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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 380

[Docket No. FMCSA-97-2199]

RIN 2126-AA09

### Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators

August 4, 2003.

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) is proposing standards for mandatory training requirements for entry-level operators of commercial motor vehicles (CMVs) who are required to hold or obtain a commercial driver's license (CDL). This action responds to a study mandated by the Intermodal Surface Transportation Efficiency Act of 1991 that found the training of entry-level drivers in the heavy truck, motorcoach, and school bus industries was not adequate. The purpose of this proposal is to enhance the safety of CMV operations on our nation's highways.

**DATES:** Submit comments on or before October 14, 2003.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-1997-2199 by any of the following methods:

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note

that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable. The FMCSA may, however, issue a final rule at any time after the close of the comment period.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Finn, Office of Safety Programs, (202) 366-0647, Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Training Curriculum

In the early 1980's, the agency determined that there was a need for technical guidance in the area of truck driver training. Research showed that few driver training institutions offered a structured curriculum or a standardized training program for any type of CMV.

In 1984, the agency developed the "Proposed Minimum Standards for Training Tractor-Trailer Drivers" as a curriculum standard based upon research conducted by the agency. The proposed minimum curriculum standards were used by the agency to produce a curriculum for the heavy truck industry. This Model Curriculum contains standardized minimum core curriculum requirements and training materials as well as guidelines pertaining to vehicles, facilities, instructor hiring practices, graduation requirements, and student placement.

Curriculum content addresses the following areas: basic operation, safe operating practices, vehicle maintenance, and non-vehicle activities. In 1995, the agency created a similar curriculum, the "Model Curriculum for Training Motorcoach Drivers," that can be used to train motorcoach drivers.

In 1986, the motor carrier, truck driver training school, and insurance industries created the Professional Truck Driver Institute (PTDI) to certify training programs offered by training institutions. The PTDI used the truck driver Model Curriculum as the basis for its training institute certification criteria and has recently made major revisions to its curriculum. As of December 2002, 71 training schools were PTDI certified.

##### *The Commercial Motor Vehicle Safety Act of 1986 and the CDL Program*

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*) established national minimum testing and licensing standards for operators of CMVs. The goal was to ensure that drivers of large trucks and buses possess the knowledge and skill necessary to safely operate on public highways. The CMVSA established the CDL program and directed the agency to establish minimum Federal standards that States must meet when licensing CMV drivers. The CMVSA applies to anyone who operates a CMV in interstate or intrastate commerce, including employees of Federal, State, and local governments. As defined by the implementing regulation in 49 CFR 383.5, a CMV is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(a) Has a gross combination weight rating (GCWR) of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds); or

(b) Has a GVWR of 11,794 or more kilograms (26,001 or more pounds); or

(c) Is designed to transport 16 or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of *hazardous materials* as defined in this section.

See the FMCSA's recently published interim final rule entitled "Limitations on the Issuance of Commercial Driver's Licenses with a Hazardous Materials Endorsement" (68 FR 23844, 23849; May 5, 2003) implementing certain requirements in section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [Pub. L.

107-56, October 26, 2001, 115 Stat. 272]. The definition of the term "hazardous of materials" was changed to include any material listed as a select agent or toxin by the Centers for Disease Control and Prevention (CDC) in 42 CFR part 73.

In accordance with the CMVSA, all drivers of CMVs must possess a valid CDL in order to be properly qualified to operate the vehicle(s) they drive. In addition to passing the CDL knowledge and skill tests required for the basic vehicle group, all persons who operate or anticipate operating the following vehicles, which have special handling characteristics, must obtain endorsements under § 383.93:

- (a) Double/triple trailers;
- (b) Passenger vehicles;
- (c) Tank vehicles; or
- (d) Vehicles required to be placarded for hazardous materials.

The driver is required to pass a knowledge test for all endorsements. The driver must also pass a skill test to obtain a passenger vehicle endorsement.

The CDL requirements address driver testing and licensing. The CMVSA does not contain any provisions specifically addressing driver training. Accordingly, there are no prerequisite Federal training requirements to obtain a CDL. Generally, drivers individually prepare for the CDL tests by studying such areas as vehicle inspection procedures, off-road vehicle maneuvers and operating a CMV in traffic.

The agency here is proposing required training in the following four additional areas: driver qualifications, hours of service of drivers, driver wellness, and whistle blower protection. The CDL tests do not cover these subject areas and the agency believes that a driver's knowledge of these areas is vital to large truck and bus safety.

This proposal is part of an overall FMCSA effort to improve the CDL program, which also involves improvements to the CDL tests, and a graduated licensing study. Section 4019 of the Transportation Equity Act for the 21st Century (Pub.L. 105-178; June 9, 1998) required the agency to determine if the current system of CDL testing is an accurate measure of an applicant's knowledge and skill needed to operate a CMV. As a result, the questions used in the CDL knowledge tests are currently being revised to insure that test questions and answers adequately cover the required knowledge the driver needs to operate a CMV.

The agency is examining the various skill test components to determine whether testing modifications are necessary. If testing modifications are needed, the agency may develop a

future rulemaking, which modifies the testing procedures. Section 4019 also required the agency to identify the costs and benefits of a graduated licensing system. The agency published a notice in the **Federal Register** on February 25, 2003, asking for public comment on whether a graduated licensing system for CMV operators is a workable concept (68 FR 8798). The agency plans to use this information to help determine the costs and benefits of the graduated CDL.

#### *Advance Notice of Proposed Rulemaking*

Pursuant to Section 4007(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the agency began a rulemaking proceeding on the need to require training of all entry-level CMV drivers. On June 21, 1993, the agency published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) entitled "Commercial Motor Vehicles: Training for All Entry Level Drivers" (58 FR 33874). The agency asked 13 questions, which addressed training adequacy standards, curriculum requirements, the CDL, the definition of "entry-level driver;" and training, pass rates and costs. There was no consensus on the issue of mandated entry-level driver training. The heavy truck and bus industries were against mandated training; the International Brotherhood of Teamsters was in favor.

The agency received a total of 104 comments. When the agency published a notice on April 25, 1996, reopening the docket (61 FR 18355), it received 48 additional comments on an adequacy study, and cost-benefit analysis, both of which are discussed below. On November 13, 1996, the agency held a public meeting at the Department of Transportation headquarters in Washington, DC, to discuss mandatory training for entry-level CMV drivers. There were 26 persons who participated at the public meeting.

A detailed analysis of the questions and comments appears later in this document under the heading, "Information from the ANPRM and the Public Meeting."

#### *Training Adequacy Study*

Concurrent with the development of the ANPRM, the agency conducted a study, as required by Section 4007(a)(1) of the ISTEA, on the effectiveness of private sector efforts to train entry-level drivers in the heavy truck, motorcoach, and school bus industries. The first step of the study involved development of a baseline training standard for both the cargo and passenger-transporting segments of the CMV industry. The next

step involved collecting information on training currently being offered by the cargo and passenger-transporting segments of the CMV industry. A comparison of current training to the baseline standards was then made to determine if employer-provided training was adequate. In the final step of the study, driver and employer surveys were performed to determine what percentage of drivers were adequately trained by employers. Drivers were also asked what percentage of drivers were adequately trained by training schools.

The agency assembled two groups of experts: one from the trucking sector and the other from the motorcoach and school bus sectors. The experts identified driver training baselines. The truck experts selected the Model Curriculum as a baseline. The bus experts selected a combination of the Model Curriculum and the National Highway Traffic Safety Administration (NHTSA) "School Bus Driver Instructional Program," developed in 1974 and currently being updated. The experts reached a consensus on minimum requirements for the numbers of class and practice driving hours, student/teacher ratios, and course topics. They then developed an algorithm to quantitatively compare existing driver training with the baselines. An overall negative score demonstrated that the program was judged to be less effective than the baseline. An overall positive score showed that the program was judged to be more effective. Based on this analysis, the percentage of employers that provide entry-level drivers with adequate training was: heavy truck employers (8 percent), motorcoach employers (19 percent), and school bus operators (24 percent).

One-hundred ninety-two (192) drivers were surveyed to determine the adequacy of training provided by training schools in the opinion of the drivers. Based on this survey, the percentage of drivers adequately trained by heavy truck training schools was 31 percent. The survey found that no heavy truck training school adequately trained drivers to operate school buses, and that the motor coach industry had no training school for motor coach drivers. According to the survey, the percentage of heavy truck training schools providing adequate training was 50 percent.

The agency also surveyed a total of 641 employers. The percentage of employers who train drivers, according to the employer survey, was as follows: heavy truck 39 percent, motor coach 37.4 percent, and school bus 93.5 percent.

The conclusion of both the training analysis and the driver survey, using this methodology, was that neither the heavy truck, motorcoach, nor school bus segments of the CMV industry were providing adequate entry-level driver training. At the same time, the adequacy study found that the only research-based evidence on the relationship between training and accident reduction indicated that drivers with formal training are somewhat more likely to have accidents. However, the researchers concluded that the lack of uniform training standards may have masked the real effects of good training.

The adequacy study found few studies within the motor carrier industry that had examined the relationship between training and accident reduction. However, Builder's Transport, Inc., a motor carrier, did a study of 2,600 trained drivers in 1994, that showed a two percent reduction in accidents per million miles driven in contrast to drivers who had no training. Schneider National, Inc., a motor carrier, also performed a study involving its training on hazard-driving conditions, and found a 40 percent reduction in accidents. In both of these studies, drivers with training had fewer accidents.

#### *Adequacy Study Cost-Benefit Analysis*

As part of the adequacy study, the agency performed a cost-benefit analysis of training in the heavy truck industry. The analysis was limited to heavy trucks due to a scarcity of available cost data among motorcoach and school bus training programs. However, the agency believes that the findings are generally applicable to the other industries, because motor coaches and most school buses are over 11,794 kilograms (26,001 pounds), and the drivers of all three have similar responsibilities. The cost benefit analysis applied the definition of CMV contained in the CMVSA, but did not include placarded hazardous material vehicles with a GVWR less than 11,794 kilograms (26,001 pounds). The results of this earlier analysis showed a much higher cost than today's proposal, because it was based on 65.8 hours of required training. This NPRM, however, does not specify a minimum number of hours. The regulatory evaluation for this proposal is based on a total of 10½ hours of training for heavy truck and motorcoach drivers, and 4.5 hours for school bus drivers, as discussed later in this proposal.

#### *Report to Congress*

The Secretary of Transportation submitted the adequacy study entitled, *Assessing the Adequacy of Commercial*

*Motor Vehicle Driver Training: Final Report and the first Cost-Benefit analysis to the U.S. Congress on February 5, 1996, as required by the ISTEA.*

#### *Information from the ANPRM and the Public Meeting*

The agency received a total of 154 comments to the ANPRM and the public meeting. Some commenters responded more than once, and some commenters provided more than one answer to a particular question.

#### *Question 1: How Can the Adequacy of Training Be Defined? What Mechanisms Exist to Measure Adequacy?*

A total of forty-seven comments were received regarding Question 1.

*Defining Adequacy:* Sixteen commenters, including the PTDI, stated that adequacy was defined either by the PTDI tractor-trailer curriculum or the Model Curriculum referenced above. Fourteen commenters, including the National Private Truck Council, stated that either the CDL in general, or the CDL tests in particular, define adequate training. The remaining comments included statements that training adequacy is defined by a job skills analysis, or that it is defined by the Model Curriculum modified for straight trucks.

*Measuring Adequacy:* Seven commenters, including the ATA, stated that the PTDI Model Curriculum is a measurement of training adequacy. Nine commenters, including the California Department of Motor Vehicles, stated that training adequacy is measured by the CDL tests. The remaining comments included statements that training adequacy is determined by comparing accident rates of trained versus untrained drivers, or that it is determined by gaining employment as a CDL driver.

The agency believes that the Model Curriculum represents the basis for training adequacy. It is based on minimum training standards that were adopted by the agency after an analysis of heavy truck driver training being provided by the industry in the 1980's. Likewise, both the PTDI curriculum and the Model Curriculum for Training Motorcoach Drivers are adequate because they are based on the Model Curriculum. Finally, the agency believes that the NHTSA School Bus Driver Instructional Program is adequate. It was developed by school bus driver employers in conjunction with NHTSA. The school bus driver employers and NHTSA periodically meet to review the instructional program and make any necessary revisions. Moreover, all of the

above curricula were selected as training program baselines by experts in the adequacy study. They were also developed based on the regulations and technology current at the time of development. However, the agency disagrees with commenters indicating that the knowledge to pass the CDL test is sufficient to determine training adequacy.

Finally, the agency believes employers that wish to train entry-level drivers should ensure that the curriculum is suitable for the type of vehicle the driver intends to operate. For example, a modified Model Curriculum could be used to train drivers who operate straight trucks exclusively.

#### *Question 2: What Standards Exist to Ensure That Training Provided by Schools and Employers Is Adequate for Entry-Level Truck Driver Training?*

A total of forty-three commenters responded to this question. Thirteen commenters, including the Owner-Operator Independent Drivers Association, cited either the PTDI organization or the PTDI certification process, as a standard to ensure that training provided by schools is adequate. Again, eight commenters, including the American Bus Association, cited the CDL tests. The remaining comments cited the Model Curriculum as an adequate training standard, or stated that no standard exists.

The discussion to Question 1 also contains relevant information on the adequacy of driver training. In addition, the agency agrees with commenters that although the CDL requirements are a licensing standard and not a training standard, the driver must study to pass the CDL tests.

#### *Question 3: What Should an Adequate Truck Driver Training Program Include (e.g. Night Driving, Behind-the-Wheel Training, and Classroom Instruction)? What Is the Minimum Amount of Time or Number of Hours That Should Be Devoted to Each of These Components?*

A total of seventy-one commenters addressed this question.

Eight commenters, including the ATA, stated that the training should be the PTDI curriculum for both course content and length. Three commenters, including the American Bakers Association, cited the Model Curriculum as the standard for both course content and length. The remaining comments recommend specific topics for classroom, off-road maneuvers, or on-road driving, which included down hill speed control for

automatic transmission-equipped vehicles, railroad grade crossing safety, and work zone safety.

The ATA and the American Bakers Association stated that both the PTDI curriculum and Model Curriculum have acceptable course content and length for heavy truck drivers. The agency agrees that both curricula are acceptable because experts use the agency's Model Curriculum as a training standard in the adequacy study.

In addition, all drivers who wish to obtain a CDL are required to pass specified knowledge tests. The agency and the American Association of Motor Vehicle Administrators (AAMVA) have developed a Commercial Driver's Manual to assist drivers in passing these tests. The manual instructs drivers to shift to a lower gear before starting down a steep grade in order to maintain a safe speed. The manual also has a section for railroad highway grade crossing safety, as well as work zones where the work can create a distraction for drivers and the workers may not see the driver.

**Question 4: Can Government or Private Standards That Guide the Training of Entry-Level Drivers Be Used To Determine the Adequacy of Entry-level Driver Training? Why Are These Standards Appropriate?**

A total of forty-five commenters responded to this question.

Eight commenters, including the ATA, mentioned either the PTDI organization or the PTDI certification process as standards for determining the adequacy of entry-level driver training. Two commenters, including the Michigan Truck Safety Commission, cited the Model Curriculum, and again, six commenters, including the American Bus Association, cited the CDL test as a standard for determining the adequacy of entry-level driver training. One employer, ITC, stated that a motor carrier approves of a training institution by hiring its students. The remaining commenters stated that the agency should establish minimum entry-level training standards and that no standard exists.

As discussed above, the agency agrees with commenters that the PTDI curriculum and Model Curriculum are both voluntary government-industry developed standards that can be used to determine the adequacy of entry-level driver training.

**Question 5: To Obtain a CDL, a CMV Driver Must Demonstrate Knowledge and Skill Needed To Operate a CMV. Are These Tests Sufficiently Comprehensive To Accurately Measure a Driver's Performance? Please Explain Why or Why Not. Provide Information of Specific Deficiencies.**

A total of eighty-one commenters responded to this question. Forty-two commenters, including the ATA, stated that the CDL accurately measures a driver's performance. Thirty-nine commenters, including the International Brotherhood of Teamsters, stated that the CDL does not accurately measure a driver's performance. The Teamsters stated further that mere possession of a CDL does not guarantee that the driver has the necessary experience and skill.

The agency believes that the CDL gives the novice driver the basic knowledge and skill necessary to operate a CMV. However, the employer may have to provide additional safety training, or allow the driver to gain CMV-operating experience before permitting the driver to drive, for example, in hazardous weather conditions. Because of the differences in operating practices among various CMV industries, the employer should be responsible for ensuring that the driver receives the appropriate training.

**Question 6: Should Training Requirements for Entry-Level CMV Drivers be Federally Mandated?**

A total of one hundred and fifty-one commenters responded to this question. Fifty-one commenters, including the Fox Valley Technical College, stated that training should be mandated. The Fox Valley Technical College stated that if training were not federally mandated, many companies would not comply. Sysco Food Services stated that training should only be mandated for companies with 50 or more new drivers. Ninety-two commenters, including the National Private Truck Council, stated that training should not be federally mandated. The National Private Truck Council stated that because the CDL is a performance based standard, training should not be mandated. Citizens Gas and Coke Utility stated that training should only be required for combination vehicles.

The agency believes that mandating training only for groups of 50 or more new drivers is not consistent with the need to train all entry-level drivers. A large majority of motor carriers have six or fewer power units, and would therefore be excluded from a 50 or more driver mandate. Moreover, larger employers could limit the number of

drivers hired at one time to less than 50 to avoid being subject to mandatory entry-level training requirements. The adequacy study found that neither the heavy truck, motorcoach, nor the school bus industries provided adequate entry-level driver training. As the study surveyed drivers and employers that use both single and combination vehicles, its findings lead the agency to conclude that training should be mandatory for all entry-level drivers, irrespective of the kind of vehicle they drive or the size of the employing carrier.

**Question 7: What Is an Entry-Level Driver?**

A total of forty-four commenters responded to this question. Eighteen commenters, including the PTDI, stated that an entry-level driver is one who has never driven a CMV. The adequacy study found that entry-level training is training received in the first three years of driving. However, the Truckload Carriers Association and ATA indicated three years was too long. A representative of the Truckload Carriers Association stated during the public meeting that the term "entry level" is limited to the driver's first six months of driving. A representative of the ATA indicated during the public meeting that an "entry-level driver" is a person who has "a couple of years of experience." In written comments, the ATA stated that the definition of an entry-level driver should include a driver who moves to a higher class of CMV.

The agency agrees with the ATA and the Truckload Carriers Association that the three-year experience requirement cited in the adequacy study is too long, because operating experience helps CMV drivers reduce accidents caused by driver error. This rule proposes to define entry-level driver as a driver with less than two years experience operating a CMV with a CDL.

**Question 8: What Industry-Wide Initiatives or Policies, If Any, Assure That the Majority of All Entry-Level Drivers Are Trained?**

A total of thirty-five commenters responded to this question.

Twelve commenters, including the Distribution LTL Association, cited the PTDI curriculum, the Model Curriculum or both. Fifteen commenters, including Schneider National, cited the CDL license. Three commenters, including the Washington Department of Licensing, stated that no such initiatives or policies exist. Five commenters, including the ATA, cited insurance companies, which promote training programs for entry-level drivers.

**Question 9: How Many Truck Driver Training Schools and Motor Carrier Programs Train Entry-Level Drivers? What Percentage of Those Enrolled, Successfully Complete Such Training?**

A total of thirty commenters responded to this question.

The Association of Publicly Funded Truck Driving Schools stated that there are approximately 85 such schools in the country, and that 88 to 92 percent of students successfully complete training. The ATA stated that there are 150 to 300 training schools nationwide, and that 60 to 70 percent of students successfully complete training. Mike Byrnes and Associates stated that there are approximately 375 training schools and motor carrier training programs in the United States. A representative of Robert Forman Associates stated at the public meeting that there were no motorcoach training schools in the country.

**Question 10: Is the Successful Completion of an Entry-Level CMV Driver Training Program (Either Before or After Hiring) a Requirement for the Drivers Employed by Your Company?**

A total of thirty commenters responded to this question.

The ATA stated that company policies generally require that new drivers receive additional training relating to the motor carrier's specific equipment and type of operation. Federal Express requires its entry-level drivers to complete a 3-week training program. Eleven commenters cited the PTDI standard. Eight commenters stated that motor carriers trained drivers to motor carrier's own standards. One commenter stated that its insurance company set training standards.

**Question 11: Describe the Training Opportunities Available for Drivers of Smaller Trucking Companies/Owner-Operators. What Percentage of Those Enrolled Successfully Completes Such Training?**

A total of twenty commenters responded to this question.

The National Solid Waste Management Association stated that small companies rely primarily on supervised on-the-job training to qualify new drivers. Mike Byrnes and Associates stated that some trucking schools offer weekend training for drivers of small trucking companies. The ATA believes that the percentage of truck drivers employed by small employers, who complete training, is 60 to 70 percent; the same percentage as for large employers.

**Question 12: Describe the Expected Benefits and Estimated Dollar Costs for the Following Types of Training: Residential Training at Public and Private Truck Driver Training School (e.g. Trade, Vocational, and Community College Program); a Combination of a Home Study Course and Behind-the-Wheel Training; Formal School Training; and Externships (i.e. Combination Truck Driver Training School and Motor Carrier Operation)?**

A total of twenty-eight persons responded to this question.

The Michigan Truck Safety Commission stated that it did not endorse home study training. The International Trucking School stated that an externship, involving both a truck driver school and a motor carrier, is the best form of training available to the student. The Association of Publicly Funded Truck Driving Schools agreed with this comment. The PTDI stated that the cost of both private schools and motor carrier training ranges from \$1,500 to \$6,000. The ATA stated that the costs of motor carrier-run training programs range from \$3,000 to \$5,000; externships cost between \$3,000 and \$6,000. The other cost comments were similar. At the public meeting, Northeast Career Schools stated that longer entry-level training courses involve better equipment and more qualified instructors.

**Question 13: Although the Primary Purpose of This ANPRM Is to Gather Information on Entry-Level Truck Driver Training, the Agency Would Like To Collect Some Information on the Training Experienced Drivers Receive. Please Describe the Type and Frequency of Training, If Any, That You Offer or Financially Support for the More Experienced CMV Drivers of Your Company: Is This Training Required at Certain Specific Intervals or Provided Only on an "as Needed" Basis?**

A total of 18 comments responded to this question.

The Association of Publicly Funded Truck Driving Schools stated that their members teach defensive driving courses, advanced driving techniques, and specialized training. Schneider National offers training in preparing logs, backing, defensive driving, injury prevention, trip planning, and efficient driving. CRST, Inc. requires all experienced drivers to be trained in a 2-day program. The ATA stated that the training for experienced drivers varies significantly from fleet to fleet. Fox Valley Technical College stated that the industry generally provides no formal training for its experienced truck

drivers. The Advocates for Highway and Auto Safety stated training should be given every five years. The ATA and J.B. Hunt stated that training should be given either after accident involvement or to correct hours of service problems.

#### *Other Issues Raised By Commenters*

The Advocates for Highway and Auto Safety stated that the adequacy study should not have excluded transit buses.

Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States, is exempt from parts 350 through 399 of the Federal Motor Carrier Safety Regulations. Transit bus operators are subject to the jurisdiction of the Federal Transit Administration (FTA) and are generally local government employees. Transit systems utilize training materials developed by the FTA. These materials cover basic vehicle controls and vehicle maneuvers in traffic. Transit systems report total bus mileage to FTA as a condition for receiving Federal grants. These grantees operated CMVs approximately 1.8 billion miles in calendar year 2000 according to the FTA's Transit Safety & Security Statistics & Analysis 2000 Annual Report. The report also states that there were 90 total fatalities for transit buses in calendar year 2000. Therefore, the fatal accident frequency per million miles for calendar year 2000 is approximately .048, which is very low. The agency believes that the FTA can effectively monitor transit bus system training. For these reasons, the agency is not including transit bus drivers in the proposed rule.

The ATA also provided comments on the adequacy study-cost benefit analysis referenced above. ATA stated that the cost of providing adequate entry-level training exceeded the 450 million dollar per year estimate cited in that analysis.

#### **Summary of NPRM Provisions**

This proposal is in response to a Congressional mandate in ISTEA, which directed the Secretary of Transportation to promulgate safety regulations for entry-level training of heavy truck, motorcoach, and school bus drivers. Congress was specifically concerned about the number of heavy truck crashes caused by inadequate driver training, and believed that better training would reduce these types of crashes. In addition, an agency study found that training for entry-level drivers in these industries was inadequate.

Both the Model Curriculum and the Model Curriculum for Training

Motorcoach Drivers instruct drivers on the basic operational skills, such as vehicle inspection, vehicle backing, hazard perception, proper communications procedures, and speed and space management, which are necessary to operate CMVs on the public road, plus the specialized knowledge and skill a driver needs to obtain the passenger, double/triple, tank vehicle, and hazardous materials endorsements. These curricula also contain instruction in vehicle inspection procedures, off-road skill test maneuvers, and operating CMVs in vehicular traffic. The CDL tests examine CMV drivers on the knowledge and skill the drivers learn in these curricula.

The agency is not requiring entry-level drivers to receive training in areas that are covered in the CDL test. Such training would be redundant. Instead, the required training would address: (1) driver qualifications—medical, and drug and alcohol testing, (2) driver hours of service limitations, (3) driver wellness, and (4) whistle blower protection. These are training areas that are not covered in the current CDL test. The agency is only requiring drivers to be trained in the areas appropriate to their driving occupation as entry-level drivers. Each of these areas focuses on the commercial motor vehicle driver, who the agency believes is key to promoting motor carrier safety on our nation's highways. The agency believes that training in these four areas would serve to set a minimum floor of safety for entry-level CMV drivers, and at the same time not be overly burdensome for drivers or motor carriers to implement. Although the proposal does not specify a required number of hours for the training, the agency estimates that it would require approximately 10.5 hours for heavy truck and motorcoach drivers, and 4.5 hours for school bus drivers. The Texas Department of Public Safety stated in comments to the ANPRM that the State of Texas currently requires a school bus driver to receive twenty hours of initial training and 8 hours of refresher training every three years. The Michigan Department of Education requires a school bus driver to pass an initial training course and a road test. The State also requires the school bus driver to receive 6 hours of refresher training every two years. The NHTSA has developed the "School Bus Driver Instructional Program" as a voluntary training standard. However, the NHTSA training standard does not cover either driver wellness or whistle blower protection. In addition, the agency's review of school bus driver training data indicates that school districts do not

include instruction in driver wellness and whistle blower protection. The agency estimates that driver wellness and whistle blower training would mean an additional 4.5 hours of training for school bus drivers.

The agency requests comments on whether entry-level training in other areas, such as fire extinguisher training, should be required.

#### Driver Qualification

Examples of topics that could be covered are minimum vision and hearing standards, the recommended hypertension standard, the recommended monitoring practices for mild hypertension, and standards for other health-related problems. Emphasis could be placed on medical disqualification caused by illegal drug use, alcoholism, or epilepsy.

#### Hours of Service

There is evidence that many crashes occur as a result of CMV driver error, and that driver error is often the result of inattention. Inattention can often be the result of fatigue, which may be related to sleep deprivation. Sleep deprivation can often be related to working conditions.

Examples of possible topics for hours of service would include awareness of the causes of fatigue, its effect on driving safety, sleep disorders, fatigue-prevention strategies (including good sleep hygiene), the procedures used to complete a driver's daily log including the use of quarter-hour increments to indicate time, the different types of duty statuses, the hours of service rules, and the importance of keeping up-to-date and accurate logs.

#### Driver Wellness

According to Roberts and York, "Design, Development and Evaluation of Truck and Bus Driver Wellness Programs," FMCSA, No. DOT-MC-00-200, June 2000, obesity, high blood pressure, alcohol and drug abuse, and stress are major health issues, among truck and bus drivers. The Roberts and York report cited a study by Stoohs, Guillemineault, and Dement, "Sleep Apnea and Hypertension in Commercial Truck Drivers," *Sleep*, Vol. 16 No. 8 (1993) that 71 percent of the 125 drivers in the Stoohs, Guillemineault, and Dement study were obese because they had a body mass/fat index greater than 28. In addition, the Roberts and York report cited data from "Heart and Stroke Facts, 1996 Statistical Supplement," American Heart Association, that nationally 26.3 percent of men and 25.0 percent of woman have blood pressures greater than 140 over 90 millimeters of

mercury (mm Hg). Hypertension is defined as blood pressure greater than or equal to 140 over 90 mm Hg. Additionally, the Roberts and York report cited data from "Accident Facts:" 1996 edition that indicates that alcohol is a factor in 41 percent of all traffic fatalities. Finally, the Roberts and York report cited data from Orris, *et. al.*, "Stress Among Package Truck Drivers," *American Journal of Industrial Medicine*, Vol. 31, (1997), that indicates that the drivers in that study had higher stress levels than 91 percent of the U.S. population.

In light of these data, examples of topics that could be covered in driver wellness training include information on how to maintain healthy blood cholesterol, blood pressure, and weight, as well as the importance of periodic health monitoring and testing, diet, and exercise.

#### Whistleblower

Topics that the agency anticipates would be covered include: the right of a driver to refuse to drive if there is an unsafe vehicle condition, the requirement for an employer to provide the driver a safe place to work, the prohibition against the motor carrier to pressure the driver to violate the hours-of-service requirements, and the complaint process of the U.S. Department of Labor if a driver feels that he or she has been discriminated against for filing a safety-related complaint.

Under the proposal, employers would have to ensure that new entry-level drivers receive the required training before driving. The agency solicits comments on whether a 90-day period or some other time period would be more appropriate for new entry-level drivers. Commenters are requested to provide supporting rationale.

Drivers with up to one year of driving experience would have 90 days to complete the training. Drivers having between one to two years of experience who do not qualify for grandfathering would also have 90 days to complete the required training. The agency solicits comments on whether the 90-day time period is appropriate for these two groups of drivers, and specifically whether a lesser period of time should be required. Commenters are requested to provide supporting rationale.

The motor carrier, a training school, or a class conducted by a consortium or association of motor carriers could provide the training. Examples include a classroom setting and a professional instructor, a one-on-one office meeting between the entry-level driver and a representative of his or her employer working from a prepared outline, or

exposure of the entry-level driver to a professionally prepared video covering the required topics. In all cases, the motor carrier would have to maintain some evidence of the content of the instruction for a Safety Investigator seeking to verify that the requirements of the training have been met. Informal, unverifiable, or undocumented communication between the entry-level driver and his or her employer would not be acceptable. Evidence that a driver has received the training would be maintained in the driver's personnel file. An entry-level driver would be one with less than two years of experience operating a CMV with a CDL. However, drivers with one year of experience operating a CMV with a CDL, who have a good driving record, would be grandfathered and therefore would not have to take the proposed training.

The FMCSA believes that for many entry-level drivers, the combination of a good driving record and at least one year of experience operating a CMV with a CDL is an appropriate indication that the individual has the minimum knowledge and driving skills to operate such a vehicle. Accordingly, the FMCSA would allow certain drivers to substitute a good driving record and experience for the completion of the proposed driver-training requirements. The FMCSA believes grandfathering such drivers would not diminish public safety or overall safe operation of CMVs.

The FMCSA is proposing that a motor carrier issue a Certificate of Grandfathering to those drivers whose experience and driving record qualify them to be grandfathered under this proposal. A copy of the certificate would be filed in the driver's personnel file. Grandfathered drivers would not be subject to the training requirements of this new subpart. This action is consistent with that taken when the agency grandfathered certain drivers from the CDL skills tests contained in part 383. Qualified drivers, who want to obtain a Certificate of Grandfathering, must do so within one year of the effective date of the final rule. After the one-year period, only those drivers who present an employer with a Certificate of Grandfathering would be exempted from entry-level driver training requirements.

The agency recognizes that, in order to develop the training curriculum required by this proposal, a phase-in period would be necessary. The agency believes that a 2-month phase-in period is adequate and would provide sufficient time for motor carriers and training schools to develop the required training material. The effective date of

the rule would be 2 months after its publication in the **Federal Register**.

The FMCSA solicits comments on all aspects of this proposal.

#### **Rulemaking Analyses and Notices**

##### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FMCSA has determined that this action is a significant regulatory action within the meaning of E.O. 12866, and is significant within the meaning of the Department of Transportation's regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979) because of significant public interest in the issues relating to CMV safety and training of certain CMV drivers. This proposed rule has been reviewed by the Office of Management and Budget under E.O. 12866.

#### **Summary of Benefit-Cost Analysis for this Proposal**

##### *Background*

This proposed rule is required by the Intermodal Surface Transportation Efficiency Act of 1991. The FMCSA is proposing that entry-level commercial drivers receive mandatory training in the following content areas: driver qualifications, hours of service of drivers, driver wellness, and whistle blower rights. This NPRM would require an applicant to complete entry-level driver training that includes these four content areas and furnish a copy of the training certificate to the employer in cases where someone other than the employer provides the training. An employer could not allow a new entry-level driver to operate a CMV on the public road unless the driver has received the required training and documentation of training is in the employer's possession.

The agency seeks to ensure high standards of safety among more experienced drivers without imposing an undue burden on these drivers by imposing an immediate training requirement. Such a requirement could mean an interruption of the driver's work schedule and a substantial loss in wages. In order to eliminate an overly burdensome approach to training, the NPRM proposes that drivers with up to one year of driving experience would have 90 days to complete the training. Drivers having between one to two years of experience who do not qualify for grandfathering would also have 90 days to complete the required training. The agency solicits comments on the economic impact of requiring training within the 90-day time period for these

two groups of experienced drivers as well as the costs associated with a lesser period of time. Commenters are requested to provide supporting rationale.

The FMCSA has conducted a regulatory evaluation of this proposed rule in accordance with Executive Order 12866, "Regulatory Planning and Review." This rule is estimated to cost \$25.1 million in the first year of implementation and \$22.7 million annually thereafter (undiscounted). The higher costs in the first year are the result of this rule's effect on some existing drivers (*i.e.*, those with less than two years of experience), where a certain percentage would be required to undertake the required training within the first 90 days of the rule's implementation. Total discounted costs of this rule are \$173.3 million over the 10-year period.

Our analysis of this proposed rule indicates that it would have to prevent 315 truck-related crashes (*i.e.*, combined fatal, injury-related, and property-damage-only crashes) in the first year to be cost-beneficial (*i.e.*, to offset the \$25.1 million in first-year costs). The rule would have to prevent 285 crashes in each year thereafter to be cost-beneficial. The 285–315 truck-related crashes to be avoided represent less than seven one-hundredths of one percent (or 0.07 percent) of the average total number of truck-related crashes reported annually (estimated at 445,000 in 1999 and 2000). This 0.07-percent reduction in truck-related crashes is obviously much less than the size of crash reductions experienced in studies cited earlier in this NPRM, where case studies revealed crash reductions of 2 and 40 percent from implementation of new driver training programs and is also well below the 15-percent reduction in crashes used in the regulatory evaluation prepared in 1995 for the ANPRM (which involved a more comprehensive training program than proposed here). A summary of costs is provided in the next section. For a complete discussion of the assumptions made, data used, and analysis performed in this regulatory evaluation, the reader is referred to the docket, where a copy of the full regulatory evaluation is contained.

##### *Costs*

The largest cost component of this rule is the cost of providing training to entry-level operators of heavy trucks, school buses, and motor coaches. Training costs include both the direct cost to train drivers and the (opportunity) cost of drivers' time. The two key factors in estimating the

training costs are the number of drivers who will need training and the hours of training they will have to undertake.

The FMCSA estimates that the proposed rule would require 10.5 hours of training of the entry-level drivers of heavy trucks in the proposed four subject areas. The two content areas of driver qualifications and hours of service together would require about 6 hours of training. The driver wellness training would also require about 4 hours, while training on whistle blower protection is estimated at 30 minutes. However, the FMCSA believes that the entry-level drivers of school buses would only require 4.5 hours of training, comprised of 4 hours of driver wellness instruction and 30 minutes of whistle blower protection training (given that the Federal driver qualifications and hours-of-service content would not apply). The FMCSA also estimates that the proposed rule would require 10.5 hours of training of the entry-level drivers of motorcoaches. The training hours estimate for heavy truck drivers was based on information provided in the instructor's guide for the Professional Truck Drivers Institute's (PTDI) accredited training courses and discussions held with FMCSA CDL Program staff. The training hours estimate for motor coach drivers was estimated using the instructor's guide for the Model Curriculum for motor coach drivers and discussions with FMCSA CDL Program staff.

Using data from the Bureau of Labor Statistics, the total number of entry-level truck drivers is estimated at 58,600 per year for the next 10 years, while the entry-level drivers required for growth and replacement for the school bus and motorcoach industry are estimated at 17,800 and 2,100 per year, respectively, also over the next 10 years.

In this analysis, we assumed that 30 percent of the entry-level heavy truck drivers, or 17,580, would not need any additional training, as they are assumed to attend a PTDI or similar accredited training program (*i.e.*, PTDI accredited courses already include these content areas in their curriculum). This assumption is based on information obtained regarding the number of accredited programs as a percent of total driver training programs. For the remaining 70 percent (or 41,020, entry-level drivers), we assumed that they either receive training from a non-accredited training program or they receive informal training from their employer. Therefore, this 70 percent of entry-level drivers would require 10.5 hours of training per driver on the four subject areas mentioned above. Therefore, the total hours of training

required by the proposed rule for the entry-level heavy truck drivers is estimated at 430,710 hours per year. For those drivers who already receive some type of formal (yet non-accredited) employer-or third-party training, it is quite possible that employers (or third-party training providers) might reduce the amount of training time spent on other, non-required subject matter, so that the net increase in training per truck driver would be less than 10.5 hours. However, in the absence of specific information on the types of subject matter that might be omitted from these driver training programs to offset the new training costs, we assumed a net increase of 10.5 hours for estimating the costs of this rule.

Regarding school bus driver training, neither the Federal driver qualifications nor the Federal Hours of Service rules are applicable to these drivers. Therefore, this entry-level training rulemaking will result in only 4.5 hours of additional training for each entry-level driver, since these training programs would include primarily driver wellness (4 hours) as well as whistle blower protection (0.5 hours). States have long required school bus drivers to take written exams designated to test an entry-level driver's knowledge of state laws and regulations affecting school transportation. Additionally, behind-the-wheel road tests are used to evaluate an applicant's driving skills. For example, as a comment to the ANPRM, the Texas Department of Public Safety stated that Texas requires classroom and behind-the-wheel training totaling 20 hours. In our review of the school bus driver training information, we concluded that no districts were providing instruction in driver wellness and whistle blower protection, since the NHTSA voluntary training standard, known as the School Bus Driver Training Program, did not include such content. Therefore, FMCSA estimates that all 17,800 entry-level school bus drivers would need an additional 4.5 hours of training for a total of 80,100 hours of training per year.

FMCSA assumes that the additional hours of training for an entry-level motorcoach driver would be 10.5 hours. The instructor's guide to the model curriculum for training motor coach drivers includes 5 hours of logbook training but only about an hour on safety and wellness issues (including topics such as the correct lifting of heavy objects and identifying prohibited cargo). The FMCSA does not have information on the proportion of entry-level motorcoach drivers following training as per the model curriculum.

Therefore, the FMCSA estimates that 2,100 entry-level drivers of motorcoaches would require 10.5 hours of training on driver qualifications, hours of service for drivers, driver wellness and whistle blower protection for a total of 22,050 hours of training per year.

To be conservative, a figure of \$25 per hour of training was used in this analysis to calculate the direct costs of training (calculated via an average cost of \$4,000 per training course divided by 4 weeks divided by 40 hours per week). This translates into \$262.50 of direct training costs for a 10.5-hour course and \$112.50 for 4.5-hour course. The agency believes that this was a reasonable estimate of the total hourly cost to train drivers (whether or not the training is provided by the employer or a third party) because it falls well within the range of training cost estimates provided in comments to the ANPRM. In reality, employer-based training could very well be less than \$25/hour in certain cases (*i.e.*, assuming new physical space is not leased by the employer to conduct the training, or the training is self-directed by the driver), but to be conservative the agency used the same figure whether the training was employer-or third party-based so as to ensure not underestimating employer and/or driver costs.

To arrive at a truck driver's wage rate, we use a figure of \$14.75 per hour, which is an average from three recent national wage/employment surveys (including the Current Population Survey). We added 31 percent to cover the cost of fringe benefits, an estimate developed in the Hours of Service regulatory evaluation. (It is a weighted average of the fringe benefits for private and for-hire carriers, based on data from the ATA and the BLS.) The 31 percent increase brings total compensation to \$19.32.

Regarding a school bus driver's wage, we use a figure of \$7.67 per hour obtained from the BLS 2001 National Occupational Employment and Wage survey. This figure represents the 25th percentile wage estimate for an entry-level school bus driver and we used it because entry-level drivers generally earn at the low range of the industry wage standards. Again, 31 percent is added to cover the cost of fringe benefits, resulting in a total hourly wage estimate of \$10.05 per hour.

Regarding a motorcoach driver's wage, we use a figure of \$9.98 per hour obtained from the BLS 2001 National Occupational Employment and Wage survey. This figure represents the 25th percentile wage estimate for an entry-level motorcoach driver and we used it



because entry-level drivers generally earn at the low range of the industry wage standards. Again, 31 percent is added to cover the cost of fringe benefits, resulting in a total hourly wage estimate of \$13.07 per hour.

To get the total unit cost of training per hour (*i.e.*, including both direct training costs and the drivers' cost of time), the relevant estimate of the driver's wage rate for truck, school bus, and motor coach drivers was added to the average hourly cost of training discussed earlier. For example, for an entry-level truck driver, the unit cost of training is \$44.32 an hour (\$19.32 of foregone driver wages plus \$25 in actual training costs). For entry-level school bus drivers, the total training cost is estimated at \$35.05 per hour (\$10.05 of foregone driver wages plus \$25 in actual training costs), and for entry-level motor coach drivers, it is \$38.07 per hour (\$13.07 of foregone driver wages plus \$25 in actual training costs).

Taking these hourly training costs for each type of entry-level driver (based on median wage rates and an average hourly cost of training) and applying them to the hours of required training for each type of driver (discussed earlier) and the number of entry-level drivers in each category, we can develop an estimate of total annual costs of this rule.

To do so, we multiplied the hours of training required for each type of driver by the total number of drivers in that driver group per year by the applicable hourly wage rate to drivers in each group (including direct wage and costs of training). The result is a total first-year cost of \$25.1 million and \$22.7 million (undiscounted) annually in each subsequent year of the rule. Using the 7 percent discount rate recommended by the OMB, the present value of training costs of the proposed rule is calculated as \$173.3 million over 10 years, or a discounted average of \$17.3 million per year for next 10 years.

The reason first year costs are higher than the annual costs in subsequent years is that within the first year (90 days to be exact), some portion of the entry level drivers who received training between 12–24 months prior to implementation of this rule (*i.e.*, those effectively with chargeable crashes) would be required to undertake training in these four content areas. Our analysis indicates that almost 6,000 drivers who received training between 12–24 months prior to the rule's implementation would have to undertake the training required under this rule. As such, first-year costs increase because a larger pool of drivers must initially undertake the required training. Full details of these

costs are provided in the stand-alone regulatory evaluation contained in the docket.

#### *Benefits*

The total number of accidents potentially avoided by the proposed rule is difficult to quantify largely because of the variability in study results on the impact of training on the truck crash reduction. This variability is most likely due to the wide variation in quality of driver training programs and the difficulty associated with estimating (statistically speaking) the relationship between a single input (training) and an output (safety) when working with very large data sets. However, several case studies, including two cited earlier in this NPRM, reveal that driver training programs reduced crashes by two to 40 percent. Because of the relatively modest costs (estimated at \$22.7 million to \$25.1 million annually (undiscounted)), this proposed rule would have to deter between 285 and 315 truck-related crashes (fatal, injury-related, and property-damage-only crashes combined) each year in order to be cost beneficial (*i.e.*, where the rule's benefits exceed its costs).

To develop the above estimate of the number of truck- and bus-related crashes that must be avoided each year for the rule to be cost beneficial, the researchers used crash cost estimates from a recent study by Zaloshnja, *et al.*, which estimated the average cost of a crash involving a large truck (*i.e.*, those > 10,000 lbs GVW) at almost \$80,000 (in 2001 dollars). Dividing the annual costs of the rule (\$22.7 million to \$25.1 million) by this average cost per truck-related crash (\$80,000) allows us to arrive at the cost-beneficial threshold of 285–315 annual crashes. This range (285–315 avoided crashes) represents less than seven one-hundredths of one percent (or 0.07 percent) of the total average number of truck-related crashes annually (estimated at 445,000 using 1999–2000 data). This 0.07-percent reduction is obviously much smaller than the size of crash reductions experienced in studies cited earlier in this NPRM, where case studies revealed crash reductions of 2 and 40 percent from implementation of new driver training programs and is also well below the 15-percent reduction in crashes used in the regulatory evaluation prepared in 1995 for the ANPRM (which involved a more comprehensive training program than proposed here). Therefore, we believe the rule would be cost-beneficial upon implementation.

A complete copy of the preliminary regulatory evaluation is in the public

docket described above under **ADDRESSES**.

#### **Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this rulemaking on small entities. In addition, DOT policy requires an analysis of the impact of all regulations (or proposals) on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The Interim Regulatory Flexibility Analysis must cover the following topics.

(1) A description of the reasons why the action by the agency is being considered.

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule.

(3) A description, and where feasible, an estimate of the number of small entities to which the proposed rule would apply.

(4) A description of the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills necessary for preparation of the report or record.

(5) An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule.

#### *Reason the Action Is Being Considered*

This action is required by Congressional direction. Specifically, section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 directed the Secretary of Transportation to promulgate regulations requiring training for entry-level heavy truck, school bus, and motorcoach drivers.

#### *Objective and Legal Basis for This Action*

The objective for this action is to reduce the number of crashes caused by entry-level drivers of heavy trucks, school buses, and motorcoaches. Congress was specifically concerned about the number of heavy truck crashes caused by inadequate driver training, and believes that better training will reduce these types of crashes. As noted above, the legal basis for this rule is section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991.

#### *Number of Small Entities to Which the Action Would Apply*

This action would apply to all small entities regulated by the FMCSA. The FMCSA is currently conducting

research to specify the size of the small motor carrier population. Presently we consider motor carriers with 6 or fewer drivers to be small entities. Using this number of drivers as a proxy for size, the majority of carriers can reasonably be described as small. As of April of 2002, there were 610,000 motor carriers on the FMCSA's Motor Carrier Management Information System (MCMIS) census file. Among the 500,000 of these motor carriers for which the agency has driver data, 435,000 (87 percent) have 6 or fewer drivers. Assuming that 87 percent of the 110,000 motor carriers with no driver information are also small, the total number of motor carriers with six or fewer drivers would exceed half a million.

#### *Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule*

This action would impose a very modest burden on small entities, since it largely proscribes the actions of drivers rather than motor carriers. Nonetheless, this action does impose some reporting and recordkeeping requirements on motor carriers. The primary motor carrier requirement would be to verify drivers' eligibility before allowing them to operate a CMV. In addition, motor carriers must maintain a copy of the required driver's training certificate in each personnel file. Motor carriers are currently required to maintain a driver qualification file for each driver, as outlined in Part 391 of the FMCSRs. No special skill is required to verify eligibility to operate a CMV or to place a driver's training certificate in a personnel file.

#### *Duplicative, Overlapping, or Conflicting Federal Rules*

The FMCSA is not aware of any other rules that duplicate State, local, or tribal governments, in the aggregate, or overlap, or conflict with the proposed action.

Accordingly, the FMCSA hereby certifies that the proposed action discussed in this document will not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act of 1995**

The Unfunded Mandates Reform Act of 1995 (the Act) requires each agency to assess the effects of its regulatory actions on State, local, tribal governments, and the private sector. This proposed rule does not impose an unfunded Federal mandate resulting in the expenditure by State, local, or tribal

governments, in the aggregate, or the private sector, of \$100 million, adjusted for inflation, or more in any one year. (2 U.S.C. 1531 et. seq.).

#### **Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document preempts any State law or regulation.

#### **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. An analysis of this proposal was made by the FMCSA, and it has been determined that the final rule, when promulgated, would create a new collection of information requiring OMB's approval. This PRA section addresses the information collection burden for activities associated with training certification forms and grandfathering eligible drivers.

The FMCSA estimates that operators of heavy trucks, operators of motor coaches, and operators of school buses will require additional training due to requirements contained in this proposed rule. The agency further estimates 58,600 new drivers will be needed annually in the heavy truck industry, 2,100 new drivers in the motor coach industry, and 17,800 new drivers in the school bus industry. However, it is estimated that for the heavy truck industry 30 percent of the entry level drivers already receive training through an accredited program and will not require additional training. The remaining 70 percent, or 41,020 drivers, would require additional training.

There would be an annual burden to the motor carrier or other training entity to complete, photocopy, and file the certification form. FMCSA estimates this will take 10 minutes, resulting in an additional annual burden of 10,153 hours [60,920 (41,020 + 2,100 + 17,800) drivers × 10 minutes per motor carrier/training entity, divided by 60 minutes = 10,153].

For the first year after the rule becomes effective, there would also be burdens associated with the estimated 121,840 drivers currently employed with less than 2 years experience who have not already received accredited training [41,020 (heavy truck) + 2,100

(motor coach) + 17,800 (school bus) = 60,920 × 2 years = 121,840 drivers]. Based on eligibility criteria previously described in this proposed rule, the FMCSA estimates that 75 percent of these 121,840 drivers would be eligible to be grandfathered and 25 percent would not be eligible.

Using these estimates, there would be an additional 21,560 drivers in the heavy truck and motor coach industries [(41,020 × 2 = 82,040) + (2,100 × 2 = 4,200) = 86,240 × 25 percent = 21,560] that would need additional training, because they would be ineligible to be grandfathered. Using the same percentage as above (25 percent), the school bus industry would have 8,900 drivers (17,800 × 2 years × 25 percent) who would be ineligible for grandfathering and would thus require additional training. Each of these 30,460 (21,560 + 8,900) drivers would need to be issued certificates following their training. At 10 minutes per certificate, that burden is estimated to be 5,077 hours (30,460 drivers × 10 minutes, divided by 60 minutes).

For grandfathering the estimated 91,380 remaining drivers (75 percent of 121,840 drivers eligible for grandfathering during the first year), there would be a one-time burden, since drivers could only be grandfathered during the first year after the rule becomes effective. There are two parts to the burden for these 91,380 drivers: (1) the burden for the driver to collect and provide the information to the motor carrier, and (2) the burden for the motor carrier to review the documents, complete, duplicate, and file the certification form. FMCSA estimates that it would take approximately 10 minutes for a driver to collect the necessary information and provide the document to the motor carrier, and 10 minutes for the motor carrier to review the information, complete the certification, and duplicate and file the document. Therefore, the one time burden associated with grandfathering the 91,380 drivers would be 30,460 hours [(91,380 × 10 minutes per driver / 60 minutes = 15,230) + (91,380 × 10 minutes per motor carrier / 60 minutes = 15,230) = 30,460]. This 30,460-hour estimate represents the first-year only burden associated with certifying drivers who are grandfathered.

Accordingly, the burden associated with the 121,840 current drivers is 35,537 burden hours [5,077 hours (for current entry level drivers not eligible for grandfathering) + 30,460 hours (for certifying drivers who are eligible to be grandfathered)].

Thus, the total first-year burden is estimated to be 45,690 hours [10,153

(annual burden) + 35,537 (first year burden of 5,077 + 30,460)].

Activity	Burden Hours
Annual Certification form for new entry level drivers .....	10,153
Certification form for drivers <i>not</i> eligible to be grandfathered (following training) (first year only) .....	5,077
Grandfathering certificate for those eligible (first year only) .....	30,460
Total .....	45,690

The information collection burden for subsequent years would drop to 10,153 hours [45,690 – 35,537 (first year only burden hours)].

Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of the functions of the FMCSA, including whether the information has practical utility, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the collected information, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

You may submit comments on this *information collection burden* directly to OMB. The OMB must receive your comments by October 14, 2003. You must mail or hand deliver your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503.

#### **Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations)**

The agency evaluated the environmental effects of the proposed action and alternatives in accordance with Executive Order 12898 and determined that there were no environmental justice issues associated with this proposed rule. Environmental justice issues would be raised if there were a “disproportionate” and “high and adverse impact” on minority or low-income populations. The agency determined that there were no high and adverse impacts associated with the proposal. In addition, the agency analyzed the demographic makeup of the trucking industry, potentially affected, and determined that there was

no disproportionate impact on minority or low-income populations. This is based on the finding that low-income and minority populations are generally underrepresented in the trucking occupation.

#### **Executive Order 13045 (Protection of Children)**

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (April 23, 1997, 62 FR 19885), requires that agencies issuing “economically significant” rules that also concern an environmental health or safety risk, or that an agency has reason to believe may disproportionately affect children, must include an evaluation of these effects on children. Section 5 of Executive Order 13045 directs an agency to submit for a “covered regulatory action” an evaluation of its environmental health or safety effects on children.

The agency evaluated the possible effects of the proposed action and determined that they would not create disproportionate environmental health risks or safety risks to children.

#### **Executive Order 12988 (Civil Justice Reform)**

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Executive Order 12630 (Taking of Private Property)**

This rule will not effect a taking of private property or otherwise have taking implications under E. O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number of 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

#### **National Environmental Policy Act**

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have an adverse effect on the quality of the environment.

#### **List of Subjects in 49 CFR Part 380**

Driver Training, instructor requirements.

In consideration of the foregoing, the FMCSA hereby proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, part 380 as set forth below:

1. The authority citation for this part continues to read as follows:

**Authority:** 49 U.S.C. 31136, 31307, and 31502; and Sec. 4007(b) of Pub. L. 102–240 (105 Stat. 2152); and 49 CFR 1.73.

2. Part 380 is revised by adding a new subpart E to read as follows.

#### **PART 380—SPECIAL TRAINING REQUIREMENTS**

##### **Subpart E—Entry-Level Driver Training Requirements**

Sec.	
380.501	Applicability.
380.502	Definitions.
380.503	Entry-level driver training requirements.
380.505	Substitute for driver training.
380.507	Proof of training.
380.509	Driver responsibilities.
380.511	Employer responsibilities.
380.513	Employer recordkeeping responsibilities.
380.515	Required information on the training certificate.

##### **Subpart E—Entry-Level Driver Training Requirements**

###### **§ 380.501 Applicability.**

All entry-level drivers who drive in interstate commerce and are subject to the CDL requirements of part 383 of this subchapter must comply with the rules of this subpart, except drivers who are subject to the jurisdiction of the Federal Transit Administration.

###### **§ 380.502 Definitions.**

(a) The definitions in part 383 of this subchapter apply to this part, except where otherwise specifically noted.

(b) As used in this subpart:  
*Entry-level driver* is a driver with less than 2 years experience operating a CMV with a CDL.

*Entry-level driver training* is training the CDL driver receives in driver qualification requirements, hours of service of drivers, driver wellness, and whistle blower protection as appropriate to the entry-level driver’s current position in addition to passing the CDL test.

###### **§ 380.503 Entry-level driver training requirements.**

Entry-level driver training must include instruction addressing the following four areas:

(1) Driver qualification requirements: The federal rules on medical

certification, medical examination procedures (49 CFR part 391, subparts B and E), and drug and alcohol testing (49 CFR part 382).

(2) Hours of service of drivers: The limitations on driving hours and the requirement to be off-duty for certain periods of time (49 CFR part 395).

(3) Driver wellness: Basic health maintenance including diet and exercise. The importance of avoiding alcohol and drug abuse. Fatigue countermeasures as a means to avoid accidents.

(4) Whistleblower protection: The right of an employee to question the safety practices of an employer without the employee's risk of losing a job or being subject to reprisals simply for stating a safety concern (29 CFR part 1978).

**§ 380.505 Substitute for Driver Training.**

(a) *Grandfather clause.* The driver training requirements specified in subpart E of this part do not apply to an individual who meets the conditions set forth in paragraphs (b), (c), and (d) of this section. A motor carrier must

ensure that an individual claiming eligibility to operate a CMV on the basis of this section meets these conditions before allowing him/her to operate a CMV.

(b) An individual must certify that, during the 1-year period immediately preceding the date of application for a Certificate of Grandfathering, he/she had:

- (1) A valid CDL;
- (2) No more than one driver's license;
- (3) No suspension, revocation, or cancellation of his/her CDL;
- (4) No convictions for a major offense while operating a CMV as defined in § 383.51(b) of this subchapter;
- (5) No convictions for a railroad-highway grade crossing offense while operating a CMV as stated in § 383.51(d) of this subchapter;

(6) No convictions for violating an out-of-service order as defined in § 383.51(e) of this subchapter;

(7) No more than one conviction for a serious traffic violation, as defined in § 383.5 of this subchapter, while operating a CMV;

(8) No convictions for a violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic accident while operating a CMV; and

(9) No accident in which he/she was found to be at fault, while operating a CMV.

(c) An individual must certify and provide evidence that he/she:

- (1) Is regularly employed in a job requiring the operation of a CMV that requires a CDL; and
- (2) Has operated a CMV for at least 1 year immediately preceding the date of application for a Certificate of Grandfathering.

(d) An employer must issue a Certificate of Grandfathering, which is substantially in accordance with the form below, to an individual that meets the requirements of this section and maintain a copy of the certificate in his/her personnel file.

(e) The grandfather provisions of this section are available to eligible drivers for a limited period of one year after [The effective date of the final rule].

<b>Entry-level Driver-Training Certificate of Grandfathering</b>	
I certify that _____	
has presented evidence of meeting the prerequisites set forth in the Federal Motor Carrier Safety Regulations (49 CFR § 380.505) as a substitute for entry-level driver training and is qualified to operate a CMV.	
DRIVER NAME (First name, MI, Last name)	
Commercial Driver's License Number	STATE
ADDRESS OF DRIVER (Street Address, City, State and Zip Code)	
FULL NAME OF EMPLOYER	Telephone Number
ADDRESS OF PRINCIPAL PLACE OF BUSINESS (Street Address, City, State, and Zip Code)	
SIGNATURE OF EMPLOYING OFFICIAL	DATE ISSUED

**§ 380.507 Proof of training.**

(a) An entry-level driver who receives the required training must receive an original training certificate containing all the information contained in § 380.515 from the training provider.

(b) The entry-level driver must also receive a copy of the training certificate if the training provider is not the driver's employer or potential employer.

**§ 380.509 Driver responsibilities.**

The driver must present a training certificate, containing the information specified in § 380.515, to the employer or potential employee that the driver received training as specified in § 380.503, if the employer or potential employer is not the training provider.

**§ 380.511 Employer responsibilities.**

(a) Employers must ensure that all new entry-level drivers receive the

required training on or after [Insert the effective date of the final rule].

(b) Employers must ensure that entry-level drivers, who do not qualify for grandfathering, receive the required training no later than 90 days after [The effective date of the final rule].

(c) The employer must place evidence of training completion or a Certificate of Grandfathering, as appropriate, in the driver's qualification file.

**§ 380.513 Employer recordkeeping responsibilities.**

The employer must keep the records specified in § 380.511 for as long as the driver is employed by the employer and for three years thereafter.

**§ 380.515 Required information on the training certificate.**

(a) The training provider must provide a training certificate to the entry-level driver, which contains the following six items of information.

- (1) Name of training institution;
- (2) Mailing address of training institution;

(3) Name of driver;

(4) A statement that the driver has completed driver qualification

requirements, hours of service of drivers, driver wellness, and whistle blower protection;

(5) The printed name of the person attesting that the driver has received the required training.

(6) The signature of the person attesting that the driver has received the required training.

(b) The training provider must issue a Driver Training Certificate that is substantially in accordance with the following form.

(1) Driver-Certification  
 I certify that \_\_\_\_\_ has completed training requirements set forth in the Federal Motor Carrier Safety Regulations (49 CFR 380.503) for entry-level driver training.

\_\_\_\_\_  
Full name of training entity

\_\_\_\_\_  
Business address (Street Address, City, State and Zip code)

\_\_\_\_\_  
Telephone number:

\_\_\_\_\_  
Name of training certifying official

\_\_\_\_\_  
Signature of training certifying official

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