



★ **Driving Trucking's Success**

October 14, 2003

U.S. Department of Transportation
Office of Dockets and Media Management
Room PL-401
400 Seventh Street, SW.
Washington, DC 20590-0001

Re: Docket FMCSA-97-2176

Dear Sir or Madam:

These comments are in response to the Federal Motor Carrier Safety Administration's (FMCSA) August 12, 2003 notice of proposed rulemaking (NPRM) requesting comments on "Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements," published in the *Federal Register* at 68 FR 47890.

The American Trucking Associations, Inc. (ATA), with offices located at 2200 Mill Road, Alexandria, Virginia 22314-4677, is the national trade association of the trucking industry. Through our direct dues-paying members, our affiliated trucking associations located in every State, and their 30,000 motor carrier members, affiliated conferences and other organizations, ATA represents every type and class of motor carrier in the country.

ATA's Position

ATA has solicited the views of its members and has been in contact with other industry safety organizations regarding the proposal in the referenced NPRM. The NPRM would present several problems for motor carriers operating LCVs. These issues will be discussed subsequently in this document. As currently regulated, LCVs enjoy an accident rate that is much lower than other types of vehicles being operated in commerce¹. While we are providing docket comments, ATA believes that mandating training for LCV drivers is not likely to result in safer LCV operations. However, ATA and its member motor carriers want to work cooperatively with FMCSA in an effort to craft a set of performance-based rules for training LCV drivers and driver-instructors that could result in enhanced public safety and will not impact the flow of freight on the nation's highways.

The issues discussed below appear in the same order they are addressed in the NPRM, not by their importance.

Issue No. 1 – §§ 380.105, 380.301(b), and 380.303(a) "Training Institution."

Discussion: Section 380.105 would define a "training institution" as any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. Sections 380.301(b) and 380.303(a) would require an LCV driver-instructor to "*meet all State requirements for a vocational instructor, if employed by a training institution.*" The proposal is unclear as to whether this would apply to a trucking company training program and its instructors. Communications with FMCSA staff

¹ Mean rate for all LCVs = .88 (Turnpike Doubles = 1.02, Rocky Mountain Doubles = .79, Triples = .83); mean accident rate for non-LCVs = 1.79; FHWA Publication MC-97-003 Entitled: Accident Rates for Longer Combination Vehicles, Scientex Corporation, October 1996.

lead us to believe that FMCSA meant to distinguish between a “training institution” and a motor carrier based training program.

ATA Recommendation.

ATA urges FMCSA to publish a clarification stating that the training programs that are managed directly by a motor carrier or provides exclusive service to a motor carrier are not considered to be “training institutions.”

Issue No. 2 – § 380.105(b) Definition of “longer combination vehicle (LCV).”

Discussion: An LCV is defined as a tractor with two or more trailers weighing 80,000 pounds or more. An LCV double is defined as a Turnpike Double or a Rocky Mountain Double. The Turnpike Double is defined as “an LCV consisting of a truck-tractor in combination with two trailers or semi-trailers, each 13.716 meters (45 feet) or more in length.” This creates the possibility that doubles weighing more than 80,000 pounds, whose two trailers are of equal length, but less than 45 feet, would be covered by the regulation, but whose drivers would not have specified training requirements.

ATA Recommendation.

ATA suggests that FMCSA clarify this issue or simply omit the trailer-length specification.

Issue No. 3 – § 380.105(b) Definition of “qualified LCV driver-instructor.”

Discussion: The definition of “qualified LCV driver-instructor” should properly refer to Subpart C, not Subpart B. Additionally, it is assumed that classroom instructors would not be included under this definition. Classroom instruction activities need no driving prerequisites.

ATA Recommendation.

ATA suggests that the definition of “qualified LCV driver-instructor” be amended to refer to the requirements of Subpart C instead of Subpart B. Further, FMCSA should clearly note that classroom instruction personnel need not meet any of the requirements of a “qualified LCV driver-instructor.”

Issue No. 4 – § 380.109(a) Administration of driver-student knowledge and skills tests.

Discussion: This paragraph would require a qualified LCV driver-instructor to administer knowledge and skills tests to driver-students. Knowledge tests could be administered by almost anyone since there is no need for interaction between the driver-student and the instructor. Skills tests are generally taken on private property on a “closed course.” Therefore, a qualified LCV driver-instructor would not be needed. Each year, at State and National driver competitions, drivers are tested, observed, and scored by individuals who are not licensed and cannot drive the vehicles being used. Motor carriers currently use qualified driver-instructors when trainees are taken on public roads for training, just as driver-training schools do when training individuals to drive tractor-trailer combinations.

ATA Recommendation.

ATA strongly suggests that FMCSA remove the requirement that a “qualified driver-instructor” administer the knowledge and skills tests to driver-students and replace the term “a qualified driver-instructor” with the term “an authorized motor carrier or training institution employee.”

Issue No. 5 – § 380.111(b)(5) and (6) Referral to other paragraphs.

Discussion: Subparagraph (5) refers to § 383.51(d). It should correctly refer to § 383.51(e). Subparagraph (6) refers to § 383.51(e). It should correctly refer to § 383.51(d).

ATA Recommendation.

ATA recommends that FMCSA amend the references made in subparagraphs (5) and (6) of § 380.111(b).

Issue No. 6 – § 380.111(b)(9), 380.203(a)(10), and 380.205(a)(10) No “at-fault” accidents.

Discussion: These sections would require no “at-fault accidents” while operating a CMV during the past two years to qualify for a Certificate of Grandfathering, or during the past six months to qualify for doubles or triples training. An “at-fault accident” is not defined in the “definitions section (§ 380.105),” nor does the NPRM state who determines fault when an accident occurs.

ATA Recommendation.

ATA urges FMCSA to define an “at-fault accident” to mean an accident for which a truck driver has been convicted of an offense that contributed to the accident. FMCSA should also provide guidance, either in the preamble or in an interpretation, regarding what types of offenses would generally be considered as contributing to an accident.

Issue No. 7 – § 380.111(c)(2) Two years driving experience required.

Discussion: This subparagraph would require two years driving experience, in the type of LCV a driver seeks to continue operating, immediately preceding the date of application for a “Certificate of Grandfathering.” The phrase “immediately preceding” would present a major problem for motor carriers operating LCVs because many drivers who are currently qualified could not meet the proposed qualification requirement. Currently, there are many drivers who have several years experience driving doubles and/or triples and are currently qualified. For one reason or another, they are now driving a tractor-trailer combination, a set of Western Doubles, or may be teaching driver training. Disqualifying these individuals would be a hardship on them and would be counter-productive for both the motor carrier and the employee.

ATA Recommendation.

ATA strongly recommends that FMCSA revise § 380.111(c)(2) to allow any driver who currently holds a CDL, with a doubles/triples endorsement and is authorized by a State to operate LCVs, to be grandfathered. Further, the motor carrier should be responsible for documenting that the driver holds a valid CDL with a doubles/triples endorsement and is authorized by a State to operate LCVs. This documentation should be retained in the Driver’s Qualification File for a finite period of time. The various States and the motor carriers operating LCVs have proven that the State programs have been successful and there would be no degradation of safety if those drivers were grandfathered.

Issue No. 8 – §§ 380.203(a) and 380.205(a) Double/triples endorsements six months prior to LCV training.

Discussion: These sections would require drivers to have a doubles/triples endorsement on their CDLs for six months before applying for LCV doubles or triples training. It is likely that the knowledge and/or skills required to obtain the endorsement will be no more stringent than those required to obtain the LCV

Driver-Training Certificate proposed in the NPRM. Therefore, this requirement would in all likelihood result in a duplicative and unnecessary requirement. ATA fails to see the relevance of this proposed requirement. Job opportunities occur randomly. A driver does not have the luxury of preparing for job changes ahead of time. Requiring a driver to obtain a doubles/triples endorsement six months before receiving training is arbitrary and capricious. A requirement that a driver obtain a doubles/triples endorsement at any time before commencement of LCV training would be a more reasonable approach.

ATA Recommendation.

The ATA urges FMCSA to remove the prerequisite to have a doubles/triples endorsement six months before applying for LCV doubles or triples training. Requiring such an endorsement before applying for training is more reasonable and less arbitrary.

Issue No. 9 – §§ 380.301(c) and (d) and 380.303(c) LCV driver-instructors must have two years driving experience in a representative vehicle.

Discussion: These sections would require an LCV driver-instructor to have at least two years driving experience in a vehicle representative of the type of driver-training to be provided and have a Class A CDL with a doubles/triples endorsement. These proposed requirements would be impractical and place a hardship on many of the motor carriers that engage in LCV transportation. The proposed rule would cause a large number of existing driver-instructors to be ineligible to continue their training duties. Many motor carriers currently use driver-instructors who have never driven an LCV but have had a great deal of success training others to drive LCVs. Motor carriers are more concerned about a driver-instructor's ability to communicate with and teach their driver-trainees than the prerequisites proposed. Motor carriers generally require a driver-instructor to have a valid Class A CDL, have experience operating a tractor-trailer combination, and past experience training drivers to operate tractor-trailer combinations, western doubles, or LCVs. Driver-instructors are then taught to teach a particular LCV course by a senior driver-instructor.

ATA Recommendation.

ATA strongly recommends that FMCSA eliminate the proposed requirement for two years driving experience in a vehicle that is representative of the type of driver-training to be provided and the need for a doubles/triples endorsement. In its place, FMCSA is urged to require that a driver-instructor has experience operating a tractor-trailer combination and urge motor carriers to seek individuals with past experience training drivers to operate tractor-trailer combinations, western doubles, or LCVs. The recommended action would also require that section 380.301(a) be revised to reflect the changes made elsewhere in this proposed rule.

Issue No. 10 – Appendix to Part 380, Knowledge and skills training.

Discussion: Many of the knowledge and skills requirements are already required for obtaining a CDL and would, therefore, simply be repeated during LCV training. Like a post-graduate course, the training should build upon knowledge already acquired, not repeat it.

ATA Recommendation.

ATA strongly suggests that FMCSA eliminate those proposed requirements already specified in Part 383, Subpart G. This would include the following units:

Unit 1.2 – Regulatory factors other than those unique to LCVs.

Unit 1.3 – All requirements other than those applying to LCVs.

Unit 1.4 – Vehicle configuration factors other than those unique to LCVs.

Unit 2.1 – Other than “coupling and uncoupling” which is covered in Unit 2.2, there are no differences between the inspection procedures of a single tractor-trailer combination and an LCV. This unit should, therefore, be removed.

Issue No. 11 – Appendix to Part 380, Requirements to be imposed on LCV drivers but not other CDL holders.

Discussion: Some requirements proposed in the Appendix to Part 380 would be imposed on LCV drivers, but not on other CDL holders, even though the situations addressed are not unique to LCVs. They are as follows:

Unit 3.5 – Security issues are not unique to LCV drivers. It is unclear why FMCSA finds it necessary to propose this requirement for LCV drivers when no other CDL holder is required to have this instruction.

Unit 4.3 – The proposed maintenance and troubleshooting requirements go beyond those currently required for other CDL holders. It is unclear why FMCSA believes that LCV drivers should have these skills while it is unnecessary for other truck drivers to possess the same skills. With today’s complex and high-technology vehicles, there are few simple repairs that can be made by someone other than a qualified mechanic. Motor carriers that currently operate LCVs prohibit their LCV drivers from performing preventive maintenance or making simple emergency repairs to their vehicles. These motor carriers use their own mechanics or a vendor’s qualified mechanic to perform preventive maintenance and call upon licensed vendors to go to a disabled vehicle to make necessary repairs. These motor carriers do not want their drivers to perform any type of maintenance or repair work on the vehicles they operate.

ATA Recommendation.

ATA strongly recommends that FMCSA remove Units 3.5 and 4.3 from the proposed Appendix to Part 380.

Issue No. 12. – Executive Order 13132 (Federalism).

Discussion: ATA questions why FMCSA did not include an implementation date for State adoption of the proposed rules. There are 22 States that allow the operation of LCVs within their borders. Many of those States have driver and vehicle requirements for the operation of LCVs. Because FMCSA declares that nothing in the NPRM preempts any State law or regulation, motor carriers and drivers who operate LCVs could be required to comply with two sets of training requirements if FMCSA promulgates a final rule without addressing this issue. Such action would be confusing to the regulated motor carriers and would be considered counter-productive. The trucking industry needs a standardized rule that applies nationwide.

ATA Recommendation.

ATA strongly recommends that FMCSA review its Federalism assessment and revise it. FMCSA should also include, in its final rule, an implementation date for State adoption.

Issue No. 13– Summary of the Proposed Regulatory Evaluation.

Discussion: In its Preliminary Regulatory Evaluation, FMCSA readily admits that “the Agency was unable to locate any reliable, quantitative studies of the impact of truck driver training on safety.” Therefore, FMCSA’s quantified benefits must be considered nothing more than a guess. FMCSA assumes there will be a 10 per cent reduction in accidents because of the proposed training and a cost/benefit ratio of 1.2, if a final rule is promulgated and published. Given the exemplary accident record of LCVs, it is difficult to imagine even a five percent crash reduction being realized as a result of the proposed LCV training rules.

FMCSA inadvertently omitted the “opportunity cost to the motor carrier.” A few ATA members have furnished cost figures for their LCV operations. Turnpike Doubles or Rocky Mountain Doubles costs approximately \$77.50 per hour to operate. A set of triples cost approximately \$93.00 per hour to operate. Since we have no way of quickly determining the percentage of use of each configuration, we will add the two together and divide by two. The result is an average operating cost of \$85.25 per hour. Using the 1,172 drivers used in the Preliminary Regulatory Evaluation and multiplying that figure by 50 hours additional training (as estimated by FMCSA), the result is a total of 58,600 hours per year. Multiply 58,600 hours by \$85.25. The annual costs would be \$4,995,650 while the 10-year costs would be \$49,956,500. The result is that the 10-year costs would exceed the 10-year benefits² by \$25,556,500 when you consider a 10 per cent accident rate reduction; for a five per cent accident rate reduction, costs would exceed benefits by \$12,778,250.

ATA believes that because LCVs have such an exemplary safety record, FMCSA would be hard-pressed to develop a prescriptive training requirement that would pass a cost-benefit analysis. ATA, therefore, seriously questions the need for mandatory LCV training. Recognizing that FMCSA is compelled by statute and court order to develop an LCV training requirement, ATA encourages the agency to develop a training requirement that is performance-based, with at-fault accident rates as the measure of performance for motor carriers.

ATA Recommendation.

ATA urges FMCSA to reexamine its Regulatory Evaluation., address the issues discussed above, and issue a “performance-based” final rule

We want to thank FMCSA for the opportunity to comment on its NPRM addressing minimum training requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements. Should you have any questions concerning ATA's comments, please contact either of the undersigned.



David J. Osiecki
Vice President, Safety and Operations

Respectfully submitted,



Neill L. Thomas
Director, Safety and Operations

² See Table 2 at 68 FR 47896