



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Parts 380, 383, and 384

[FMCSA-2007-27748]

RIN 2126-AB06

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of withdrawal.

SUMMARY: FMCSA withdraws its December 26, 2007, notice of proposed rulemaking (NPRM) that proposed new entry-level driver training standards for individuals applying for a commercial driver's license (CDL) to operate commercial motor vehicles (CMVs) in interstate commerce. The Agency withdraws the 2007 proposal because commenters to the NPRM, and participants in the Agency's public listening sessions in 2013, raised substantive issues which have led the Agency to conclude that it would be inappropriate to move forward with a final rule based on the proposal. In addition, since the NPRM was published, FMCSA received statutory direction on the issue of entry level driver training (ELDT) from Congress via the Moving Ahead for Progress in the 21st Century Act (MAP-21) reauthorization legislation. Finally, the Agency tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide ideas the Agency should consider in implementing the MAP-21 requirements. In consideration of the above, the Agency has concluded that a new rulemaking should be initiated in lieu of completing the 2007 rulemaking.

DATES: The NPRM “Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators,” RIN 2126-AB06, published on December 26, 2007 (72 FR 73226), is withdrawn on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: If you have questions on this Notice of withdrawal, contact Mr. Richard Clemente, Transportation Specialist, FMCSA, Bus and Truck Standards and Operations, (202) 366-4325, MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background/General issues raised during comment period and listening sessions

After the D.C. Circuit Court of Appeals remanded the May 21, 2004 final rule, titled “Minimum Training Requirements for Entry Level Commercial Motor Vehicle Operators” (69 FR 29384), to the Agency for further consideration, FMCSA published an NPRM on December 26, 2007, entitled “Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators” (72 FR 73226). The Agency received more than 700 comments to its proposal. Additionally, on January 7, 2013, and March 22, 2013, FMCSA held listening sessions on ELDT. While most commenters expressed support for the ELDT “concept,” they had divergent views on several of the proposed rule’s key provisions.

Hours-Based vs. Performance-Based Driver Training

Several industry organizations expressed opposition to the proposed mandate of a specific minimum number of training hours. Instead, these commenters support a performance-based approach to training that would allow an individual to move through the training program at his/her own pace. Essentially, a driver who demonstrated mastery of one skill would be able to move to the next skill. The driver would not have to repeat continually or practice a skill for a

prescribed amount of time – 2 hours, for example – if the driver could master the skill in 20 minutes.

Other commenters, however, did support a minimum hours-based approach to training. They stated that FMCSA must specify the minimum number of instructional hours in order to be consistent with the original Model Curriculum of the 1980s.¹ Additionally, some supporters of an hours-based training approach believed that the Agency’s proposal did not involve sufficient hours (particularly behind-the-wheel hours) to train a driver adequately. Finally, other commenters suggested a hybrid of the hours-based and performance-based approaches.

Several commenters asserted that by establishing a minimum number of hours required for training, the Agency would create a Federal standard that would eliminate certain Federal loan options otherwise available to students enrolled in driver training programs. They claimed that the U.S. Department of Education (ED) would refuse to authorize Federal Family Education Loan (FFEL) or Direct Loan funding to programs more than 50 percent longer than the minimum 120- or 90-hour programs for Class A and B/C CDL applicants proposed by the FMCSA. However, commenters contended further that if courses were to be capped at 180 or 135 hours – 50 percent longer than the Agency’s proposed Class A or B/C programs – to comply with one aspect of ED’s regulations, they would then fail to meet the 300-hour minimum required to be eligible for FFEL and Direct Loan funding. One individual at a listening session disputed this claim. He said it was a misconception that training schools would not offer longer courses if drivers could not qualify for Title IV student funding.

Accreditation

¹ In 1985, FHWA issued the “Model Curriculum for Training Tractor-Trailer Drivers” (1985, GPO Stock No. 050-001-00293-1).

The NPRM proposed to require that all commercial driver-training schools be accredited by an agency recognized by either ED or the Council on Higher Education Accreditation. Most commenters opposed the accreditation process because they claimed it is a long and costly process that would not necessarily result in better training of the students because the accreditation is not “program specific.” In other words, the training institution may obtain accreditation, but the accreditation would not be specific to the driver training program’s course content. They argued that accreditation might restrict the number of schools where drivers could receive training.

Alternatives suggested included allowing training institutions to self-certify, subject to Federal or other oversight, or voluntarily to obtain 3rd party certification or accreditation. However, other commenters believed that even stricter control of training schools should be exercised by the Federal and/or State governments.

Passenger Driver Training

Commenters from the motorcoach industry stated that they were an “afterthought” in the NPRM. Specifically, they stated that there was no mention of the Model Motorcoach Driver Training Curriculum in the proposed rule. One motorcoach company asserted that its in-house training program is much more rigorous than the Agency proposal and that it continually tests and re-trains its drivers. Others believed that the proposed training program would have particularly adverse consequences for the motorcoach industry as few institutions offer training specific to that segment of the industry. Additionally, concerns were expressed that existing company training programs for entry-level drivers would cease as they would no longer be able to hire the entry-level drivers they train.

The school bus industry, in particular, questioned its inclusion in the proposed rule. Commenters asserted that the safety record of school buses shows that the industry's own driver training, based on State requirements, is effective. Implementing the NPRM would increase the costs significantly for school bus operators with no demonstrable increase in safety. Furthermore, the proposed rule might exacerbate the school bus driver shortage.

Post-CDL Training

Some NPRM commenters and others who participated in the ELDT listening sessions suggested that the Agency consider regulatory actions beyond what was proposed in the 2007 NPRM. For example, several individuals and organizations believe the Agency should assess the merits of implementing a graduated commercial driver's license (GCDL) system approach. This concept would involve placing limits on the operations of new CDL holders for certain periods of time until the drivers obtain enough experience to operate as solo drivers, without restrictions or limitation. For example, the GCDL approach would require that the new CDL holder work under the supervision of an experienced driver or mentor as part of a team operation before being allowed to drive solo. Other commenters stressed that their companies are doing continuous training/testing and that re-training of individuals should be required. As proposed, the 2007 NPRM would have required training before an individual obtained a CDL; the "finishing training" advocated by some commenters was not discussed.

Participants in the listening sessions held earlier this year also raised concerns about the trainer/trainee relationship. Several stated that behind-the-wheel training, either pre- or post-CDL, requires that the trainer be in the passenger seat of the cab providing actual "hands-on" instruction. Commenters cited specific instances of new CDL holders being paired with an experienced driver, but on many occasions the experienced driver was resting in the sleeper-

berth rather than training/mentoring the new driver. They believe that new CDL drivers should receive a minimum of 6 months of on-the-job, behind the wheel training, with the trainer required to ride in the passenger seat and provide coaching and mentoring rather than resting in the sleeper berth. In addition, commenters stated that trainers should meet minimum experience and knowledge requirements before being eligible to train CDL applicants.

MAP-21 Requirements

The Moving Ahead for Progress in the 21st Century Act (MAP-21) Section 32304, “Commercial motor vehicle operator training,” amends 49 U.S.C. 31305 to require the Agency to issue regulations to establish minimum entry-level training requirements for all prospective CDL holders. Section 32304 specifically mandates that the training regulations (1) address the knowledge and skills needed for safe operation of a CMV, (2) address the specific training needs of those seeking hazardous materials and passenger endorsements, (3) create a means of certifying that an applicant for a CDL meets Federal requirements, and (4) require training providers to demonstrate that their training meets uniform Federal standards. The 2007 NPRM did not address endorsement-related training or the entry-level training of new intrastate CDL applicants that is now mandated by MAP-21; these additions would be a significant change of direction.

After Congress enacted MAP-21, FMCSA requested that its Motor Carrier Safety Advisory Committee (MCSAC) consider the history of the ELDT issue, including legislative, regulatory and research background, and identify ideas the Agency should consider in moving forward with a rulemaking to implement the MAP-21 requirements. MCSAC issued its letter report in June 2013, which is available on the MCSAC website: <http://mcsac.fmcsa.dot.gov>.

Other Actions

Currently, FMCSA is conducting two research projects to gather supporting information on the effectiveness of ELDT. Study 1 will randomly sample CDL holders who received their license in the last three years and were identified as recently employed as a CMV driver. This will be done using information from the Motor Carrier Management Information System and the Commercial Driver License Information System. The drivers' safety performance data from these two systems will be analyzed against the type and amount of training they received. Study 2 will gather information from various sources to identify the relationship of training to safety performance. The sources include: carriers; CDL training schools; and State Driver's License Agency records for recently issued CDLs. This study will also examine the safety performance of drivers in two States that have regulations dealing with different aspects of CDL driver training.

FMCSA Decision to Withdraw the NPRM

After reviewing the MAP-21 requirements, comments to the 2007 NPRM, participants' statements during the Agency's public listening sessions held earlier this year, and the MCSAC's June 2013 letter report, FMCSA has determined that it would be inappropriate to continue with the rulemaking initiated in 2007. The Agency believes a new rulemaking would provide the most effective starting point for implementing the MAP-21 requirements. A new rulemaking would provide the Agency and all interested parties the opportunity to move forward with a proposal that focuses on the MAP-21 mandate and makes the best use of the wealth of information provided by stakeholders since the publication of the 2007 NPRM.

In consideration of the above, the Agency withdraws the December 26, 2007, NPRM. However, the rulemaking to carry out the MAP-21 entry-level training requirement will solicit comments from all interested parties, including those who may wish to reiterate their previous

remarks. That new rulemaking will be based on the results of the studies referenced above, public comments responsive to the statutory mandate, and the specific requirements of § 32304 of MAP-21.

Issued under the authority of delegation in 49 CFR 1.87.

Dated: August 27, 2013.

Anne S. Ferro
Administrator

[FR Doc. 2013-22772 Filed 09/18/2013 at 8:45 am; Publication Date: 09/19/2013]