation with a court having jurisdiction over
31 the alleged offense. Upon its deposit with the court, the citation may be disposed of

1 only by trial in the court or other official action taken by the magistrate, judge, or
2 prosecutor. The peace officer or employee who issued the citation may not dispose
3 of it or copies of it or of the record of its issuance except as required under this
4 subsection and (f) of this section.

5 (f) The commissioner of public safety shall require the return of a copy of
6 every citation issued under this section and of all copies of every citation that has
7 been spoiled or on which an entry has been made and not issued to an alleged
8 violator. The commissioner of public safety shall also maintain in connection with
9 every citation issued a record of the disposition of the charge by the court in which
10 the original or copy of the citation was deposited.

11 (g) If the form of citation issued under this section includes the essential facts
12 constituting the offense charged and is sworn to as required under the laws of this
13 state for a complaint charging commission of the offense alleged in the citation, the
14 citation when filed with a court having jurisdiction is considered to be a lawful
15 complaint for the purpose of prosecution.

16 (h) Unless the citation has been voided or otherwise dismissed by the
17 magistrate, judge, or prosecutor, or bail has been forfeited under AS 19.10.062, a
18 person who fails to appear in court to answer a citation issued under this section,
19 regardless of the disposition of the charge for which the citation was issued, is guilty
20 of a class B misdemeanor.

21 Sec. 19.10.062. BAIL FORFEITURE. (a) The supreme court shall specify
22 by rule or order those violations that are appropriate for disposition without court
23 appearance, and shall establish a schedule of bail amounts. The maximum bail
24 forfeiture amount for an offense may not exceed the maximum fine specified by law
25 for that offense. If the person who has been cited can dispose of the violation without
26 court appearance, the issuing peace officer or employee shall write on the citation the
27 amount of bail forfeiture applicable to the violation.

28 (b) A person cited for a violation for which a bail forfeiture amount has been
29 established under (a) of this section may, within 15 days after the date of the citation,
30 mail or personally deliver to the clerk of the court in which the citation is filed by the
31 employee

1 (1) the amount of bail indicated on the citation for that offense; and
2 (2) a copy of the citation indicating that the right to an appearance is
3 waived, a plea of no contest is entered, and the bail is forfeited.

4 (c) If the cited person has forfeited bail under (b) of this section, the court
5 shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for
6 the violation. The clerk of the court accepting the bail forfeiture shall provide the
7 offender with a receipt stating that fact.

8 (d) A cited person who fails to pay the bail forfeiture amount established
9 under (a) of this section or to appear in court as required is guilty of a class B
10 misdemeanor.

11 (e) Notwithstanding other provisions of law, if a person cited for a violation
12 for which a bail forfeiture amount has been established under (a) of this section
13 appears in court and is found guilty, the court may not impose a penalty that exceeds
14 the bail forfeiture amount for that offense established under (a) of this section.

15 Sec. 19.10.063. OFFENSES AND PENALTIES. (a) A person commits a
16 violation subject to the penalty specified in AS 12.55.035(b)(5) if the person does one
17 or more of the following acts:

18 (1) violates a provision of an overweight or oversize vehicle permit
19 issued under AS 19.10.060(b);

20 (2) violates a weight, load, or size limitation established under
21 AS 19.10.060 or a regulation adopted under AS 19.05.020 or AS 19.10.060(b).

22 (b) Notwithstanding the maximum fine for a violation provided under (a) of
23 this section, a person who violates a regulation or special permit governing the weight
24 limit of a motor vehicle shall pay a penalty of \$.05 for each pound of weight over the
25 authorized weight limit for the vehicle.

26 * Sec. 5. AS 44.33.020(25); AS 45.75.050(b)(5), 45.75.131, 45.75.133, and
27 45.75.380(a)(10), 45.75.380(a)(11), and 45.75.380(b) are repealed.

28 * Sec. 6. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
29 pending under a law amended or repealed by the Order, or in connection with functions
30 transferred by this Order, continue in effect and may be continued and completed
31 notwithstanding a transfer or amendment or repeal provided for in this Order.

1 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
2 or repealed by this Order, and in effect on March 11, 1994, remain in effect notwithstanding
3 this Order's taking effect. Records, equipment, appropriations, and other property of the
4 agency of the state whose functions are transferred under this Order shall be transferred to
5 implement the provisions of this Order.

6 (c) Regulations adopted by the Department of Commerce and Economic Development
7 under the authority of former AS 44.33.020(25) or former AS 45.75.050(b)(5) before
8 March 12, 1994, remain in effect until regulations are adopted under AS 19.05.020(b) or
9 AS 19.10.060(b) by the Department of Transportation and Public Facilities, and take effect.
10 The Department of Transportation and Public Facilities may enforce the regulations adopted
11 under former AS 44.33.020(25) or former AS 45.75.050(b)(5) until its own take effect.

12 * Sec. 7. This Order takes effect March 12, 1994.

DATED: 1-10-94


Walter J. Hickel
Governor

A.I.T.A., INC.

ALASKA INDEPENDENT TRUCKERS ASSOCIATION, INC.

200 W. 34th, Suite 863
Anchorage, Alaska 99503

Phone: 907-276-1934

Fax: 907-276-0194

January 18, 1994

Senator Georgiana Lincoln
Senate
State Capital
Juneau, Alaska 99801-1182

Dear Senator Lincoln:

Re: Weights and Measures move from Dept. of Commerce to Dept.
Transportation and Public Facilities.

As you have requested here is an overview of the move as seen from both the AITA and from key personnel in the Dept. of Commerce. This information was gleaned from interviews and written communications.

Considering the funds available to handle the job assigned, the Division of Measurement Standards has been a consistent and positive force throughout the trucking industry. Commissioner Campbell and this administration do not seem to recognize the achievements and accomplishments of the division.

The proposed transfer should be justified by facts from an independent professional who could determine the current enforcement practices administered by the DMS and, further, the study should collect information and proposals from the DOT&PF leadership regarding what DOT&PF would do that is more effective and cost saving to the state and the industry.

Commissioner Campbell has convinced the leadership of this administration, without documented facts, that the truck size and weight enforcement program should be transferred to DOT&PF by censoring Commissioner Fuhs and by basically blackmailing the trucking industry leadership to silence, pending the adoption of DOT&PF truck regulations. Many of these regulations are already in place and have been for years.

The transfer is not warranted or justified. It appears that Mr. Campbell's thirst and greed for power and ultimate control is so intense that he doesn't care if he destroys the integrity and credibility of officials and the organization, Commissioner Fuhs, and the staff and management of the Division of Measurements and Standards. This type of behavior seems out of place and totally inappropriate for open participatory government.

Any proposal of this type should be executed on its merits and substantiated by the facts, not half truths and inconclusive reports requested by DOT&PF officials that are misleading and often incorrect.

In my contacts with DOT&PF, in particular, Mr. Bruce Freitag, they seem excited by the prospect of the transfer but do not appear to have any real idea what to do with it. They continue to expound on the same items that have, at least in one case, been corrected.

Some benefits of not moving the program:

1. A 35 person program represents 67% of the Division of Measurement Standards and therefore receives significant management attention.
2. If placed in Engineering and Operations Standards Division of DOT&PF, 35 persons represents 25-35% of the total operation and will tend to get lost.
3. The program has been operating efficiently since 1982.
4. Both the truck size and weight enforcement program and the weights and measures program share managers and administrative personal.
5. There will be costs associated with the transfer. No one has identified these costs and DOT&PF is silent on the subject.
6. The program consists of well trained and well managed personnel.
7. The industry has expressed no dissatisfaction in the conduct of the program, in fact just the opposite. The only dissatisfaction has been in the underfunding of the program.
8. The FHWA has shown some concern for truck size and weight enforcement in Alaska but as indicated by the attached article, the concern is not only for Alaska but for many other states as well.
9. There has been no indication as to how DOT&PF will improve truck size and weight enforcement.

10. The present system provides checks and balances between state enforcement agencies.

11. Measurement Standards has promoted the ACTTAC forum to communicate and discuss mutual problems with industry and other governmental agencies involved in trucking issues. DOT&PF has withdrawn from the committee.

12. There are knowledgeable persons in Measurement Standards that have years of experience in truck enforcement and permit matters. DOT&PF has a lot of engineers with very little experience in trucking matters.

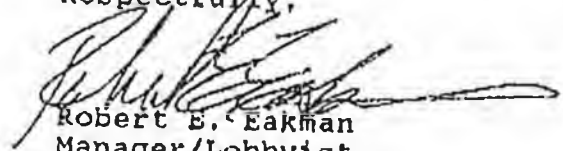
To finalize, there are of course, arguments to counter each of these points. The bottom line, however, is that there is no need to make such a transfer at this time and in the current economic environment. The personnel currently in place and the changes anticipated in the State Trooper Commercial Vehicle Enforcement section should alleviate most of the current problems.

It is our understanding that the Alaska Trucking Association has remained neutral on this subject. We at the Alaska Independent Truckers Association decidedly are not neutral. We can envision no benefit from such a move just at a time when trucking safety are issues of concern. Trucker safety, and ultimately public safety, is our primary concern and getting inspection stations and additional inspectors in place appear to us to be far more important than the inevitable chaos that would result in a movement of Weights and Measures just before the new construction season is to start.

As it is, we have at least one trooper inspector who states categorically that he for one will not be crawling around under any trucks. This is why we need more well trained inspectors. We have trucks currently hauling snow in the Anchorage area that have not been inspected for over a year. These trucks are operating for a municipal agency which should not even hire the units without inspections. Responsible truckers are trying to clean up their own industry but it takes joint effort to make inroads into unsafe practices. The system currently in place is working toward those goals. A move now will set the programs being proposed back a minimum of one year and possibly for a longer period.

I hope this information will be of help to you in our endeavor to have the move stopped. Should you have any questions concerning this information, please do not hesitate to call me.

Respectfully,



Robert E. Eakman
Manager/Lobbyist
A.I.T.A. Inc.

Enclosure



General Teamsters Local 959 State of Alaska

Affiliated with the International Brotherhood of Teamsters

ANCHORAGE, ALASKA 99510 P.O. BOX 102092 (907) 263-4122 FAX (907) 337-5668 JACK SLAMA (Secretary/Treasurer)

FAIRBANKS ALASKA 99707 P.O. Box 10609 (907) 452-2959 FAX (907) 452-5051
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January 6, 1994

Representative Eldon Mulder
Chair, House Transportation Subcommittee
Room 116
State Capitol
Juneau, AK 99801-1182

RE: Draft Executive Order-File #773-94-0012 that transfers the Commercial Vehicle Size and Weight Enforcement Program from the Division of Measurement Standards-Department of Commerce and Economic Development to the Department of Transportation

Dear Representative Mulder:

Recently I received a copy of the above-referenced Executive Order, whereby this Administration is proposing to transfer the enforcement of size, weight, and load standards for vehicles operating on the State highway system and the authority for the issuance of overweight and oversize vehicle permits from the Department of Commerce to the Department of Transportation. This transfer is not warranted.

Over the last several years, the Division of Measurement Standards (DMS) has been faced with significant restrictions on their financial resources. In spite of this, the Commercial Vehicle Size and Weight Enforcement Program has performed well. The achievements of the program should be commended by this Administration.

I believe that a check and balance system is needed in the transportation industry. This balance has been achieved by maintaining the Commercial Vehicle Size and Weight Enforcement Program within the Department of Commerce, the road construction in Department of Transportation and vehicle inspection in the Public Safety Department. Without this balance, we may end up with a department or agency with unrestricted power and control which, in this case, competes with the private sector industries on a subsidized basis. Our State of Alaska Railroad is a prime example of a state entity with complete autonomy operating completely in conflict with the private sector it's in competition with.

It is vitally important to the public, the industry and the State, that prior to a transfer of this program, that an independent analysis be conducted to review the pros and cons of such transfer, evaluate the fiscal note and the short and long term impact on the public and the

Representative Eldon Mulder
January 6, 1994
Page Two

industry. This information should then be submitted to the legislators for review and action. Any move of the program should be based on substantiated facts.


The DMS management and staff that has put into place the Truck Size and Weight Enforcement Program has been the glue that has consistently held the State's Commercial Vehicle Enforcement Program together. They have been responsible for computerizing the entire enforcement program, in bringing all the parties together for meaningful dialogue and initiating meetings with individual trucking firms to improve compliance. There has been that extra effort by this agency to foster a professional working relationship between the trucking industry, the state, and federal enforcement agencies. Any disruption of these programs would be extremely detrimental to the private sector industry.

I understand that the above-referenced Executive Order will be introduced to the Legislature at the beginning of the session. There are many unanswered questions, little facts, lots of innuendo, and no fiscal note attached to this transfer. There will be an impact on the public and the industry. To what degree, no one is certain. What is certain is that the current check and balance system could be eliminated.

Your assistance in maintaining the Commercial Vehicle Size and Weight Enforcement Program within the Department of Commerce is greatly appreciated.

Sincerely,

TEAMSTERS LOCAL 959


Jack Slama
Secretary-Treasurer



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

MEMORANDUM

TO: Representative Richard Foster, Chair
House Transportation Committee

FROM: Representative Eldon Mulder
Representative Gary Davis
Weights and Measures Subcommittee

SUBJ: Proposed Transfer of Weights and Measures from the Department of Commerce to the Department of Transportation

DATE: January 18, 1994

After reviewing Executive Order 89 (transferring highway Weights and Measures from the Department of Commerce to the Department of Transportation) and its stated justification, we fail to find sufficient justification for the transfer at this time.

In hearings held this fall by the Weights and Measures Subcommittee, we heard testimony that Weights and Measures (W & M) regulations were not being properly enforced. This problem, however, was primarily the short-coming of Public Safety (Alaska State Troopers). Subsequent meetings and corrective actions have largely resolved this problem. No criticism was directed towards the Department of Commerce during these hearings.

Our colleagues have been told that we stand to lose \$20 million in federal funds unless W & M is transferred to DOT. This is not true. Today we received a letter from Mr. Bob Rudy, Regional Director of the Federal Highway Administration, stating that our W & M program has been approved and we are not going to lose the \$20 million.

As you know, W & M operations are funded through general funds. The legislature has consistently under funded this budget and consequently, the scales are not open as many hours as most of us would like. However, this situation will not change if we transfer W & M to DOT--they will still require additional general fund dollars. Additional scale hours will only occur when the legislature appropriates more funds.

HOUSE TRANSPORTATION SUBCOMM.
ON WEIGHTS & MEASURES
RECOMMENDATIONS

In conclusion, we fail to find sufficient justification to warrant transferring W & M to DOT at this time. We oppose this transfer and encourage our colleagues to join us.



ASSOCIATED GENERAL CONTRACTORS of ALASKA

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 TELEPHONE (907) 561-5354 • FAX (907) 562-6118

27. Jan. 1994

To

State of Alaska
 Senate Committee on Labor and Commerce

FAX 465-3756

The honorable Tim Kelly, Chairman

Subject: Executive Order No. 89

Dear Committee members:

Please note our support for this Executive Order in the Committee records. We believe, based on observations of the past decades, that the weights- and measures functions pertaining to oversized and overweight vehicles would be best served if the Dept. of Transportation /PF administers them. These activities fulfill basically two demands: one, DoT/PF assures, that the integrity of the transportation system stays intact by controlling the loads, speeds and sizes of vehicles in relation to seasons, bearing capabilities of roadways and structures and safety considerations; and second: makes sure that no Federal participation is lost by forcing compliance with Federal laws and regulations. We have observed during the years that these functions were with DoT/PF, Dept. Commerce and Dept. of Public Safety, and it worked the best with DoT/PF simply because all the competence rests within, and the decision making process is direct and effective. The other departments did a good job within their budgets and authorization for specific functions,

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Page 2, AGC to Senat L & C Committce, 1/27/94

however, the process is cumbersome and restrictive and results in a rigid bureaucracy. For these reasons we request that the provisions of Executive Order No. 89 be upheld.

Sincerely,

Heinrich Springer
Heinrich Springer

Exec. Director

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1994

The Honorable Tim Kelly
Alaska State Legislature
State Capitol, Room 101
Juneau, AK 99801-1183

Dear Senator ^{Tim} Kelly:

The administration has prepared the attached information regarding Executive Order 89 (Transferring Highway Truck Scales) for your consideration. This material was compiled to provide accurate, concise information regarding the reasoning behind the submission of EO 89. I hope it will answer any questions you may have.

We appreciate your thoughtful evaluation of the merits of this proposal. Please do not hesitate to let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Raga".

Raga S. Elim
Legislative Liaison

Enclosure

**Information Regarding Executive Order 89
Transferring Highway Truck Scales
February 1994**

Summary Points

- * Presently weight and size enforcement is spread through three different departments--Commerce/Public Safety/DOT&PF. This causes confusion, duplication and does not get the job done efficiently.
- * DOT&PF is more sensitive to both the need and the consequences of nonenforcement of highway weight limits. DOT&PF is the department with the engineering expertise to perform the needed structural calculations to determine allowable overloads on bridges and other structures and is involved from time to time to determine permit conditions for overloads.
- * Private and public complaints for overweight trucks and trucks with unconfined loads invariably are directed to DOT&PF. DOT&PF must monitor and repair any damage caused by overweight trucks.
- * DOT&PF, because of its presence in areas where scales are located, has the manpower to provide 24 hour scale coverage at critical times.
- * DOT&PF has the legal responsibility and technically qualified personnel to manage the 12 weigh-in-motion (WIM) scale installations located in highway pavements around the state. Integrating these WIM installations with the fixed scales operation can occur easily and more efficiently if done by a single entity. This integration is part of the state's overall weight and size enforcement program and is scheduled to occur during the next two years. Lack of this integration was one item listed in the Federal Highway Administration's (FHWA) evaluation of the state's performance in June 1993. Presently WIM scale results are not utilized by enforcement personnel.
- * Data from WIM scales located in various locations around the state's highways shows that a substantially larger percentage of overweight trucks were on the state highways than recorded on the fixed scales.
- * In 1992-1993, during a nine month study period, the FHWA reported that 96,115 trucks were weighed and only 27 citations for overweight were issued (0.03%). Independent WIM scale results during this period indicated a percentage of overweight trucks probably in excess of ten percent. Overweight trucks apparently escape weighing of fixed scales.

* Many overweight permits were issued, some for long periods of time, i.e. one year. Allowing long term overweights by permit defeats the intent of the overweight enforcement program.

* DPS Troopers report that permits for overweight trucks are sometimes issued after a citation for an overload has been issued, thereby allowing truck operators to have the citation dismissed by the court.

* Alaska must comply with Section 141 of 23 CFR which requires Alaska to have a plan for weight and size enforcement on Federal Aid Highways (essentially all Alaska main roads).

The penalty for not complying is the loss of ten percent of our Federal-Aid funding (about \$20,000,000 per year).

* Title 23 USC also requires the plan to be approved by the Federal Highway Administration and of the FHWA to perform a compliance review yearly.

* The FHWA compliance review in 1993 found several areas of enforcement needed improvement.

* The FHWA report further noted no improvement of the previous years listed deficiencies.

* The FHWA has requested DOT&PF to become more involved and warned that the loss of ten percent of Alaska's Federal-Aid Highway monies was at risk (see August 18, 1993 and January 19, 1994 letters).

* The Alaska Trucking Association has no preference as to who operates the scales as long as it is done fairly (see letter dated January 11, 1994).

* The proposed Executive Order 89 will go a long way to allow the state to achieve better control of vehicle size and weight enforcement and places the enforcement with the agency that must suffer the result of nonenforcement.

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| 3) | 07/07/93 | DOT&PF Memo | Enforcement Program |
| 4) | 08/03/93 | DOT&PF Memo | Weigh-In-Motion (WIM) Scale Reports |
| | 08/03/93 | " " | WIM Scale Reports |
| | 09/17/93 | " " | WIM Scale Reports |
| | 10/10/93 | " " | WIM Scale Reports |
| 5) | 08/18/93 | FHWA Letter | Request for DOT&PF to become more involved in weight program |
| 6) | 08/25/93 | DPS Memo | Response to DOT&PF 7/7/93 Memo |
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8-GH2012,A

EXECUTIVE ORDER NO. 89

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * Section 1. FINDINGS. As governor, I find that it would be in the best interests of
4 efficient administration to move the enforcement of size, weight, and load standards for
5 vehicles operating on the state highway system, and the authority to issue overweight and
6 oversize permits for vehicles operating on the state highway system, from the Department of
7 Commerce and Economic Development to the Department of Transportation and Public
8 Facilities. Vehicular size, weight, and load standards are enforced, in part, through fixed
9 weighing stations placed at strategic locations on the state highway system. Permits are
10 issued to allow vehicles to carry loads on the state highway system that cannot be reduced
11 to legal size and weight. Vehicular size, weight, and load standards are established by the
12 Department of Transportation and Public Facilities. Overweight and oversize vehicle permits
13 are issued by the Department of Commerce and Economic Development. Because the
14 enforcement of these standards and the issuance of those permits directly impact the operation
15 and maintenance of the state highway system, consolidating these two functions under the
16 Department of Transportation and Public Facilities will improve the state highway system.

17 * Sec. 2. AS 19.05.020 is amended by adding a new subsection to read:

18 (b) In accordance with the Administrative Procedure Act (AS 44.62), the
19 department specifically shall adopt regulations for the implementation and
20 enforcement of AS 19.10.060(b). These have the effect of law. The regulations may
21 include provisions governing the size, weight, and load limitations established under
22 AS 19.10.060(a); the issuance of permits for overweight and oversize vehicles; and
23 the operation of weighing stations.

1 * Sec. 3. AS 19.10.060 is amended by adding a new subsection to read:

2 (b) The department shall operate motor vehicle weighing stations, issue
3 special written permits authorizing the operation of overweight and oversize vehicles,
4 establish fees for the overweight and oversize vehicle special permits, enforce the size,
5 weight, and load limitations adopted by the department under (a) of this section, and
6 adopt regulations relating to pilot car services and the enforcement of the size, weight,
7 and load limitations adopted under (a) of this section.

8 * Sec. 4. AS 19.10 is amended by adding new sections to read:

9 Sec. 19.10.061 ISSUANCE OF CITATIONS. (a) A peace officer or an
10 employee of the department who is authorized by the commissioner to enforce the
11 size, weight, and load limitations adopted under AS 19.10.060 may issue a citation
12 to a person who violates

13 (1) a weight, size, or load limitation;

14 (2) the terms of an overweight or oversize vehicle permit issued under
15 AS 19.10.060(b); or

16 (3) a regulation adopted under AS 28.05.011(2) or under
17 AS 19.05.020(b) or AS 19.10.060(b).

18 (b) A citation issued under this section must be in writing. A person
19 receiving the citation is not required to sign a promise to appear in court.

20 (c) The time specified in the notice to appear on a citation issued under this
21 section must be at least 15 days after the issuance of the citation, unless the person
22 cited requests an earlier hearing.

23 (d) The commissioner of public safety is responsible for the issuance of books
24 containing appropriate citations and shall maintain a record of each book and each
25 citation contained in it. The commissioner of public safety shall require and retain
26 a receipt for every book issued to an employee of the Department of Transportation
27 and Public Facilities designated by the commissioner of transportation and public
28 facilities to provide investigative services to enforce provisions of this chapter.

29 (e) A peace officer or an employee who issues a citation under this section
30 shall deposit the original or a copy of the citation with a court having jurisdiction over
31 the alleged offense. Upon its deposit with the court, the citation may be disposed of

- 1 only by trial in the court or other official action taken by the magistrate, judge, or
2 prosecutor. The peace officer or employee who issued the citation may not dispose
3 of it or copies of it or of the record of its issuance except as required under this
4 subsection and (f) of this section.
- 5 (f) The commissioner of public safety shall require the return of a copy of
6 every citation issued under this section and of all copies of every citation that has
7 been spoiled or on which an entry has been made and not issued to an alleged
8 violator. The commissioner of public safety shall also maintain in connection with
9 every citation issued a record of the disposition of the charge by the court in which
10 the original or copy of the citation was deposited.
- 11 (g) If the form of citation issued under this section includes the essential facts
12 constituting the offense charged and is sworn to as required under the laws of this
13 state for a complaint charging commission of the offense alleged in the citation, the
14 citation when filed with a court having jurisdiction is considered to be a lawful
15 complaint for the purpose of prosecution.
- 16 (h) Unless the citation has been voided or otherwise dismissed by the
17 magistrate, judge, or prosecutor, or bail has been forfeited under AS 19.10.062, a
18 person who fails to appear in court to answer a citation issued under this section,
19 regardless of the disposition of the charge for which the citation was issued, is guilty
20 of a class B misdemeanor.
- 21 Sec. 19.10.062. BAIL FORFEITURE. (a) The supreme court shall specify
22 by rule or order those violations that are appropriate for disposition without court
23 appearance, and shall establish a schedule of bail amounts. The maximum bail
24 forfeiture amount for an offense may not exceed the maximum fine specified by law
25 for that offense. If the person who has been cited can dispose of the violation without
26 court appearance, the issuing peace officer or employee shall write on the citation the
27 amount of bail forfeiture applicable to the violation.
- 28 (b) A person cited for a violation for which a bail forfeiture amount has been
29 established under (a) of this section may, within 15 days after the date of the citation,
30 mail or personally deliver to the clerk of the court in which the citation is filed by the
31 employee

1 (1) the amount of bail indicated on the citation for that offense; and
2 (2) a copy of the citation indicating that the right to an appearance is
3 waived, a plea of no contest is entered, and the bail is forfeited.

4 (c) If the cited person has forfeited bail under (b) of this section, the court
5 shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for
6 the violation. The clerk of the court accepting the bail forfeiture shall provide the
7 offender with a receipt stating that fact.

8 (d) A cited person who fails to pay the bail forfeiture amount established
9 under (a) of this section or to appear in court as required is guilty of a class B
10 misdemeanor.

11 (e) Notwithstanding other provisions of law, if a person cited for a violation
12 for which a bail forfeiture amount has been established under (a) of this section
13 appears in court and is found guilty, the court may not impose a penalty that exceeds
14 the bail forfeiture amount for that offense established under (a) of this section.

15 Sec. 19.10.063. OFFENSES AND PENALTIES. (a) A person commits a
16 violation subject to the penalty specified in AS 12.55.035(b)(5) if the person does one
17 or more of the following acts:

18 (1) violates a provision of an overweight or oversize vehicle permit
19 issued under AS 19.10.060(b);

20 (2) violates a weight, load, or size limitation established under
21 AS 19.10.060 or a regulation adopted under AS 19.05.020 or AS 19.10.060(b).

22 (b) Notwithstanding the maximum fine for a violation provided under (a) of
23 this section, a person who violates a regulation or special permit governing the weight
24 limit of a motor vehicle shall pay a penalty of \$.05 for each pound of weight over the
25 authorized weight limit for the vehicle.

26 * Sec. 5. AS 44.33.020(25); AS 45.75.050(b)(5), 45.75.131, 45.75.133, and
27 45.75.380(a)(10), 45.75.380(a)(11), and 45.75.380(b) are repealed.

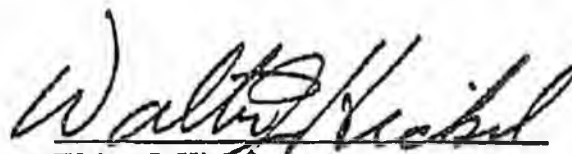
28 * Sec. 6. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
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30 transferred by this Order, continue in effect and may be continued and completed
31 notwithstanding a transfer or amendment or repeal provided for in this Order.

1 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
2 or repealed by this Order, and in effect on March 11, 1994, remain in effect notwithstanding
3 this Order's taking effect. Records, equipment, appropriations, and other property of the
4 agency of the state whose functions are transferred under this Order shall be transferred to
5 implement the provisions of this Order.

6 (c) Regulations adopted by the Department of Commerce and Economic Development
7 under the authority of former AS 44.33.020(25) or former AS 45.75.050(b)(5) before
8 March 12, 1994, remain in effect until regulations are adopted under AS 19.05.020(b) or
9 AS 19.10.060(b) by the Department of Transportation and Public Facilities, and take effect.
10 The Department of Transportation and Public Facilities may enforce the regulations adopted
11 under former AS 44.33.020(25) or former AS 45.75.050(b)(5) until its own take effect.

12 * Sec. 7. This Order takes effect March 12, 1994.

DATED: 1-10-94


Walter J. Hickel
Governor



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
Office of Motor Carrier Safety

Federal Building, U.S. Courthouse, Room 201
222 West 7th Avenue, #7
Anchorage, Alaska 99513-7530
(907) 271-4068

June 15, 1993

IN REPLY REFER TO

RECEIVED

JUN 17 1993

DOT&PF
DEPUTY COMMISSIONER

Mr. Paul Fuhs
Commissioner
Department of Commerce and Economic
Development
P.O. Box D
Juneau, AK 99811

Ref: 1993 Truck Size and Weight
Enforcement Program,
Evaluation Review

Dear Mr. Fuhs:

Annually, the Federal Highway Administration, Office of Motor Carriers, is required to review the Size and Weight Enforcement Plan activities in each state. Enclosed is a copy of the 1993 Evaluation Report for Alaska for your review and comments.

SUMMARY OF RECOMMENDATIONS:

1. The Division of Measurement Standards, as the Lead Agency, must take a more proactive approach when dealing with all political subdivisions participating in the State Enforcement Plan to assure that all measurable objectives are being accomplished by the political subdivisions.
2. The Division of Measurement Standards, as the Lead Agency, must develop a reporting criteria for the political subdivisions and a monitoring schedule to follow to assure that the goals and objectives of the State Enforcement Plan will be achieved.
3. The Division of Measurement Standards, as the Lead Agency, must assure that all of the State Laws and Regulations relative to weight enforcement are enforced and any administrative tolerance that departs from the law be eliminated.
4. The Division of Measurement Standards, as the Lead Agency should incorporate Weigh-In-Motion data into the State Enforcement Plan to analyze traffic flow in and around the port area and to monitor the motor carrier activity between the fixed platform facilities.

Mr. Paul Fuhs, Commissioner

June 15, 1993

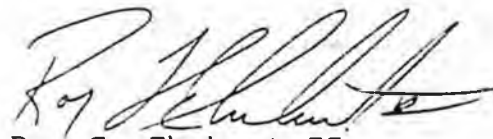
5. The Division of Measurement Standards, as the Lead Agency, is encouraged to continue with its efforts to enhance its budget that will result in a stronger presence at the roadside to enforce the State size and weight laws and regulations.

While the State of Alaska has taken some aggressive steps to enhance its size and weight enforcement during this program year there must be a more proactive approach taken by the Division of Measurement Standards to assure program goals and objectives are met by the participating political subdivisions. Further, the same basic recommendations were made during last years program evaluation.

The Department of Commerce and Economic Development must assure that the infrastructure of the State's highways are protected to achieve their maximum usefulness and still guarantee that goods and services move in an efficient manner that will result in the minimum deterioration to the highway systems.

If you have any questions please do not hesitate to contact me at 271-4068.

Sincerely;



Roy S. Ehrhart II
Officer-In-Charge

cc: Mr. Clinton O. Magby II, R/D
HMC-010.3
Portland, OR

Mr. Richard Burton
Commissioner
Department of Public Safety
P.O. Box N
Juneau, AK 99811

Mr. Paul Fuhs, Commissioner

June 15, 1993

✓ Mr. Bruce Campbell
Commissioner
Alaska Department of
Transportation & Public
Facilities
3132 Channel Drive
Juneau, AK 99801-7898

Mr. Ed Moses
Director
Division of Measurement
Standards
12050 Industrial Way
Anchorage, AK 99511

Col. John Murphy
Director
Alaska State Troopers
5700 E. Tudor Road
Anchorage, AK 99507

Mr. Ray Shumway, Director
Engineering Standards &
Operations Division
3132 Channel Drive
Juneau, AK 99801-7898

Enclosure:

1993 Annual Evaluation
of
Alaska's Size and Weight Enforcement Program

Review of Scope:

Title 23 Code of Federal Regulations (CFR), Section 657.11, requires an annual evaluation of Alaska's operation under their Size and Weight Enforcement Plan.

This review was held on May 20, 1993 with the Department of Commerce and Economic Development, Division of Measurement Standards, at their Anchorage office. The review was conducted by Roy S. Ehrhart II, Officer-In-Charge. Participants in the review included: Ed Moses, Director, Aves Thompson, Chief Section of Permits and Weigh Stations, Dave Howard, Weigh Station Operator III, Dough Panilo, Administrative Assistant.

On May 25, 1993, a telephone interview was held with the Department of Transportation and Public Facilities conducted with Dough Terheune, Highway Data Supervisor, at their Anchorage office to review the Department's usage of Weigh-In-Motion (WIM) devices and data development during the program year of FY-93.

Finally, on June 11, 1993, a review discussion was held at the Department of Public Safety, Division of Alaska State Troopers, in their Anchorage office relating to their deployment and usage of portable scales during the FY-93 program year. Participating in the review was: Sgt. Brad Brown, Division Staff.

Observation and Recommendations:

On December 1990, Governor Walter J. Hickle appointed Mr. Ed Moses, the Director of the Division of Measurement Standards, Department of Commerce and Economic Development, as his designee for truck size and weigh enforcement in Alaska (See Attachment A).

Through Mr. Moses, the Division of Measurement Standards has been delegated the responsibility of Lead Agency relative to size and weigh enforcement and operate the fixed platform scales located throughout Alaska (23 CFR 657.9(b)(2)).

The following political subdivisions also actively participate in the State size and weight enforcement plan:

- 1) Department of Public Safety
Division of Alaska State Troopers
Portable Scales (23 CFR 657.(b)(2))

2) Department of Transportation
and Public Facilities
Weigh-In-Motion Devices (WIM) (23 CFR 657.9(b)(2))

A discussion of the recommendations contained in the "1992 Enforcement Plan" program review was conducted with the Lead Agency. The comments relative to each recommendation are as follows:

Recommendation 1 - The Division of Measurement Standards should, as the Lead Agency, assure that all political subdivisions participating in the State Enforcement Plan develop measurable objectives that are incorporated into the State plan.

Comment - Under the Short Term Goals established in the FY-93 State Enforcement Plan, page 19, the Lead Agency has established a goal of 1,000 trucks to weighed by portable scales. These weighings are to be performed by the Alaska State Troopers according to the State Enforcement Plan, page 10. Todate only 34 vehicles have been weighed through the use of portable scales. (The annual evaluations for FY-91 and FY-92 both indicated a need to strengthen the portable weigh scale enforcement program with the Alaska State Troopers. This has not improved under the present FY-93 State Enforcement Plan.)

Under the Long Term Goals established in the FY-93 State Enforcement Plan, page 22, the Lead Agency has established an objective to incorporate the use of Weigh in Motion facilities after October 1, 1996. According to the Lead Agency and the Department of Transportation and Public Facilities this program is ahead of schedule and reliable data from some of the present facilities should be available to the Lead Agency by August or September 1993.

Recommendation 2 - The Division of Measurement Standards should, as the Lead Agency, develop a reporting criteria for the political subdivisions to follow to assure that the

goals and objectives of the State Enforcement Plan will be achieved.

Comment - A reporting criteria for political subdivision has not been developed or implemented so that the Lead Agency can assure that the goals and objectives of the State Enforcement Plan will be achieved.

Recommendation 3 - The State Enforcement Plan should be developed utilizing the Appendix to Title 23, Code of Federal Regulations, Part 657, as a guideline not only for the topics to be covered, but also for content to the plan.

Comment - On December 15, 1992, a completed negotiation document for Alaska's FY-93 Size and Weight Enforcement Plan was received and incorporated into the State Enforcement Plan that addressed noted discrepancies from the Appendix to Title 23, Code of Federal Regulations, Part 657. These resolutions were subject to the same conditions for compliance with Title 49 Code of Federal Regulations Section 657.9 and were subject to all the provisions specified in Sections 104 and 123 of the Surface Transportation Assistance Act.

Recommendation 4 - The Division of Measurement Standards, as the Lead Agency, must assure that all of the State Laws relative to weight enforcement and application are being enforced and any administrative tolerances that depart from the law must be eliminated.

Comment - An effort to address this discrepancy was not made effective until April 15, 1993, when Policy and Procedure No. 420 was amended to reduce the 2,500 pound weight tolerance to a 1,000 pound weight tolerance. At this same time employees were instructed that vehicles would be weighed in the "as found" condition and vehicles more than 1,000 pounds in excess of their legal gross weight or legal axle weight will be issued a Uniform Traffic

Citation and the driver of the vehicle shall be required to off load the excess weight or shift the axle weight. Drivers of vehicles that are overweight, but less than 1,000 pounds overweight of their gross weight, will be given an oral warning and allowed to proceed.

There is still no indication where in State law or regulation such a 1,000 pound tolerance is authorized and therefore should be eliminated unless authorized under Alaska State law or regulation.

The following questions were presented and responded to by either Aves Thompson, Chief Section of Permits and Weigh Stations; or Sgt. Brad Brown, Division of Alaska State Troopers, or Dough Terheune, Department of Transportation and Public Facilities as appropriate:

1 - Q - What measures does the State plan to use in determining the effectiveness of the enforcement program?

A - Data generated from the utilization of WIM devices located in the interior, south central and Kenai Peninsula are to be evaluated along with the enforcement action of the Alaska State Troopers. The State Enforcement Plan for FY-93 indicates (on Page 26) that the effectiveness of it's program will be monitored on a monthly basis through the monthly reporting of activities by the reporting agencies. These reports are to be reviewed by the Lead Agency to determine that each agency is meeting its objectives.

There has been no reporting schedule established between the Lead Agency and the Alaska State Troopers whereby the effectiveness of the program can be evaluated. Further, there is no established communications between the agencies that identifies: a) if program objectives are been achieved; b) noted deficiencies; and c) corrective action requested as required in the State Enforcement Plan.

2 - Q - Are the State's size and weight laws adequate in deterring illegally overweight operations?

A - Yes; With adequate enforcement action by State personnel. This includes the participation of the Alaska State Troopers and the Department of Transportation and Public Facilities.

Due to a budget short fall, the Division of Measurement Standards has had to adjust some shift schedules as a result of the non-availability of seasonal employment personnel.

3 - Q - Does the State have adequate finances, personnel, and equipment to conduct an effective enforcement program?

A - No; All seasonal positions have been discontinued due to the budget short fall for the project year.

To help overcome some of these cutbacks management has had to adjust other work schedules to cover the peak traffic conditions when possible. The fixed facilities are open only about 39% of the time when traffic is on the highways.

The Lead Agency has initiated an Outreach Program whereby contact has been made with State and Local law enforcement personnel in the interior, south central, and Kenai Peninsula to review the implementation of an agreement between the enforcement personnel and the Lead Agency where these agencies will be utilizing some of their local resources to augment the States Enforcement Plan.

4 - Q - Is the State's organizational structure satisfactory for communicating, coordinating, and executing an effective enforcement program?

A - Yes; The Division of Measurement Standards has in place the necessary structure to have an effective enforcement program based upon the State Enforcement Plan for FY-93 along with State Statutes and the Alaska Administrative Code.

5 - Q - Do the State's vehicle size and weight law conform to Federal law?

A - Yes; Keeping in mind that there are no interstate highways in Alaska and the Federal overweight and over length regulations have limited application to Alaska. (See 49 CFR 658, Appendix A, National Network)

The Division of Measurement Standards has adopted a policy (Policy and Procedures No. 420) effective April 15, 1993, where vehicles are to weighed in an "as found" condition and vehicles more than 1,000 pounds in excess of their legal gross or axle weight will be issued a citation. Those vehicles 1,000 pounds or less will be issued an oral warning and allowed to proceed.

6 - Q - Does the State know when, where, and which carriers are operating illegally?

A - Yes; Due to the fact a large percentage of the traffic into Alaska involves intermodal type equipment (i.e. ocean and rail) it is believed that the inter-city traffic has the highest percentage of possible violators since these vehicles never cross any of the fixed facilities and the Alaska State Troopers have not initiated an effective portable weighing enforcement effort.

The operation of the Permits Office is monitored to see what big jobs are scheduled based upon incoming telephone inquires relative to size and weight questions.

7 - Q - Can the State identify repeat offenders?

A - Yes; The computer data base system at the Division of Measurement Standards Headquarters can be queried for such information. Alaska State Law does not recognize any difference between first and second time offenses. Subsequently, repeat offenders do not receive any additional penalties.

8 - Q - Which enforcement strategies are working well and which need to be improved?

A - Working Well:

A) The static (fixed platform) scales operation coincides with traffic movement and are adjustable to meet changing needs. This maximizes the utilization of resources at the four major size and weight locations (Anchorage and Fairbanks).

B) The Division of Measurement Standards maintains a well trained support staff and has developed an Outreach Program intended to incorporate additional participation by other law enforcement agencies (State and Local) to implement size and weight enforcement activities.

C) The promotion of uniform data gathering and utilization of information obtained through upgraded technology.

D) The reduced weight tolerance for overweight vehicles from 2,500 pounds to 1,000 pounds.

- E) Expanded utilization of computer and FAX to issue permits.

Needs Improvement:

- A) Incorporation of WIM data into State Enforcement Plan to analyze traffic flows and to monitor the motor carrier activity between the fixed platform scales.
- B) As the Lead Agency the Division of Measurement Standards must assure that: a) all political subdivisions that participate in the State Enforcement Plan are effectively participating, and b) that a reporting system be established that will allow the Lead Agency to monitor the measurable goals and objectives that have been incorporated in the State Enforcement Plan.
- C) It has been reported that the fixed platform scales are in operation only 39% of the time. Therefore, the Lead Agency is encouraged to continue with its efforts to enhance its budget that will result in a stronger presence at the roadside to enforce the States size and weight laws and regulations.

9 - Q - What are the successes and failures in meeting current year goals and the reason why?

A - Static Scales:

Projected Weighings = 141,000
Actually Weighed = 96,515 (through 3-93)
(81,440 through 3-92)

The projected activity for the static scales was based upon an anticipated 13.6% growth in the transportation industry. Through the third quarter the actual weighing conducted at the static scales are within the projected activities contained in the State Enforcement Plan for FY-93.

Portable Scales:

Projected Weighings = 1,000
Actually Weighed = 34 (through 6-93)
(84 through 12-92)

The projected activity for the portable scales was based upon an enhanced participation by the Alaska State Troopers in the State Enforcement Plan. A concerted

effort must be asserted by the Lead Agency to assure that the planned program activities are achieved and reported on a timely basis.

Overweight Violations by Type:

	<u>Projected</u>	<u>Actual</u> (through 3-93)
Gross Weight Citations =	86	12
Axle Load Citations =	329	14
Tire Load Citations =	8	1

On April 15, 1993, the Division of Measurement Standards amended its Policy and Procedure No. 420 that resulted in: a) the reducing the weight tolerance from 2,500 pounds to 1,000 pounds, and b) implementing the issuance of citations for "As Found" weighing of vehicles. It is anticipated that the issuance of citations for overweight violations will be increased during the fourth quarter as a result of the reduced tolerance and "As Found" policy.

The Lead Agency has enhanced its communication with the Department of Transportation and Public Facilities and other State and Local law enforcement agencies to verify size and weight application and compliance for State equipment operating on the State highways and byways.

Further, the data collected by the Department of Transportation and Public Facilities WIM devices is available for evaluation and comparison with weight station data to develop trends and patters.

The development of an Ad Hoc committee (the Alaska Commercial Truck Transport Advisory Committee, ACTTAC) has been accomplished. This committee is comprised of: a) government officials from the Alaska Department of Transportation and Public Facilities, the Alaska Department of Commerce and Economic Development, and the Federal Highway Administration. and b) industry represented by the Alaska Trucking Association. This committee meets on a monthly basis to review size and weight issues and has developed a mutual cooperation between Federal, State and Industry representatives.

Training Activities:

Through outreach activities, performed by the Lead Agency, size and weight issues that impact the outlying areas of the State have begun to manifest a heightened interest in enforcement of size and weight requirements

by State and Local enforcement personnel as their awareness is enhanced relative to the importance of the States Enforcement Plan.

10 - Q - Has the State been able to address FHWA comments on last years enforcement plan and certification?

A - Enforcement Plan:

In the Size & Weight Negotiation Document issued on December 14, 1992, the Lead Agency addressed all of the recommendation items identified by the Federal Highway Administration by issuing specific resolutions that have been incorporated into the State Enforcement Plan for FY-93.

Certification:

The States certification as been filed, reviewed and forwarded to FHWA Headquarters for acceptance. Final action is still pending.

11 - Q - What is the quality of the State's enforcement program off the Interstate System? Does it know the extent and location of the overweight problem?

A - Off Interstate System:

All highways in Alaska are non-interstate and State laws are to be applied.

The Intermodal Surface Transportation and Efficiency Act of 1991, Sec. 4006, contains specific vehicle length limitations that are applicable to the National System of Interstate and Defense Highways and those classes of qualifying Federal-Aid Primary System Highways (see 49 CFR 658.5(f) and Appendix A, National Network) that are anticipated to have an impact on the Alaska highway system.

Overweight Problems:

- 1) Local movement of construction materials;
- 2) Movement on the Dalton Highway beyond 28 mile;
- 3) Traffic moving 5 miles north of Fairbanks at "Hilltop"; and
- 4) Fairbanks is an inland Port for containers and trailers that move from Anchorage via the Alaska Rail Road.

12 - Q - What is the State's WIM equipment implementation strategy? What WIM related goals has the State included in its enforcement plan?

A - WIM Strategy:

Five of six locations are operational. The State is utilizing two types of WIM devices, 1) Bending Plate (high cost) and 2) Piezoelectric (temperature sensitive).

The following construction projects scheduled for completion this year have WIM devices incorporated into their design:

- 1) Just north of Dimond Blvd. located on the New Seward Highway;
- 2) On the Glenn Highway at Mile 53; and
- 3) On the Sterling Highway 6 miles north of Soldotna, AK.

Devices are to be incorporated into the following highway systems during the next construction season:

- 1) Placer River below Portage, AK;
- 2) Moose Pass near Seward, AK;
- 3) Alaska Railroad Hotel Bridge - as a possible Port monitoring site;

Note: The "A" Street Bridge project has been modified to eliminate the proposed WIM device. Subsequently an estimated 85% of the port traffic will not be included in this monitoring activity.

- 4) Wasilla Highway near Wasilla, AK.

Future projects scheduled for the following locations are proposed to contain WIM devices:

- 1) Minnesota Drive north of Raspberry;
- 2) Kodiak between Kodiak and the Coast Guard Station;
- 3) Homer Spit at Homer, AK;

- 4) Kenai Spur Road at Mile 7 between Kenai and Soldotna, AK; and
- 5) Relocation and redesign of the fixed platform scale locations to be located at the Inbound and Outbound Glenn Highway in Anchorage; and

Once these devices are in place the State Enforcement Plan could be enhanced by incorporating their utilization with law enforcement personnel equipped with a lap top computers who would be able to monitor traffic flow and identify weight as well as speed violations.

WIM Goals:

According to the State's Enforcement Plan for FY-93 (Page 22) the State has planed as a long term goal (after October 1996) the incorporation of WIM facilities at various locations around the State.

Based upon the improved accuracy of the data gathering ability of these devices and enhanced implementation schedule of getting the devices in place the Lead Agency must reevaluate the utilization of this data for size and weight enforcement activities.

According to the Department of Transportation and Public Facilities data presently being generated is still not accurate enough for enforcement of size and weight laws. They are working with the contractor, International Road Dynamics, to improve the accuracy and it is anticipated that by August or September, 1993, this problem will be corrected except for times of extreme cold. The contractor is still working with the extreme cold factor and once adequate data has been developed the devices will be collaborated for this factor and the devices will be ready for year round service.

- 13 - Q - Has the State considered a "relevant evidence" type enforcement strategy?
- A - This is a topic that is to be presented to the Ad Hoc committee (ACTTAC) for future discussion and proposed application as an enforcement tool. At the present time State Statutes and Regulations do not authorize the application of such an enforcement strategy.
- 14 - Q - Does the State anticipate any changes to its vehicle size and weight laws and/or regulations?

- A - Yes; 1) Truck-Tractor combination length provisions are under review to increase the length from 70' to 75' to eliminate any difference between Truck-Trailer and Truck-Tractor-Semi-Trailer combinations.
- 2) Increased load allocations on tandem axles as the spread is reduced from 10' to 8' and still enforce the Bridge Formula, Table A, provisions.
- 3) The Ad Hoc committee (ACTTAC) is to review present Laws and Regulations that are promulgated by the Department of Transportation and Public Facilities to assure continuity of these provisions.

15 - Q - How many divisible load permits is the State issuing and to whom? How many trips of what length and weight are being made under multiple-trip permits?

A - Divisible Load Permits:

- 5 - Issued to log haulers for the Industrial Highway System on the Price of Wales Island that include special conditions for highway improvement and dust control.
- 60 - Issued to the ore haulers over the Industrial Highway (designated under a Special State Agreement) from Canada to Skagway, AK. Due economic factor this operation has been suspended and is not anticipated to reoccur until the world market for this ore improves.

Multiple-Trip Permits:

At the present time this information is not available. Steps are being taken to incorporate this data into the FY-93 State Certification through the utilization of the newly installed computer software.

16 - Q - What are the trends in numbers of trucks and citations issued?

A - Fixed Platform Scale Locations: (through 3-93)

Trucks Weighed	= 96,515
Loads Shifted	= 1.40%
Off-Loadings	= .46%

Weight Violations = .27%
Permit Violations = .15%

INCORRECT
.027% = .03%

Traffic patterns follow the normal decline during winter months and increase during the construction season.

Enforcement Activities: (through 3-93)

Total Pounds Shifted = 3,217,850
Total Pounds Off-Loaded = 1,751,780
4,969,630 Total Adjusted to Comply with State Law
Weight Citations (lbs.) = 1,246,937

There is no indication in the States data that explains why 3,722,693 pounds were not issued citations for weight violations other than just the indication that the loads were either shifted or off-loaded.

It is anticipated that with the issuance of the amended Policy and Procedure No. 420, dated 4-15-93, the fourth quarter data will account for this disparity.

Portable Scales: According to Alaska State Trooper's records only 34 vehicles were actually weighed with portable scales.

No trend can be established from this data.

17 - Q - How is the State checking bridge formula compliance at the scales? Are they checking inner bridge also?

A - Bridge Formula Compliance:

Vehicles are physically measured on a random basis at the scale operators discretion and is confirmed by the computer when requested.

Inner Bridge:

Yes

18 - Q - Are State personnel allowing an "unofficial" weight tolerance?

A - Scale operators are complying with Policy and Procedure No. 420 that, prior to April 15, 1993, included a 2,500 pound weight tolerance. On April 15, 1993, this weight tolerance was reduced to 1,000 pounds and all vehicles are to be weighted in an "As Found" conditions. Citations are to be issued to those vehicles found to be in

violation of the States size and weight laws and regulations and order to make the proper adjustments before they are release to continue to their destination.

- 19 - Q - What is the State's strategy for enforcing weight limits on scale bypass routes? What portable equipment does the State use to monitor bypasses?

A - Bypass:

The only identified scale bypass routes are the inbound on the Richardson Highway (when the scales are closed or traffic diverts through the military base) and the south bound highway at Soldotna, AK.

Portable Usage:

The Alaska State Troopers have been assigned the responsibility for employing the second method of weigh enforcement required in 49 CFR 657 as identified in the State Enforcement Plan. (Again during the program year of FY-93 an adequate enforcement effort has not been allocated to this segment of the State's enforcement plan since only 34 vehicles were weighed.)

- 20 - Q - Is the State's record keeping procedures satisfactory to meet enforcement plan and certification needs? Has information reported in the State's certification such as the number of trucks weighed by scale type and number of citations issued by violation type been verified?

A - Record Keeping:

Yes; This procedure is necessary to account for the information required in the FY-93 enforcement plan as written.

Verification:

Yes; This is accomplished by the automatic indicators located at the scale facilities.

Findings:

1. The Division of Measurement Standards has taken a positive step to eliminate the administrative tolerance, contained in Policy and Procedure No. 420, by reducing it from 2,500 pounds to 1,000 pounds.
2. Under Policy and Procedure No. 420, amended on 4-15-93, the policy of weighing motor vehicles in an "As Found" condition should have a positive impact on reducing overweight vehicles on the State's highways.
3. The formation of the Ad Hoc committee (the Alaska Commercial Truck Transport Advisory Committee) has resulted in the development of a forum where by Federal, State and Industry issues are reviewed and resolved when possible.
4. As the Lead Agency, the Division of Measurement Standards has begun to have a more effective out reach program to communicate with the industry as well as other law enforcement agencies within the State.

Recommendations:

1. The Division of Measurement Standards, as the Lead Agency, must take a more proactive approach when dealing with all political subdivisions participating in the State Enforcement Plan to assure that all measurable objectives are being accomplished by the political subdivisions.
2. The Division of Measurement Standards, as the Lead Agency, must develop a reporting criteria for the political subdivisions and a monitoring schedule to follow to assure that the goals and objectives of the State Enforcement Plan will be achieved.
3. The Division of Measurement Standards, as the Lead Agency, must assure that all of the State Laws and Regulations relative to weight enforcement are enforced and any administrative tolerance that departs from the law be eliminated.
4. The Division of Measurement Standards, as the Lead Agency should incorporate Weigh-In-Motion data into the State Enforcement Plan to analyze traffic flow in and around the port area and to monitor the motor carrier activity between the fixed platform facilities.

5. The Division of Measurement Standards, as the Lead Agency, is encouraged to continue with its efforts to enhance its budget that will result in a stronger presence at the roadside to enforce the State size and weight laws and regulations.

Proposed Follow-up Action(s):

When the Division of Measurement Standards develops Alaska's Plan for Enforcement of Vehicle Size and Weigh Laws for Fiscal Year 1994 a quarterly reporting procedure is to be included into the plan where by the Office of Motor Carriers, Alaska Division Office, will be advised of what actions have been taken to address the recommendations to assure that the programs goals and objectives are being met by the Lead Agency and all political subdivisions participating in the program.

Attachment(s): (1)

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner

TO: Paul Fuhs
Commissioner
Department of Commerce
and Economic Development

DATE: July 7, 1993

TELEPHONE NO: 465-3900
TEXT TELEPHONE: 465-3652
FAX NUMBER: 586-8365

FROM: B. A. Campbell
Commissioner

SUBJECT: Truck Size and Weight
Enforcement Program

I am in receipt of a copy of Roy Ehrhart's evaluation report to you dated June 15, 1993. This status report concerns the truck weight enforcement program and can hardly be termed encouraging. (Copy attached.)

At the present time, truck weight responsibility is spread over three departments of State government, and result of the State's enforcement is less than required to protect our highway investments.

At the present time, DOT&PF is involved only in the development of truck weight and size regulations. All downstream permits and enforcement is in the hands of primarily Commerce and to some degree in Public Safety.

It is well recognized that the trucking industry is not a proponent of budget levels that will allow a more aggressive enforcement of the regulations, so its lobby is at best neutral and probably against any increase funding from the Legislature.

It is therefore necessary for Burton, Fuhs and Campbell to work out a method whereby increased enforcement can be realized.

Toward this end, I have some suggestions:

- 1) I believe that permitting of trucks for oversize or overweight should be on an individual basis and only after review to determine if the load is safe and does no damage to the highway system. We are now granting yearly permits in some areas which to me is solid testimony that our system is somewhat skewed to say the least.

Our regulations should say what we mean and not permit deviation except on an individual basis.

To correct this feature, DOT&PF is redrafting the regulations and should have a draft to your people shortly.

July 7, 1993

- 2) Permits for overweight or oversize should be on a fee basis and should, I believe, be issued by DOT&PF since the engineering knowledge necessary to evaluate special conditions exists within DOT&PF. In addition, DOT&PF has up-to-date knowledge of particular road conditions that might play a part in the decision of whether or not to issue a permit.
- 3) Permits should not be issued on a routine basis. It is now, in my opinion, much too easy for truckers to obtain permits.

Commercial haulers generally have special trailers for hauling heavy equipment which meet load restrictions. Granting a permit to a trucker to haul an overload simply because his trailer is not large enough to meet the weight restrictions, when other trailers are available is not a valid reason for a permit. This situation is now standard operating procedure.

- 4) Scales are needed in key places, i.e., Port of Anchorage and environs and should be either self recording or manned appropriately. DOT&PF is looking into possible funding sources to accomplish this goal. More use of WIM scales that self record are certainly a desirable possibility.
- 5) Increased activity by Public Safety in the portable scale area should occur. Since DOT&PF will be transferring \$2.6± million to Public Safety for lack of a helmet law, it is possible to set up a special track safety unit to roam the highway system and check operating equipment, size, and weight.

DOT&PF is looking into this possibility.

It might also be possible to fund some additional scales and operators from these monies for safety reasons.

- 6) I believe we should set up a "rat" system and pay a reward for anonymous information on overloads. A simple advertisement in the port area alone might pay large benefits as a scare tactic if nothing else.

These are just some thoughts, and I am sure your people and Burton's folks have ideas as well. Please get back to me as soon as you can, and let's review this situation and improve it. Remember the penalty is loss of a portion of the State Federal-Aid Program if we fall below an acceptable standard.

Attachment

cc: Richard L. Burton, Commissioner, Department of Public Safety
R. D. Shumway, P.E., State Chief Engineer

MEMORANDUM**State of Alaska**

Department of Transportation & Public Facilities

TO: Ray Shumway, P.E.
Chief Engineer

DATE: August 3, 1993

THRU: Ken Lowney, P.E. *KL*
State Materials Engineer

TELEPHONE NO: 338-2121

FROM: Eric G. Johnson, P.E. *EGJ*
Pavement Management Engineer
Engineering & Operations StandardsSUBJECT: Anchorage Area
Overweight Trucks
From WIM

I have analyzed one week's data, July 14 to July 20, 1993, from the Weigh-In-Motion (WIM) site on the New Seward Highway north of Dimond Boulevard in Anchorage. The data was supplied by the Central Region Traffic Data Section. I compared the WIM data to data from same time period from the Potter Scalehouse. Weights and Measures Division of the Department of Commerce supplied the scalehouse data. To process the data, I relied heavily on the programming capability of Traffic Data Section in the Central Region. Table 1 shows the results of the scalehouse data.

Table 1
Potter Scalehouse Truck Weights

FHWA Class	Number of Vehicles	Average Gross Vehicle Weight	Percent of Permits & Citations *	Damage Factor per Vehicle
6	47	40,800	0	1.86
7	6	61,000	0	7.18
8	36	25,400	6	0.45
9	459	63,900	9	2.41
10	72	74,200	40	2.15
11	0	-	-	-
12	2	72,100	50	1.4
13	114	96,300	100	2.31

* Only 1 or 2 citations per Class

Class 6 trucks are mainly dump trucks with a steering axle and one set of tandem axles. Trucks in Class 7 are for the most part cement mixers with either a tridem axle on the rear or a lift axle. Class 8 trucks are mainly moving vans and Class 9 semi-tractor trailers. Classes 10 through 12 are various combinations of axles with heavier gross weight loads. Class 13 trucks pull a second trailer and are commonly called doubles. The damage factor of 1.0 equals an 18,000 pound single axle with dual tires (4 tires, 2 on each side).

Permits can be for either overweight or larger than legal dimensions.

Table 2 shows the WIM data for the period the scalehouse was open. The scalehouse weighs only loaded trucks, so I analyzed the WIM data for trucks above the lowest load weighed at the scalehouse in an attempt to keep the data comparable. The Potter Scalehouse closed from 8 p.m. Friday the 16th until Sunday the 18th at noon, and again from 8 p.m. on Sunday until midnight, otherwise it was open 24 hours:

Table 2
WIM Truck Weights While Potter Scalehouse was Open

FHWA Class	Number of Vehicles	Average Gross Vehicle Weight	Percent of Trucks Overweight	Damage Factor per Vehicle
6	1346	34,000	16	1.81
7	107	71,200	87	4.11
8	175	22,200	1	0.33
9	2047	56,100	3	1.60
10	269	62,100	31	1.86
11	no trucks	-	-	-
12	no trucks	-	-	-
13	188	99,400	30	2.89

Seven times more trucks passed over the WIM site than the number of over trucks the Potter Scalehouse. The inside north-bound lane (1 out of 4 lanes) at the WIM site was not operating. WHY

Eighty-seven percent of the Class 7 (cement mixers) exceeded the legal weight at the WIM site, while the scalehouse recorded none. The Class 7 gross weight at the WIM site averaged 10,000 pounds higher than at the scalehouse, resulting in more than doubling the damage factor per vehicle. Because approximately 25 times the number of Class 7's passed over the WIM site than the scalehouse, the estimated damage due to Class 7's is 50 times that estimated at the scalehouse.

Sixteen percent of the Class 6 (dump trucks) exceeded legal weights at the WIM, compared to none recorded at the scalehouse. Almost 40 times the number of Class 6's passed over the WIM as compared to the scalehouse. The average damage factors per vehicle at each site compared reasonably, so the estimated damage due to Class 6's is 40 times that estimated at the scalehouse.

Thirty-one percent of Class 10 trucks exceeded legal weights at the WIM, but the average damage factor dropped from the scalehouse to the WIM site. Apparently, the WIM site measured more lightly loaded Class 10 trucks than the scalehouse.

Thirty percent of the Class 13 (doubles) exceeded the legal weights at the WIM site, resulting in a total increase in estimated damage of 3 times measured at the scalehouse.

Only a small percentage of the Class 8 (moving vans) and Class 9 (semi-tractor trailers) exceeded the legal weights.

Table 3 shows the data for the WIM site for the periods that the Scalehouse closed on the weekend:

Table 3
WIM Truck Weights While Potter Scalehouse was Closed

FHWA Class	Number of Vehicles	Average Gross Vehicle Weight	Percent of Trucks Overweight	Damage Factor per Vehicle
6	231	31,000	7	1.52
7	23	72,100	80	4.07
8	49	20,700	0	0.30
9	574	57,200	3	1.66
10	63	62,000	29	1.76
11	no trucks	-	-	-
12	no trucks	-	-	-
13	18	111,100	(66)	4.99

While the scalehouse was closed, the percentage overweight Class 13 (doubles) trucks increased to 66 percent. The average gross weight increased 15,000 pounds, resulting in doubling the estimated average damage per truck.

In conclusion, taking into account the number of trucks per lane and the average damage factor per vehicle, the total pavement damage estimates based on the WIM site data are 4 times greater than estimates based on the Potter Scalehouse data.

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Ray Shumway, P.E.
Chief Engineer

DATE: August 3, 1993

THRU: Ken Lowney, P.E. *HL*
State Materials Engineer

TELEPHONE NO: 338-2121

FROM: Eric G. Johnson, P.E. *EJ*
Pavement Management Engineer
Engineering & Operations Standards

SUBJECT: Anchorage Area
Overweight Trucks
From WIM

I have completed an analysis of a week's data in July from the Weigh-In-Motion (WIM) site on the New Seward Highway north of Dimond Boulevard in Anchorage. The following table shows the percentage of vehicles in each vehicle classification that are above legal gross weight: *Unclass*

Classification	Percent Trucks Over Legal Weight	Percent Damage Due to Overweight Trucks	Percent Damage Over Design Load Based on Scalehouse
6	23	139	247
7	88	163	536
8	3	3	-67
9	8	4	150
10	6	5	121
11	no trucks	-	-
12	no trucks	-	-
13	?	?	?

Class 6 (steering axle plus one tandem axle) and Class 7 (steering axle plus one tridem axle) trucks are significantly overloaded. Class 13 includes many different configurations and it is difficult to calculate an average legal load. The data indicate that number of overloads for Class 13 is probably similar to Classes 8 through 10.

Applying the percentage damage due to the overweight loads to the average truck distribution in the Anchorage area, the average damage to the pavement would increase 7 percent (Class 9 & 10 dominate the calculation). This would decrease the average design life by the same amount. This, in turn translates into an annual cost of an additional \$137,000 on Anchorage area interstate and principle arterials within the Glenn Highway and Potter Scalehouses.

The average load per truck measured at the New Seward WIM site is significantly higher than the average current design load measured at the scalehouses. Applying the percentage damage over the average design values as above, yields an increase in damage of 22 percent. (This includes the measured overweight loads.) The resulting annual increase in rehabilitation costs would be \$427,000.

as expected

?

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: R. D. Shumway, P.E.
Chief Engineer

DATE: September 17, 1993

THRU: Ken Lowney, P.E. *KL*
State Materials Engineer

TELEPHONE NO: 338-2121

FROM: Eric G. Johnson, P.E.
Pavement Management Engineer
Engineering & Operations Standards

SUBJECT: Overweight Trucks
Glenn Hwy (Palmer) &
Parks Hwy (Chulitna) WIM

I have tabulated Weigh-In-Motion data for the Glenn Highway site, (just South of Palmer) and the Parks Highway site, (between Trapper Creek and the Chulitna River). The data were supplied by the Central Region Traffic Data Section. Tables are shown for each direction of travel.

Class 4 are buses and Class 5 are small trucks with one dual axle on the rear. Class 6 trucks are mainly dump trucks with a steering axle and one set of tandem axles. Trucks in Class 7 are for the most part cement mixers with either a tridem axle on the rear or a lift axle. Class 8 trucks are mainly moving vans and Class 9 semi-tractor trailers. Classes 10 through 12 are various combinations of axles with heavier gross weight loads. Class 13 trucks pull a second trailer and are commonly called doubles. The damage factor of 1.0 equals an 18,000 pound single axle with dual tires (4 tires, 2 on each side).

Table 1
Glenn Highway (Palmer) WIM
Eastbound (8/18/93 to 9/14/93)

FHWA Class	Number of Vehicles	Average Gross Vehicle Weight (Pounds)	Overweight Vehicles		Average Overweight on Drive Axle (Pounds)
			No.	%	
4	132	28,440	15	11	1,912
5	1884	10,960	6	0.3	1,433
6	208	29,590	53	25	4,571
7	3	55,360	0	0	0
8	45	35,350	12	27	2,200
9	492	53,980	98	20	3,940
10	181	75,240	94	52	3,530
11	0	-	-	-	-
12	0	-	-	-	-
13	78	91,770	38	49	3,450

*LOADED
EASTBOUND*

RECEIVED

SEP 23 1993

ET & PF
Chief Engineer's Office

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Schuyler Stevens, P.E.
Chief Engineer

DATE: October 10, 1993

THRU: Ken Lowney, P.E. *KL*
State Materials Engineer

TELEPHONE NO: 338-2121

FROM: Eric G. Johnson, P.E. *EJ*
Pavement Management Engineer
Engineering & Operations Standards

SUBJECT: WIM Description &
Accuracy

Attached is a description of Alaska's Weight-In-Motion (WIM) with a discussion of the accuracy in layman's terms as requested by Ray Shumway. This was developed with the help of Douglas Terhune, Traffic Data Supervisor for the Central Region who is responsible for the installation and operation of Alaska's WIMs.

cc:
Roger Allington
Douglas Terhune

*cc to
BAC
Roger A
Rtn to me*

RECEIVED

OCT 12 1993

ET & RR
Chief Engineer's Office

Post-It [®] brand fax transmittal memo 7671		# of pages	2
To	Schuyler Stevens	From	Eric Johnson
Co.		Co.	
Dept.		Phone #	269-6242
Fax #	465-2460	Fax #	269-6231

WEIGH-IN-MOTION (WIM) IN ALASKA

What is WIM? Weigh-in-Motion (WIM) devices weigh and classify moving vehicles traveling our state's highways.

How does WIM work? WIM measures two characteristics of moving vehicles, weight and axle travel time between sensors, and then classifies them.

Weight: The Alaska WIM system uses a steel bending plate to measure vehicle axle weights. Electronic gauges measure the amount of strain (bending) in the bottom of the plate as an axle passes over it: the greater the axle load, the greater the strain. A computer within the system translates the strain data into axle loads and gross vehicle weights.

Speed: A wire loop, like those used at intersections to activate traffic signals, first senses the presence of a vehicle and remains "on" until the vehicle has passed. A series of sensors spaced at known distances measure the time an axle takes to move between these sensors. This data allows the computer to calculate the vehicle's speed.

Classification: Given the speed and time between axles, the computer then calculates the distance between vehicle axles and classifies the vehicle by the number and spacing of its axles into one of 13 federal vehicle classifications.

All the data, including date, time, road lane, pavement temperature and any unusual characteristics that might indicate a faulty measurement, are stored on computer disks.

How is WIM calibrated? Three different types of heavy vehicles are repeatedly run over the WIM at varying speeds. Technicians adjust the equipment until ten consecutive runs by each of the three vehicles fall within a predetermined allowable tolerance. Alaska's technicians have been able to achieve five percent accuracy for calibration vehicles.

How accurate is WIM? For individual trucks traveling at the speed limit, equipment accuracy is plus-or-minus 10 percent on gross vehicle weight and plus-or-minus 12 percent for axle groups. For group averages of many vehicles this error is reduced mathematically to less than one percent.



U.S. Department
of Transportation

Federal Highway
Administration

Alaska Division

P.O. Box 21648
Juneau, Alaska 99802-1648

August 18, 1993

HDA-AK
P&R 18

Mr. Bruce Campbell
Commissioner
Alaska DOT&PF
Juneau, Alaska

Dear Mr. Campbell:

Truck Size and Weight Enforcement Program

The 1993 Truck Size and Weight Enforcement Review recently conducted by the Federal Highway Administrations Office of Motor Carrier Safety found that, as in 1992, the Alaska program continues to need significant improvement in monitoring compliance with the State size and weight laws and regulations.

The enforcement program is a responsibility of the Department of Commerce and Economic Development with support from the Department of Public Safety and the Alaska DOT. However, the lack of a satisfactory enforcement program directly affects the condition of the State's highways and can also result in the loss of Federal-aid Highway funds. Section 141 of 23 CFR provides that if the State is not adequately enforcing all State laws respecting maximum Vehicle Size and Weights, the State's Federal-aid Highway apportionment shall be reduced by 10%, which in Alaska will be over \$20 M per year. The severity of this sanction is a direct result of the significant adverse effects that overweight vehicles can have on the road and street systems. In Alaska, the costs to repair the premature deterioration of the Road System as a result of overweight vehicles could exceed the \$20 M sanction.

To avoid the possibility of the sanction and to preserve the State road system, we would appreciate any efforts of your office can make to increase the enforcement efforts and reduce the number of overweight vehicles.

Sincerely yours,

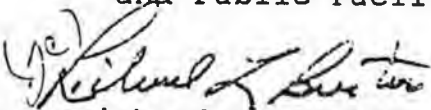
Robert E. Ruby
Division Administrator

MEMORANDUM

STATE OF ALASKA

TO: The Honorable Bruce Campbell
Commissioner
Department of Transportation
and Public Facilities

DATE: August 25, 1993


FROM: Richard L. Burton
Commissioner
Department of Public Safety

TELEPHONE NO: 465-4322

SUBJECT: Truck Size and
Weight Enforcement
Program

Thank you for copying me with your memo to Commissioner Fuhs regarding Alaska's Truck Size and Weight Enforcement Program. The attached memo from Colonel John Murphy, Director of the Alaska State Troopers, will serve as the Department of Public Safety's response to the thoughts and concerns expressed in your memo, and also offers some additional ideas for consideration.

Please advise if/when we can be of assistance.

Attachment

cc: The Honorable Paul Fuhs
Commissioner, C&ED (w/Attachment)

Colonel John Murphy
Director, AST

RECEIVED

AUG 27 1993

DOT&PF
COMMISSIONER'S OFFICE

MEMORANDUM

DEPARTMENT OF PUBLIC SAFETY

COMMISSIONER'S OFFICE State of Alaska

Juneau, Alaska

AUG 04 1993

TO: Richard L. Burton
Commissioner
Dept. of Public Safety

DATE: July 26, 1993

FILE NO:

TELEPHONE NO: 269-5641

FROM: Col. John R. Murphy *JRM*
Director
Alaska State Troopers

SUBJECT: Truck Size and Weight
Enforcement Program

I have reviewed Commissioner Campbell's memo of July 7, 1993, pertaining to commercial vehicle size and weight enforcement. Addressing Commissioner Campbell's comments by paragraph number:

1) A valid point. The current permit system is not accomplishing the function of allowing an occasional, reasonable exemption to oversize weight or size for special circumstances on a case by case basis. The permit system has become so subservient to industry that permits are a matter of routine rather than the exception. There is little or no effective means of enforcing the permit system. The Commercial Vehicle Enforcement Unit has experienced numerous cases where drivers will be cited for no permit or weight in excess of a permit only to have Commerce issue a permit to cover the violation. The driver then takes the permit to court later to have the magistrate dismiss the citation because the state subsequently provided a permit which condones the violation.

2) From an enforcement standpoint, it shouldn't make much difference to AST who issues the permits as long as it is done in a manner which is conducive to enforcement activities. One of the main concerns is the ability to confirm the existence and conditions of a permit. If DOT&FP is successful in reducing the permit system to an occasional exception rather than a routine occurrence, perhaps permits could be entered into APSIN similar to DV writ information so AST could access them at any time.

3) Valid point.

4) The use of Weigh In Motion (WIM) scales certainly has the potential for identifying problem areas and patterns of overweight. The potential for enforcement citations on WIMs is limited at this time. It may be possible to adopt regulation which would address "basic overweight" similar to addressing speed with "basic speed" regulation. AST will be researching the potential of this type of regulation related to citing overweight vehicles where the offense is obvious but it is not practical to determine the exact weight at the time of contact.

5) Increased portable scale activity by the Division of State Troopers would certainly be possible if funds were available to support the activity. The Division has submitted a revised program request to support an expanded enforcement program with the addition of 4 Troopers dedicated to Commercial Vehicle Enforcement, 1 additional Vehicle Inspector, a Grants Administrator II, and a Clerk Typist III. At least 1 Trooper and a Vehicle Inspector would be assigned to Fairbanks Post. Additionally, DOT&PF has \$100,000 in Federal funds earmarked for purchase of portable scales for AST use in secondary weight enforcement.

Secondary size enforcement is not going to be effective until problems in the current permit system are addressed.

6) A "rat system" would certainly increase the flow of information about overweight vehicles. The caveat is that we must have adequate resources to take action on the numerous complaints which would be received. The current difficulty with secondary size and weight enforcement is not lack of knowledge of where to direct enforcement resources, but lack of enforcement resources to direct. If our response to a "rat program" is perceived by the industry to be inadequate, then we lose our credibility and support for this type of program for now and for the near future.

Additional thoughts on CVE enforcement include:

Establishing "traffic" and "CVE" activity codes in OARS so we can monitor the time spent on these activities.

Establish an in-service training program for commercial vehicle regulations and procedures. Most Troopers are reluctant to start an enforcement action when they aren't knowledgeable on the regulations. We could justify a fairly extensive training program just on the recent adoption of 13 AAC 03 and 13 AAC 05.

Development of a CVE organizational structure by designating Troopers or supervisors in each Post as a point of contact for CVE activities.

Pursue adoption of "relevant evidence" regulations wherein company records could be examined and used to establish a case of chronic overweight activity which would then be subject to criminal and/or civil sanction.

The necessity for a higher profile enforcement program will have to be "sold" to the motor carrier industry. Although we certainly can't allow the industry to compromise enforcement goals, we can solicit as much input as possible and use it where we can to reduce friction and political pressure. The recent imposition of CDL and Motor Carrier Safety Regulations have had a significant impact on the industry. If more restrictive regulations on permits and weights are also imposed along with an increased enforcement program, it will have a major impact on the industry.

JRM:els

cc: Sgt. Ed Stauber, Commercial Vehicle Enforcement Unit

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, Alaska 99762-1630
907-443-5036
Fax 907-443-2162

State Capitol
Juneau, Alaska 99801-1182
907-465-3789
Fax 907-465-3242




Chairperson
Transportation Committee

Military and Veterans
Affairs Committee

Member
Finance Committee
Bush Caucus
Majority Whip

Eighteenth Legislature

To: Bruce A. Campbell, Commissioner
Department of Transportation

From: Rep. Richard Foster 

Date: August 20, 1993

RE: House Transportation Meeting October 5, 1993

RECEIVED

SEP - 7 1993

DOT&PF
COMMISSIONER'S OFFICE

There will be a special meeting of the House Transportation Committee in Anchorage on October 5, 1993. The meeting will be held in the second floor conference room of the Anchorage LIO, at 716 West 4th.

The meeting will begin at 9:30 a.m. with hearings on Truck Safety Issues. The Trucking Association, truckers and other interested parties are being invited to attend.

At 12:00 noon the Committee will meet with Alaska Railroad officials on railroad issues. There will be a tour of railroad facilities in Anchorage and possibly a rail trip to Whittier. More details should be available prior to the meeting.

Atkasook, Chevak, Elm, Emmonak, Gambel, Golovin, Hoonah Bay, Kotik, Koyuk, Marshad, Mekoryuk, Mountain Village, Newtok, Nighthuts, Nome, Pitik Station, Puka's Point, Russian Mission, St. Mary's, St. Michael, Savoonga, Scammon Bay, Shaktoolik, Sheldon Point, Slabbin, Tuxedo Bay, Tununak, Unalakleet, White Mountain

Staff: Elizabeth Walters, Jeannie Smith, Clinton Gray, Dr. Larry La Bate

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, AK 99801-7898
PHONE: (907) 465-3900
FAX: (907) 585-8365
TEXT: (907) 465-3652

September 8, 1993

Representative Richard Foster
P.O. Box 1630
Nome, AK 99762-1630

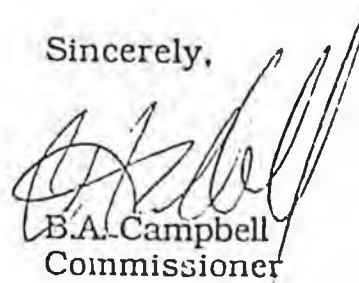
Dear Richard,

I have your letter of August 20, 1993 which was received on September 7, 1993. I'm not sure the purpose of the meeting of October 5, 1993, which has been scheduled by the House Transportation Committee.

Was this meeting requested by the Alaska Truckers? If so, for what purpose? You mentioned truck safety issues which are not defined, could you please be more specific.

Thanks.

Sincerely,



B.A. Campbell
Commissioner

cc: Richard Burton, Commissioner, Department of Public Safety (w/letter)
R.D. Shumway, Chief Engineer, DOT&PF

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200
JUNEAU ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362

October 13, 1993

CERTIFIED MAIL

Mr. Frank J. Dillon
Executive Director
Alaska Trucking Assoc., Inc.
3443 Minnesota Drive
Anchorage, AK 99503

RECEIVED

OCT 14 1993

DOT&PF
COMMISSIONER'S OFFICE

Dear Mr. Dillon:

Recent events have prompted me to write this letter and express my concern about statements I have heard attributed to you concerning the Department of Public Safety in general and Colonel John Murphy in particular.

I have been told that you are repeatedly commenting that the MCSAP Inspection Program has broken down in the last three months. These statements seem to be based upon the fact that Sergeant Brad Brown is no longer supervisor of that unit. Apparently you are of the opinion that for some reason, no other person is capable of operating that function to your expectations.

Secondly, I heard today that your problem is with Colonel Murphy. I can only assume that this is because Colonel Murphy cannot give the real reason for Sergeant Brown's reassignment. I don't owe you an explanation but since your conduct is creating unnecessary problems for us in conducting our business, I will tell you that Sergeant Brown's reassignment was justified and has my full concurrence.

I don't know exactly what it is that you are upset about or what your personal agenda is. However, since you have not deemed it necessary to contact me in this regard and with your subsequent involvement with members of the Legislature, I can only judge your actions as unprofessional and not in the best interest of commercial vehicle safety and enforcement.

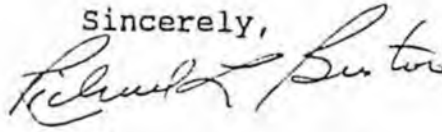
It was very much of a surprise to learn that you are in fact working with the Department of Commerce in promoting the transfer of the MCSAP function to that agency, and stated so in a recent hearing.

If there was real justification for such a move perhaps I could be of assistance; if I knew what your motivation was.

Mr. Frank J. Dillon
October 13, 1993
Page 2

If you feel that I am not pleased with our relationship and your political games, then I have made myself clear.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Burton".

Richard L. Burton
Commissioner

cc: The Honorable Walter J. Hickel
Governor

✓ The Honorable Bruce Campbell
Commissioner, DOT&PF

The Honorable Paul Fuhs
Commissioner, Dept. of Commerce

Colonel John Murphy
Director, Alaska State Troopers



ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-FT. RICHARDSON

- CHAIR -
LEGISLATIVE COUNCIL

- CO-CHAIR -
HOUSE SPECIAL COMMITTEE ON
MILITARY AND VETERANS AFFAIRS

- CO-CHAIR -
MILITARY AFFAIRS FOR
ANCHORAGE CAUCUS

October 26, 1993

Mr. Pat Ryan
Chief of Staff
Office of the Governor
P.O. Box 110001
Juneau, AK 99811-0001

Dear Pat:

On October 5th, 1993, the House Transportation Committee held a meeting in Anchorage. The members listened to testimony from the trucking industry on problems and issues of concern.

After listening to several hours of testimony, it became very clear that the trucking industry and the Department of Transportation are at odds on many issues. Over 50 trucking industry representatives attended this committee hearing. The testimony was overwhelmingly critical of the Department of Transportation and their constant change in direction and policy. It is obvious that the "truckers" are very frustrated with the Department of Transportation.

In discussions with industry officials and Commissioner Campbell, the issue of transferring the permitting and truck weights program from the Department of Commerce and Economic Development to the Department of Transportation has been suggested. The committee strongly opposes such action. From the testimony provided, it is apparent the DCED Weights and Measures program is operating very effectively given the budgetary constraints. Current year funding allows for weigh stations to be open 50% of the time. Obviously, 24 hour operation of the weigh stations and effective secondary enforcement efforts would ensure proper enforcement of the regulations; however, this would require the legislature to appropriate several million dollars more to this program. Considering our current revenue projections, this seems highly unlikely.

A subcommittee has been appointed by Chairman Foster to try and resolve some of the problems. The subcommittee members are:

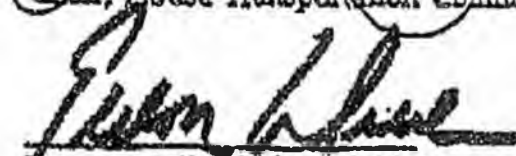
Representative Mulder (Chair)
Representative Gary Davis

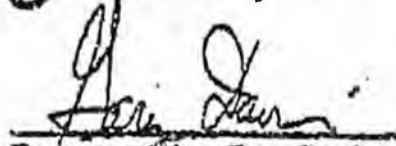
We would request that ANY proposed changes to the current truck size, weight or enforcement programs be presented to this subcommittee for review.

Thank you for your time.

Sincerely,


Representative Richard Foster
Chair, House Transportation Committee


Representative Eldon Mulder
Chair, House Transportation Subcommittee on
Truck Safety Issues


Representative Gary Davis
Transportation Subcommittee Member

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

3132 CHANNEL DRIVE
JUNEAU, AK 99801-7898
PHONE: (907) 465-3900
FAX: (907) 586-8365
TEXT: (907) 465-3652

November 22, 1993

Representative Gary Davis
Transportation Subcommittee Member
34824 Kalifonsky Beach Road
Soldotna, AK 99669-9728

Representative Richard Foster
Chair, House Transportation Committee
P.O. Box 1630
Nome, AK 99762-1630

Representative Eldon Mulder
Chair, House Transportation Subcommittee
on Truck Safety Issues
716 W 4th Ave., Suite 310
Anchorage, AK 99501-2133

Dear Representatives Davis, Foster and Mulder:

Your letter of October 26, 1993 to Pat Ryan concerning truck weights has been referred to me for comment.

This subject is rather complex and certainly one with many more factors than addressed in your letter.

Your letter apparently was a result of a hearing held in Anchorage on October 5, 1993. This hearing was held at the request of Frank Dillon of the Alaska Truckers Association to discuss "Truck Safety Issues." In response to Chairman Foster's notice of the meeting, I requested a definitive agenda as to what safety items would be discussed. No reply was ever received. The meeting was hardly one to discuss safety items, but rather one to provide a stage from which Mr. Dillon and his truckers could vent their disagreements with the Department of Public Safety and the Department of Transportation and Public Facilities.

Since DOT&PF was not in the major loop of truck safety regulations, we did not attend.

The committee heard substantial testimony by Mr. Dillon and his truckers about just how bad DOT&PF and DPS were. It is unfortunate indeed that Mr. Dillon choose to mistitle the purpose of the meeting "Truck Safety" rather than "Truck Size and Weight Regulations" which was the true reason for the meeting. He and his group of truckers took this opportunity to present their views of DOT&PF's proposals which would revise some regulations to better protect Alaska's substantial investment in highways. Mr. Dillon and group were less than complementary of DOT&PF and DPS.

The contents of your October 26, 1993 letter indicates that apparently the committee has reached a conclusion based totally on one-sided testimony presented in a staged manner at a meeting requested by Mr. Dillon.

I, personally, am surprised that the committee reached a decision based on the events that occurred on October 5, 1993 without suspecting that there could possibly be another side to the story.

While it is apparent that the committee may have already made up its mind that DOT&PF and DPS are the "bad guys," I will present just a few minor comments to add a small measure of perspective from the view of DOT&PF and Public Safety.

First of all, the highway system in Alaska is essentially a Federal-Aid System. Alaska depends almost entirely upon the Federal-Aid Highway Act for funding its surface highway transportation system. While some State moneys have been appropriated for specific projects over the years, the total amount is so minor compared to the Federal-Aid funds spent that one can classify our highways as Federal-Aid Highways.

As such, these highways are subject to all the rules and regulations imposed by the Federal Government as a condition of disbursement of Federal funds.

One of the many requirements is contained in Section 141 of 23 CFR which provides that a 10% sanction will be applied to Alaska's Federal-Aid allocation if the State's size and weight laws are not adequately enforced.

Based on present allocation levels, this could amount to approximately \$20,000,000 annually. This is a matter of concern to DOT&PF generally and to me particularly. Apparently, this fact is of no great importance to Mr. Dillon and his truckers since it was not mentioned by them at the hearing.

Each year, the Federal Highway Administration (FHWA) reviews the effectiveness of the State's size and weight enforcement program and reports to the State as to the effectiveness of the program.

Last year, the FHWA's report was not very complementary and pointed out several areas in the State's program that needed improvement, and also pointed out that no improvement had occurred from the previous years review.

A copy of the June 15, 1993 report is enclosed, as is a letter from the FHWA dated August 18, 1993 requesting that DOT&PF become more involved with the enforcement of size and weight restrictions.

The statement contained in your October 26, 1993 letter "that DCED is operating effectively" is not, in our opinion, supported by the FHWA's independent review.

As I'm sure you are aware, DOT&PF has Weigh-in-Motion (WIM) scales inserted into the highway system at various locations. These are funded with Federal funds and are, in part, utilized to evaluate state enforcement of size and weight regulations. The information recorded is available to the FHWA and others.

WIM scales are used primarily for identifying the type and number of trucks using Alaska's highways. Weights are recorded but are not always accurate enough to be used as positive enforcement devices. Actual weights may vary up to 12%± from the recorded weights depending upon several variables.

These WIM devices are installed in many different locations on our highway system and, among other things, allow independent verification of results achieved at the DCED scale houses.

When one compares the results recorded at the WIM devices with corresponding data recorded at the scale houses, some very interesting and diverse data appears.

While there is not 100% correlation, there are such broad differences that one has to conclude that perhaps, just perhaps, DCED is not doing as "effective" a job as some special interest groups might have the committee believe.

The WIM scales show a consistent pattern of a higher percentage of overweight trucks than is reflected by the scale houses. The WIM scales also show that a high percentage of the overweight trucks occur in the middle of the night.

A review of the DCED permit system will show that overweight and oversize permits are issued on a routine basis rather than as an exception. In many cases, trucks are issued overweight and oversize permits on a yearly basis; in one case for a five-year period.

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It doesn't take a rocket scientist to figure out that a permit system such as this effectively nullifies the DOT&PF regulations as everything the truckers request is permitted. FHWA is very much aware of this bypass of the regulation, as I'm sure the truckers are. FHWA is concerned as is DOT&PF.

DCED has issued "policies" which allow weight tolerances over and above the weights contained in the DOT&PF regulations. This further dilutes the regulations by applying tolerances that are not contained in the regulations. FHWA is also very aware and concerned of this fact.

The State Troopers report that, on numerous occasions, they have intercepted overweight trucks only to have the driver show up in court with a permit issued after the fact by DCED which allows the case to be dismissed.

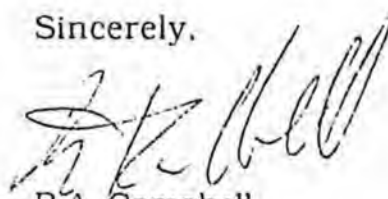
Is this effective enforcement?

As a result of these and other occurrences, Governor Hickel has determined that the truck size and weight enforcement can best be handled by DOT&PF and transfer of that function from DCED is now in the process.

DOT&PF has a plethora of factual data concerning overweight trucks and resulting highway damage, WIM scales, permits, etc. If the committee is interested in facts to help evaluate this matter, we are certainly willing to provide it.

There are enclosed several documents that may be of interest to the committee.

Sincerely,



B.A. Campbell
Commissioner

Enclosures