



*A bold voice for transportation workers*

July 22, 2019

Richard Clemente  
Office of Carrier, Driver and Vehicle Safety Standards  
Federal Motor Carrier Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**RE: Entry-Level Driver Training: United Parcel Service, Inc. (UPS); Application  
for Exemption  
Docket No: FMCSA-2019-0139**

Dear Mr. Clemente.

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the United Parcel Service's (UPS) application for exemption from elements of the Entry Level Driver Training (ELDT) final rule. TTD consists of 33 affiliate unions representing workers in all modes of transportation, including commercial motor vehicle drivers who are subject to the FMCSA's CMV and CDL requirements.<sup>1</sup>

In its application, UPS requests exemption from the requirement that behind-the-wheel (BTW) instructors have held a CDL for two years before they themselves can train new CDL holders, as well as the requirement to register each training location for a unique Training Provider Registry number.

In requesting an exemption from the two-year experience requirement, UPS is asking FMCSA to undermine an integral component of its ELDT rule, and demonstrates its unwillingness to comply with requirements UPS has been aware of since the regulation was finalized nearly three years ago. FMCSA should reject UPS's application.

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<sup>1</sup> Attached is a complete list of TTD's 33 affiliate unions.



Broadly, the ELDT rule seeks to improve the quality of CDL training and the safety of drivers nationwide by mandating uniform standards that apply to all new CDL applicants. When fully implemented, the regulation guarantees that all covered CDL drivers will have base competency in key driving skills and receive quality training subject to federal oversight.

The two-year experience requirement in the ELDT rule is a pillar in FMCSA's efforts to improve safety. By requiring BTW instructors have two years of experience driving a CMV with a CDL of the same or higher class and/or the same endorsement that they are to train new drivers on, drivers and employers can be better assured of quality training. As in many positions in the transportation sector, skills and nuance gained through personal experience operating a CMV will always be preferable to training conducted by individuals with limited or zero real-life experience in specific types of operations.

When FMCSA promulgated the rule, it sought to improve safety while not placing undue burdens on companies operating training programs that complied with the regulatory requirements prior to the effective date of the rule. To this end, the regulation permits instruction from individuals who already have two years' experience specifically as BTW instructors, even if they do not have the required two years of experience driving. Apparently, this flexibility is not adequate for UPS. The agency states that:

“According to UPS, under the new ELDT regulations no one could be an instructor at the time these regulations go into effect unless he/she had obtained a CDL and had begun driving by February 7, 2018. UPS states that if it must comply with the instructor qualification requirements in the ELDT rule, it would not be able to use 25% of its current certified driver instructors, at minimum. Looking ahead two more years, that number would likely increase to 50% due to its changing workforce”.

UPS is thus claiming that even with the rule's flexibility, it anticipates turning over currently qualified instructors so quickly that by four years after the effective date of the rule, half of its trainers would have neither two years of experience driving a CDL or two years of training experience. This fact should be deeply concerning to FMCSA. A continuous cycle of minimally qualified instructors is more evocative of a fly-by-night training operation (of the type that FMCSA has increasingly taken enforcement actions against) than a large-scale nationally recognized organization. UPS requests flexibility that allows the use of trainers with minimal experience while also acknowledging that those trainers will not be employed long enough to gain experience.

As FMCSA is aware, the ELDT regulation was crafted through a negotiated rulemaking process in which a broad swath of stakeholders, including labor, business, and law enforcement provided input. The Entry Level Driver Training Advisory Committee, ELDTAC, met for six two-day negotiating sessions beginning in February 2015 until reaching consensus in May 2015. The consensus recommendation from this diverse group was that a driving experience requirement was a needed component of a final regulation. UPS' request for an exemption puts it at odds with this consensus as well as FMCSA's ultimate determination that “this approach, which reflects the

ELDTAC's preference for at least two years of CMV driving or BTW instruction experience, as well as the opinion of numerous commenters, establishes a sufficient minimum qualification standard for BTW instructors". FMCSA should not waive this requirement because a single entity has deemed it unnecessary.

In fact, UPS has on two prior occasions, in comments filed on April 6, 2016 and March 25, 2008, expressed its point of view on an experience requirement. It is telling that that neither ELDTAC nor FMCSA chose to make changes to the recommendation, or the proposed and final regulation to accommodate it. FMCSA has been provided no reason to change course on this subject. We call on FMCSA to reject UPS' petition, and we encourage the agency to implement the regulation without granting any waiver or petition that seeks to weaken or undermine its requirements.

Sincerely,

A handwritten signature in cursive script that reads "Larry I. Willis".

Larry I. Willis  
President



**Transportation Trades Department, AFL-CIO**  
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***TTD MEMBER UNIONS***

Air Line Pilots Association (ALPA)  
Amalgamated Transit Union (ATU)  
American Federation of Government Employees (AFGE)  
American Federation of State, County and Municipal Employees (AFSCME)  
American Federation of Teachers (AFT)  
Association of Flight Attendants-CWA (AFA-CWA)  
American Train Dispatchers Association (ATDA)  
Brotherhood of Railroad Signalmen (BRS)  
Communications Workers of America (CWA)  
International Association of Fire Fighters (IAFF)  
International Association of Machinists and Aerospace Workers (IAM)  
International Brotherhood of Boilermakers, Iron Ship Builders,  
Blacksmiths, Forgers and Helpers (IBB)  
International Brotherhood of Electrical Workers (IBEW)  
International Longshoremen's Association (ILA)  
International Organization of Masters, Mates & Pilots, ILA (MM&P)  
International Union of Operating Engineers (IUOE)  
Laborers' International Union of North America (LIUNA)  
Marine Engineers' Beneficial Association (MEBA)  
National Air Traffic Controllers Association (NATCA)  
National Association of Letter Carriers (NALC)  
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)  
National Federation of Public and Private Employees (NFOPAPE)  
Office and Professional Employees International Union (OPEIU)  
Professional Aviation Safety Specialists (PASS)  
Sailors' Union of the Pacific (SUP)  
Sheet Metal, Air, Rail and Transportation Workers (SMART)  
SMART-Transportation Division  
Transportation Communications Union/ IAM (TCU)  
Transport Workers Union of America (TWU)  
**UNITE HERE!**  
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)  
United Mine Workers of America (UMWA)  
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service  
Workers International Union (USW)

*These 33 labor organizations are members of and represented by the TTD*

