

November 30, 2012

The Honorable Anne S. Ferro
U.S. Department of Transportation
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, understands through various public statements made by agency officials that FMCSA is considering issuing guidance to the medical community regarding screening for obstructive sleep apnea and other sleep disorders for commercial motor vehicle drivers in the very near future. While we commend the agency's effort to address this component of fatigue-related crashes, we believe this issue is more appropriately handled in the full rulemaking process rather than through guidance. This issue is simply too significant to do in any other manner.

NSTA is a not-for-profit association of private businesses providing transportation services to public school districts and private schools across the country. Our members range from single bus owners to large multi-national corporations operating thousands of school buses in many states. Private carriers operate about a third of the nation's school bus fleet.

As we noted to you in our December 21, 2011 letter:

"As private operators of school buses, NSTA members are subject to the FMCSRs when they provide interstate transportation for student activities or similar charter trips. According to FMCSA estimates, only about one percent of school bus operations are interstate activity trips subject to the regulations. NSTA estimates from member surveys that about four percent of school bus trips are activity trips, both interstate and intrastate.

The fact that less than five percent of school bus operations involve activity trips does not mean that only five percent of a carrier's driver force is used for those trips. Because activity trips are typically assigned on a rotating basis, most if not all drivers at a location are eligible to take

them; therefore, most private fleets require the majority of their drivers to meet FMCSA qualifications. Among respondents to a 2008 NSTA survey, an average of 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.

If 83% of private sector drivers are required to be medically qualified by employers, the universe affected by the recommendation is approximately 145,250 drivers. If 30% of the universe meets the BMI level (extrapolated from estimates of the incidence in the commercial driver population), more than 43,500 current drivers would be required to undergo testing. At a conservative \$1,000 per driver, the cost to the drivers or the industry just to screen would be approximately \$43.5 million in the first year."

When one additionally considers potential treatment costs to include a \$1300 CPAP machine and monthly monitoring costs of approximately \$15 per month per individual, the cost to treat those 43,500 drivers, is \$60.13 million. Based on our conservative estimates, together, screening, diagnosis and treatment for 43,500 drivers would total \$103.63 million for the industry. This is a substantial additional burden on the industry and therefore, if imposed by rulemaking would be categorized as an economically significant rule according to OMB directives. We do not believe guidance is an appropriate vehicle for proposing to impose costs of this magnitude.

NSTA members are proud of our strong safety record. School bus transportation is the safest form of transportation available amongst all modes. Children are eight times safer traveling in a school bus than in their parent's vehicles and nearly fifty times safer on a bus than traveling with a teen driver. As our record indicates, no industry takes safety as seriously as ours does. We are always considering new ways to improve upon our already stellar record, but we must ensure that any additional costs imposed on the industry are tied to proven safety benefits. In the area of school transportation, in particular, we must be attendant to the impact of any additional costs on the industry in a world of limited funds. Other pupil transportation expenses include the purchase of new school buses to ensure that as many children as possible are provided school bus transportation; driver and pupil training on safe loading practices; operational costs, such as fuel costs; and upkeep and maintenance of school buses and school bus equipment. All of these elements are essential to maintaining the industry's strong safety record. Adding another layer of expense, especially of this magnitude, is worthy of very careful consideration – which the rulemaking process would bring. In addition, we are concerned about the possible unintended consequences that could result in pushing more children into less safe transportation options.

In addition, while NSTA acknowledges the views of the medical community on the impacts of obstructive sleep apnea and other sleep disorders, we believe there are valid operational differences between school bus operations and other commercial carrier operations which should be taken into account when considering applying the recommendations to all commercial drivers. The safety record of school bus drivers in regulated service is unparalleled. There has not been one fatal crash in interstate activity trips in at least the past twenty years.

NSTA is committed to the safety of the children we transport every day. Our commitment is evident in a recent University of Michigan report which shows that during the period 2004 through 2008, the involvement of private school bus contractors in fatal crashes decreased by 26%, while the involvement of public operators increased. NSTA urges FMCSA to evaluate fully the impact resulting from the joint MRB/MCSAC recommendation for OSD screening and treatment on the private school bus industry through rulemaking.

While we once again applaud your commitment to safety and join you as a full partner in those efforts, we respectfully request that this issue be handled through the formal rulemaking process so as to give it the most thorough and comprehensive consideration it deserves. The implications are simply too great and the consequences too significant.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronna Sable Weber', with a long, sweeping flourish extending to the right.

Ronna Sable Weber
Executive Director

CC: The Honorable Ray LaHood
Secretary of Transportation

Mr. Boris Bershteyn
Acting Administrator
Office of Management and Budget, Office of Information and Regulatory
Affairs