

BRIEF ON ENTRY LEVEL DRIVER TRAINING: RIN 2126-AB06, Draft NPRM

BACKGROUND: The Federal Motor Carrier Safety Administration (FMCSA) issued in the *Federal Register* of May 21, 2004, a performance-oriented, final rule stating the "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle (CMV) Operators". This action was in response to a study required by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) that found that entry-level training in the heavy truck, motor coach, and school bus industries was inadequate. The rule applied to entry-level drivers subject to the CDL requirements in 49 CFR Part 383 operating in interstate commerce (49 CFR 390.5) with an exception provided for drivers subject to the Federal Transit Administration. The May 2004 regulation primarily required awareness training focusing on four areas: driver qualifications requirements, hours-of-service, driver wellness and whistle blower protection. The rule did not require behind-the-wheel training.

On December 2, 2005, the U.S. Court of Appeals for the D.C. Court Circuit found FMCSA's regulation to be arbitrary-and-capricious under the Administrative Procedures Act's standard of review. The court remanded the regulation back to the agency "for further consideration consistent with the opinion". The court did not vacate the May 2004 rule allowing the requirements to remain in place while FMCSA promulgates a regulation that addresses the Court's concerns.

FMCSA is currently developing a new rule for proposal to the industry, which is now under Office of Management & Budget review. The established time frame for issuance of the proposal is late November 2007.

ATA ACTION: Beginning in February 2006 the American Trucking Associations (ATA)¹ in discussions with its leadership and safety and training professionals developed recommendations in regards to entry level driver training. These recommendations were condensed into policy adopted by ATA's Board of Governors in February 2006. The policy reads:

- 1. Entry level driver training should be focused on minimum, competency-based requirements. These requirements should apply to all prospective drivers that have not yet obtained and are required to possess a commercial driver's license (CDL) to operate in interstate commerce.*
- 2. The training curriculum should focus on the core elements of classroom and behind-the-wheel training.*
- 3. Under any federal regulation, all training programs (motor carrier-based and non-carrier based training institutions) should be provided with the ability to self-certify that their training meets the minimum federal requirements. All training programs should also be able to certify that a driver has completed the required training. All training programs should be subject to a random selection federal audit program to assure curriculum requirements are met.*
- 4. Qualification requirements of driver-instructors should be similar in design and intent to existing federal training regulations (e.g., current CDL holder, no serious traffic violations on driving record, etc.) with the exception of skill instructors having a minimum of one year of driving experience.*
- 5. Commercial Learner's Permits should continue to be issued by States as currently practiced and no provisional CDL requirements should be imposed upon entry-level drivers.*
- 6. To further ensure that entry level drivers meet the competency-based standards, the federal government should require state adoption of stronger CDL skills testing standards that reflect actual on-road driving requirements of the motor carrier industry.*

ATA has communicated with other industry representative organizations to gain their stance on the entry level driver training. The Truckload Carriers Association (TCA) reviewed the ATA position and adopted it verbatim in March 2007. The Commercial Vehicle Training Association, Inc. (CVTA) and the National Association of Publicly Funded Truck Driving Schools, Inc. (NAPFTDS) have endorsed a performance-oriented rather than hours based approach to entry level driver training. In June 2007 ATA, TCA, CVTA, and NAPFTDS jointly met with FMCSA leadership and their rulemaking project team and stated the need for the agency to follow the performance approach in production of a proposed rule.

¹ The American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of other trucking groups, the industry-related conferences and its 50 affiliated state trucking associations, ATA represents more than 37,000 members covering every type of motor carrier in the United States.