

December 30, 2012

The Honorable Anne Ferro
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.W.
Suite W60-300
Washington, D.C. 20590

Dear Administrator Ferro:

The National School Transportation Association, which represents school bus companies that provide student transportation services under contract to public school districts and private schools, attended the recent Motor Carrier Safety Advisory Committee meeting on December 3-4, 2012 in Alexandria, Virginia, and closely followed the Committee's discussion on the December 26, 2007 Notice of Proposed Rulemaking (NPRM) on the Entry Level Driver Training Program. NSTA submitted comments for the record in 2008 on this issue, but believes it important to reiterate our position at this time given the recent renewed focus on this issue.

There are three great misconceptions about school transportation that we hope to resolve with this letter. These include: school bus drivers receive their training in an identical manner to motor coach, transit and truck drivers; the same training curricula for school bus drivers and truck drivers is appropriate; and school bus contractors have separate employees for home-to-school routes and separate employees for activity trips. We also take this opportunity to address the costs of this proposal as outlined by FMCSA in its 2007 NPRM.

Training

The 2007 NPRM indicates a lack of understanding of the school bus industry, whose driver force would be affected by the requirements. School bus carriers, both public and private, are unique among the transportation modes in providing free training to CDL driver applicants. Applicants without commercial licenses are accepted into the carrier's training program and often paid entry-level wages while receiving free training mandated by the state and designed to prepare the applicant for the CDL tests to become a school bus driver. The drivers are trained typically by state-certified school bus driver training instructors who are employed by the carrier and have completed train-the-trainer programs run by or sanctioned by the state.

In some cases, these programs are run or sanctioned by the state, however none of these are accredited by the U.S. Department of Education of CHEA, but they have demonstrated their effectiveness given the industry's safety record.

Carriers provide free training for school bus drivers because the nature of the job is such that most drivers work 20-30- hours a week, not a full time position. While the part-time nature of the work suits many drivers' schedules, for most people it does not justify the thousands of dollars it would cost to go through a driver training school. Once a driver has that much invested in training, he or she will look for a higher-paying full-time position as a motor coach, transit or truck driver.

In addition, there is some confusion in the NPRM as to the applicability of the proposed regulation to school bus drivers who are employed by public school districts. This confusion derives from FMCSA's cost-benefit analysis in which it considers only contractor-employed drivers. The implication is that only applicants who work for—or intend to work for—contractors are affected by the regulation. This is in direct contradiction to statements throughout the NPRM, such as “The new training requirements proposed in this NPRM would apply to all persons applying for a CDL for the first time who intend to operate CMVs in interstate commerce, and to persons upgrading from one class of CDL to another.” According to page 73231, the requirements would apply to all persons required under Sec. 383.3 to have a CDL, except for: (1) Those who intend to operate exclusively in intrastate commerce; (2) those who are excepted from obtaining a CDL under paragraphs (c) and (d) of Sec. 383.3; and (3) those who obtain a restricted license under paragraphs (e), (f), and (g) of Sec. 383.3. None of the exceptions applies to publicly-employed school bus drivers who intend to drive out of state. In fact, there is no government exemption in Sec. 383, so this requirement would apply not only to applicants for CDLs who intend to drive a school bus across state lines, but also to applicants who intend to operate any other public vehicle out of state.

Even if an applicant for a CDL were already employed by a public school district, the requirement would apply. While it is true that the training requirement is part of Sec. 380, which has a government exemption, the requirement to present a training certificate is part of Sec. 383, which does not have an exemption. And the applicability in Sec. 380 says “(a) The rules in this subpart apply to all entry-level drivers who intend to drive in interstate commerce and are subject to the commercial driver's license (CDL) requirements of part 383 of this subchapter, except drivers applying for a restricted CDL under Sec. 383.3(e) through (g) of this subchapter.” Since all school bus drivers are subject to the CDL requirements, it follows that all school bus drivers are subject to this NPRM.

Curricula

It the 2007 NPRM, FMCSA based the proposed curriculum solely on curricula used for training truck drivers, much of which is inappropriate for school bus drivers. While vehicle operation is certainly applicable to all drivers (and is covered in state

school bus driver training curricula), topics such as vehicle maintenance are aimed at over-the-road drivers, not at drivers who return to home base twice a day. The NPRM requires, in fact, that the mandatory behind-the-wheel training for Class B drivers be conducted in a straight truck with a GVWR of at least 14,000 pounds. This is contradictory to the requirements that the CDL be conducted in a vehicle of the type that the applicant intends to drive.

Not only does the curriculum include many hours of training unrelated to school bus driving, it also fails to include the kinds of training most important to school bus drivers. There is, in fact, almost nothing in the curriculum pertaining to passenger transportation, much less the specialized concerns of student transportation. The result is that drivers who completed this mandatory training would still need to complete any mandated state training for school bus drivers, which could add as much as forty (40) additional hours to the training requirement. A combined mandate for 130 hours of training would devastate the school bus industry, both in cost and driver availability.

Staffing

The third great misconception we hope to clarify with this letter is that school bus contractors have separate employees for home-to-school routes and separate employees for activity trips. This is simply not true. Most contractors, if for no other reason than efficiency, allow and encourage all of their drivers to drive both home-to-school routes and activity trips. As you know, a school bus driver is exempt from the Federal Motor Carrier Safety Regulations on home-to-school trips, but not on activity trips. Therefore, it is in the best interests of contractors to ensure that their drivers meet Federal Motor Carrier Safety Regulations. As written, the 2007 NPRM would apply to school bus drivers when they drive activity trips.

Cost Estimates

Finally, we believe that FMCSA has severely underestimated the cost of this proposal for the school bus industry. In order to create a more accurate picture, NSTA conducted a survey of its members in January and February of 2008 for our original response to the NPRM. At the time, we received responses from a cross section of carriers with operations in 36 states, employing roughly 50,000 school bus drivers. A comparison of FMCSA's estimates and NSTA's survey responses follows:

Number of new school bus drivers: FMCSA predicts that 24,800 new school bus drivers will be needed each year. While the school bus industry does not have accurate figures on the number of drivers we employ, we do know the approximate number of school buses we operate—475,000. According to our survey, the ratio of drivers to buses averages 1.16, which would mean that we currently employ 551,000 drivers. The survey also shows that an average 21% of the driver force are

new trainees each year. Consequently, the actual number of new drivers being trained for their CDL licenses annually is 115,710 (551,000 x 21%).

Number of interstate drivers: FMCSA claims that the only school bus drivers who will be affected by the NPRM are 1% of contractor-employed drivers. There are two flaws in this assumption. The requirement will apply to all applicants for a CDL who intend to drive in interstate commerce, not just to those who intend to drive contractor buses. Perhaps FMCSA assumes that public school districts do not transport students out of state. If so, it is mistaken. Public school districts that operate their own buses are no less likely than public school districts that contract transportation to send students on interstate activity trips.

The second flaw is the estimate that only 1% of drivers go out of state. In making this determination, FMCSA may have misapplied information that NSTA supplied in regard to an earlier rulemaking. In 2001, we provided data showing that 1% of all school transportation **trips** were interstate activity trips. That does not mean that only 1% of **drivers** go out of state. Because activity trips are typically assigned on a rotating basis, most if not all drivers at a location are eligible to take them. Among our survey respondents, an average 83% of the driver force is eligible for interstate trips under the employers' policies or union contracts, and an average 17% of the drivers actually made an interstate trip during the previous year.

Training cost: FMCSA estimates direct training costs at \$25/hour and the lost cost of wages and benefits at \$11.40/hour for a total cost of \$36.40/hour. According to our 2008 survey, direct training costs averaged \$37.59/hour and the average starting wage at the time was \$12.35/hour. That figure does not include any benefits. The actual average total cost of training in 2008 was therefore more than \$49.94/hour and is clearly higher today.

FMCSA also miscalculates the number of additional hours of training that will be required for school bus drivers, as it deducts 10 hours that are already part of the FMCSRs. In fact, the current requirement for school bus drivers is not 10 hours, but 6 hours; and more important, the current requirement does not apply to publicly-employed school bus drivers (since the responsibility lies with the carrier, not the driver), who represent two-thirds of the driver force. Therefore, for most of the industry, the training requirement will be 90 hours, not 80 hours.

Total cost per year: The following chart shows the difference between FMCSA's calculations and NSTA's calculations based on our survey results.

<u>FMCSA</u>	<u>NSTA</u>
119 drivers/year (1% of 30% of 24,800)	19,670 drivers/year (17% of 100% of 115,710)
9,514 hours/year (119 x 80)	1,770,300 hours/year (19,670 x 90)
\$36.40/hour	\$49.94/hour
\$346,300 cost per year to industry	\$88,408,800 cost per year to industry

NSTA's survey of actual practices and expenses shows that FMCSA has underestimated the cost of this NPRM to the school bus industry by a staggering **\$88 million in the first year**. Carrying the cost out for the ten year period would bring the total for the school bus industry closer to \$600 million than to the \$2.6 million estimated by FMCSA.

Benefit: Given the actual cost of the training requirement, and using the same cost per fatal and non-fatal crashes as FMCSA uses, it would take a reduction of 24 fatal school bus crashes or 454 non-fatal crashes each year in order for the benefits to equal the cost. We are aware of only one fatal school bus crash in interstate transportation in the past 15 years. Clearly, any benefit to be gained from applying this requirement to school bus drivers is far outweighed by its cost.

Recommendation

As we did in our 2008 comments and again now, NSTA urges FMCSA to exempt school bus drivers from this training requirement. This exemption would not be administratively difficult due to the unique CDL endorsement for school bus drivers.

An exemption is justified on the basis of the safety record of school bus drivers, state requirements for school bus driver training, and an analysis of cost versus benefit. Additionally, the unintended consequences of the NPRM are more likely to reduce student transportation safety than to enhance it, as schools will be forced to cut back on busing due to increased cost and fewer drivers, sending more students to less safe modes of transportation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronna Sable Weber', is written over a light gray rectangular background.

Ronna Sable Weber
Executive Director