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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, DC 20590-0001

**RE: Commercial Driver's License Standards: Commercial Training Associations Exemption
Application for States to Facilitate Issuance of Licensing Documents to Citizens of Puerto Rico
[Docket ID: FMCSA-2017-0374-0001]**

The American Association of Motor Vehicle Administrators (AAMVA) appreciates the opportunity to comment on the Commercial Vehicle Training Association's (CVTA) Exemption Application for state issuance of licensing documents to citizens of Puerto Rico. AAMVA as an organization is extremely sensitive to the needs of citizens who are adversely impacted as the result of a natural disaster. Our jurisdictional membership makes tremendous efforts to assist their residents in the aftermath of large-scale events, and deploys their staff to help customers regain a semblance of their normal lives by assuring them access to the rights and privileges they enjoyed prior to the impact of the event.

We note that in a separate Federal Motor Carrier Safety Administration (FMCSA) notice, authority was granted for a limited 90-day waiver (*Federal Register, Vol. 83 No. 34, p. 7289*) from certain requirements concerning proof of U.S. citizenship or legal permanent residence and domicile. AAMVA understands that this waiver is permissive and provides states with the authority to deal with a displaced population at their discretion. AAMVA appreciates the provision of this flexibility and applauds FMCSA on considering the proposal on humanitarian grounds. However, AAMVA as representative of the states needs to clarify that the CVTA exemption request puts states in the difficult position of complying with conflicting federal requirements. Should the state choose to exercise this important flexibility, it may jeopardize its compliance with federal driver licensing standards. Should it choose not to exercise this discretion, it may be unfairly characterized as insensitive. Regardless of which path a state chooses, there are areas of the exemption request that create a complex federal compliance environment.

Inconsistency with Standing Federal Department of Homeland Security (DHS) Regulations

The notice cites that, "Through this exemption the SDLA would be allowed to follow the Department of Homeland Security's exception process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate

documents to establish identity.” This reference to the Real ID final rule (6 CFR 37.11) is applicable to a state’s minimum documentation, verification, and card issuance requirements as obligated through federal statute (P.L. 109-13). What is lacking is a correct correlation between an exception process established to relax the vetting of *identity*, against established requirements for verification of *legal presence*, and *domicile/residency*. These concepts, in terms of compliance with Real ID, are entirely separate considerations. This becomes especially important (and vexing) when considering that many jurisdictions offer numerous forms of identity credentials. Under the proposed exemption, a state may apply exception processing of the individual’s identity under these rules, and subsequently apply a waiver from the legal presence requirements under permissive authority – meaning the applying individual has now neither proven their identity nor their legal status prior to being issued a fully privileged Real ID compliant state identity document. Under this exemption application, not only would a person be provided with the opportunity to be fully credentialed, but would be given access to commercial privileges – something of increasing concern to DHS. After receipt of this credential, even a term-limited applicant could then change jurisdictions with a Commercial Driver’s License (CDL) prompting a change state of record transaction and be issued a new credential in a new jurisdiction under the assumption that both identity and citizenship had been vetted in their prior state. This chain of events could have tremendous implications for a jurisdiction’s compliance with the federal Real ID program, and runs counter to the basic tenants of institutionalizing Real ID in the first place. States have made tremendous investments in terms of time, resources, and system reengineering in an effort to meet this federal mandate. This proposed exemption could effectively dismantle those efforts.

While the six-month CDL validity period cited in the exemption application is meant to give an applicant time to “provide proof that the State that issued the CDL is his/her State of domicile,” that is not ultimately the most important consideration in identity credentialing. Should an applicant follow the above chain of events, it is more important that the applicant further provide concrete proof regarding their identity and legal status – both of which are required under Real ID mandate. Should a person satisfactorily prove identity, an applicant under this proposal may return and satisfy the residency/domicile requirement without ever providing proof of legal presence. That required verification component would be absent in the renewal processing of an individual.

Differentiation of Affected Individuals

AAMVA further notes that there is no consistent methodology for determining who has been subject to catastrophic events. Member jurisdictions within states employ discretion during relief efforts by visiting affected areas and conveying state-credentialing services to those in areas of need. The proposed exemption application nationalizes the concern for a demographic of displaced people but does not provide a suggestion on how to weigh those legitimately impacted from those who are looking to exploit the system for purposes of fraud.

Validity Cycle

The proposal does not make clear how the application of the 90-day CLP or six-month CDL validity should be applied to the credentials. Does this mean that the validity is tied directly to the issuance date of the credential, or from the date of application? Further, the assumption

that the states can easily “key-in” any expiration date is erroneous. Jurisdictional licensing systems are hardcoded in such a way as to issue a CDL with an expiration date associated with the validity period of the license as provided under state and federal law. In order to accommodate a six-month expiration date from the date of issuance, states would need to reengineer their systems to accommodate such a change. These are important considerations given the relatively short term of validity and the potential for cost to the administering agencies.

Base Credentialing

The proposal does not cover base licensing or credentialing. Current Federal Motor Carrier Safety Regulations (FMCSRs) require that an applicant for a CLP must first hold a base operator’s license in order to qualify for a CLP (49 CFR 383.25(a)(2)). Given that this authority extends exemption of proof of legal presence to the CDL/CLP, it would not be applicable from a statutory standpoint given that the base credential is needed prior to issuance of the CLP.

Potential for Exemptions to Become Routine

While the cited demographic warrants our concern, it will not be the only demographic needing substantial relief. The nation has seen terrible tragedy as a result of wildfires, flooding, etc. over the course of the past decade. AAMVA has concerns that should the response to this natural disaster warrant broad exemptions to the legal presence requirements, any future hardship or disaster would equitably warrant the same response. Should that occur, the exemption process carries the potential to eclipse the traditional process, whereby every affected individual would be privy to vetting reserved for extraordinary circumstances.

Waiver of Requirements Contingent on CDL Training School Enrollment

The notice cites that a CLP issued under the waiver of proof of U.S. citizenship and domicile “must be limited to 90 days’ validity and is subject to the applicant being actively enrolled in a CDL training school within that State.” Given that states must seek equitable conditions for all CLP applicants, this proposal would necessitate an established verification process for active enrollment - something this notice does not address. The application also provides no details for how to document or verify active enrollment, not does it address instances where an applicant receives a CLP under the waiver and then leaves the training school program. This conditional proposal creates the additional responsibility to verify active school enrollment and carries associated additional administrative and technical burden for active enrollment verification.

Again, while AAMVA understands that the granted temporary authority is currently permissive, there are concerns that if the full exemption application were granted, there would be additional pressure for these exemption processes to become standard. A state’s ability to comply with competing federal requirements would increase substantially – either at the expense of security and conformance, or at the expense of humanitarian relief, neither of which can be reconciled with the other simultaneously. AAMVA thanks FMCSA for consideration of these issues, and suggests further dialogue between DHS and FMCSA on how this proposal coincides with standing federal directives.

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