



April 6, 2016

Docket Management Facility (M-30)
U.S. Department of Transportation
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; FMCSA-2007-27748; RIN 2126-AB66

The American Association of Motor Vehicle Administrators (AAMVA) welcomes the opportunity to comment on minimum training requirements for entry-level commercial motor vehicle operators. AAMVA applauds the Federal Motor Carrier Safety Administration (FMCSA) for approaching the issue through an initial negotiated rulemaking process. We believe that this will ultimately ensure the appropriate issues are being addressed, and more importantly, this process takes into account the various perspectives of all stakeholders involved in the issue.

AAMVA recognizes the importance of assuring first-time commercial vehicle operators have received the appropriate level of training prior to undertaking a professional driving career and provides the following comments in response to the Notice of Proposed Rulemaking (NPRM).

Most significantly, AAMVA notes that the NPRM does not provide language clearly stating that the registry of entry-level training providers and the process for transmittal and acceptance of all applicable information associated with the entry-level training certification must be in place and functioning properly prior to the compliance date. Responsible parties should not be held accountable for upholding the requirements of the rule when functional components are missing or incomplete. AAMVA requests that language clarifying that State Driver License Agencies (SDLAs) and other stakeholders will not be held responsible for the requirements of this rule until all functional and process requirements for the Training Provider Registry (TPR) and the transmission of data have been fully satisfied. AAMVA requests this language accompany any reference to the 3-year compliance date incorporated into the rule.

§380.603 Applicability

The section-by-section analysis of §380.603 states that “Any individual who fails to obtain the CDL within 360 days after obtaining a CLP would be required to complete a full ELDT course following application for a new CLP.” Later, rule language for §383.71 states, “Except for driver trainees seeking the H endorsement, driver-trainees who have successfully completed the theory portion of the of the training must complete the skills portion within 360 days.” AAMVA requests clarification on whether the applicability of the 360 day requirement is tied to the date of initial CLP issuance, the issuance of a renewal CLP, or the completion of the theory portion of the training. Further, AAMVA requests clarification on whether satisfactory completion before the 360 day expiration is based on the date of completion of the skills portion of the curriculum, the completion of the behind-the-wheel portion of the training, successful completion of the skills test, or the issuance of the CDL. All of these components

intermesh the responsibilities of SDLA administration of testing components with non-SDLA delivery of a reliable curriculum associated with pre-testing.

AAMVA also suggests that while 180 days for initial issuance of a CLP plus 180 days for the issuance of a renewal CLP equals 360 days, not all drivers renew their CLP on the exact expiration day of their initial CLP. Rather than basing the validity period on 360 days, AAMVA requests that the validity requirement be based on the expiration date of the renewed CLP or 360 days from the initial CLP issuance, whichever is later.

AAMVA also notes that §380.603(d) states, "Except as provided under paragraph (e) of this section, a person who has received training qualifying him or her to take the skills test for a CDL and/or endorsement *is not required to obtain such training again before reapplying for a CDL or endorsement.*" This statement confuses the intent that training applies to specific classes or endorsements. AAMVA recommends that this section could more clearly state, "Except as provided under paragraph (e) of this section, a person who has received training qualifying him or her to take the skills test for a CDL and/or endorsement *is not required to obtain such training again when applying for an equivalent subsequent CDL.*"

§380.611 Entry-Level Driver Training Provider Requirements

The analysis on §380.611 requests comment on whether the rule should require that theory and Behind-The-Wheel (BTW) training be taken sequentially and specifically whether theory training should be required before taking the state-administered written test to obtain a CLP. AAMVA suggests that it would be logical under any circumstance to provide theoretical training prior to any behind-the-wheel training where an increased element of danger is introduced into the environment. Doing so would also contribute to increased value and efficiency once the driver begins the BTW training.

In relation, FMCSA requests comment on the sequence of BTW range and BTW public road training in "Major Issues on Which the Agency Seeks Comment." For similar reasons, AAMVA recommends that the range hours of the BTW should precede public road training to limit public exposure to drivers that have not had BTW training in a controlled environment.

AAMVA further recommends that the theory portion of the training should not be a mandatory requirement for the driver to take the knowledge test with the SDLA, but that it should be made available to drivers who have not yet obtained a CLP if the driver wishes to take the classroom curriculum to aid in knowledge test preparation. However, FMCSA states in the analysis for §380.611 that "FMCSA would not transmit training certification to the SDLA until it receives notice of successful completion of both theory and BTW (range and public road) training, when applicable." A reprieve from the theory requirements could confuse this process and require SDLAs to repeatedly check against theory certifications that do not exist. Further, AAMVA contends that SDLAs should only receive certificate information once. AAMVA does not support a burdensome process that requires multiple certification checks.

§380.717 Training Certification

This section lists the following data elements be included as part of the certificate:

- Driver-trainee Name, CDL/CLP number, and state of licensure
- Vehicle class and/or endorsement training the driver-trainee received
- Name of the training provider and its unique TPR identification number, and
- Date of successful training completion.

Given that the theory and behind-the-wheel training could be submitted by different providers, AAMVA suggests that certificate submission be specific to these different requirements per the following data elements:

- Driver-trainee name

- State and CDL/CLP number
- Vehicle class and/or endorsement training the driver-trainee received
- Name of the *theory* training provider and its unique TPR identification number
- Date of successful *theory* training completion
- Name of the *behind-the-wheel* training provider and its unique TPR identification number
- Date of successful theory training completion.

This section proposes that all training providers be required to upload training certificates to the Training Provider Registry (TPR) “by close of the next business day.” AAMVA recommends that instead of using the subjective timing of when a business day “closes,” FMCSA instead use “midnight of the next business day.”

§383.153 Information on the CLP and CDL Documents and Applications

This section designates restriction code R as the code for refresher training only. AAMVA suggests that restriction code “I – Limited Other” with specific accompanying text may work better for the SDLAs and allow them to retain restriction code R for current use.

§383.51 Disqualification of Drivers

This section states that a holder of a CDL who is disqualified as a result of a conviction of offenses under §383.51(b), (c), (d), or (e) must not be fully reinstated to drive a CMV until he or she has successfully completed the refresher training curriculum in §380.625 of this chapter. While AAMVA appreciates the need for refresher training, the requirement for refresher training for all violations incorporated under §383.51 would drastically increase the volume and demand for operators requiring such training prior to operational authorization of a commercial vehicle. This also carries the potential to disrupt a continuous personnel supply for carriers and an operator’s ability to work. AAMVA suggests that if a license has been disqualified for a year or more, has been cancelled, or has been revoked, that an individual be subject to refresher training.

Further, the requirement for refresher training should be based upon a SDLA’s *termination* of operating privileges requiring that the driver reapply for those driving privileges. AAMVA recommends these requirements not apply to drivers who can resume driving on their existing license when the withdrawal period is up – such as the NPRM’s current inclusion of drivers receiving a 60-day disqualification.

AAMVA also notes that §383.51(a)(8) states “limited privileges to drive a CMV are to be reinstated solely in order to allow the driver to complete the refresher training curriculum.” AAMVA requests clarification on how a state would convey these limited privileges, and whether FMCSA envisions these limited privileges would translate to a new credential or a new restriction code. AAMVA also requests clarification on whether there are revocation requirements for the old credential. For instance, if you are disqualified for 60 days and have to take refresher training, what evidence is provided to allow you to operate a CMV for the sole purpose of satisfying the refresher training? Assuming surrender of the actual document will not be a requirement, AAMVA suggests that there will still be a need for differentiation between the original credential and the limited privileges associated with that credential. However, AAMVA again cautions FMCSA on the use of restriction codes given the limited availability of open restriction codes.

§383.71 Driver Application Procedures

This section states that, “...a person must successfully complete the training prescribed in subpart F of part 380 of this chapter before taking the skills test for a Class A or B CDL or a passenger or school bus endorsement or *the knowledge test for a hazardous materials endorsement.*” While AAMVA understands the need for HAZMAT special guidance, restricting access to the knowledge test seems unintuitive. AAMVA believes that because it is the credential that is most important, restricting access to the issuance

of the CDL may be more sensible and would allow the driver to make the decision on whether to take the training either before or after their application for the HAZMAT endorsement.

§383.73 State Procedures

The section-by-section explanation of proposed changes for §383.73 indicates a restriction on CDL issuance until the SDLA has received “electronic certification” indicating completion of the entry-level driver training. The requirements included in the actual rule language provide that, at a minimum, a state must conduct a CDLIS check to ensure training has been completed. AAMVA requests clarification on whether a training provider may issue a paper certificate to the driver and whether a SDLA may accept a paper certificate. AAMVA believes it is the intent of FMCSA that this process be solely conducted electronically, but clarification on provision of the training certificate to the driver and submission to the registry must align with a purely electronic process. AAMVA requests FMCSA express these requirements very clearly in the final rule.

§383.95 Restrictions

This section provides that, “The State may not restore full CMV driving privileges until the State receives notification that the driver successfully completed the refresher training curriculum.” Explanatory notes on refresher training (pg. 11953) provide that “The rule would include an explicit requirement for SDLAs to administer a CDL skills test to these individuals, but only if there is an electronic training certificate *on file* with the SDLA.” While it is the assumption of AAMVA that third-party providers would be allowed to administer the skills test as an agent of the state, it would still require that the third-party check that there is a certificate on record. No consideration of this verification process by third-party providers is included in the NPRM, and this additional request could further delay a driver pending the recording of certificate data to the driver history record.

AAMVA strongly recommends that FMCSA consider the electronic training certificate be retained by the Training Provider Registry and that it be accessible prior to administration of the skills test. This language would allow the third-party providers to submit a search inquiry to the TPR and obtain the necessary certificate data to administer the skills tests. It would also allow for greater FMCSA oversight of the TPR and provide a necessary protection for SDLA systems.

§384.230 Entry-Level Driver Certification

This section states that a SDLA must verify that a person received training from a provider listed on the TPR before “upgrading a CDL from one class to another.” Beyond the increased volume associated with queries to the TPR, AAMVA asks for FMCSA clarification that the intent is for every applicant to undergo the entire ELDT training for that license class when upgrading a license.

General Concerns:

Class C Commercial Driver’s License

AAMVA notes that in the NPRM’s section on the ELDTAC Consensus Agreement key term/concepts it cites that, “An individual holding a CDL that has been canceled or revoked by the state of issuance – and would thus be required to re-take a state-administered CDL exam – would not be required to retake a full ELDT course as a condition of taking such exam. However, any individual whose CDL has been canceled or revoked for a highway safety-related reason would be required to complete refresher training from a provider listed on the TPR *prior to retaking the state CDL exam to reinstate his or her CDL Class A or Class B license.*” While AAMVA feels that combined changes in §383.51 and §380.625(c) accomplish the intentions of the rule, the statement in the ELDTAC key terms could be misconstrued to mean that individuals with a Class C CDL are exempt from refresher requirements. AAMVA understands that this language was included only in terms of regulatory and legal history but believes there is a significant discrepancy between the explanation and what is included in the rule language that may need clarification.

Comment Period

AAMVA understands FMCSA's response with regards to AAMVA member requests for an extension of the comment period for this NPRM. AAMVA also appreciates FMCSA inclusion of the association and its member jurisdictions as part of the negotiated rulemaking process. We do note that numerous AAMVA jurisdictions felt they did not have appropriate time to vet and review such a comprehensive and significant rule in 30 days.

Cost

FMCSA has determined that this rulemaking is an economically significant regulatory action under Executive Order 12866 and notes that the rule exceeds the \$100 million annual threshold. AAMVA reinforces that it is not only a significant rulemaking in terms of the costs placed on the agency and the states, but it is also significant in terms of the administrative burden for program oversight it will place on compliant states. This rule imposes significant costs associated with modifications to state driver records, the accommodation of data from the training registry, and additional CDLIS central-site impacts. There are also costs associated with an ongoing maintenance of effort.

Data Requirements

The NPRM does not specify how long an SDLA has to post the ELDT certificate to the driver history record. AAMVA requests that FMCSA clarify and include the timeframe for posting of the data in the final rule.

While §380.725 provides documentation and record retention requirements for training providers, the NPRM does not specifically address data retention requirements for the SDLAs. AAMVA requests FMCSA provide clarification on how long the SDLAs will be required to store data.

While §380.717 includes the information that a training provider must submit to the TPR, the NPRM does not include a listing of the data elements that need to be posted to the CDLIS driver history record. AAMVA would assume that the information carried from one source to the next would be consistent, but requests that FMCSA be clear on which data elements CDLIS and the SDLAs will be required to accommodate.

AAMVA also requests FMCSA consider the TPR send an inquiry to CDLIS to verify that the certificate can be matched to a CDLIS Master Pointer Record (MPR) *prior* to the TPR transmitting the ELDT certificate to the SDLA. Doing so will ensure that the SDLAs have a record to associate with the ELDT certificate and ensure the data quality of the submitted certificate.

Endorsements

While sections 380.619 (Passenger), 380.621 (School Bus), and 380.623 (Hazardous Materials) describe the training requirements and curriculum associated with each type of endorsement, AAMVA notes that the curriculum for these endorsements is specialized for those endorsements and does not include some of the core requirements incorporated in Class A/B and refresher courses. The NPRM cites that the ELDTAC concluded "Class C training is therefore effectively covered by the proposed endorsement training"(pg. 11958). AAMVA believes this may not be an entirely accurate statement given the current listing of curriculum for endorsement training. Drivers with such endorsements are equally, if not more inclined, to need to be aware of general safety measures to ensure the safety of their specialized endorsement's cargo. For example, the endorsement curriculum does not include materials on the following areas: extreme driving conditions, nighttime operation, drugs/alcohol and medical requirements.

AAMVA recommends FMCSA analyze the curriculum and determine which topics apply to all CLP/CDL applicants and create a general course that all CLP/CDL applicants must take in addition to the specific class and/or endorsements they are applying for. This would obviously imply removal of any general topics from the core A/B curriculum.

AAMVA also notes that FMCSA requests comment on the minimum hours of BTW training for the S and P endorsements and refresher training (pg. 11957). AAMVA recommends that FMCSA analyze the minimum number of hours required to complete the BTW curriculum and use that number to set the baseline for the BTW requirement for the S and P endorsements and refresher training to maintain consistency with the other courses.

Privacy

The NPRM notes in *Section J – Privacy* that “The Department will not retain a copy of the trainee certificate in its systems.” AAMVA submits that while FMCSA intends the trainee certificate to only be required once, SDLAs are frequently subjected to unintended circumstances. FMCSA not retaining the trainee certificate creates a dependency on the transmittal of the data without any type of backup process in the event that the SDLA did not successfully receive the push of the certificate. This could also mean that an applicant with an 8 year license is depending on the records of a training school that only retains the information for three years. Without a reliable query mechanism for a state to run against FMCSA-retained records, the SDLA would be forced to unnecessarily refuse this applicant.

AAMVA thanks FMCSA for its hard work on providing training requirements for entry-level drivers and working to increase the efficacy and safety of the nation’s roadways. AAMVA further applauds FMCSA’s efforts for SDLA inclusion through the negotiated rulemaking process and looks forward to continuing its important partnership with FMCSA as we both strive to make the nation’s roadways safer for everyone.