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March 19, 2008

To: Federal Motor Carrier Safety Administration

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RE: Comments to an NPRM affecting 49 CFR Parts 380, 383, and 384; Docket No. FMCSA-2007-27748, RIN 2126-AB06; Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; 12/26/07 FR, pages 73226-73249.

To Whom It May Concern:

On behalf of the Tree Care Industry Association, we appreciate the opportunity that FMCSA affords for potentially affected parties to comment on the above-captioned issue.

We are a trade association for private sector tree service businesses with about 2,300 member companies in the United States. As service-providing companies, the driving that our members do is incidental to what they are paid for and comprises a very small part of their overall day. And yet this proposed regulation is ominous for our members.

Our members' CDL drivers are only driving a short period of their work day because after all they are arborists (tree care service providers) first. Our chip/dump truck and aerial lift truck drivers are on the road for one and one-half hours per day on average; and that driving is done in 10 to 20-minute increments. Our average member company operates five CDL vehicles within a 30-mile radius of its office or base of operations. Eighty-six percent of these vehicles seldom or never cross state lines. Less than 0.07 percent of these CDL vehicles were involved in accidents of any kind in 2007. The average company currently has about \$176 in out-of-pocket expenses to help one of its employees obtain his or her CDL. Over 80 percent provide on-the-job driver training and testing to their newly hired or newly authorized CMV drivers.

Our industry experiences an estimated 0.049 fatal vehicular accidents per 100 million miles driven, inclusive of both CDL and non-CDL vehicles. According to the FMCSA's 2006 Large Truck Crash Overview, the comparable statistic for all large trucks was above 2.1 in each of the last three years of the study. Once again, we are not over-the-road truck drivers and do not have the same exposure to vehicular accidents.

FMCSA takes a cart-before-the-horse approach in this proposed rule-making:

In the Federal Register notice for this proposed rule, the FMCSA states: "Currently, there are no data available to permit comparison of CMV driver training to the subsequent safety performance of the driver. In particular, no accessible records of training exist . . . this proposed rule would provide the baseline data needed to begin to study the effectiveness of the training when compared to the actual crash experience of the drivers."

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Also in the FR notice is this statement: "The FMCSA believes that the mandatory training proposed in this NPRM need not be delayed until further research is conducted, standards developed, etc."

The Agency seems to be ignoring what data it has. In September 2006, FMCSA conducted further analysis on the recently released FMCSA/National Highway Traffic Safety Administration Large Truck Crash Causation Study (LTCCS) for data regarding the training and experience of commercial drivers involved in crashes. The LTCCS provides information on nearly one thousand selected truck crashes from around the country. The LTCCS data specify many characteristics of each crash, including the training of the drivers involved and whether or not the driver was at fault.

One would think that such a large study would yield data that would inform this proposed rule-making. However, the FMCSA concluded that, "...analysis using the LTCCS was inconclusive and did not identify any statistically significant difference between trained and untrained drivers with regard to crash frequency. Analysts reported that the relatively small sample size and difficulty in differentiating the effects of training, experience, and age precluded useful conclusions."

FMCSA's perspective is by its own admission biased:

In 2006, preparatory to this NPRM, FMCSA personnel visited various training facilities to gain the benefit of their expertise. The training facilities chosen were Delaware Technical and Community College, a public school; Schneider National, Inc., a motor carrier; National Tractor Trailer School, Inc., a private school; and The SAGE Corp., a nationwide organization of 30 professional truck driver schools.

Not surprisingly, all of these training entities agreed that current knowledge and skills testing for the CDL does not negate the need for training, and that training should be a prerequisite for the CDL.

FMCSA acknowledges these training facilities have a vested interest in increasing training requirements, yet steadfastly believes that entry-level driver training should be a prerequisite for the CDL.

FMCSA's cost analysis is flawed and/or not reflective of true costs:

The FMCSA currently requires 10 hours of training for entry-level drivers. This proposed rule would require 110 hours of additional training for entry-level drivers of heavy trucks seeking a Class A license. It would require 80 additional hours for those seeking either a Class B or C license. We will consider both since our industry employs a mix of CDL-A and CDL-B license-holders.

The principal components of costs of entry-level drivers' training are the cost of providing the training and the opportunity cost of the drivers' time.

The cost of providing training is straightforward: It consists of the costs of hiring an instructor, producing training materials, equipment used for instruction, fuel, wear and tear on vehicles, etc. FMCSA indicated in the FR notice that it had interviewed training schools and associations regarding the costs of training, and respondents indicated that a cost of \$4,000 for a 4-week course was typical. This estimate equates to \$25 per hour. We accept that estimate.

The concept of opportunity cost is apparently much less familiar to FMCSA. The FR notice provides an encyclopedic definition of this term with which we agree: *the value of the best alternative that must be foregone when an action is taken.*

We also agree with FMCSA that in this case, the opportunity cost of training is the foregone value of the work that the driver would otherwise be performing.

But our agreement ends when it comes to how opportunity cost should be estimated. FMCSA states that the standard value of an opportunity cost to be the driver's wage plus "fringe benefits". We adamantly assert that it is much more. The components of opportunity cost that are easiest to quantify and universal to all drivers in private industry are wage/labor burden and lost revenue.

Labor burden is the cost to a company to carry their labor force aside from salary actually paid to them. Simply stated, burden is the benefits and taxes that a company must or chooses to pay on their payroll. These can include, but are not limited to Federal and State payroll tax, retirement/pension contributions, various insurance contributions and worker's compensation costs. In our industry these costs collectively are 50 percent of wages.

FMCSA bases its wage/fringe benefit estimates on the BLS's May 2005, National Occupational Employment and Wage Survey, using the 25th percentile wage since entry-level drivers generally earn at the low range of the industry wage standards. Thirty-one percent is added to cover the cost of fringe benefits. The resulting estimates are:

- Heavy truck and tractor/trailer drivers - \$17.00
- School bus drivers - \$11.40
- Transit and intercity bus drivers - \$14.75.

Remember that in our industry, the wage scale is commensurate with the service provided and not based upon driving, which is incidental to the task at hand. Our per-person, per-hour wage and labor burden estimate for an entry-level CDL holder is \$26/hour.

We submit that the true measure of opportunity cost must also consider the revenue that the employee would have been expected to bring into the employer during the time spent in training. We polled our members and came up with a range of between \$74/hr. and \$110/hr. Lost revenue is by far the biggest component of opportunity cost, and yet FMCSA completely overlooks it.

FMCSA estimates the total cost of training to be the sum of opportunity cost of an hour of the driver's time (hourly compensation) plus the \$25 per hour of actual training costs. The unit cost of training is estimated at \$42.00 an hour for truck drivers (\$17.00 of foregone driver wages plus \$25 in actual training costs), \$36.40 per hour for school bus drivers (\$11.40 of foregone driver wages plus \$25 in actual training costs), and \$39.75 per hour for the motor-coach industry (\$14.75 of foregone driver wages plus \$25 in actual training costs).

In other words, FMCSA would estimate the total cost of sending one entry-level truck driver through the requisite 120 hours of training for his/her Class A CDL to be: \$42/hr. X 120 hrs. = \$5,040.

Depending on the area of the country, the local market and the service being provided, we estimate that obtaining the same CDL-A creates a direct cost (wages, etc.) of roughly \$3,120 and an opportunity cost (loss of revenue) of roughly \$8,880 to \$13,200 per employee for a total of \$12,000 to \$16,320, not including tuition for the training program itself! Our estimate of the true per-person cost of this program when tuition is factored in is three to four times greater than FMCSA's!

There are hidden costs to this type of program that are harder to quantify but nonetheless significant. Often, the loss of one key crew member forces the remainder of the crew to rearrange or cancel work scheduling. Additionally the high employee turnover rate that seems inherent to our profession translates to higher ongoing costs to the employer to maintain the requisite number of CDL drivers.

We certainly are not opposed to driver training. The Tree Care Industry Association promotes in-house and third party driver training programs to its members, even though we have no vested interest in the training itself. The fact that over 80 percent of our members currently provide in-house driver training and testing is testament to their belief in the value of training as well.

However, we believe that the extent of training and the associated expense in FMCSA's proposal is completely unwarranted and confiscatory. We urge FMCSA to obtain better data and reconsider this proposal only after it has done so.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Milb, CAE". The signature is written in a cursive, flowing style.

President & CEO
Tree Care Industry Association, Inc.