

BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

COMMENTS OF THE
OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.

IN RESPONSE TO A NOTICE OF PROPOSED RULEMAKING

DOCKET NO. FMCSA-2007-27748

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INTRODUCTION

The Owner-Operator Independent Drivers Association, Inc. (“OOIDA”) submits these comments in response to the December 26, 2007, notice published by the Department of Transportation, Federal Motor Carrier Safety Administration (“FMCSA”), at 72 Fed. Reg. 73226, soliciting comments in docket FMCSA-2007-27748 on its proposal to revise the mandatory minimum training requirements for entry-level operators of commercial motor vehicles (“CMVs”) in interstate commerce who are required to possess a commercial drivers license (“CDL”).

At present, FMCSA regulations require entry-level drivers to be trained in only four subjects – driver qualifications, hours of service, driver wellness, and whistle blower protection – all of them unrelated to the hands-on operation of a CMV. *See* 49 C.F.R. Part 380, Subpart E. The proposed rule would expand the required training for Class A drivers to include a minimum of 44 hours of behind-the-wheel training in addition to 76 hours of classroom training, nearly all of it involving subjects pertaining directly to the safe operation of a CMV. The rulemaking also proposes the accreditation of driver training schools offering entry-level courses as well as the establishment of standards for ensuring that instructors at such schools are qualified to teach those courses. The goal of these regulatory revisions is to enhance the safety of CMV operations on the nation’s highways.

OOIDA is a not-for-profit trade association incorporated in 1973 in Missouri with its

principal place of business located at 1 NW OOIDA Drive, Grain Valley, Missouri 64029.

OOIDA is the largest international trade association representing the interests of independent owner-operators, small business motor carriers, and professional truck drivers on all issues affecting their operations. OOIDA's more than 162,000 members collectively own and operate approximately 240,000 heavy duty trucks and small truck fleets. OOIDA actively promotes the views of these commercial truckers before a broad variety of forums, including federal and state agencies, legislatures, courts, other trade associations, and private businesses, in an ongoing effort to obtain equitable and safe working conditions for them. OOIDA is active in all aspects of highway safety and transportation policy and represents the position of its member truckers on numerous committees on the local, state, national, and international level.

OOIDA has been actively involved for many decades in efforts to establish licensing and training standards for entry-level CMV drivers. To this end, OOIDA has consistently been a strong proponent of Federal government efforts to develop and impose mandatory driver training and licensing requirements for new CMV drivers. Specifically, OOIDA supported the provisions in the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA") that required a study of private sector entry-level driver training practices and a rulemaking proceeding addressing the need for entry-level driver training, participated in the development of the Model Curriculum for Training Tractor-Trailer Drivers ("Model Curriculum") published in 1985 by the Federal Highway Administration ("FHWA"), helped found the Professional Truck Driving Institute of America ("PTDIA"), encouraged FHWA's implementation of the CDL Program, advocated for a graduated licensing program, and joined as a plaintiff in the lawsuit challenging the FMCSA's original entry-level driver training regulations.

. Based upon its continuing, firm belief that minimum training requirements for entry-level drivers will improve highway safety for all motorists, private as well as commercial, OOIDA similarly supports the FMCSA's current proposal to establish minimum training requirements that require a specified amount of behind-the-wheel training for entry-level drivers. OOIDA also believes that the effectiveness of such a training program can be ensured only if all facilities providing entry-level driver training programs are accredited by independent agencies and the instructors providing the training are required to meet relevant qualification standards. Accordingly, OOIDA also supports the FMCSA's current proposal to regulate training providers.

DISCUSSION

I. The Need For the Proposed Regulations Has Already Been Established.

In addition to seeking comments on specific elements of the proposal, the FMCSA has requested comments on the "analytic basis and justification" for the proposed regulation. This request is perplexing. As required by Section 4007(a)(1) of ISTEA, the FHWA initiated a study regarding the need for standardized training for entry-level drivers which resulted in the issuance of a 1995 report entitled *FHWA--Assessing the Adequacy of Commercial Motor Vehicle Driver Training* ("Adequacy Report"). Based upon years of surveys, interviews, and statistical analysis, the *Adequacy Report* found "[t]hat none of the three private sectors [heavy trucks, motor coaches, or school buses] are effectively providing adequate training." *Id.* at 2. One of the FHWA's more specific conclusions was that "adequate" entry-level driver training must include practical, behind-the-wheel training. *Id.* at B-5. Further, the agency found that the Model Curriculum developed by the FHWA was a good starting point for defining adequacy. *Id.* at 1-6. Given the unequivocal conclusions of the *Adequacy Report*, any suggestion that the proposed

regulation lacks analytic basis and justification is simply wrong.

The federal courts have also made it absolutely clear that FMCSA **must**, when implementing Section 4007(a)(2) of ISTEA, adopt regulations requiring behind-the-wheel training for entry-level drivers. *Advocates for Highway and Auto Safety v. FMCSA*, 429 F.3d 1136, 1139, 1145-1147 (D.C. Cir. 2005). In 2004, the agency adopted entry-level driver training standards that addressed only four subject matter areas – driver qualifications, hours of service, driver wellness, and whistle blower protection – none of which included either classroom or behind-the-wheel training in the operation of the CMV. The reviewing court held unequivocally that training should be consistent with the *Adequacy Report* and that training lacking an on-road component is totally arbitrary, capricious, and unacceptable. *Id.*

The appellate court remanded the case back to the agency for further consideration consistent with that finding and, as stated by the FMCSA in the current notice, “[t]his NPRM addresses the issues raised by the court.” 72 Fed. Reg. at 73227. Thus, while the details and components of the entry-level driver training program are proper subjects for public comment and modification in this proceeding, the justification and need for regulations requiring some specified amount of behind-the-wheel training is beyond the scope of this proceeding.

Nor is continuing opposition to a mandatory behind-the-wheel training requirement logical. Driver error has been found to play a role in approximately 87 percent of crashes involving CMVs where the truck was identified as the critical reason for a crash. FMCSA Report to Congress on the Large Truck Crash Causation Study, MC-R/MC-RRA (March 2006), at 16-18. Given these statistics, mandatory training for new CMV drivers that help eliminate driver errors by improving driving skills is a rational and sensible approach to the problem.

Moreover, the benefits of superior training are well-recognized notwithstanding the lack of statistical proof demonstrating a correlation between today's deficient formal training and crash reduction. Not only does practical behind-the-wheel training improve driver learning, but according to top trucking company professionals it keeps interest and motivation high because it requires trainees to perform the actual tasks they will ultimately be required to perform in their jobs. *Driver Training and Development Resource Guide*, Driver Training and Development Alliance (1997), at 58. Further, as explained in the *Adequacy Report*, a formal training requirement "is **the only way** to assure that all of the necessary knowledge and skills are covered, using a structure that maximizes the chances that learning will occur." 72 Fed. Reg. at 73229, *citing Adequacy Report* (emphasis added). Anything less would allow the current haphazard training situation to continue.

II. The Model Curriculum, if Updated, Provides an Excellent Source of Minimum Core Curriculum Requirements.

The FMCSA has derived its minimum curriculum requirements and training materials as set forth in Appendix B to Part 380 of the proposed rules from the Model Curriculum published by the FHWA in 1985. The Model Curriculum has for more than 20 years provided driver training guidance to the heavy truck industry, guidance based upon agency research in the areas of basic operation, safe operating practices, vehicle maintenance, and a limited number of related non-vehicle activities. It is the only available curriculum that has been subjected to a rigorous critical review process involving input from carriers, operators, trainers, trade associations, and researchers in the motor carrier industry. Consequently, its content generally reflects the consensus of what the industry believes should be taught.

OOIDA participated in the development of the Model Curriculum and continues to believe that it is an excellent starting point for determining the minimum training to be provided to all entry-level CMV drivers. Further, using the Model Curriculum would place the least burden on the trucking industry because it already serves as the basis for the curriculum currently offered by many reputable CMV driver training programs. However, because the Model Curriculum is more than 20 years old, FMCSA should establish a procedure for periodic review and amendment of the curriculum set forth in Appendix B to keep it up-to-date with new truck technologies and regulations, as well as current knowledge about factors affecting driver performance.

III. Instructional Methods Are Flexible So Long as Minimum Hourly Requirements Are Satisfied.

The prescribed requirements for entry-level driver training programs are generally described in the proposed Appendix B to Part 380. A minimum number of classroom and behind-the-wheel hours are set forth for each of the five subject-matter areas included in the curriculum, and a general description of the subject matter of each unit within each of those broader sections is also briefly set forth. Although the curriculum is instruction-based, it incorporates performance-based concepts to the extent that it not only requires completion of the mandatory training in each subject matter area but also requires trainees to “[a]nswer correctly at least 80 percent of the questions on each knowledge test” and “[d]emonstrate that he/she can successfully perform all of the skills” learned. Thus performance, demonstrated through proficiency tests, is an essential element of the proposed training. Importantly however, the ability to pass such performance-based tests is not used to eliminate or reduce the mandated

number of classroom or behind-the-wheel hours.

FMCSA has asked to what extent performance standards could be substituted for mandatory training time if minimum hours were not specified. 72 Fed. Reg. at 73232. From OOIDA's perspective the answer is not at all. The use of performance standards, in lieu of minimum training requirements, presents a multitude of problems. First and foremost, performance-based standards are essentially what is used today to qualify drivers for a CDL license. Yet in 2006, when FMCSA personnel visited training facilities to gain from their expertise, all locations visited "agreed that current knowledge and skills testing for the CDL does not negate the need for training. They also agreed that training should be a prerequisite for the CDL." 72 Fed. Reg. at 73232. Regulating training through CDL-like performance tests administered by training facilities would allow those facilities, in the absence of any prescribed minimum hour requirements like those now proposed, to continue to decide (as they are doing today) that 20, 10, 5, or even fewer behind-the-wheel hours are sufficient. Little would be gained in terms of the industry's ability to ensure adequate training for all entry-level CMV drivers.

Second, standards based exclusively upon performance are workable in a particular situation only when the industry or industry regulators are able to establish standards that will ensure that the goal has been met. That is where the fundamental problem lies here. None of the proponents of performance standards have presented or even outlined a set of specific standards that could be used by training facilities to accurately assess a new driver's ability to safely and efficiently handle a heavy-duty truck in all weather, terrain, and road situations that might arise in day-to-day truck operations. While it is certainly possible to develop a performance-based test, such as the CDL test or other proficiency tests, that measures an individual's ability to perform

specific maneuvers on a single occasion, it is not possible to develop a comprehensive set of performance standards that could realistically measure the entire skill set needed for safe CMV driving. That would explain why the proponents of performance-based testing have never developed or even proposed any such standards.

Third, the benefits usually associated with performance-based standards – ease of development and flexibility in application – apply equally to the instructional requirements proposed here. Because the minimum instructional standards set forth in Appendix B of FMCSA’s proposed regulations have already been vetted and included in the Model Curriculum they are easy to develop. Further, the proposed requirements allow for flexibility in the use of new technology because, even though they include stated minimum classroom and behind-the-wheel hours for each subject-matter area covered, they do not otherwise mandate any specific instructional methodology. Each training facility is free to use or not use simulators, computer-assisted technology, videos, CDs, or other media to require or not require trainees to spend time in the passenger seat observing other driver-trainees in a vehicle, as they deem it appropriate, so long as the requisite classroom and behind-the-wheel hours are met.¹

OOIDA recognizes that trainees vary substantially in the pace and style of learning.

¹ OOIDA believes that simulators may be helpful in the training process. Simulators can give a trainee some feel for a heavy-duty truck before he ever gets into the vehicle. Simulators also allow drivers to experience terrain and weather conditions that Mother Nature may or may not provide during the short training period in a particular geographic location. Finally, simulators can help teach defensive driving techniques, including maneuvers to avoid road hazards that may not arise during behind-the-wheel training. Nevertheless, because no simulator is as effective a training tool as taking a truck on the road, OOIDA believes that the use of simulators should be encouraged but not mandated. In a similar vein, training facilities should be encouraged to investigate other high-tech training tools and, where feasible, to incorporate the newer technologies into their programs.

However, the minimum curriculum is described in such a general manner that it is as flexible as performance-based standards in accommodating these differences among students. Training facilities are welcome, so long as the required general subject matter is covered and the minimum hour requirements satisfied, to tailor their programs to best fit the needs of individual trainees as well as the student body as a whole. Indeed, training facilities are given much leeway to develop and employ diagnostic tests that will allow them to funnel students into the learning context that works best for them.

Importantly, the proposed 120 total hours of training for Class A drivers, including 44 behind-the-wheel hours, is quite reasonable. This is far less than the 320 hours originally recommended in the Model Curriculum, which also included mandatory observational time spent in a vehicle and covered a broader range of non-operational subjects, and is less than the 148 hours of training recommended by the Professional Truck Driver Institute (“PTDI”) curriculum. It is also far less than is required or generally provided to aspiring truck drivers in many other countries. Driving schools in the European Union generally offer a far more extensive curriculum, with some countries providing as much as 700 hours of training. In France, the entry-level driver training curriculum can extend over a two-year time period. *See* Horn, B.E. & Tardiff L., “Licensing and Training of Truck Drivers: New and Continuing Challenges,” *Journal of International Association of Traffic and Safety Services*, Vol. 23(1) (1999), at 16-21. In Canada, the Canadian Trucking Highway Research Council offers an entry-level driver program which is an intensive 12-week program consisting of 8 weeks of in-school training, with a minimum of 120 hours of classroom and 85 hours behind-the-wheel training, followed by a minimum of 100 additional supervised behind-the-wheel hours with a carrier. Synthesis 13 on

Effectiveness of Commercial Motor Vehicle Driver Training Curricula and Delivery Methods, Transportation Research Board (2007), at 11. Ontario's Highway Traffic Act requires an individual wanting an AZ license, similar to our Class A CDL, to complete 2,000 hours of training including up to 12 weeks of mentor training, and to complete up to 40 weeks of on-the-job training.

While the optimal number of hours required to train the average entry-level driver may be debatable, it is undisputed that some significant amount of behind-the-wheel training is required. Further, while a small number of natural-born drivers may be able to adequately perform the required tasks with less than 44 hours behind-the-wheel, the majority of trainees do need that time. Moreover, there are no trainees who would not benefit in some way from that limited amount of supervised driving time with a qualified instructor. Even the best and quickest learners are not perfect. Their behind-the-wheel time can be used to identify and correct existing weaknesses in driving skills before they blossom into more serious problems.

IV. Both Trainers and Training Institutions Must Satisfy Certain Standards to Ensure the Quality of Entry-Level Driver Training.

A. Accreditation is the most effective way to ensure quality.

The FMCSA has proposed an accreditation requirement for driver training institutions, a requirement that is incorporated through the proposed definition of the term "training institution." In connection with this requirement, the agency is seeking comments on the appropriateness of accreditation as a means of maintaining quality control over training, the ability of existing facilities to acquire accreditation, and the need for allowing entities approved by the Council for Higher Education Accreditation ("CHEA") as well as the Department of

Education (“ED”) to participate in the accreditation process. 72 Fed. Reg. at 73234.

At present, there are no federal restrictions on the facilities that may offer truck driver training programs, nor are there any requirements imposed on the programs that are offered. This void has resulted in offerings ranging from rigorous month or semester long programs that produce professional truck drivers through programs requiring 120 or more hours of training to rushed programs that claim to get a driver ready for his CDL test in only a few hours to home-based training provided by a father to his children. Interstate Truck Driving School in Minnesota (“Interstate”) is typical of schools located throughout the country that offer to get aspiring CMV drivers a CDL with only minimal training. Interstate offers what it calls a “Class A Contractor’s Special” that includes two hours of in-truck training and an “Economy Class A Program” which includes only three hours of in-truck training. *See* www.interstate.driving.com/class-a-cdl-prep.html. Classroom training is also extremely limited, so that all classroom and in-truck training may be completed in one day. The in-truck portion of the training is performed near the exam station where the school arranges for trainees to take the CDL road test. Other similarly-limited driver training programs have been found to be connected to fraudulent schemes to provide “easy” CDL tests and licenses to driver trainees. *See, e.g.,* stlouis.fbi.gov/dojpressrel/pressrel07/bribery062207.pdf (truck driving school owner indicted for bribing third-party CDL administrator to give CDLs to hundreds of students based on shortened road test); www.doj.gov/usao/mow/news_2006/proffitt.ind.htm (superintendent and owner of truck driving schools partially owned by trucking company indicted in conspiracy involving fraudulent road testing for CDLs); www.oig.dot.gov/item.jsp?id=1424 (truck driving school owner sentenced in scheme to falsify driving skills test for CDLs). The Inspector General’s office at DOT released a report in

May of 2002 stating that suspected criminal activity has been identified in at least sixteen State CDL programs. *Improving the Testing and Licensing of Commercial Drivers*, Report No. MH-2002-093 (May 8, 2002), at iii-iv. In Illinois alone, nine deaths were directly traced to crashes involving commercial drivers that fraudulently received their CDLs. *See Commercial Driver's License Third Party Testing Anti-Fraud System*, Final Evaluation (FMCSA Nov. 2007), at iv, 1. FMCSA's proposed accreditation requirement for driver training institutions combined with minimum requirements for the instructors teaching at those accredited institutions should play a major role in thwarting this type of misconduct, thereby reducing the number of deaths and injuries caused by insufficiently-trained drivers.

Clearly the self-certification procedure promoted by some driving schools and motor carriers can not be trusted to work in such a setting. Facilities already engaged in fraudulent or improper practices are not likely to honestly evaluate their training programs. Even reputable driver training schools may be inclined to certify programs that don't meet all minimum standards or curriculum requirements because of their vested economic interest in certification.

Nor is a voluntary certification process workable. Only 66 schools in 28 states and Canada have programs certified by the PTDI, which currently certifies training programs upon request using criteria based upon the Model Curriculum, even though PTDI has been in operation for more than 20 years. *See www.ptdi.org/schools/schools.aspx*. Many more facilities have chosen to operate their programs without such certification. Nor could the PTDI be expected to objectively conduct a mandatory certification program. Although PTDI began in 1986 as a voluntary independent organization, the Truckload Carriers Association, which represents the segment of the industry with the greatest need for entry-level drivers, assumed management

responsibility for the organization in 1996. This has led PTDI to favor less demanding performance-based standards over the type of minimum training requirements now being proposed.

This leaves only two viable options for ensuring the quality of driver training facilities and programs: (1) a direct compliance and enforcement program within FMCSA, or (2) an accreditation program implemented by independent and objective third parties.² FMCSA enforcement would of course require the agency to allocate already scarce financial resources to the development and implementation of the new compliance program. The cost of an accreditation program would, by way of contrast, be borne by the industry.

The development of a national accreditation program applicable to all training facilities and programs, including those operated by motor carriers, is critical given the continuing need for qualified drivers. In 2003, the Bureau of Labor Statistics estimated that 507,000 new drivers will be needed by 2014 (about 50,700 per year). FMCSA's own estimate is even higher – 76,600 per year. 72 Fed. Reg. at 73237. This need for drivers creates a strong economic incentive for motor carriers to get each driver-trainee on the road and operating as quickly as possible. Indeed, for this reason, motor carriers and their related driving schools are much more likely than independent truck driver training schools to cut corners in the training arena. The FMCSA must level this playing field for all involved parties if adequate training is to be the norm.

The FMCSA has asked about the ability of existing entry-level training facilities to obtain

² A third option, a State-conducted compliance and enforcement program, is not viable because it would likely result in a hodgepodge of contradictory enforcement mechanisms and standards creating numerous problems for the driver training industry.

accreditation. OOIDA would note that many schools offering driver training programs are already accredited. Further, since the Model Curriculum reflects industry consensus regarding what should be covered in an entry-level driver training program, the many unaccredited schools currently offering training programs based upon that curriculum should find it easy to obtain accreditation. The proposed three-year phase-in period between the adoption of the new regulations and the effective date will give these existing facilities ample time to tweak their programs to meet all the minimum regulatory requirements. Of course, schools such as Interstate with grossly inadequate training programs and those schools using bribery and fraud instead of serious training to procure CDLs for their students would not be able to obtain accreditation. That, however, should be viewed as a positive not a negative consequence of the accreditation process.

As noted by FMCSA, both the ED and CHEA officially authorize entities to provide accreditation services and at least eleven have been identified by FMCSA that accredit truck-driver training programs or schools. 72 Fed. Reg. at 73234. OOIDA believes that agencies recognized by both ED and CHEA should be accepted here to facilitate the accreditation process when many existing programs apply for accreditation in the same time period. Importantly, with so many agencies engaged in the accreditation process, the FMCSA must provide them with general standards or work with them to develop such a set of standards to ensure uniformity. The outcome of the accreditation process should not be dependent upon the particular agency chosen in each case to perform this function. Additionally, those accreditation standards should address the content of the particular programs being offered, as well as the availability and quality of the physical facilities, instructional staff, and training and testing materials required to successfully

carry out the minimum curriculum.

FMCSA has noted that accrediting agencies often require that a school be in business for two years before applying for accreditation. That lead-in period is workable for existing schools already offering entry-level driver training programs and for accredited schools that wish to expand to add new entry-level driver training programs in their course offerings. However, it could preclude the establishment of any new entry-level training schools after the rules become effective because such schools could not provide their students with the Driver Training Certificate that must be provided to the State licensing agency as part of the CDL application process. To avoid this presumptively unintended result, the FMCSA should establish a pre-accreditation process that would allow a facility to submit to the accrediting agency a description of its proposed entry-level driver curriculum, the training materials and instructional methods that would be used, and other relevant materials that would ordinarily be included in an accreditation application. If the submissions reveal a program and facility that appears to meet the accreditation standards, the facility could be awarded a pre-accreditation status that would allow it to operate and issue Driver Training Certificates on a conditional basis. That status could then be reviewed after two years of continuous operation and, if everything checks out, the facility given full accreditation.

Some parties have objected to the accreditation requirement on the basis that it will eliminate less costly forms of driver training now available and consequently will deter individuals who might otherwise be interested in a truck driving career. Although tuition costs may rise somewhat due to accreditation, the cost increases should be minimal. The initial cost of accreditation runs around \$9,450 according to the website of the Accrediting Commission of

Career Schools and Colleges of Technology (ACCSCT), which accredited a truck driving school in Lake Milton, Ohio. See www.accsct.org/Content/Accreditation/TheAccreditationProcess/FAQ.asp#14. A significantly smaller annual sustaining fee based upon the school's gross tuition is also charged. *Id.* A dean at a local community college advised OOIDA that the initial costs of program accreditation by the Council of Higher Learning were approximately \$7,000 and the annual review fee was about \$750 per year. Even assuming costs at the high end, a \$10,000 initial accreditation fee would increase tuition by only \$50 per student during the first year for a program that has 20 students in each of 10 four-week training programs. The annual review fee would increase the fees by approximately \$3.75 per student per year. These amounts are unlikely to deter potential students.

Further, the overall benefits of accreditation could ultimately attract more qualified individuals to train for a career in trucking. Accreditation assures through the "ability to benefit" test requirement that all aspiring CMV drivers seeking federal financial aid, even those lacking a high school diploma or GED, will have the basic reading, writing, and numeric skills that any commercial truck driver should possess. Further, accreditation assures driver-trainees that an institution or truck driving program has clearly defined and appropriate objectives that should reasonably allow them to meet their career objectives. This consistently higher level of training should also open the doors to better paying jobs for new drivers who complete the proposed curriculum.

The same parties have also asserted that an accreditation requirement will have an adverse impact on the ability of driver-trainees to obtain financial aid. To the contrary, most federal grants and low-interest loans are only available to fund programs at accredited

institutions. This includes GI loans that are available to military veterans. These funding sources are not currently available to many of the individuals that currently want to take some of the shorter and less comprehensive programs or otherwise unaccredited programs currently offered.³ Additionally, nothing would prevent motor carriers needing drivers from advertising that they hire individuals who have successfully completed an accredited program and offering to reimburse them for some or all of their tuition costs as an incentive to sign on.

B. Driver-training Instructors Should Also Meet Relevant Standards.

It has been found that the single most important element in an effective training program is a qualified trainer. Synthesis 5, *supra*, at 8. Recognizing the importance of good instructors, FMCSA has included in its entry-level driver-training proposal basic minimum requirements for the instructors that teach entry-level courses at accredited institutions. As FMCSA has noted, the primary criteria currently used in hiring driving instructors is many years of heavy-truck driving experience. 72 Fed. Reg. at 73230. A good trainer ought to be a competent driver. But, like a teacher in any other discipline, truck-driving instructors must also have the very different skill set that would make them effective lecturers if they are providing classroom training or effective skills instructors if they are teaching the behind-the-wheel portion of the curriculum. Both types of instructors must be able to design and deliver appropriate lesson plans; to communicate with students of varied backgrounds; and to elicit, evaluate, and use feedback from students. To ensure that all instructors have these relevant skills as well as a solid substantive knowledge of

³ The suggestion that the Department of Education regulations will preclude funding for the proposed curriculum because it exceeds the industry educational standard by more than 50 percent is specious because the proposed minimum requirements will establish the industry standard once the regulations are adopted. While students will be required to pay for training beyond the 50 percent limit, that is no different than the situation existing today.

the trucking-related subjects being taught, FMCSA has proposed that qualified instructors must have audited or completed that portion of the driver training course they intend to teach or its equivalent, be employed at an accredited training institution, and meet all State requirements for a vocational instructor. Skills instructors must also have a CDL and endorsements necessary to operate the vehicle for which training is being provided and have at least two years CMV driving experience in that class of vehicle. Under the new regulations, instructors would also be required to satisfy continuing education requirements that will ensure that they retain their teaching skills.

While the new requirements probably would limit the number of individuals qualified to teach such courses, they would at the same time undoubtedly increase the overall level of instruction. Given the three-year lead time before implementation of the regulations, it would allow instructors currently teaching entry-level courses to take the essential steps to satisfy the requirements for vocational instructor certification. If FMCSA nevertheless determines that some accommodation should be made for those who are now teaching, OOIDA would not object to a short grandfathering period for instructors who have significant recent experience teaching a course or providing training in a similar program. However, the qualifications of those instructors should be vetted as part of the school's accreditation process.

OOIDA also has some concerns regarding the vocational instructor certification requirement to the extent that State requirements for a vocational instructor vary significantly among the States. OOIDA would prefer that a uniform national standard for qualifying instructors be added to the current proposal. However, knowing of no existing national standards, State requirements are an effective means for ensuring a level of teaching proficiency that would facilitate learning.

V. How to Measure the Effectiveness of Driver Training Programs.

The FMCSA has expressed concern about the lack of evidence definitively showing a positive correlation between formal entry-level driver training and crash reduction, and infers from this that there may not be any such beneficial effect. The agency, however, is reading too much into the statistical gap. The lack of concrete evidence actually reflects nothing more than the industry's inability to accurately measure the effectiveness of driver training programs because of the current absence of any mandatory training or curriculum requirements.

As explained more fully above, historically and up to the present time an entry-level driver training program for Class A drivers can involve as little as one day of training or as much as a full semester of training. These extreme variations in the training being offered have made it impossible for any entity, whether governmental or private, to develop a test that can effectively and definitively measure the overall impact of formal entry-level driver training on crash reduction or safety generally. This, however, does not mean that the intuitive position that better-trained drivers will be safer drivers is not correct.

Absent empirical safety evidence, the training industry has pointed to pass rates on CDL tests or job placement to demonstrate the effectiveness of current practices. Neither of these, however, truly reflects the adequacy of training. The CDL test was designed to test basic knowledge and a limited range of essential driving skills, not the myriad skills and subject matter knowledge required for safe driving. A sampling technique is used to measure each applicant. Regarding knowledge, applicants in most States need only correctly answer 80 percent of questions selected from a pool of several hundred questions. The total number of selected questions varies from State to State. The driving skills test is typically 30 to 40 minutes long,

usually tests only a sample of essential driving maneuvers, and tests driving ability on a restricted route near the test site. Accordingly, it provides little insight into the ability of an individual to safely drive a truck and avoid crashes in the varied terrain, weather, and road conditions that are encountered in a full-time operational setting. Job placement is an even less reliable measure of effectiveness. Given the high turnover rate among CMV drivers, virtually any insurable individual with a CDL can find some job driving a truck. Thus, neither of these measures can be used to demonstrate the effectiveness of formal entry-level driver training.

Once the proposed minimum training requirements have been established and have been in place for a reasonable amount of time, the effectiveness of those standardized training programs can be tested more readily. Under the proposed rules, a State driver-licensing agency may issue a CDL only if the applicant presents a valid Driver Training Certificate issued by an accredited institution or program. Among the information that must be included on this Certificate is the date of issuance, the name and mailing address of the issuing facility, and the name of the accrediting agency. If this information is added to the data that must already be entered into the Master Pointer Record maintained for each CDL driver in the Commercial Driver's License Information System ("CDLIS"), it could be queried at a later date and correlated with actual crash data, which is also entered into the CDLIS system, to determine the overall level of reported crashes that involve entry-level drivers trained by accredited institutions.

Although superior training can be expected to have some effect throughout a driver's lifetime, the critical time period for measuring improvements with entry-level drivers is in the early years of commercial driving. After that, untrained or minimally-trained drivers may through trial and error make up for the lack of formal training with their over-the-road

experience. Accordingly, OOIDA would suggest that FMCSA use CDLIS to track crash rates during each driver's first two years of commercial driving experience. That result could then be compared with the crash rate during the first two years of operation for entry-level drivers who got their CDL before the new training program was implemented, after some adjustment is made in the comparative figures to reflect the percentage of entry-level drivers that are currently receiving training comparable to the training that would become mandatory under FMCSA's proposal. The data could also be reviewed for patterns. For example, the records of drivers from various facilities could be compared.

According to FMCSA's cost-benefit analysis, crashes caused by entry-level drivers need be reduced by only 19.7 percent for the monetary savings to equal the costs of the new regulations to industry. 72 Fed. Reg. at 73239. To those that might be saved from serious injury or death, even a far lesser but still measurable reduction in crashes would be beneficial and justify the added training requirements.

Finally, improved training should provide non-safety related benefits that ought to be considered in determining the efficacy of the proposed regulations. For example, mandatory training in efficient shifting, braking, and other driving techniques should both help conserve fuel and reduce wear and tear on trucks, reducing the costs to carriers and shippers for transporting goods while helping the environment. Improved training has also been shown to increase driver pride and improve job prospects, which in turn reduces driver turnover. Southeastern Transportation Center, Transportation Institute, North Carolina Agricultural & Technical State University, "Investigation of the Safety Training of Motor Carrier Drivers" (August 2005), at 4; Synthesis 5 on Training of Commercial Motor Vehicle Drivers, Transportation Safety Board

(2004), at 8. The current high rate of driver turnover is a serious problem for the trucking industry, because it increases recruiting, paperwork, and training costs for carriers. Thus, enhanced training should result in substantial economic savings for carriers and shippers alike.

CONCLUSION

OOIDA has for a long time been a proponent of mandatory entry-level driver training as a means to make the roads safer for all motorists. Consistent with its past positions, OOIDA strongly supports the FMCSA's current proposal to establish minimum training requirements that include a mandatory amount of behind-the-wheel training for all entry-level drivers. There is nothing that can substitute for supervised behind-the-wheel instruction in the type of truck that aspiring new drivers hope to be driving throughout their careers. For the reasons discussed above, OOIDA also supports FMCSA's proposal to regulate training providers. The quality of entry-level driver training programs can be ensured only if all facilities providing entry-level driver training programs are accredited by independent agencies and if the instructors providing the training are required to meet relevant qualification standards. Further, an accreditation requirement should put an end to the massive fraud now endemic in the CDL system.

Respectfully submitted,

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