



National School Transportation Association

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Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
West Building, Ground Floor  
Room W12-140  
Washington, D.C. 20590-0001

Attention: Written Reply Comments to the Notice of Proposed Rulemaking on Carrier Safety Fitness Determination (FMCSA-2015-0001)

Dear Sir or Madam:

The National School Transportation Association (NSTA) is pleased to offer written reply comments to the Federal Motor Carrier Safety Administration's Notice of Proposed Rulemaking (NPRM) on Carrier Safety Fitness Determination as published in Volume 81 of the *Federal Register* on January 21, 2016.

NSTA is the membership organization for school bus companies engaged primarily in transporting students to and from school and school-related activities under contract to public school districts. Our members offer an array of services to our school district partners, from full turn-key service to management operations and specialized transportation. NSTA members range from small family businesses serving one district to large corporations operating thousands of buses across many states, all committed to the safe, efficient, and economical transportation of America's children.

NSTA has a multitude of foundational concerns with this Safety Fitness Determination proposal as offered by the Federal Motor Carrier Safety Administration (FMCSA). FMCSA has seemingly rushed to issue this proposal without regard for the concerns raised by the school transportation industry, recommendations made by the Government Accountability Office or the Department of Transportation's Inspector General, reforms directed by Congress in the Fixing America's Surface Transportation Act (FAST Act), the safety culture inherent in the school transportation industry or common sense and as such, we strongly urge FMCSA to rescind this proposal.

In addition, NSTA has several concerns with the merits of the proposal itself. Those include:

- The proposed change in the rating system would radically modify the Safety Fitness rating system and rather than recognize a safe carrier as being safe, this proposal would simply leave a safe carrier unrated, offering very limited guidance on the safety record of the carrier and cause potential confusion among carriers, law enforcement and the public. This rating change, which lacks common sense, is culturally flawed as it seeks only to recognize carriers that do not adhere to the regulations

while failing to positively acknowledge those that invest time, resources and personnel into being in compliance and operating safely.

- FMCSA has chosen to disregard the regulatory reform provisions detailed in the FAST Act and instead sought a waiver to avoid issuing an Advance Notice of Proposed Rulemaking or convening a negotiated rulemaking committee. FMCSA has chosen to begin this discussion with its own proposal, rather than seek input from the very motor carriers this proposal would affect.
- NSTA finds it worrisome that based on the proposal a carrier could be rated “Unfit” from one single safety event. We are also concerned that an “Unfit” rating at one operating location could affect the carrier as a whole at all operating locations.
- NSTA believes that FMCSA already factors in lower intervention thresholds in SMS for passenger carriers, which provides a higher standard for intervention. These lower intervention thresholds provide an early warning signal to FMCSA that the potential for a higher risk safety event exists. Further provisions are not necessary if FMCSA acts based upon the warning signs.
- With respect to the rating window display, NSTA believes that the FMCSA website and the Agency’s SaferBus app already provide passengers with a sufficient opportunity to check on a carrier’s safety performance. If the proposed safety rating system is finalized, there would be nothing to display other than “Unfit” and a carrier with such a rating is not likely to comply with such a requirement.
- Regarding the proposed reduction in administrative review filing time, NSTA does not find 15 days adequate to allow carriers to properly investigate and file responses. NSTA supports the current 90-day maximum.
- With respect to the Agency’s proposed crash calculation for determining a carrier’s Safety Fitness Determination, the recordable crash rate or the preventable crash rate would be more appropriate. In addition, the Agency should retain the current thresholds for urban (1.7) and non-urban (1.5) carrier.

With respect to concerns raised by others who submitted comments to this proposal, we note the following:

- We agree with those that recognized that under the proposal the state agencies will realize an unnecessary and unbalanced delegation of power. Given the disparity between state practices this seems unfair.
- We also agree with those expressing concern over the actual process of an “Unfit” rating, including how and when the rating will be communicated to the public as well as whether or not a carrier can continue to operate with an “Unfit” rating.
- We concur with those who noted that documentation should be provided at every inspection opportunity whether violations are found or not. Receiving documentation for a good inspection will certainly provide some level of equity.

In sum, NSTA has concerns with the proposed Safety Fitness Determination and we urge FMCSA to rescind this proposal.

In closing, we once again appreciate the opportunity to offer these reply comments on this issue and look forward to continuing to work with the Federal Motor Carrier Safety Administration on this issue. If you require further clarification, please do not hesitate to contact me at (703) 684-3200.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Sable Weber", is displayed on a light gray rectangular background.

Ronna Sable Weber  
Executive Director