B. Hollinger - Comments

Docket number: FMSCA-2018-0037

There are many concerns that arise in the integration of automated driving systems (ADS) into commercial motor vehicles (CMV), specifically in the Federal Motor Carrier Safety Administration's (FMCSA) ability to apply certain established regulations. With the potential to make great strides in roadway safety, and limit losses to commercial transportation companies, it's important to solve these issues sooner rather than later, as the evolution of self-driving technology has been rapid and promising. I believe that the FMCSA's reconsideration of its view regarding its 2017 policy is appropriate, especially with the support of the Volpe Report, which indicates that, currently, there is no specific requirement that a CMV be operated by a human driver regardless of any automated driving technologies available on the CMV. Rather, the primary issues appear to be regarding the requirements which implicitly present applicability only to human drivers. As mentioned in the Volpe Report, the agency's desire for flexibility to allow automated systems to perform driver functions without the presence of a trained CMV driver in the driver's seat under the existing regulations may be achieved by amending the definition of "driver" and amending or creating other relevant definitions such as "onboard technician," "remote supervisor," and "operator."

By simply clarifying the term "driver," though regulatory changes will likely still be required for certain provisions, the agency will be able to at the present, step back (slightly) to allow for unburdened testing and safe integration of automated driving technology, without having to further burden the agency with temporary issues of licensing and exemptions while regulatory changes are commenced. The definition must be carefully crafted to add the automated driving system, a human onboard technician (non-driving) to oversee operation, and a remote operator supervising operation of a CMV. The Volpe Report presents other possible inclusions to the definition, such as a combination of the hardware and software that make up the ADS, or the manufacturer/developer of the ADS. However, the FMCSA's purview over the regulation of CMVs is limited to the operation of CMVs in interstate commerce, while the National Highway Traffic Safety Administration (NHTSA) holds the power to regulate manufacturing. Therefore, to include the manufacturer, or the hardware/software which they create, would constitute overreaching of the agency's powers into that of another agency. Instead, the definition of driver should be something along the lines of, ". . . a trained individual or automated driving system of a commercial motor vehicle that directly controls movement and direction of the CMV, or oversees, in real time, the vehicles operation either from within the CMV or remotely."

Finally, I think it is important to address the issue of whether there is a requirement to have a nondriving human technician or supervisor onboard a completely automated-CMV. This is a novel issue, obviously not addressed in the FMCSR, but I believe this agency should require an onboard technician always be present in an automated-CMV, at least until the safety of the new technologies is firmly without doubt. The CMV itself is not the only danger on road, as human drivers still dominate the public roadways, and their penchant for error is not curbed by automated CMVs. Furthermore, the degree of unassailability of these automated systems is unknown, and with added variables such as poor or broken street lighting, potholes and deteriorating road ways, and debris from other cars and accidents, a completely unmanned CMV may lead to issues. Until tort law develops such that we can establish the scope of liability in such instances, an onboard technician or supervisor should be present in the vehicle.