

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION

REQUEST FOR COMMENTS

RAILROAD-HIGHWAY GRADE CROSSING; SAFE CLEARANCE

DOCKET NUMBER FMCSA-2006-25660

COMMENTS SUBMITTED BY
THE OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.

JAMES JOHNSTON
President
Owner-Operator Independent
Drivers Association, Inc

October 20, 2006

BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

I. INTRODUCTION

A. PROCEDURAL STATEMENT

These comments are submitted by the Owner-Operator Independent Drivers Association, Inc. (“OOIDA” or “Association”) in response to a “request for comments” associated with a public hearing held on September 20, 2006. These comments concern Railroad-Highway Grade Crossings; Safe Clearances and the impending federal rule to prohibit drivers from entering a railroad grade crossing unless there is sufficient room to clear the tracks completely without stopping. Docket number FMCSA-2006-25660. The notice was published by the Federal Motor Carrier Safety Administration in the Federal Register on August 30, 2006.

B. THE INTEREST OF THE OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.

OOIDA is a not-for-profit corporation incorporated in 1973 under the laws of the State of Missouri, with its principal place of business in Grain Valley, Missouri. OOIDA is the largest international trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small-business men and women located in all 50 states and Canada who collectively own and operate more than 240,000 individual heavy-duty trucks. Many of OOIDA’s members are also small business motor carriers who have DOT authority to operate in interstate commerce. The address of the Association is:

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The Association actively promotes the views of small business truckers and professional drivers through its interaction with state and federal government agencies, legislatures, the courts, other trade associations, and private business to advocate an equitable and safe environment for commercial drivers. OOIDA is active in all aspects of highway safety and transportation policy, and represents the positions of small business truckers in numerous committees and various forums on the local, state, national, and international levels. FMCSA is seeking input from all interested parties concerning the potential cost and safety benefits of a forthcoming, statutorily mandated federal rule to prohibit commercial motor vehicle (CMV) drivers from entering a railroad grade crossing unless there is sufficient room to clear the tracks completely without stopping. Members of OOIDA are concerned about this safety issue and that the impending rule is implemented in a manner to enhance CMV driver decision making at railroad-highway grade crossings.

II. SUMMARY

CMV drivers approaching railroad-highway grade crossings often encounter difficulties only exacerbated by lack of informational signage, poor road engineering, and an indifferent motoring public. As FMCSA considers comments from many interested parties on this subject, OOIDA would like to stress that any scheme that simply places further restrictions on CMV drivers without accompanying assistance to help a driver with the decision making process will not sufficiently address this issue.

At the Highway-Railroad Grade Crossing Public Meeting held on September 20, 2006 FMCSA asked three specific question of the audience. Our answers to those questions are contained within the body of our comments.

Railroad-highway grade crossings that do not contain enough storage space for a CMV beyond the crossing and before the intersection can be problematic to a driver. It is difficult to estimate accurately that enough storage space exists when, for example a CMV may require 65 feet when only 63 feet is available. However, singularly focusing an enforcement strategy on the driver of a CMV will likely have two profound unintended consequences that will negate any real net benefit from the proposed regulation.

First, to violate the proposed regulation, a driver would necessarily have had to engage in the very “act” this rule is intended to mitigate. In an industry with significant turn-over rates and many new drivers along with no standardized driver training, it is a certainty that many CMV drivers would violate this regulation simply due to inexperience and an inability to accurately estimate available storage space. Since the violation occurs after having obstructed a crossing this becomes a reactive regulation that will do little to diminish the sought objective. A much more proactive regulation that encompasses mandatory pavement markings and signage to at least indicate storage space availability would actually further the goal of FMCSA.

Secondly, FMCSA has alluded to the possibility of banning CMVs from crossings that do not possess adequate storage space. There are many industrial areas of this country that are serviced by both rail and truck. Many railroad-highway crossings exist in these industrial neighborhoods and do not have the requisite storage space available. A

blanket ban would obviously necessitate CMV drivers to find alternate routes, sometimes at great expense. A blanket ban would also likely shift CMVs to routes more heavily traveled by all traffic. This action by its very nature increases the likelihood of truck/car accidents. Thus, in an effort to reduce accidents at railroad-highway crossings, a blanket ban could indirectly cause an increase in CMV/automobile involved accidents. At the Highway-Railroad Crossing Public Meeting FMCSA provided information concerning the total number of problematic railroad-highway crossings. Further comparative analysis should be done with respect to those crossings. Many of those crossings could be so infrequently utilized by trains that the resulting economic impact of increased cost to truckers and potentially increased CMV/automobile accidents far out-weighs other less draconian solutions.

The regulation as proposed focuses narrowly on “storage space” availability for the CMV when encountering a railroad-highway grade crossing. OOIDA would like to point out that this is only one of several permutations that cause CMV drivers difficulty with railroad-highway grade crossings.

Many railroad crossings are elevated above road grade and depending upon the type of trailer being pulled, there may not be sufficient clearance to keep the trailer from “bottoming out” when a CMV crosses. When this situation arises, it is usually the trailer dollies that causes the grounding. Some jurisdictions place signage that will help a driver decide whether a particular crossing can be problematic. Unfortunately, far too many crossings of this nature present a surprise to drivers and they must make their own best judgment concerning whether to cross. This process is made even more difficult during hours of darkness. Mandated signage indicating available clearance prior to arrival

at this type of railroad-highway grade crossing would be beneficial to CMV drivers and further the goal of reducing accidents at railroad crossings.

Automobile operators that drive around a CMV and cut back in front to occupy the space left vacant by a prudent CMV driver presents a daunting challenge. This unfortunate situation is occurring ever more frequently. This literally will cause a CMV driver to wait through multiple changes in traffic control devices because cars continually occupy the vacant space ahead of the CMV and some traffic control devices are not timed to allow a CMV to proceed when waiting too far back from the intersection. Legislating courtesy and commonsense is impossible. FMCSA should consider educational outreach through state driver licensing authorities to better inform motorists. Perhaps, a program similar to the “No Zone” campaign should be created. Also, informational signage could be created to inform automobile operators of the inherent risk of this unsafe maneuver. Many CMV drivers have witnessed automobiles which go around them only to observe the automobile left with inadequate space themselves. The automobile is essentially trapped when the crossing alarm sounds and the CMV cannot back-up to give them relief.

Railroad-highway grade crossings that intersect at acute angles also present a challenge. CMV drivers will often attempt “button-hook” maneuvers such as hooking the truck cab to the right in order to aid their sight distance. On some roadways this is not possible. A CMV driver hauling hazardous cargo who is required to stop will often have to set the brakes and exit the driver’s seat to look out the passenger-side window. The driver then quickly returns behind the wheel to proceed across the tracks hopeful that in

those few seconds the situation has not changed. Strategically locating mirrors at crossings such as these would greatly aid CMV drivers and increase safety for all.

It was very disconcerting to read within the *supplementary information* supplied in this Federal Register Notice that a previous attempt by FHWA to address this issue was met with concern from State agencies “that a potential rule would require them to reconstruct, rewire, reroute, or otherwise correct every inadequate crossing and that FHWA was indifferent to the costs of such an undertaking.” If safety is to mean anything, cost associated with aiding CMV drivers’ decision making process cannot be used as a “trump card” in a meaningful rulemaking.

III. CONCLUSION

In promulgating the future rule, FMCSA should be mindful that simply passing a restrictive rule effecting only drivers of CMVs will have a limited impact on achieving the goal of reducing the incidents of CMV crashes with trains unless truly proactive efforts are made between the respective government agencies with regulatory oversight to assist drivers of CMVs.

Respectfully submitted,

JAMES J. JOHNSTON
President
Owner-Operator Independent
Drivers Association, Inc.

October 20, 2006