



**National Association
of State Directors
of Pupil Transportation Services**

April 6, 2016

Docket Services, M-30
U.S. Department of Transportation
West Building Ground Floor, Rm. W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Reference: Docket Number FMCSA-2007-27748

**COMMENTS FROM THE NATIONAL ASSOCIATION OF STATE DIRECTORS OF
PUPIL TRANSPORTATION SERVICES (NASDPTS)**

**DOCKET NUMBER FMCSA 2007-27748 - NOTICE OF PROPOSED RULEMAKING
Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators**

The National Association of State Directors of Pupil Transportation Services (NASDPTS) was founded in 1968. Our purpose is to provide leadership, assistance, and motivation to the nation's school transportation community and industry. The Association works to ensure safe, secure, environmentally responsible, and cost effective transportation to school children and ensure their continued access to school and school related activities. NASDPTS represents a cross section of individuals and organizations involved in student transportation. As the Association's name indicates, members include those individuals with the primary responsibility for school transportation in each state. In addition, school bus manufacturers and other industry suppliers, school transportation contractors, and a number of state associations whose members include school transportation officials, drivers, trainers, and technicians also are members of affiliated councils within the Association. This diversity in membership, combined with the day-to-day involvement of the state directors in policy matters, creates a unique perspective on pupil transportation issues.

NASDPTS commends the Federal Motor Carrier Safety Administration (FMCSA, "the Agency") for its continued leadership in school bus passenger and transportation safety. We welcome the opportunity to comment on this important Notice of Proposed Rulemaking (NPRM).

Background

The current NPRM is the culmination of a multi-year effort to establish base level requirements for the type and amount of training that entry level commercial drivers must receive prior to receiving their commercial driver licenses (CDLs) and being qualified to drive. NASDPTS submitted comments in 2008 to the Agency's previous NPRM that attempted to accomplish this goal. That proposed rulemaking was ultimately withdrawn by the Agency on August 27, 2013, as the result of substantive issues raised by NASDPTS and many others in public comments to the NPRM and in the Agency's public listening sessions.

The current NPRM was developed by FMCSA to address the congressional mandate in Section 32034 of the former highways bill, the Moving Ahead for Progress in the 21st Century Act (MAP-21). In 2015 the Agency proposed that the rule be developed through a process of negotiated rulemaking involving a broad cross section of subject matter experts and stakeholders. NASDPTS requested involvement in that process and was selected as one of the 26 members to the Entry Level Driver Training Advisory Committee (the ELDTAC, or "Advisory Committee").

The Advisory Committee met six times starting in February 2015, and there were numerous activities involving subcommittees and conference calls in between regular Advisory Committee meetings in which NASDPTS was also involved. The ELDTAC voted to approve its recommendations to FMCSA on May 29, 2015. The resulting consensus agreement from the Committee was presented to FMCSA on June 15, 2015. The current NPRM is based almost entirely on the consensus agreement and, therefore, reflects the recommendations of the ELDTAC.

Components of the Proposed Rule

We have included below a brief summary description of each of the major provisions of the NPRM, which would become effective three years after the publication of the Final Rule:

Entry Level Driver Definition—An entry level driver for the purposes of the rule is an individual who must receive the skills test requirements to obtain a commercial driver license (CDL), and applies to persons who drive, or intend to drive commercial motor vehicles (CMVs), including school bus drivers. General exceptions are provided for military drivers, farmers, and firefighters.

Training Providers—The rule proposes a process by which training providers, existing and otherwise, would be required to register electronically on a new FMCSA Training Provider Registry (TPR). Providers, which could include school districts, vocational schools, individual owner-operators, commercial truck and bus driving schools, and others, would be required to attest and document that they train entry level drivers according to the requirements of the rule and are qualified per its requirements. All persons required to have ELDT would be required to be trained by providers on the registry and complete a training program appropriate to the license and endorsement that they seek. The rule would not require “accreditation” of training providers, as it was defined in the former 2007 NPRM that was withdrawn in 2013.

Core Training Curricula—The rule proposes core curricula for training of entry level drivers. There would be separate core curricula for those who will be applying for Class A and Class B CDLs.

Endorsement Training Curricula—The rule proposes separate ELDT curricula relating to CDL endorsements, including endorsements for hazardous materials (H), passenger (P), and school bus (S). The rule also proposes a “refresher” training curriculum for certain individuals whose CDLs are no longer valid due to disqualifying safety violations or certain other factors. School bus endorsement and refresher training were not mandated in MAP-21, but were recommended by the Advisory Committee as necessary safety components, consistent with the other endorsements.

Theory and Behind-the-Wheel Training—The proposed rule subdivides the required training curricula into theory (classroom) and behind-the-wheel (BTW) segments. The BTW training includes both range and public road driving components. The various components of the training could be delivered by different providers.

Theory Training—The proposed rule specifies that theory training for the appropriate class of CDL and endorsements may be taught either online or in a classroom. There are no time requirements prescribed for how many hours must be taught, but all components (content) of the training specified in the proposed rule must be taught. The training provider would be required to administer a written knowledge assessment to test proficiency as it relates to the theory training.

Behind-the-Wheel Training—The proposed rule requires that the BTW training for the appropriate class of CDL must include all components (content) of the training specified in the rule. Class A CDL trainees would be required to have a minimum of 30 hours of BTW training (range and road driving), with further specific provisions for how this requirement may be met. Class B CDL trainees, which include most school bus drivers,

would be required to have a minimum of 15 hours of BTW training (range and road driving), at least seven (7) hours of which must be on public roads. The training provider would not be required to administer a written knowledge assessment of BTW proficiency but would be required to document the training.

School Bus Endorsement Classroom (Theory) Curriculum—The proposed rule would require that the following topics be covered within the school bus endorsement theory training:

- Danger Zones and Use of Mirrors
- Loading and Unloading
- Post-Crash Procedures
- Emergency Exit and Evacuation
- Railroad-Highway Grade Crossings
- Student Management
- Anti-Lock Braking Systems
- Special Safety Considerations
- Pre- and Post-Trip Inspections
- School Bus Security
- Route and Stop Reviews
- Night Operation

School Bus Endorsement BTW Curriculum—The proposed rule would require that the following topics be covered within the school bus endorsement behind-the-wheel training:

- Danger Zones and Use of Mirrors
- Loading and Unloading
- Emergency Exit and Evacuation
- Special Safety Considerations
- Pre- and Post-Trip Inspections
- Railroad-Highway Grade Crossings

NASDPTS Comments on the Proposed Rule

Notes on ELDTAC Ground Rules:

The ELDTAC and its member parties, including NASDPTS, adopted “ground rules” to govern its negotiations and the development of its consensus recommendations. The adopted goal of the Advisory Committee was to, “in good faith, reach consensus on a

recommended rule on federal minimum training standards for entry-level drivers of commercial motor vehicles having a Gross Vehicle Weight (GVW) in excess of 26,000 pounds.” The objective was that “each party will support the consensus recommendation formed by the Committee.”

The Committee members requested that DOT provide a comment summary of the comments received in response to the published Notice of Proposed Rulemaking to the Committee so that the Committee may provide its recommendations, prior to issuance of a Final Rule, on what, if any, changes to the proposed rule are warranted based on those comments.

The Committee members agreed to make good faith efforts to represent their affected interests, including raising concerns and dissenting views. Accordingly, each Committee member who voted in favor of the consensus agreement agreed not to take a position materially inconsistent with the agreement in any public forum to the extent that the proposed or final rule had the same substance and effect, for a period of one year from the date of the final rule.

As part of the public rulemaking process, individual state and local student transportation agencies may, of course, submit their own comments to the NPRM. NASDPTS kept its members apprised of the negotiated rulemaking throughout the process, and we recently provided our members the NPRM and a summary of its contents. We encouraged members to submit independent comments to FMCSA. As a result, we are confident that the Agency will also glean useful information and perspectives from others within the student transportation community.

NASDPTS Comments:

Section: “Performance-Based Versus Hours-Based Approach to ELDT—FMCSA solicited comment on whether any minimum number of BTW hours should be required. If there is a required minimum number of hours for BTW training, FMCSA sought comment on whether the number of BTW training hours proposed in the NPRM should be retained, lowered, or increased. Further, because minimum hours are not proposed for BTW training for the school bus and passenger endorsements or for the refresher training, FMCSA also solicited comment on whether, and to what extent, a minimum hours requirement should be added to the BTW portions of those curricula.

NASDPTS supports the consensus of the Committee regarding the minimum number of behind-the-wheel hours for the Class B core curriculum. NASDPTS conducted a survey on pre-service driver training requirements and practices among states as part of its

research during the ELDTAC negotiations. While not all states had minimum hours requirements for BTW training, most did, and the number of hours, including public road driving, proposed by the Committee and included in the NPRM is reasonable as part of basic entry level training. The proposal is consistent with best practices and the high regard for safety exhibited within the nation's student transportation community. We are not aware of any agreed performance-based approach that would be measurable and practical in lieu of the hours-based approach. Given the unparalleled high level of safety already provided by school bus transportation, we do not see any safety need or justification for further extending the specific BTW hours requirement to include the passenger and school bus curricula or the refresher training.

Section: ELDT Curricula—FMCSA sought comments on the scope and content of the proposed curricula.

NASDPTS believes the proposed curriculum outline, which was developed by the subcommittees of the ELDTAC, including the School Bus Curriculum subcommittee, is appropriate. We are confident that it is consistent with, and in many cases exceeded by, the training typically provided to entry level drivers by most states and school districts throughout the nation.

Section: ELDT Curricula—In the proposed curricula for Classes A and B, shifting/transmission is a required element of both the theory and BTW components of the training. FMCSA invited comments on whether there should be an option to forego this element of the training for driver-trainees who intend to operate CMVs equipped only with automatic transmissions.

NASDPTS would like to see the FMCSA address that issue within the Final Rule. We have long favored a CDL restriction that would qualify drivers to operate school buses specifically, and school buses are now almost universally equipped with automatic transmissions. Therefore, there is no value to school transportation programs in qualifying drivers to driver other types of manual transmission-equipped vehicles.

Section: Major Issues on Which the Agency Seeks Comment—FMCSA requested comment on several issues throughout this section. The Agency specifically sought comments on the following topics:

1. Is there any additional data on the safety benefits of requiring ELDT training that you can provide (e.g., demonstrated crash reduction as a result of training)?

NASDPTS is unaware of any comprehensive data that correlates ELDT training with specific safety outcomes. That said, the Fatality Analysis Reporting System (FARS) data from the National Highway Traffic Safety Administration (NHTSA) continues to confirm that school buses are far safer than the other means by which students travel to and from school. We know from our surveys that entry level (preservice) training is commonly provided to school bus drivers as a best practice. The stringent licensure, training, and qualifications of school bus drivers are major factors contributing to the safety record of school bus transportation.

2. As proposed, would the training be effective in improving safety? If so, what aspects of the proposal would be effective in improving safety? If not, how could the training be delivered more effectively than proposed?

NASDPTS believes the consensus agreement and the NPRM comprise reasonable requirements in this area.

3. Is there any duplication in the commercial learner's permit exam and ELDT theory training? If yes, should it be eliminated or minimized?

NASDPTS has no comments on these questions, but has encouraged its member to offer comments.

4. FMCSA proposed a specific number of required hours for the BTW training for Class A and B. First, should there be a required number of BTW hours for these two programs? If so, is FMCSA's proposal for 30 hours (Class A) and 15 hours (Class B) appropriate?

As stated above under, "*Performance-Based Versus Hours-Based Approach to ELDT*," NASDPTS believes the proposed BTW hours for Class B are appropriate. We have no further comment on the proposal for Class A.

5. If there is not a required number of BTW hours, what alternative would be appropriate to ensure adequate BTW training for Class A and B? Would a requirement that is expressed in terms of outcomes rather than specifying the means to those ends be more appropriate?

NASDPTS is unaware of any practical, measurable, and universally acceptable means of employing an outcomes-based approach in lieu of a required number of BTW hours.

6. FMCSA allowed training providers flexibility by using either clock-hours or academic hours depending on the type of entity that offers the training (e.g., community college versus carrier provided trainer). FMCSA requested comment on whether training providers should be allowed to use academic hours versus clock-hours. Furthermore, FMCSA asked for input regarding whether there is a discernible difference between the two concepts.

NASDPTS has no comment on this topic.

7. MAP-21 did not mandate that FMCSA include the “S” endorsement as part of the required training. Given the devastating consequences of unsafe school bus operation, should the “S” endorsement training be retained in the Final Rule?

Yes. School bus operators have always sought to meet and exceed the basic requirements applicable to all commercial drivers, and the safety results are demonstrable. Moreover, there are specific, unique skills and procedures required for school bus drivers. As an example student loading and unloading is the most critical safety procedure, and it is the time when school bus riders are the most vulnerable as pedestrians. The school bus-specific content of the American Association of Motor Vehicle Administrators Model CDL Curriculum affirms the need for continued training specific to school buses.

8. The Agency did not propose that the theory, BTW range, and BTW public road training occur in a specific sequence in order to allow training providers the flexibility to determine how they would structure their programs. FMCSA requests comment on whether there should be a particular order associated with the theory, BTW range, and BTW public road curricula.

NASDPTS does not believe there is a need for the rule to be specific in this area. There is no reason we are aware of why training providers should not continue to be afforded flexibility in this area.

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Summary

Over the years, NASDPTS has issued many position papers on key safety issues involving school transportation and has sought to provide resources to states to enhance school bus safety nationwide (NASDPTS position papers are posted at www.nasdpts.org). As the national association whose members comprise primary policy-makers at the state level in the area of pupil transportation, NASDPTS takes very seriously its responsibility to provide appropriate feedback to FMCSA and other federal agencies. NASDPTS has a long history of providing objective responses to notices of proposed rulemaking as the federal government sought input on important issues. This is certainly no exception.

NASDPTS appreciated the opportunity to serve on the Entry Level Driver Training Advisory Committee, and we welcome the opportunity to comment on the NPRM. We wholeheartedly endorse the proposal. Minimum requirements for entry level training of school bus drivers are already common practice, and the proposed rule will augment our longstanding record of providing the safest transportation possible for our nation's children.

Sincerely,

A handwritten signature in cursive script that reads "Leon Langley".

Leon Langley, President