




**National Rural Electric
Cooperative Association**

A Touchstone Energy® Cooperative 

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

Via electronic submission through <http://www.regulations.gov>

RE: Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators. Docket
FMCSA- 2007-27748

I. Introduction and Background

The National Rural Electric Cooperative Association appreciates the opportunity to submit comments on the above captioned item.

The National Rural Electric Cooperative Association (“NRECA”) is the national service organization for more than 900 not-for-profit rural electric utilities that provide electric energy to over 42 million people in 47 states. Member systems cover 75% of the United States landmass. NRECA membership is composed of 838 distribution cooperatives and 65 generation and transmission (“G&T”) cooperatives. Both distribution and G&T cooperatives were formed to provide reliable electric service to their owner-members at the lowest reasonable cost. NRECA members employ and train drivers who hold Commercial Driver Licenses.

Almost all of NRECA's members are "small businesses" as defined by the Small Business Administration. As small businesses, the burden of regulatory compliance falls more heavily on them than it does on larger enterprises.

As operating utilities, NRECA's members employ drivers who must possess a valid commercial driver's license (CDL) in order to operate the commercial motor vehicles (CMVs) owned by the utility. Many NRECA members proactively conduct in-house training for their employees to drive utility CMVs by allowing those who hold a CDL permit hours of needed on-the-road driving experience by driving with another CDL licensed driver.

II. FMCSA should exempt electric utility drivers from entry level driver training requirements.

The electric utility industry requested representation on the agency's Entry-Level Driver Training Advisory Committee ("ELDTAC") and was denied representation. Therefore the views and unique needs of the utility industry have not been represented in the consensus recommendations of the ELDTAC.

Because of the unique structure, needs and driving patterns for the electric utility, we have joined with our fellow industry trade associations to request that electric utility drivers be exempt from the new entry level driving requirements. See Comments of the Electric Utility Trade Associations ("EUTA") in this docket. The skills needed to back a bucket truck down a dark country road strewn with downed, live power lines differ from those needed to pilot an eighteen-wheeler across the country. Electric cooperatives train drivers to be able to deal with those unique situations faced by employees whose main job is to keep the lights on safely.

Utility driving activities are typically limited in scope and incidental to the targeted work activity of electric cooperatives. FMCSA's own research (Utility Service Vehicle Study, August 1996, Univ. of Richmond) supports our request that electric utilities be exempt from the Final Rule. In addition, data from a 3rd party source provides evidence that utilities have very low accident rates compared to other commercial drivers (see the study at: <http://www.greatamericaninsurancegroup.com/Lists/LossPrevention/F13501Commercial%20Motor%20Vehicle%20Accident%20Freq%20Rates.pdf>). Electric cooperative driving activities are often short distance, local and well within the 100 air mile radius exemption for other regulated driving requirements. Therefore, the imposition of these additional training requirements makes no sense given the range and scope of electric cooperative driving.

NRECA has joined with the other major electric utility industry trade associations (the American Public Power Association and the Edison Electric Institute) and filed joint comments in this Docket supporting an electric utility industry exemption from the proposed Entry Level Driver Training requirements.

III. Comments on FMCSA's Proposed Rule

If FMCSA declines to exempt electric utility drivers from entry level driver training, the Agency should revise the rule to require entry level driver training for electric utility drivers only under the following circumstances:

- a. The driver is applying for a Commercial Driver's License for the first time;
- b. The driver has been disqualified from driving due to violation of §383.51(b)-(e) of FMCSA's regulations;
- c. The driver seeks to upgrade his or her CDL in order to transport hazardous material or passengers;
- d. The driver wishes to drive school buses.

1. As stated above, NRECA recommends that electric utility drivers be exempt from the requirement for entry level driver training. Cooperative drivers are trained, are tested and receive a CDL permit, receive more training with a CDL holder-trainer and must demonstrate driving proficiency before being allowed to drive a utility owned CMV.
2. Class Change for utility CDL holders should not require entry level driver training but rather skills demonstration. NRECA has consistently advocated for certification that measures skills, not paper. Our comments to FMCSA in May, 2008 stated “{A} better approach is to specify the target level of skill and then test for achievement of that level...” We recommend the same approach for drivers wishing to upgrade to a different class of CDL. NRECA does, however, support additional entry level training for those CDL holders that wish to be able to transport hazardous material, or passengers, or drive a school bus.
3. With regard to refresher training, NRECA agrees that any driver convicted of a violation of §383.51(b)-(e) be required to undergo refresher training.
4. NRECA is not convinced that three years is sufficient time for FMCSA to fully implement the rule. To the extent that FMCSA declines to adopt NRECA’s recommendation that entry level driving requirements not apply to electric utility drivers, we recommend that FMCSA revise the rule to allow for 5 years’ implementation time. Give recent experience with FMCSA’s implementation of the National Registry of Certified Medical Examiners, we are confident that three years is not enough time for the Agency to set up and operate the on line registry for entry level driver training.
5. Electric cooperatives that conduct their own Entry Level Driver Training will be adversely impacted by the Proposed Rule.

The Proposed Rule’s provisions for training entities is clearly geared towards the driver training industry, and does not consider the unique needs of electric cooperatives that wish to perform their own entry level driver training. While the current Proposed Rule is an improvement over prior FMCSA proposals that would require expensive and time consuming third-party accreditation, the current Proposed Rule still requires additional administrative requirements for electric cooperatives that wish to provide their own entry level driver training for electric cooperative employees, and not the general public. The vast majority of rural electric cooperatives are small entities as defined by the Small Business Administration. While FMCSA did consider small entities in the general driver training industry, we are unable to find evidence that FMCSA considered other types of small entities that may provide industry specific training, such as rural electric cooperatives, and the additional burdens the proposed rule would have on them.

Rural electric cooperatives are, as the name implies, located in and serve remote regions of the United States. Entities located in or near metropolitan areas will not have issues finding FMCSA certified training institutions. However rural entities will have to spend more time and money to access FMCSA-certified training facilities as those facilities will not likely locate in rural areas, given the sparse

populations in rural areas. Electric cooperatives serve the vast majority of the nation's persistent poverty counties (327 out of 353, or 93%). These counties have deeply entrenched poverty with rates consistently 20% or above for the last three decades. In all, one-in-six of the 42 million Americans served by cooperatives live below the poverty line, many of them in these counties. Electric cooperatives are highly focused on keeping electricity safe, affordable and reliable. Additional regulatory burdens stress electric cooperatives' ability to keep electric service affordable.

6. The inclusion of "benefits" of carbon reduction in the Agency's analysis is inappropriate. The government's Social Cost of Carbon (SCC) estimate is dependent upon a chain of (highly uncertain) estimates: effect of CO₂ on temperature change, the impact of temperature change on global climate (droughts, sea level rise, storms, etc.), and the global cost impact of climate change (agriculture, health, energy consumption, property damage, etc.). The SCC evaluates impacts on a global rather than domestic level and over a time horizon of 300 years, over which there is little certainty how the global population and economies will evolve. The OMB guidance underlying the SCC was developed without public review and lies outside EPA's CO₂ regulatory process. The highly uncertain nature of the SCC estimate makes its application in the cost/benefit analyses of rulemaking processes inappropriate and results in arbitrary analytics. Until there is greater certainty and confidence in the derivation of the Social Cost of Carbon – and greater consensus regarding its use in a regulatory context, FMCSA should refrain from including carbon reduction in its cost/benefit analysis of the Proposed Rule.

III. Major Issues On Which FMCSA Seeks Comment

a. Is there any additional data on the safety benefits of requiring ELDT training that you can provide?

NRECA is unaware of additional data supporting the safety benefits of requiring ELDT training, but we would provide for the record data from a 3rd party source that shows that utilities have very low accident rates compared to other commercial drivers (see <http://www.greatamericaninsurancegroup.com/Lists/LossPrevention/F13501Commercial%20Motor%20Vehicle%20Accident%20Freq%20Rates.pdf>). In addition, the study referenced above (Utility Service Vehicle Study, August 1996, University of Richmond) supports our request that electric utilities be exempt from the Final Rule.

In addition, FMCSA itself indicates that it has no solid evidence that there is a direct correlation between the level of driver training (no matter what kind – classroom or BTW) and overall CMV safety. The Agency's own studies (1985 Model Curriculum and 1995 Adequacy Report) indicate that there is indeed no statistical link between driver training and vehicle safety. In the Proposed Rule at issue here, FMCSA has not produced any evidence of regulatory or training need especially in the context of short, local incidental driving activities such as that undertaken by most utilities.

b. As proposed, would the training be effective in improving safety? If not, how could the training be delivered more effectively than proposed?

NRECA is not aware of any data that supports the proposition that the proposed training would be effective or ineffective in improving safety.

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

NRECA has done a limited comparison of learner's permit exams in some of the 47 states in which our members serve, and the ELDT theory articulated in the Proposed Rule. We do not find any duplication in the two.

d. 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?

In general, rural electric cooperatives provide BTW training on utility specific vehicles. Requiring 30 hours of BTW training for Class A drivers would pose a substantial burden on rural electric cooperatives. For example, in Ohio, there are only 4 state operated skills/testing locations and an additional 11 private sites. If these entities are the only ones that can offer the BTW training, the wait could be very long due to demand. That means that rural electric cooperatives would have to wait to hire qualified drivers, putting our ability to provide safe, affordable, reliable electricity at risk. Our experience is that training that demonstrates skill is more appropriate than focusing on number of hours.

e. 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?

NRECA has consistently advocated for a skills approach to training. Specifying the number of hours does not insure that an applicant has attained a desired skill level. A better approach, as we stated in our May 2008 comments to a similar proposal, is to "specify the target level of skill and then test for achievement of that level."¹

¹ NRECA comments to FMCSA in Docket No. FMCSA-2007-27748; Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators. May 22, 2008

- f. ***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 vice carrier provided trainer). FMCSA requests comment on whether training providers should be allowed to use academic hours versus clock-hours. Furthermore FMCSA asks for input regarding whether there is a discernable (sic) difference between the two concepts.***

NRECA has no comment on this issue.

- g. ***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?***

NRECA fully supports the Agency’s proposal to include the “S” endorsement as part of entry level driver training, in the interest of furthering safety for school children that ride school buses.

- h. ***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 programs. FMCSA requests comment on whether there should be a particular order associated with theory, BTW range, and BTW public road curricula.***

NRECA has no comment on this issue.

IV. Conclusion and Recommendations

NRECA reiterates appreciation for the opportunity to submit comments on the Proposed Rule. We are disappointed that the Agency ignored electric utility industry requests to serve on the Committee that negotiated the content of the Proposed Rule. Because our industry was not included at the negotiating table, our unique needs and qualifications for CMV drivers are nowhere reflected in the Proposed Rule. Electric utilities have a safer driving history than many other industries. As such, we recommend that FMCSA exclude the electric utility industry from the Entry Level Driver Training requirements. We support ELDT for drivers who have been disqualified from driving, drivers who wish to become eligible to transport hazardous materials, and those that wish to drive school buses.

We stand ready to meet with FMCSA on our comments and answer any questions the Agency may have.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martha Duggan", written over a horizontal line.

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