



May 26, 2023

The Honorable Thomas P. Keane
Associate Administrator, Office of Research and Registration
Federal Motor Carrier Safety Administration (FMCSA)
U.S. Department of Transportation
1200 New Jersey Ave, S.E.
West Building, Sixth Floor
Washington, D.C. 20590-0001

Re: Docket No. FMCSA-2023-0055: Agency Information Collection Activities; Renewal of an Approved Information Collection: Training Certification for Entry-Level Commercial Motor Vehicle Operators

The National Association of State Administrators and Supervisors of Private Schools ("NASASPS") submits these public comments on the Information Collection Request of the Federal Motor Carrier Safety Administration ("FMCSA") which will allow FMCSA to continue to use the Training Certification for Entry-Level Commercial Motor Vehicle Operators ("TPR") to collect information on registered training providers until 2026. The TPR is used to register providers of entry-level driver training ("ELDT") and to provide state drivers' licensing agencies with information on individuals who have completed said training.

NASASPS supports the continued use of the TPR as doing so makes our highways safer. However, NASASPS contends that the collection and publication of additional information on the TPR is essential to ensure truck driver training institutions ("TDTI") are operating legally in a state and shed light on and help combat illegal TDTI operators, both of which are essential for consumer protection. Improved information collection and publication will both improve the integrity of the TPR and also assist state higher education agencies to monitor for compliance with authorization standards and combat unapproved activity within their states.

About NASASPS

NASASPS is a non-profit, tax-exempt, charitable organization whose mission is to improve and promote effective state regulation of private postsecondary education by supporting state regulators to improve student success. Its forty-one (41) regular members include state boards, commissions, agencies, or departments that are engaged in the

administration, regulation, or supervision of private schools, colleges, or universities, and the educational programs offered therein.

Generally, each state has a process requiring an institution to be recognized by that state before the institution may legally operate in the state, generally referred to as “state authorization.” While the jurisdiction and process of each state and agency differs, there are several commonalities across states:

- State authorization is conferred only after an institution’s compliance with state laws and standards is reviewed.
- Unauthorized activity is a central focus, to ensure unapproved providers are not operating unlawfully and putting consumers at risk.
- Harmed consumers may submit complaints for investigation and potential discipline of the provider, when necessary.

In sum, the purpose of NASASPS member agencies is to protect consumers by monitoring and safeguarding quality private postsecondary educational options.

NASASPS Concerns Regarding the TPR

As described above, the purpose of NASASPS is very much aligned with the FMCSA goals of using the TPR to ensure training providers comply with established standards and that students receive appropriately authorized training. Historically, some NASASPS members have noted that although they have reported unauthorized TDTIs, they have not received responses or seen registrants removed from the TPR. NASASPS members do not know of a point of contact at FMCSA to answer questions or report bad actors. As such, we welcome guidance from FMCSA such as when it is appropriate to use the “Contact” form to provide information. NASASPS members would welcome greater communication and collaboration with FMCSA to work towards shared priorities. As an example of an opportunity for greater coordination, FMCSA could modify the National Consumer Complaint Database (“NCCDB”) website to provide students with information on how to contact a State Authorizing Entity.

Within the current Information Collection Request, NASASPS strongly recommends that FMCSA use this opportunity to move past a provider registration process that relies wholly on self-certification and require TDTIs to provide documentation of state authorization to operate.

Current regulations require that TPR registrants “be licensed, certified, registered, or authorized to provide training in accordance with the applicable laws and regulations of any State where in-person training is conducted.” (See CFR, Title 49, Subtitle B, Chapter III, Subchapter B, Part 380, Subpart G, Section 380.703(a)(5).) However, public materials regarding the registration process suggest that FMCSA relies wholly on a provider’s self-certification that it complies with requisite eligibility criteria, including its authorization to operate in a state. Without collecting evidence of providers’ compliance, there would be no way for FMCSA to verify that what providers are asserting is correct. A registration process

without documentation or validation requirements opens up the opportunity for illegal, unapproved providers to operate.

A survey of NASASPS members illustrates the challenge. The below table provides, for specified states, the number of registered TDTIs compared to how many providers the requisite state authorizing agency has approved to operate. The rightmost column divides the number of providers authorized to operate by the ones deemed likely to need authorization, and suggests a widespread challenge of unauthorized providers successfully registering on the TPR. For example, Texas has 647 TDTIs that may need authorization, but only 82 (13%) are currently authorized by the Texas Workforce Commission or have pending applications with the agency.

Notably, this table does not include the TDTIs that are registered as online only, as online postsecondary educational institutions may be required to be authorized in multiple jurisdictions.

While such an analysis cannot be done with a universally high degree of accuracy, given data limitations and jurisdictional differences, it illustrates the potential scale of the challenge. Relying on state authorizing agencies to closely review or verify these lists is simply not feasible due to resource, informational, and staffing constraints.

Authorization of TDTIs, per TPR List (as of May 16, 2023)				
State	TPR Data		Number Authorized to Operate or Pending Review	Percentage of Authorized of those where Authorization Likely Needed
	Private Enrollment Only (possible exemption)	Not Limited to Private Enrollment (likely <u>authorization needed</u>)		
Alaska	125	48	15	31%
Kansas	763	125	39	31%
Louisiana	202	162	38	23%
Mississippi	383	178	18	10%
Missouri	810	184	32	17%
Nebraska	324	82	30	37%
New Mexico	190	111	7	6%
Pennsylvania	927	282	34	12%
Rhode Island	104	38	66	174%
Tennessee	531	162	41	25%
Texas	1326	647	82	13%

Under current regulations, TDTIs are already required to maintain documentation of state licensure, registration, or certification, verifying that the provider is authorized to provide training in that state (*See* CFR, Title 49, Subtitle B, Chapter III, Subchapter B, Part 380, Subpart G, Section 380.719(a)(4)). Requiring providers to submit documentation already required to be maintained will *not* have a significant impact on submission burden, but *will* enable FMCSA to better monitor accuracy of submissions and partner with states, including but not limited to NASASPS members, to address instances of noncompliance.

NASASPS Recommendations

Based on the foregoing, to assist NASASPS regular members, TDTIs, other state agencies, and FMCSA, NASASPS recommends:

1. FMCSA should require registrants to provide documentation of authorization or exemption from the appropriate state agency. NASASPS would be happy to assist FMCSA staff in developing a list of such state agencies and contacts within these agencies.
2. FMCSA should require registrants to provide all contact information before being placed on the TPR and list the contact information in the TPR. This includes phone number, email address, a complete mailing address, a complete address of the registrant's location, and the first and last name of at least one contact person. This information will allow other pertinent regulatory agencies, in or outside of states, to locate the TDTI and make all necessary determinations regarding TDTI operations.
3. FMCSA should require registrants to provide the state in which it is registered if the entity is a business entity subject to registration. This information is necessary for states to locate the TDTI and make all necessary determinations regarding the TDTIs' operations.
4. FMCSA should require that TDTIs provide a website or verify that they do not have one. Viewing a website can provide a state with information necessary to identify the scope of operations so the state can make preliminary determinations prior to contacting a TDTI.
5. FMCSA should define public versus private enrollment and require registrants to select private, public, or both. Having such information provides a state with information necessary to identify the scope of operations so that the state can make preliminary determinations prior to contacting a TDTI.
6. FMCSA should consider additional processes when a registrant seeks to make substantive changes to its business name, ownership, or structure. For example, FMCSA could:

- a. Require the TDTI to provide notice from the state authorizing body of approval of the name change or continued exemption.
- b. Require that a registrant's name as listed in the TPR either matches the approved business name or an approved fictitious name. Requiring evidence of business registration or fictitious name registration would validate the names used in the TPR.
- c. Notify the state authorizing body of a name change. States have reported that currently a TDTI may change their name on the TPR such that it appears that the TDTI is no longer operating. This creates additional work for states trying to contact the TDTI and allows the TDTI to evade state law.

NASASPS appreciates the opportunity to provide these public comments. Please contact me if you have any questions or comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cathie A. Maeyaert', written in a cursive style.

Cathie A. Maeyaert
2023-2024 President
On behalf of NASASPS