DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 380

[Docket No. FMCSA–2017–0371]

RIN 2126–AC05

Commercial Driver's License Upgrade from Class B to Class A

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

ACTION: Final rule.

SUMMARY: FMCSA amends the entry-level driver training (ELDT) regulations published on December 8, 2016, titled ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' (ELDT final rule), by adopting a new Class A CDL theory instruction upgrade curriculum to reduce the training time and costs incurred by Class B commercial driver's license (CDL) holders upgrading to a Class A CDL. This final rule does not change the regulatory text proposed in the Notice of Proposed Rulemaking (NPRM). The Agency believes that this modest change in the Class A theory training requirements for Class B CDL holders upgrading to a Class A CDL maintains the same level of safety established by the ELDT final rule, and the regulatory burden reduction will result in annualized cost savings of $18 million.

DATES: This final rule is effective May 6, 2019. The compliance date for this final rule is February 7, 2020.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than April 5, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations (MC–PSD) Division, FMCSA, 1200 New Jersey Ave SE, Washington, DC 20590–0001, by telephone at 202–366–4325, or by email at *MCPSD@dot.gov*. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

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I. Rulemaking Documents

A. Availability of Rulemaking Documents

For access to docket FMCSA–2017–0371 to read background documents and comments received, go to *http://www.regulations.gov* at any time, or to Docket Services at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Executive Summary

The Moving Ahead for Progress in the 21st Century Act (MAP–21) required the issuance of final regulations establishing minimum ELDT requirements addressing the knowledge and skills necessary for the safe operation of a commercial motor vehicle (CMV) that must be acquired before obtaining a CDL for the first time or upgrading from one class of CDL to another (49 U.S.C. 31305(c)(1)). On December 8, 2016, FMCSA published a final rule establishing minimum ELDT requirements meeting the MAP–21 mandate (81 FR 88732) (''ELDT final rule''). Today, as part of the Agency's ongoing effort to review existing regulations to evaluate their continued necessity and effectiveness, FMCSA amends 49 CFR part 380 by adding a new theory instruction upgrade curriculum for Class B CDL holders upgrading to a Class A CDL. This final rule does not change the regulatory text proposed in the June 29, 2018, NPRM.

The ELDT final rule required the same level of *theory* training for individuals obtaining a CDL for the first time as for those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA now concludes that, because Class B CDL holders have prior training or experience, they are not required to receive the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency adds an optional theory instruction upgrade curriculum for Class B CDL holders upgrading to a Class A CDL, which removes eight instructional units involving ''Non-Driving Activities.'' However, Class B CDL holders upgrading to a Class A CDL remain free to choose to complete the Class A theory instruction standard curriculum, which includes the eight units of theory instruction not included in the upgrade curriculum established by this rule. This rule applies only to Class B CDL holders; therefore, individuals obtaining a Class A CDL who *do not* already hold a Class B CDL must complete the full Class A theory (standard) curriculum, as required by the ELDT final rule.

The theory instruction upgrade curriculum for Class B CDL holders does not require a minimum number of instruction hours, but the training provider is required to cover all topics in the curriculum and driver-trainees must receive an overall minimum score of 80 percent on the written theory assessment. This approach is consistent with the theory curricula requirements in the ELDT final rule. This final rule does not change the behind-the-wheel (BTW) (range and public road) training requirements set forth in the ELDT final rule. All driver-trainees, including those who hold a Class B CDL, must demonstrate proficiency in all elements of the BTW curriculum in a Group A vehicle.

Costs and Benefits

The Agency estimates that an annual average of approximately 11,340 driver-trainees are affected by the rule, with each experiencing a reduction of 27 hours in time spent completing their theory instruction. This results in a substantial time cost savings to these driver-trainees, who no longer must attend this training, as well as a cost savings to the motor carriers that employ these drivers. The rule does not

result in any *increase* in costs. As presented in Table 1, the Agency estimates that the rule results in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% or a 3% discount rate, representing a decrease in cost or a cost savings. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

TABLE 1—SUMMARY OF THE TOTAL COST OF THE RULE

[In millions of 2014$]

Year	Undiscounted			Discounted	
	Driver-trainee costs	Motor carrier costs	Total Costs [a]	Discounted at 3%	Discounted at 7%
2020	[b] ($16.7)	($1.0)	($17.8)	($17.2)	($16.6)
2021	(16.8)	(1.0)	(17.8)	(16.8)	(15.6)
2022	(16.9)	(1.0)	(17.9)	(16.4)	(14.6)
2023	(17.0)	(1.0)	(18.0)	(16.0)	(13.8)
2024	(17.1)	(1.0)	(18.1)	(15.6)	(12.9)
2025	(17.2)	(1.0)	(18.2)	(15.3)	(12.2)
2026	(17.3)	(1.0)	(18.3)	(14.9)	(11.4)
2027	(17.4)	(1.1)	(18.4)	(14.5)	(10.7)
2028	(17.5)	(1.1)	(18.5)	(14.2)	(10.1)
2029	(17.6)	(1.1)	(18.6)	(13.9)	(9.5)
Total	(171)	(10)	(182)	(155)	(127)
Annualized	.....	.....	(18)	(18)	(18)

Notes:
(a) Total cost values may not equal the sum of the components due to rounding. (The totals shown in this column are the rounded sum of unrounded components.)
(b) Values shown in parentheses are negative values (*i.e.,* less than zero) and represent a decrease in cost or a cost savings.

In the regulatory evaluation for the ELDT final rule, FMCSA estimated that not only would driver-trainees and motor carriers incur costs, but that training providers, State Driver Licensing Agencies (SDLAs), and the Federal government would also incur costs, as a result of the ELDT final rule. For this rule, FMCSA does not anticipate any change in costs relative to the ELDT final rule for training providers, SDLAs, or the Federal government, because the regulatory obligations of these entities, as set forth in the ELDT final rule, are not affected.

The Agency believes that this rule does not result in changes to the benefits of the ELDT final rule. In the regulatory evaluation for the ELDT final rule, the Agency estimated quantified benefits for three categories of non-safety benefits, including savings from reductions in fuel consumption, reductions in CO_2 emissions related to those reductions in fuel consumption, and reductions in vehicle maintenance and repair costs. These estimated non-safety benefits were derived from the Speed Management and Space Management instructional units in the Class A theory instruction curriculum in the ELDT final rule. Because these two instructional units remain in the theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from this rule.

The regulatory evaluation for the ELDT final rule addressed the potential safety benefits of ELDT. In considering the potential safety impacts from the June 29, 2018, NPRM, the Agency noted that Class B CDL holders have prior training or experience in operating CMVs, which serves as an adequate substitute for the eight non-driving instructional units not included in the optional theory instruction upgrade curriculum. The Agency therefore presumed that the NPRM would not impact safety, and specifically requested comment on whether the proposed optional Class A CDL theory curriculum would reduce safety benefits relative to the ELDT final rule. The Agency received no comments in response to that request. Therefore, the Agency does not anticipate that this rule will change potential safety benefits previously identified in connection with the ELDT final rule.

III. Abbreviations and Acronyms

ANPRM Advance Notice of Proposed Rulemaking
ATA American Trucking Associations, Inc.
BEA Bureau of Economic Analysis
BLS Bureau of Labor Statistics
BTW Behind the Wheel
CDL Commercial Driver's License
CFR Code of Federal Regulations
CLP Commercial Learner's Permit
CMV Commercial Motor Vehicle
CMVSA Commercial Motor Vehicle Safety Act
CVTA Commercial Vehicle Training Association
DOT U.S. Department of Transportation
ELDT Entry-Level Driver Training
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
FR Federal Register
HM Hazardous Materials
IT Information Technology
MAP–21 Moving Ahead for Progress in the 21st Century Act
NAICS North American Industry Classification System
NPRM Notice of Proposed Rulemaking
OMB Office of Management and Budget
OOIDA Owner-Operator Independent Drivers Association
OOS Out-of-Service
PIA Privacy Impact Assessment
PII Personally Identifiable Information
PRA Paperwork Reduction Act
PTDI Professional Truck Driver Institute
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RIN Regulation Identifier Number
SBA Small Business Administration
SDLA State Driver Licensing Agency
§ Section symbol
TPR Training Provider Registry
U.S.C. United States Code

IV. Legal Basis for the Rulemaking

As noted above, FMCSA's publication of the final rule, ''Minimum Training Requirements for Entry-Level Commercial Vehicle Operators'' (81 FR 88732 (Dec. 8, 2016)), satisfied the MAP–21 requirement that the Agency

issue ELDT regulations. This rule, which amends regulations established by the ELDT final rule, is based on the authority of the Motor Carrier Act of 1935 (the 1935 Act) and the Motor Carrier Act of 1984 (the 1984 Act), both as amended, and the Commercial Motor Vehicle Safety Act of 1986 (CMVSA).

The 1935 Act, codified at 49 U.S.C. 31502(b), provides that ''The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' This rule addresses the qualifications of certain motor carrier employees, consistent with the safe operation of CMVs.

The 1984 Act, codified at 49 U.S.C. 31136(a), provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Section 31136(a)(1) grants the Secretary broad authority to issue regulations ''on commercial motor vehicle safety,'' including regulations to ensure that ''commercial motor vehicles are . . . operated safely''. The remaining statutory factors and requirements in section 31136(a), to the extent they are relevant, are also satisfied here. In accordance with section 31136(a)(2), the elimination of duplicative theory training does not impose any ''responsibilities . . . on operators of commercial motor vehicles [that would] impair their ability to operate the vehicles safely.'' This rule does not directly address medical standards for drivers (section 31136(a)(3)) or possible physical effects caused by driving CMVs (section 31136(a)(4)). However, to the extent that the various curricula in the 2016 final rule on ELDT address FMCSA's medical requirements for CMV drivers, section 31136(a)(3) was considered and addressed in that rulemaking. FMCSA does not anticipate that drivers will be coerced (section 31136(a)(5)) as a result of this rulemaking. However, the Agency notes that the ELDT theory training curricula for Class B CDLs, as well as the Class A theory instruction standard curriculum, includes a ''Whistleblower/Coercion'' unit, addressing the right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisal simply for stating a safety concern. This unit also instructs driver-trainees in procedures for reporting to FMCSA incidents of coercion from motor carriers, shippers, receivers, or transportation intermediaries.

The CMVSA provides, among other things, that the Secretary shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a CMV (49 U.S.C. 31305(a)). This rule addresses the fitness of specified individuals (*i.e.,* Class B CDL holders upgrading to a Class A CDL) operating a CMV.

Finally, the Administrator of FMCSA is delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. Chapters 311, 313, and 315, as they relate to commercial motor vehicle operators, programs and safety.

V. Background

On December 8, 2016, FMCSA published a final rule establishing minimum training standards for certain individuals applying for their CDL for the first time; an upgrade of their CDL (*e.g.,* a Class B CDL holder upgrading to a Class A CDL); or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. The final rule, which set forth ELDT requirements for BTW and theory (knowledge) instruction, fulfilled the Congressional mandate in section 32304 of MAP–21 and was based in part on consensus recommendations from the Agency's Entry-Level Driver Training Advisory Committee (ELDTAC). The ELDT final rule, effective on June 5, 2017 [1] (with a compliance date of February 7, 2020), is the culmination of previous efforts by FMCSA and its predecessor agency, the Federal Highway Administration, to address the issue of CMV driver training standards.[2]

The Department has longstanding processes to periodically review regulations and other agency actions and, if appropriate, revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified.[3] Consistent with these processes, the Agency revised the theory training requirements applicable to CMV drivers already holding a Class B CDL who wish to upgrade to a Class A CDL. The requirements pertaining to BTW (range and public road) instruction, as set forth in the ELDT final rule, remain unchanged for all driver-trainees, including Class B CDL holders upgrading to a Class A CDL.

VI. June 29, 2018, Proposed Rule

The ELDT final rule required the same level of theory training for individuals obtaining a CDL for the first time as those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA subsequently concluded that this approach imposed an unnecessary regulatory burden because, due to prior training or experience in operating a CMV, Class B CDL holders do not require the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency proposed the following change: Class B CDL holders upgrading to a Class A CDL would not be required to complete eight instructional units currently included in Section A.1.5, ''Non-Driving Activities,'' of the theory instruction portion of the Class A CDL training curriculum as set forth in Appendix A to 49 CFR part 380. Under this proposal, the theory instructional units that would no longer be required for Class B CDL holders upgrading to a Class A CDL are: Handling and Documenting Cargo, Environmental Compliance Issues, Post-Crash Procedures, External Communications, Whistleblower/Coercion, Trip Planning, Drugs/Alcohol, and Medical Requirements. These units would, however, remain required elements of the theory instruction standard curriculum for any individual obtaining a Class A CDL who does not already hold a Class B CDL. These units, which provide instruction in activities that do not involve actually operating a CMV, are identical, except for minor editorial differences in some of the topic

[1] The ELDT rule was initially effective on February 6, 2017. In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' the effective date was temporarily delayed three times by final rules published on February 1, 2017 (82 FR 8903), March 21, 2017 (82 FR 14476), and May 23, 2017 (82 FR 23516).

[2] For a more extensive review of the legal and regulatory history of these efforts, see 81 FR 88732, 88739–40 (Dec. 8, 2016).

[3] *See* Exec. Order No. 13777, section 1, 82 FR 12285 (March 1, 2017) (''It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people or . . .''); Exec. Order No. 13610, 77 FR 28469 (May 14, 2012) (requiring agencies to conduct retrospective analyses of existing rules to determine whether they remain justified); Exec. Order No. 13563, section 6(b), 76 FR 2831, (Jan. 21, 2011) (requiring agencies to submit a plan ''under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives''); Exec. Order No. 12866, section 5, (Sept. 30, 1993) (requiring each agency to ''review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order'').

descriptions, to the above-specified instructional units included in Section B.1.5, ''Non-Driving Activities,'' of the Theory Instruction portion of the Class B CDL Curriculum as set forth in Appendix B to 49 CFR part 380.

The NPRM explained that driver-trainees affected by the proposal would fall into one of two categories: those who obtain a Class B CDL *after* the compliance date of February 7, 2020, and thus are subject to the training requirements set forth in the ELDT final rule, and those who obtain a Class B CDL *before* the compliance date of the final rule and thus are not subject to those requirements.[4] The first category, drivers who obtain a Class B CDL by completing ELDT training after February 7, 2020, will have already demonstrated proficiency in the eight non-driving theory topics, identified above, included in the Section B.1.5 of the Class B training curriculum, the content of which is virtually identical to the content of section A.1.5. The Agency noted that, accordingly, requiring Class B CDL holders who are upgrading to Class A to be re-trained in those topics, which they have already mastered by successfully completing the Class B theory instruction, imposes an unnecessary regulatory burden on those individuals.

The second category of driver-trainees affected by the NPRM would be drivers who obtained their Class B CDL prior to the February 7, 2020, compliance date of the final rule. These Class B CDL holders would already have experience operating a CMV and would have received some training, including, for example, the ELDT required in § 380.503[5] and/or finishing training provided by motor carrier employers. Accordingly, FMCSA proposed that these drivers not be required to complete the entire Class A theory instruction curriculum as set forth in the ELDT final rule. Under the NPRM, any Class B holder could thus choose to complete the Class A CDL theory curriculum (upgrade or standard) best suiting their individual needs.

FMCSA also explained that, unlike the eight Class A theory instructional units not included in the proposed upgrade curriculum, instruction in two ''non-driving'' theory units—Hours of Service (HOS) Requirements and Fatigue and Wellness Awareness—would vary to some extent, depending on the vehicle group (Group A or Group B). Consequently, the Agency proposed that those instructional units be retained in the Class A theory upgrade curriculum.

FMCSA also noted that instruction would vary, depending on the underlying vehicle group, for the theory topics identified in Sections A.1.1 and B.1.1 (Basic Operation), A.1.2 and B.1.2 (Safe Operating Procedures), A.1.3 and B.1.3 (Advanced Operating Practices), and A.1.4 and B.1.4 (Vehicle Systems and Reporting Malfunctions)—all of which address, to varying degrees, operational characteristics of the two vehicle groups. FMCSA therefore proposed to retain those topics in the theory instruction upgrade curriculum.

In the proposed rule, FMCSA emphasized that the Class A BTW range and public road curriculum would remain unchanged for all driver-trainees, including those who hold a Class B CDL. The Agency also stated that, to the extent that Class B CDL holders already have previous training or experience in the CMV industry, they are not novice drivers. FMCSA therefore concluded that the proposed addition of an optional Class A theory instruction upgrade curriculum would not impact the level of safety established in the ELDT final rule, and invited comments addressing this issue. The proposal set forth *minimum* theory training requirements applicable to Class B CDL holders upgrading to a Class A CDL. Nothing in the NPRM precluded training providers from imposing more extensive theory training requirements for Class B CDL holders to whom they provide Class A theory training. Additionally, under the proposal, States remained free to impose theory training requirements more stringent than those proposed in the NPRM, just as they remain free to impose ELDT requirements more stringent than those set forth in the ELDT final rule.

VII. Discussion of Comments and Responses

The Agency received eight comments in response to the NPRM. As discussed further below, none of the comments warranted a change in the proposed regulatory text or in FMCSA's rationale for the proposal, as set forth in the preamble to the NPRM. The American Trucking Associations (ATA) supported the proposal, describing the NPRM as ''an important improvement to the ELDT regulations that will help keep these experienced drivers in the industry.'' Citing the difficulty of recruiting drivers capable of meeting DOT's driver qualification requirements, ATA also noted that ''[l]ooking for ways that provide flexibility in the hiring process but maintain a high level of safety is important to the growth and continued success of the trucking industry.'' Similarly, C.R. England, Inc. (C.R. England) appreciated the Agency's effort ''to reduce unnecessary requirements and 'red tape' for the benefit of drivers and carriers alike.'' Overall, the Owner-Operator Independent Drivers Association (OOIDA) favored the ''elimination of these duplicative requirements.''

The Commercial Vehicle Training Association (CVTA) opposed the NPRM, stating that the proposed removal of the eight topics from the Class A CDL theory curriculum ''is not warranted.'' Two anonymous individuals opposed the proposal, but neither commenter provided a substantive explanation for their position.

The remaining two comments were also submitted by individuals, but both were outside the scope of the NPRM.

1. Retention of Drugs/Alcohol and Trip Planning Units in the Class A CDL Theory Instruction Upgrade Curriculum

Comment: C.R. England suggested that drugs/alcohol and trip planning should be retained in the proposed Class A CDL Theory Instruction Upgrade Curriculum ''due to the ongoing importance of these two topics.''

FMCSA Response: The Agency notes that, as discussed in the NPRM, all Class B CDL holders who choose the Class A CDL theory instruction upgrade curriculum will already have received training in drug and alcohol testing. Class B holders who obtain their CDL before February 7, 2020, must receive detailed information from their employer concerning the drug and alcohol use and testing requirements and prohibitions set forth in 49 CFR parts 382 and 40, as required by § 382.601. These employer-provided materials must also include information concerning the impact of drug and alcohol use on an individual's health and ability to perform safety sensitive functions and require that each driver certify in writing that he or she received these materials. Class B holders who obtain their CDL after February 7, 2020, will have demonstrated their proficiency in the drugs/alcohol theory topic included in the Class B Theory Curriculum as Unit B1.5.9, in addition to being subject to the requirements of § 382.601.

Similarly, drivers who obtain their Class B CDL after February 7, 2020, will

[4] The latter category would also include drivers who obtain a Class B CLP before the compliance date of the ELDT final rule and obtain the Class B CDL after the compliance date, but before the CLP or renewed CLP expires. *See* 49 CFR 380.603(c)(1).

[5] The current ELDT requirements, set forth in subpart E of part 380, will be removed and reserved and replaced by new subparts F and G on the compliance date of the ELDT final rule. *See* 81 FR 88732, 88783.

have demonstrated proficiency in the trip planning topic included in the Class B Theory Curriculum as Unit B1.5.8. Drivers who obtain their Class B CDL before February 7, 2020, will have gained knowledge and experience as CMV operators and thus will be familiar with the core principles of trip planning.

FMCSA therefore continues to believe that inclusion of these non-driving topics in the Class A CDL theory instruction upgrade curriculum is not necessary. The Agency notes, however, that Class B holders who want further training in these topics when upgrading to a Class A CDL may choose the Class A theory instruction standard curriculum, which includes units on drugs/alcohol and trip planning.

2. Application of Class A CDL Theory Training Requirements to Drivers Obtaining a Class B CDL Prior to February 7, 2020

Comment: OOIDA, while supporting elimination of duplicative Class A CDL theory training requirements for drivers who obtain a Class B CDL after February 7, 2020, stated that ''commercial drivers with a Class B CDL prior to February 7, 2020, should not be exempt from the training requirements discussed in this rulemaking.''

FMCSA Response: FMCSA did not propose that drivers who obtain a Class B CDL before February 7, 2020, should be exempt from Class A CDL theory training requirements. Under the proposal and this final rule, *all* Class B CDL holders seeking to upgrade their license to a Class A CDL must successfully complete Class A theory training, regardless of when they obtained their Class B CDL. The Agency proposed providing Class B CDL holders with the option to fulfill the Class A CDL theory instruction training requirement by completing either the standard or the upgrade curriculum. As discussed in the NPRM, drivers who obtain their Class B CDL before February 7, 2020, will already have some degree of training, knowledge, and experience and, in that sense, are not new to the motor carrier industry. Accordingly, these Class B holders may choose the upgrade curriculum, which contains fewer non-driving instructional units than the standard curriculum. Drivers who obtain their Class B CDL after February 7, 2020, will have completed the Class B theory instruction curriculum set forth in the ELDT final rule, which includes the eight non-driving units not included in the Class A upgrade curriculum. Therefore, these Class B holders, who have already demonstrated proficiency in those eight non-driving instructional units, may choose the upgrade curriculum when seeking a Class A CDL. FMCSA reiterates that Class B holders upgrading to a Class A CDL may choose the theory instruction curriculum that best suits their needs, including the full standard curriculum.

3. The Proposed Class A CDL Theory Instruction Upgrade Curriculum

Comment: CVTA, while acknowledging FMCSA's effort to reduce redundancies for Class B CDL holders seeking to upgrade to a Class A CDL, nevertheless opposed the NPRM. First, CVTA argued that because most commercial truck driving schools are likely to offer a Class A curriculum that meets or exceeds the minimum requirements established by the ELDT final rule, ''[i]t is more efficient to subject Class B holders to a full Class A curriculum rather than dedicating resources'' to ''create a special program for a limited number of people.'' Second, CVTA argued that even if FMCSA allowed a training provider to offer the abbreviated upgrade curriculum, as proposed, ''students would still be required to take and pass an assessment, which will contain questions covering these eight subjects.'' Lastly, CVTA disputed FMCSA's assertion that Class B CDL holders ''will already have demonstrated proficiency in the eight non-driving theory topics'' not included in the Class A theory upgrade curriculum, concluding that ''the NPRM wrongly presumes all Class B holders have some experience handling freight.''

FMCSA Response: Under the ELDT final rule and this rule, training providers are free to continue or develop ELDT programs that exceed the Agency's requirements. The Agency did not propose to require that training providers offer the Class A theory instruction upgrade curriculum.

FMCSA also disagrees that students subject to the upgrade curriculum would be required to take and pass an assessment covering subjects that are not part of that curriculum. CVTA correctly noted that the ELDT final rule requires that driver-trainees must demonstrate proficiency in the knowledge objectives described in the theory curricula by achieving an overall score of 80% on a written assessment. However, FMCSA does not intend that driver-trainees who complete the Class A upgrade curriculum be tested on the eight non-driving theory instructional units *not included* in that curriculum. The introductory paragraph to ''Appendix A to part 380, Class A CDL training curriculum,'' as set forth in the ELDT final rule and this rule, notes that training providers must cover all theory subjects *set forth in the curriculum.* Additionally, in the ELDT final rule, § 380.715(a), ''Assessments,'' states that training providers must ''determine driver-trainees' proficiency in the knowledge objectives in the theory portion of each unit of instruction in appendices A through E of part 380, as applicable.'' Accordingly, driver-trainees would be tested only on the instructional units included in the Class A theory curriculum (*i.e.,* standard or upgrade curriculum) they choose to complete.

Finally, FMCSA's statement that certain Class B holders will already have demonstrated proficiency in the eight non-driving theory instructional units referred specifically to drivers who obtain their Class B CDL after February 7, 2020, and therefore are subject to the ELDT final rule. To obtain a Class B CDL, these drivers would be required to complete the Class B theory instruction curriculum (thereby demonstrating proficiency), which includes the eight non-driving units not included in the Class A upgrade curriculum. FMCSA emphasizes, however, that as proposed in the NPRM and as adopted in this final rule, these Class B CDL holders upgrading to a Class A CDL, as well as drivers who obtained their Class B CDL before February 7, 2020, can receive theory instruction in handling and documenting cargo (as well as the other seven non-driving units) by selecting the Class A standard curriculum rather than the upgrade curriculum. The Agency believes that this approach obviates CVTA's concern that Class B holders who operate commercial passenger vehicles, such as motor coaches and school buses, would not necessarily have experience in handling and documenting cargo.

4. Estimated Cost Savings Resulting From the NPRM

Comment: OOIDA suggested that the estimated cost savings of $182 million ''be reallocated towards other ELDT programs.''

FMCSA Response: This rule retains the estimated 10-year cost savings of $182 million on an undiscounted basis, as discussed in the NPRM. However, the cost savings attributable to this rule would not accrue to FMCSA or any other part of the Federal Government, and the Agency has no authority to ''reallocate'' the savings to other aspects of ELDT. The cost savings would be primarily experienced by driver-trainees able to complete their Class A theory instruction in fewer hours relative to the

baseline of the ELDT final rule, resulting in lower tuition costs and reducing the opportunity cost of time for these individuals. Motor carriers employing these drivers would also experience reduced opportunity cost, or cost savings, relative to the baseline of the ELDT final rule. The estimated cost savings resulting from this final rule are discussed further below in Section VIII.A, ''E.O. 12866, E.O. 13563, and DOT Regulatory Policies and Procedures.''

VIII. International Impacts

The FMCSRs, and any exceptions to the FMCSRs, apply only within the United States (and, in some cases, United States territories). Motor carriers and drivers are subject to the laws and regulations of the countries in which they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences among nations.

IX. Section-by-Section Analysis

FMCSA made no changes to the proposed regulatory text in response to the comments it received.

As proposed, this final rule amends § 380.707(a) to add ''or Class A theory instruction upgrade curriculum applicants'' to the last sentence in the paragraph to account for the fact that training providers must verify that Class A CDL theory instruction upgrade curriculum training applicants possess a valid Class B CDL.

In Appendix A to part 380, Class A CDL Training Curriculum, as proposed, FMCSA adds a sentence to the introductory text that states, ''Class A CDL applicants who possess a valid Class B CDL may complete the Theory Instruction Upgrade Curriculum in lieu of the Theory Instruction Standard Curriculum.'' Additionally, the Agency renames the Class A ''Theory Instruction'' as ''Theory Instruction Standard Curriculum.'' Finally, the Agency adds a new section, ''Theory Instruction Upgrade Curriculum.''

X. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA performed an analysis of the impacts of the rule and determined it is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and Regulatory Review. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034 (Feb. 26, 1979)).

As discussed earlier, because Class B CDL holders have previous training or experience in the CMV industry, the rule establishes a new theory instruction upgrade curriculum that removes eight instructional units involving ''Non-Driving Activities'' for Class B CDL holders upgrading to a Class A CDL. The rule does not change the BTW training requirements set forth in the ELDT final rule. Consistent with the ELDT final rule, the Class A theory instruction upgrade curriculum does not have a required minimum number of instruction hours, but the training provider must cover all topics in the curriculum, and driver-trainees must receive an overall minimum score of 80 percent on the written theory assessment. FMCSA estimates that this new curriculum results in cost savings by taking less time to complete, without impacting the benefits of the ELDT final rule.

The Agency estimates that an annual average of approximately 11,340 driver-trainees are affected by the rule, with each experiencing a reduction of 27 hours to complete the theory instruction. This results in a substantial cost savings to these driver-trainees, as well as a cost savings to the motor carriers that ultimately employ these drivers. The rule does not result in any *increase* in costs. As presented in Table 3, the Agency estimates that the rule results in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% or a 3% discount rate. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

Scope and Key Inputs to the Analysis

The rule revises regulations established in the ELDT final rule and, therefore, the ELDT final rule serves as the baseline against which the effects of the rule are evaluated. The compliance date of the regulations established by the ELDT final rule remains February 7, 2020; therefore, the same analysis period of 2020 to 2029, used in evaluating the effects of the ELDT final rule, is used in evaluating the effects of this rule. Furthermore, to ensure that meaningful relative comparisons can be made between the results of the regulatory analysis for this rule and the baseline represented by the ELDT final rule, all monetary values are expressed in 2014 dollars, the same base year used to express monetary values in the evaluation of the ELDT final rule.

Many of the key inputs to this analysis are based on the same data sources as those developed and used in the evaluation of the ELDT final rule. Therefore, a copy of the regulatory evaluation for the ELDT final rule is available in the docket,[6] and, where applicable, the Agency cites that document in the analysis below.

Number of Driver-Trainees Affected by the Rule

The Agency estimates that an annual average of 11,340 driver-trainees are affected by the rule, totaling approximately 113,000 driver-trainees affected over the 10-year analysis period. Annual estimates of the number of driver-trainees affected by the rule are presented below in Table 2.

TABLE 2—ESTIMATED NUMBER OF DRIVER-TRAINEES AFFECTED BY THE RULE

Year	Driver-trainees affected by the rule
2020	11,069
2021	11,129
2022	11,188
2023	11,248
2024	11,309
2025	11,369
2026	11,430
2027	11,491
2028	11,553
2029	11,615
Total	113,403

The estimated number of driver-trainees affected by the rule is a key input in determining the potential cost savings to driver-trainees and to the motor carriers that ultimately employ these drivers.

To derive the estimates presented above in Table 2, FMCSA first estimated the total annual number of Class B CDL holders upgrading to a Class A CDL. These estimates are based on a June 2015 information collection, performed as part of the regulatory evaluation for the ELDT final rule, requesting data from the 51 SDLAs, including

[6] U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). ''Regulatory Evaluation of Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators. final rule. Regulatory Impact Analysis. Final Regulatory Flexibility Analysis. Unfunded Mandates Analysis.'' November 2016. Docket ID FMCSA–YEAR–2007–27748. Available at: *https://www.regulations.gov/document?D=FMCSA-2007-27748-1291* (accessed September 7, 2018).

information regarding the number of upgrades of Class B CDLs to Class A CDLs issued in 2014.[7] Seventeen SDLAs responded to this data collection, 13 of which provided data regarding the number of upgrades. For these 13 SDLAs, a total of 13,937 upgrades from Class B CDLs to Class A CDLs were issued in 2014. Accounting for the difference in the number of licensed drivers across states, FMCSA extrapolated this value to a national total that is representative of all 51 SDLAs. This adjustment results in a national estimate of 67,000 upgrades from Class B CDLs to Class A CDLs issued in 2014. Further details regarding the June 2015 information collection and the methods used to develop the national estimate of 67,000 upgrades from Class B CDLs to Class A CDLs issued in 2014 can be found in the regulatory evaluation for the ELDT final rule.[8]

This 2014 baseline value of 67,000 upgrades from Class B CDLs to Class A CDLs was then used to develop projections of the number of Class B CDL to Class A CDL upgrades issued annually for the 2020 to 2029 analysis period. These future projections were developed by increasing the current baseline 2014 value consistent with occupation-specific employment growth projections for several commercial vehicle-related occupations obtained from the Bureau of Labor Statistics (BLS) Employment Projections program.[9] FMCSA projected that the annual number of Class B CDL to Class A CDL upgrades for the 2020 to 2029 analysis period would range between 69,000 and 73,000. These projections and further details regarding their development can be found in the regulatory evaluation for the ELDT final rule.[10]

Finally, the resulting annual projections of the overall number of upgrades from Class B CDLs to Class A CDLs are then adjusted to account for the portion of these drivers who are not affected by the ELDT final rule because these drivers are already receiving training in the absence of that rule. These drivers are not affected by the rule. In the regulatory evaluation for the ELDT final rule, FMCSA estimated that 84% of driver-trainees obtaining a Class A CDL already receive training in the absence of that rule and therefore are not affected by the ELDT final rule.[11] The remaining portion (16%) of driver-trainees are those affected by the ELDT final rule, and therefore, by this rule. The annual projections of the overall number of upgrades from Class B CDLs to Class A CDLs developed earlier are adjusted accordingly, using this 16% value to estimate the number of Class B CDL holders upgrading to a Class A CDL who are affected by the rule. This results in the estimated number of driver-trainees affected annually by the rule, as presented earlier in Table 2.

Estimated Hours To Complete the Theory Instruction Upgrade Curriculum

The estimated number of hours necessary to complete the theory instruction upgrade curriculum, and the resulting time savings compared to the estimated time necessary to complete the Class A theory instruction curriculum that was set forth in the ELDT final rule, provide key inputs in determining the potential cost savings to driver-trainees and to the motor carriers that ultimately employ these drivers. Under both the ELDT final rule and this rule, there is no minimum number of hours that driver-trainees are required to spend on the theory portions of any of the training curricula. The training provider must, however, cover all topics in the theory instruction curriculum, and driver-trainees must receive an overall minimum score of at least 80 percent on the written theory assessment. The Agency estimated that, on average, driver-trainees need 60 hours to complete the Class A theory instruction curriculum set forth in the ELDT final rule,[12] which, in this rule, is renamed the ''Theory Instruction Standard Curriculum.'' For this rule, the Agency estimates that Class B CDL holders upgrading to a Class A CDL on average need 33 hours to complete the theory instruction upgrade curriculum. Accordingly, the Agency estimates the rule results in a time savings of 27 hours for each Class B CDL holder upgrading to a Class A CDL.

The Class A theory instruction curriculum set forth in the ELDT final rule included 30 instructional units, among them 10 instructional units related to non-driving activities. The theory instruction upgrade curriculum removes eight of these instructional units related to non-driving activities. In the regulatory evaluation for the ELDT final rule, the Agency did not develop separate estimates of the time necessary to complete each of the 30 instructional units comprising the Class A theory instruction curriculum. Accordingly, FMCSA cannot make a direct estimate of the time savings resulting from the elimination of eight instructional units related to non-driving activities. Although the number of instructional units is reduced by 27% (with eight out of 30 instructional units removed), the varying subject matter and content of each of the 30 instructional units means that the number of hours required to complete the training is not necessarily reduced by a proportional 27% (*i.e.,* a 16-hour reduction from the 60-hour estimate for the theory instruction standard curriculum discussed above).

Therefore, in order to develop an estimate of the number of hours necessary to complete the theory instruction upgrade curriculum and the resulting time savings compared to the estimated time necessary to complete the Class A theory instruction curriculum in the ELDT final rule, the Agency examined the theory instructional units of the curricula standards for driver-trainees as established by the Professional Truck Driver Institute (PTDI).[13] These PTDI curricula standards were reviewed previously during the development of the ELDT final rule. The theory instructional units of the PTDI curricula standards align closely with the 30 instructional units of the Class A theory instruction curriculum in the ELDT final rule. Furthermore, the PTDI curricula standards specify a minimum number of hours for six major categories into which each of the individual instructional units is assigned. These PTDI estimates help to provide a relative measure of the amount of time necessary to complete each of the individual instructional units in the rule. Based on the minimum number of training hours required under the PTDI standards for each of the individual

[7] U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). ''Report by State Driver Licensing Agencies (SDLAs) on the Annual Number of Entry-Level Commercial Driver's License (CDL) Applicants and Related Data.'' OMB Control No: 2126–0059.

[8] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 19–20, 26.

[9] U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). Employment Projections Program. ''Table 1.2: Employment by detailed occupation, 2014 and projected 2024.'' Available at: *http://www.bls.gov/emp/ind-occ-matrix/occupation.xlsx* (accessed July 29, 2016).

[10] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation.'' Annual projections for 2020 to 2029 for ''Upgrade of Class B CDL to Class A CDL'' are presented in Table 11 on page 18, and discussed on pp. 27–30.

[11] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 52–62.

[12] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 70–74.

[13] Professional Truck Driver Institute, Inc. (PTDI). ''Curricula Standards and Guidelines for Entry-Level Commercial Motor Vehicle Driver Courses.'' February 15, 2017. Page 16. Available at: *http://www.ptdi.org/resources/Documents/Standards/CURRICULUM%20STANDARDS%20ENTRY%20LEVEL%20021517.pdf* (accessed October 2, 2017).

theory instructional units, the elimination of the eight instructional units related to non-driving activities reduces the total hours of Class A theory instruction by approximately 44.2%. Applying this 44.2% reduction to the estimated 60 hours needed to complete the Class A theory instruction curriculum in the ELDT final rule results in a 27-hour reduction in the time needed for Class B CDL holders upgrading to a Class A CDL to complete theory training by taking the theory instruction upgrade curriculum. Accordingly, the Agency estimates that Class B CDL holders upgrading to a Class A CDL, on average, now only require 33 hours to complete the theory instruction upgrade curriculum. Accordingly, the Agency estimates the rule results in a time savings of 27 hours for each Class B CDL holder upgrading to a Class A CDL.

Other Inputs to the Analysis

The reduction of 27 hours in theory training for each of the driver-trainees affected by the rule results in a change in the costs incurred by these driver-trainees, relative to the baseline of the ELDT final rule. This change in cost is comprised of two components, a reduction in tuition costs incurred by these driver-trainees, and a reduction in the opportunity cost of time for these driver-trainees.

FMCSA evaluated tuition costs using an average hourly cost of training of $26 per hour, based on a review of nearly nine hundred CDL driver training programs as discussed in the regulatory evaluation for the ELDT final rule.[14]

The Agency evaluated changes in the opportunity cost of time for driver-trainees using the driver wage rate to represent the value of driver-trainee time that, in the absence of the rule, was spent in training but now is available to driver-trainees for other uses, such as productive employment. FMCSA uses a driver wage rate of $30 per hour, representing the median hourly base wage rate for truck drivers plus fringe benefits, as discussed in the regulatory evaluation of the ELDT final rule.[15]

Finally, the reduction of 27 hours in theory training for each of the driver-trainees affected by the rule also reduces the opportunity costs incurred by motor carriers that ultimately employ these driver-trainees. The opportunity cost to motor carriers from a regulatory action represents the value of the best alternative to the firm that must be forgone by, or is now made available to, the firm as a result of that regulatory action.[16] Under the rule, an input of production (driver labor) that was previously unavailable to carriers in the absence of the rule is now available to carriers, for a time equivalent to the 27-hour reduction in theory training for each of the affected driver-trainees. The value of this time to the motor carrier is measured by estimating the change in profit to the firm, and is a function of the estimated 27-hour reduction in theory training for each of the affected driver-trainees, the marginal cost of operating a CMV, and an estimate of a typical average motor carrier profit margin. As discussed in the regulatory evaluation for the ELDT final rule, the Agency estimates that the marginal cost of operating a CMV is $68 per hour, and that the average profit margin for motor carriers is 5%.[17]

Costs

The rule does not result in any increase in costs. In the regulatory evaluation for the ELDT final rule, the Agency estimated that not only would driver-trainees and motor carriers incur costs, but that training providers, SDLAs, and the Federal government would also incur costs as a result of the ELDT final rule. For this rule, the Agency does not anticipate any change in costs relative to the ELDT final rule for training providers, SDLAs, or the Federal government because it does not affect the regulatory obligations of these entities as set forth in the ELDT final rule.

Costs to training providers resulting from the ELDT final rule included costs for submitting a Training Provider Registration Form (TPRF) for each training location to the Training Provider Registry (TPR), costs for electronically submitting training certification information to the TPR for driver-trainees who have completed training, and costs for preparing for and being subject to compliance audits.[18] Under the rule, training providers still need to register with the TPR, and for those driver-trainees affected by the rule, training providers still need to transmit training completion information electronically to the TPR. Accordingly, FMCSA does not anticipate any change in costs to training providers resulting from the rule.

Costs to SDLAs resulting from the ELDT final rule included costs for updates to SDLA information technology (IT) systems to be able to receive driver training completion information from CDLIS and store this information in the driver history record. Under the rule, SDLAs continue to receive and store the same information. Therefore, FMCSA does not anticipate any change in costs to SDLAs resulting from the rule.

Finally, costs to the Federal Government resulting from the ELDT final rule included costs for FMCSA to create and manage the TPR and to enforce the regulations established by the final rule. Under the rule, the TPR must be developed and maintained in the same manner as under the ELDT final rule. In addition, training program enforcement activities, such as compliance audits performed on training providers, remain unchanged under the rule as compared to the ELDT final rule, and FMCSA's review of training provider registration forms also remains unchanged. Accordingly, FMCSA does not anticipate any change in costs to the Federal government resulting from the rule.

As discussed above, FMCSA estimates a reduction in costs incurred by driver-trainees and motor carriers affected by the rule. Because there is an estimated reduction of 27 hours of training for each driver-trainee affected by the rule, the Agency estimates that both driver-trainees and motor carriers experience negative costs, that is, a decrease in costs or a cost savings. The rule does not result in any *increase* in costs for driver-trainees or motor carriers. The rule reduces tuition costs, as well as the opportunity cost of time for these driver-trainees, relative to the baseline of the ELDT final rule.

For each year of the 10-year analysis period, FMCSA multiplied the estimated number of driver-trainees annually that are affected by the rule, as presented in Table 2, by the estimated reduction of 27 hours in theory training for each of these driver-trainees. FMCSA then multiplied the resulting total aggregate reduction in theory training hours by $26 per hour (the estimated average hourly cost of training),[19] yielding an estimate of the overall change in tuition costs experienced by

[14] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 68–69.

[15] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 11–14.

[16] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 76–79.

[17] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 76–79.

[18] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 79–81.

[19] The tuition costs noted above are derived from observed tuition charged for the CDL training programs identified by FMCSA, and are proxies for tuition costs that might be charged for a curriculum that meets the requirements of the rule. More details can be found in section 3.2.1 of the regulatory evaluation for the ELDT final rule. DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 68–69.

driver-trainees for each year of the analysis period. Additionally, the Agency multiplied the total aggregate reduction in theory training hours by the estimated driver wage rate of $30 per hour, yielding an estimate of the change in the opportunity cost of time experienced by driver-trainees for each year of the analysis period. As presented in Table 3, the Agency estimates that the rule results in a 10-year tuition cost savings to driver-trainees of $80 million on an undiscounted basis. The Agency estimates that the rule also results in a 10-year opportunity cost of time savings to driver-trainees of $92 million on an undiscounted basis. In total, the Agency estimates that the rule results in a 10-year cost savings to driver-trainees of $171 million on an undiscounted basis, and $17.10 million on an annualized basis at a 7% discount rate.

The development of the key inputs necessary to estimate the change in cost to motor-carriers, described earlier, includes the marginal cost of operating a CMV, an estimate of a typical average motor carrier profit margin, and the estimated 27-hour reduction in theory training for each of the driver-trainees affected by the rule. For each year of the 10-year analysis period, the estimated number of driver-trainees who are affected by the rule as presented earlier in Table 2 is multiplied by the estimated reduction of 27 hours in theory training for each of these driver-trainees. The resulting total reduction in theory training hours is then multiplied by the estimated marginal cost of operating a CMV of $68 per hour, and the estimated profit margin of 5% for motor carriers. As presented in Table 3, the Agency estimates that the rule results in a 10-year opportunity cost savings to motor carriers of $10 million on an undiscounted basis, and $1.04 million on an annualized basis at a 7% discount rate, representing a decrease in opportunity cost, or an opportunity cost savings to motor carriers.

As presented in Table 3, the Agency estimates that the rule results in a 10-year cost savings of $182 million on an undiscounted basis, $155 million discounted at 3%, $127 million discounted at 7%, and $18 million on an annualized basis at a 7% discount rate, representing a decrease in cost or a cost savings. Most of this annualized cost savings ($17.10 million) is realized by driver-trainees, with the remainder of the annualized cost savings ($1.04 million) realized by motor carriers.

TABLE 3—TOTAL COST OF THE RULE

[in millions of 2014$]

Year	Driver-trainees affected by the rule	Undiscounted				Discounted	
		Driver-trainee tuition costs	Driver-trainee opportunity costs	Motor carrier opportunity costs	Total costs [a]	Discounted at 3%	Discounted at 7%
	[A]	[B] = [A] × [−27 hours] × [$26 per hour]	[C] = [A] × [−27 hours] × [$30 per hour]	[D] = [A] × [−27 hours] × [$68 per hour] × [0.05]	[E] = [B] + [C] + [D]		
2020	11,069	[b] ($7.8)	($9.0)	($1.0)	($17.8)	($17.2)	($16.6)
2021	11,129	(7.8)	(9.0)	(1.0)	(17.8)	(16.8)	(15.6)
2022	11,188	(7.9)	(9.1)	(1.0)	(17.9)	(16.4)	(14.6)
2023	11,248	(7.9)	(9.1)	(1.0)	(18.0)	(16.0)	(13.8)
2024	11,309	(7.9)	(9.2)	(1.0)	(18.1)	(15.6)	(12.9)
2025	11,369	(8.0)	(9.2)	(1.0)	(18.2)	(15.3)	(12.2)
2026	11,430	(8.0)	(9.3)	(1.0)	(18.3)	(14.9)	(11.4)
2027	11,491	(8.1)	(9.3)	(1.1)	(18.4)	(14.5)	(10.7)
2028	11,553	(8.1)	(9.4)	(1.1)	(18.5)	(14.2)	(10.1)
2029	11,615	(8.2)	(9.4)	(1.1)	(18.6)	(13.9)	(9.5)
Total	113,403	(80)	(92)	(10)	(182)	(155)	(127)
Annualized					(18)	(18)	(18)

Notes:

[a] Total cost values may not equal the sum of the components due to rounding (the totals shown in this column are the rounded sum of unrounded components).

[b] Values shown in parentheses are negative values (*i.e.,* less than zero), and represent a decrease in cost or a cost savings.

Benefits

The Agency anticipates no change in the benefits of the ELDT final rule as a result of this rule. In the regulatory evaluation for the ELDT final rule, the Agency estimated quantified benefits for three categories of non-safety benefits, including savings from reductions in fuel consumption, reductions in CO_2 emissions related to these reductions in fuel consumption, and reductions in vehicle maintenance and repair costs. These estimated non-safety benefits were derived from the Speed Management and Space Management instructional units in the Class A theory instruction curriculum set forth in the ELDT final rule.[20] Because these two instructional units remain in the theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from this rule.

The regulatory evaluation for the ELDT final rule addressed the potential safety benefits of entry-level driver training. In considering the potential impacts on safety from this rule, the Agency notes that Class B holders have previous training or experience in the CMV industry, which serves as an adequate substitute for the eight non-driving instructional units that are not included in the theory instruction upgrade curriculum. Therefore, the Agency anticipates that there is no change in potential safety benefits associated with this rule.

[20] DOT FMCSA, ''ELDT Final Rule Regulatory Evaluation,'' pp. 87–122.

B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)

Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017 (82 FR 9339, Feb. 3, 2017). E.O. 13771 requires that for every one new regulation issued by an Agency, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.[21] Final implementation guidance addressing the requirements of E.O. 13771 was issued by the Office of Management and Budget (OMB) on April 5, 2017.[22] The OMB guidance defines what is an E.O. 13771 regulatory action and what is an E.O. 13771 deregulatory action, provides procedures for how agencies should account for the costs and cost savings of such actions, and outlines various other details regarding implementation of E.O. 13771.

This final rule has total costs less than zero, and is therefore an E.O. 13771 deregulatory action.[23] The present value of the cost savings of this rule, measured on an infinite time horizon at a 7% discount rate, expressed in 2016 dollars, and discounted to 2020 (the year the rule goes into effect and cost savings would first be realized), is $278 million. On an annualized basis, these cost savings are $19.5 million.

For the purpose of E.O. 13771 accounting, the April 5, 2017, OMB guidance requires that agencies also calculate the costs and cost savings discounted to year 2016.[24] In accordance with this requirement, the present value of the cost savings of this rule, measured on an infinite time horizon at a 7% discount rate, expressed in 2016 dollars, and discounted to 2016, is $212 million. On an annualized basis, these cost savings are $15 million.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies to consider the impact of their regulatory actions on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term ''small entities'' means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000.[25] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these entities. Section 605 of the RFA allows an Agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This rule affects a subset of driver-trainees and motor carriers. Driver-trainees are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, driver-trainees are considered neither a small business under Section 601(3) of the RFA, nor are they considered a small organization under Section 601(4) of the RFA.

Motor carriers affected by this rule are most likely those that hire Class A CDL drivers. Passenger motor carriers generally rely on CMVs that do not require a Class A CDL to operate (*i.e.,* Group B vehicles), and thus are not be affected by this rule. In the regulatory evaluation for the ELDT final rule, FMCSA estimated that there were approximately 1.1 million inter- and intrastate freight motor carriers, of which a subset operate Group A vehicles, and thus are affected by this rule. FMCSA estimates that this rule affects between 11,000 and 12,000 CMV driver-trainees per year, resulting in fewer than 12,000 motor carriers affected per year, which is approximately 0.9% of the total number of inter- and intrastate freight motor carriers. FMCSA does not know how many of these motor carriers would be considered ''small.''

The U.S. Small Business Administration (SBA) defines the size standards used to classify entities as small. SBA establishes separate standards for each industry, as defined by the North American Industry Classification System (NAICS).[26] This rule could affect many different industry sectors; for example, the transportation sector (*e.g.,* General freight trucking industry group (4841) and the Specialized freight trucking industry group (4842)), the agricultural sector, and the construction sector. Industry groups within these sectors have size standards for qualifying as small based on the number of employees (*e.g.,* 500 employees), or on the amount of annual revenue (*e.g.,* $27.5 million in revenue). FMCSA does not have specific information about the number of employees or revenue for each of the motor carriers. However, FMCSA is aware that the motor carrier industry largely consists of smaller firms. Of the 1.1 million freight motor carriers, roughly 1 million have between 1 and 6 power units. If all of the approximately 1 million freight motor carriers with 6 or fewer power units are considered small based on the applicable size standard, then a maximum of 1.2% (12,000 ÷ 1 million) of small entities are affected by this rule. Therefore, FMCSA estimates that this rule does not impact a substantial number of small entities.

As discussed earlier in the Regulatory Analyses section, FMCSA estimates the impact to the affected motor carriers as a reduction in opportunity cost, or a cost savings, relative to the baseline of the ELDT final rule. This rule removes some of the training requirements accounted for in the regulatory evaluation for the ELDT final rule, allowing those drivers who are upgrading from a Class B CDL to a Class A CDL to begin working and earning a profit for the motor carrier earlier than under the current training procedures. Therefore, this rule provides affected motor carriers with increased access to labor hours, and consequently profit, resulting in an opportunity cost savings to the motor carrier. FMCSA estimated the opportunity cost to the motor carrier as a function of the number of hours previously spent in training that are now available for labor, an estimate of the profit margin, and the marginal hourly operational costs of the CMV. As discussed earlier in the Regulatory Analyses section, the Agency estimates that the rule results in a cost savings to all motor carriers of $1.04 million on an annualized basis at a 7% discount rate. On a per driver basis for those drivers affected by the rule, the cost savings

[21] Executive Office of the President. *Executive Order 13771 of January 30, 2017. Reducing Regulation and Controlling Regulatory Costs.* 82 FR 9339. Feb. 3, 2017. Section 1 (Purpose).

[22] Executive Office of the President. Office of Management and Budget. *Memorandum M–17–21. Guidance Implementing Executive Order 13771.* April 5, 2017.

[23] Executive Office of the President. Office of Management and Budget. *Memorandum M–17–21. Guidance Implementing Executive Order 13771.* April 5, 2017. Q4 on page 4.

[24] Executive Office of the President. Office of Management and Budget. *Memorandum M–17–21. Guidance Implementing Executive Order 13771.* April 5, 2017. Q25 on page 11.

[25] Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164 (codified at 5 U.S.C. 601, *et seq.*).

[26] Executive Office of the President, Office of Management and Budget (OMB). ''North American Industry Classification System.'' 2017. Available at: *https://www.census.gov/eos/www/naics/2017NAICS/2017_NAICS_Manual.pdf* (accessed December 1, 2017).

realized by the motor carriers is approximately $92 (27 hours × 0.05 profit margin × $68 marginal operating costs).

The RFA does not define a threshold for determining whether a specific regulation results in a significant impact. However, the SBA, in guidance to government agencies, provides some objective measures of significance that the agencies can consider using.[27] One measure that could be used to illustrate a significant impact is labor costs, specifically, if the cost of the regulation exceeds 5% of the labor costs of the entities in the sector. The American Transportation Research Institute (ATRI) performed an annual survey of motor carriers and published its findings in the ''Analysis of the Operational Costs of Trucking: 2017 Update.'' ATRI found that driver wages and benefits represent approximately 33% of average marginal costs to a carrier.[28] ATRI further estimated that average marginal hourly driver costs, including wages and benefits, were $27.09 in 2016. FMCSA hours of service regulations allow drivers 60 hours of on-duty time in a 7-day period. This equates to approximately $84,500 in driver labor costs per year ($27.09 × 60 hours per week × 52 weeks). The impact of this rule is approximately 0.11% of labor costs ($92 impact ÷ $84,500 labor costs)—well below the 5% threshold identified in the SBA guide. Therefore, this rule does not have a significant impact on the entities affected.

Accordingly, I hereby certify that the action does not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the rule affects your small business, organization, or governmental jurisdiction, and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mr. Richard Clemente, listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). The DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.[29]

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act requires agencies to prepare a comprehensive written statement for any proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $161 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2017 levels) or more in any one year. Because this rule does not result in such an expenditure, a written statement is not required. However, the Agency does discuss the costs and benefits of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires Agencies to provide estimates of the information-collection (IC) burden of its regulations. This rule does not alter the Agency's estimates of the paperwork burden outlined in the final ELDT rule at 81 FR 88788 (Dec. 8, 2016). Since publication of the ELDT final rule, the OMB, on April 19, 2017, approved the Agency's estimate of 66,250 hours for the IC collection titled ''Training Certification for Entry-Level Commercial Motor Vehicle Drivers'' (2126–0028). The approval expires on April 30, 2020.

G. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' In assessing the federalism implications of the ELDT final rule, FMCSA stated that, because the CDL program is voluntary, it does not have preemptive effect on the States. The Agency therefore concluded that the ELDT final rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States.[30] This final rule does not change that conclusion.

H. E.O. 12988 (Civil Justice Reform)

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

I. E.O. 13045 (Protection of Children)

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it does not effect a taking of private property or otherwise have taking implications.

K. Privacy

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a Privacy Impact Assessment

[27] U.S. Small Business Administration, Office of Advocacy. ''A Guide for Government Agencies. How to Comply with the Regulatory Flexibility Act.'' 2017. Available at: *https://www.sba.gov/sites/default/files/advocacy/How-to-Comply-with-the-RFA-WEB.pdf* (accessed on September 7, 2018).

[28] American Transportation Research Institute. ''An Analysis of the Operational Costs of Trucking: 2017 Update. Available at: *http://atri-online.org/wp-content/uploads/2017/10/ATRI-Operational-Costs-of-Trucking-2017-10-2017.pdf* (Accessed on: September 7, 2018).

[29] U.S. Department of Transportation (DOT). ''The Rights of Small Entities To Enforcement Fairness and Policy Against Retaliation.'' Available at: *https://www.transportation.gov/sites/dot.gov/files/docs/SBREFAnotice2.pdf* (accessed December 1, 2017).

[30] *See* 81 FR 88732, 88788 (Dec. 8, 2016).

(PIA) of a regulation that will affect the privacy of individuals. The assessment considers impacts of the rule on the privacy of information in an identifiable form and related matters. The FMCSA Privacy Officer has evaluated the risks and effects the rulemaking might have on collecting, storing, and sharing personally identifiable information (PII), as well as protections and alternative information handling processes to mitigate potential privacy risks. FMCSA determined that, while this rule does require the collection of individual PII, it does not result in a change in collection, process, or the data elements previously identified in the ELDT final rule.

The privacy analysis of the ELDT final rule, which conforms to the DOT standard Privacy Impact Assessment (PIA), is published on the DOT website (*www.transportation.gov/privacy*). It addresses business processes identified in the ELDT final rule and new or existing information collection systems to be implemented in support of those processes. The FMCSA Privacy Office determined that this final rule does not alter the privacy impact detailed in the PIA for the ELDT final rule.

The Agency submitted a Privacy Threshold Assessment (PTA) analyzing the new rulemaking and the specific process for collection of personal information to the Department of Transportation's Privacy Office. As required by the Privacy Act, FMCSA and the Department will be publishing, with request for comment, a system of records notice (SORN) addressing the collection of information affected by this rule and the ELDT final rule. This SORN will be published in the **Federal Register** not less than 30 days before the Agency is authorized to collect or use PII retrieved by unique identifier.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

M. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

P. Environment (NEPA)

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph (6)(z). The Categorical Exclusion (CE) in paragraph (6)(z) covers (1) the minimum qualifications for persons who drive commercial motor vehicles as, for, or on behalf of motor carriers; and (2) the minimum duties of motor carriers with respect to the qualifications of their drivers. The requirements in this rule are covered by this CE and the action does not have the potential to significantly affect the quality of the environment. The CE determination is available for inspection or copying in the *regulations.gov* website listed under **ADDRESSES**.

List of Subjects in 49 CFR Part 380

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA amends 49 CFR chapter 3, part 380, to read as follows:

PART 380—SPECIAL TRAINING REQUIREMENTS

■ 1. The authority citation for part 380 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31305, 31307, 31308, and 31502; sec. 4007(a) and (b) of Pub. L. 102–240 (105 Stat. 2151–2152); sec. 32304 of Pub. L.112–141; and 49 CFR 1.87.

§ 380.707 [Amended]

■ 2. In § 380.707, amend paragraph (a) by adding the words ''or Class A theory instruction upgrade curriculum applicants'' to the end of the final sentence.

■ 3. Amend Appendix A to part 380 by:

■ a. Revising the introductory text;

■ b. Revising the undesignated heading ''Theory Instruction'' to read ''Theory Instruction Standard Curriculum;'' and

■ c. Adding a section entitled ''Theory Instruction Upgrade Curriculum'' to the end of the appendix.

The revision and addition to read as follows:

Appendix A to Part 380—Class A—CDL training curriculum.

Class A CDL applicants must complete the Class A CDL curriculum outlined in this Appendix. The curriculum for Class A applicants pertains to combination vehicles (Group A) as defined in 49 CFR 383.91(a)(1). Class A CDL applicants who possess a valid Class B CDL may complete the Theory Instruction Upgrade Curriculum in lieu of the Theory Instruction Standard Curriculum. There is no required minimum number of instruction hours for theory training, but the training instructor must cover all topics set forth in the curriculum. There is no required minimum number of instruction hours for BTW (range and public road) training, but the training instructor must cover all topics set forth in the BTW curriculum. BTW training must be conducted in a CMV for which a Class A CDL is required. The instructor must determine and document that each driver-trainee has demonstrated proficiency in all elements of the BTW curriculum, unless otherwise noted. Consistent with the definitions of BTW range training and BTW public road training in § 380.605, a simulation device cannot be used to conduct such training or to demonstrate proficiency. Training instructors must document the total number of clock

hours each driver-trainee spends to complete the BTW curriculum. The Class A curriculum must, at a minimum, include the following:

* * * * *

Theory Instruction Upgrade Curriculum

Section BA1.1 Basic Operation

This section must cover the interaction between driver-trainees and the CMV. Driver-trainees will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic CMV instruments and controls. Training providers will teach driver-trainees the basic operating characteristics of a CMV. This section must also teach driver-trainees how to properly perform vehicle inspections, control the motion of CMVs under various road and traffic conditions, employ shifting and backing techniques, and properly couple and uncouple combination vehicles. Driver-trainees must familiarize themselves with the basic operating characteristics of a CMV.

Unit BA1.1.1 Orientation

This unit must introduce driver-trainees to the combination vehicle driver training curriculum and the components of a combination vehicle. The training providers must teach the safety fundamentals, essential regulatory requirements (*e.g.,* overview of FMCSRs and Hazardous Materials Regulations), and driver-trainees' responsibilities not directly related to CMV driving, such as proper cargo securement. This unit must also cover the ramifications, including driver disqualification provisions and fines, for non-compliance with parts 380, 382, 383, and 390 through 399 of the FMCSRs. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV, stopping at weigh stations/scales, hazard awareness of vehicle size and weight limitations, low clearance areas (*e.g.,* CMV height restrictions), and bridge formulas.

Unit BA1.1.2 Control Systems/ Dashboard

This unit must introduce driver-trainees to vehicle instruments, controls, and safety components. The training providers must teach driver-trainees to read gauges and instruments correctly and the proper use of vehicle safety components, including safety belts and mirrors. The training providers must teach driver-trainees to identify, locate, and explain the function of each of the primary and secondary controls including those required for steering, accelerating, shifting, braking systems (*e.g.,* ABS, hydraulic, air), as applicable, and parking.

Unit BA1.1.3 Pre- and Post-Trip Inspections

This unit must teach the driver-trainees to conduct pre-trip and post-trip inspections as specified in §§ 392.7 and 396.11, including appropriate inspection locations. Instruction must also be provided on en route vehicle inspections.

Unit BA1.1.4 Basic Control

This unit must introduce basic vehicular control and handling as it applies to combination vehicles. This unit must include instruction addressing basic combination vehicle controls in areas such as executing sharp left and right turns, centering the vehicle, maneuvering in restricted areas, and entering and exiting the interstate or controlled access highway.

Unit BA1.1.5 Shifting/Operating Transmissions

This unit must introduce shifting patterns and procedures to driver-trainees to prepare them to safely and competently perform basic shifting maneuvers. This unit must include training driver-trainees to execute up and down shifting techniques on multi-speed dual range transmissions, if appropriate. The training providers must teach the importance of increased vehicle control and improved fuel economy achieved by utilizing proper shifting techniques.

Unit BA1.1.6 Backing and Docking

This unit must teach driver-trainees to back and dock the combination vehicle safely. This unit must cover ''Get Out and Look'' (GOAL), evaluation of backing/loading facilities, knowledge of backing set ups, as well as instruction in how to back with the use of spotters.

Unit BA1.1.7 Coupling and Uncoupling

This unit must provide instruction for driver-trainees to develop the skills necessary to conduct the procedures for safe coupling and uncoupling of combination vehicle units, as applicable.

Section BA1.2 Safe Operating Procedures

This section must teach the practices required for safe operation of the combination vehicle on the highway under various road, weather, and traffic conditions. The training providers must teach driver-trainees the Federal rules governing the proper use of seat belt assemblies (§ 392.16).

Unit BA1.2.1 Visual Search

This unit must teach driver-trainees to visually search the road for potential hazards and critical objects, including instruction on recognizing distracted pedestrians or distracted drivers.

Unit BA1.2.2 Communication

This unit must instruct driver-trainees on how to communicate their intentions to other road users. Driver-trainees must be instructed in techniques for different types of communication on the road, including proper use of headlights, turn signals, four-way flashers, and horns. This unit must cover instruction in proper utilization of eye contact techniques with other drivers, bicyclists, and pedestrians.

Unit BA1.2.3 Distracted Driving

This unit must instruct driver-trainees in FMCSRs related to distracted driving and other key driver distraction driving issues, including improper cell phone use, texting, and use of in-cab technology (*e.g.,* §§ 392.80 and 392.82). This instruction will include training in the following aspects: visual attention (keeping eyes on the road); manual control (keeping hands on the wheel); and cognitive awareness (keeping mind on the task and safe operation of the CMV).

Unit BA1.2.4 Speed Management

This unit must teach driver-trainees how to manage speed effectively in response to various road, weather, and traffic conditions. The instruction must include methods for calibrating safe following distances taking into account CMV braking distances under an array of conditions including traffic, weather, and CMV weight and length.

Unit BA1.2.5 Space Management

This unit must teach driver-trainees about the importance of managing the space surrounding the vehicle under various traffic and road conditions.

Unit BA1.2.6 Night Operation

This unit must instruct driver-trainees in the factors affecting the safe operation of CMVs at night and in darkness. Additionally, driver-trainees must be instructed in changes in vision, communications, speed space management, and proper use of lights, as needed, to deal with the special problems night driving presents.

Unit BA1.2.7 Extreme Driving Conditions

This unit must teach driver-trainees about the specific problems presented by extreme driving conditions. The training provider will emphasize the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. The training provider must teach proper tire chaining procedures.

Section BA1.3 Advanced Operating Practices

This section must introduce higher-level skills that can be acquired only after the more fundamental skills and knowledge taught in the prior two sections have been mastered. The training providers must teach driver-trainees about the advanced skills necessary to recognize potential hazards and must teach the driver-trainees the procedures needed to handle a CMV when faced with a hazard.

Unit BA1.3.1 Hazard Perception

The unit must teach driver-trainees to recognize potential hazards in the driving environment in order to reduce the severity of the hazard and neutralize possible emergency situations. The training providers must teach driver-trainees to identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments. The instruction must emphasize hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations. The training providers must teach driver-trainees to recognize potential dangers and the safety procedures that must be utilized while driving in construction/work zones.

Unit BA1.3.2 Skid Control/Recovery, Jackknifing, and Other Emergencies

This unit must teach the causes of skidding and jackknifing and techniques for avoiding and recovering from them. The training providers must teach the importance of maintaining directional control and bringing the CMV to a stop in the shortest possible distance while operating over a slippery surface. This unit must provide instruction in appropriate responses when faced with CMV emergencies. This instruction must include evasive steering, emergency braking, and off-road recovery, as well as the proper response to brake failures, tire blowouts, hydroplaning, and rollovers. The instruction must include a review of unsafe acts and the role the acts play in producing or worsening hazardous situations.

Unit BA1.3.3 Railroad-Highway Grade Crossings

This unit must teach driver-trainees to recognize potential dangers and the appropriate safety procedures to utilize at railroad (RR)-highway grade crossings. This instruction must include an overview of various Federal/State RR grade crossing regulations, RR grade crossing environments, obstructed view conditions, clearance around the tracks, and rail signs and signals. The training providers must instruct driver-trainees that railroads have personnel available (''Emergency Notification Systems'') to receive notification of any information relating to an unsafe condition at the RR-highway grade crossing or a disabled vehicle or other obstruction blocking a railroad track at the RR-highway grade crossing.

Section BA1.4 Vehicle Systems and Reporting Malfunctions

This section must provide entry-level driver-trainees with sufficient knowledge of the combination vehicle and its systems and subsystems to ensure that they understand and respect their role in vehicle inspection, operation, and maintenance and the impact of those factors upon highway safety and operational efficiency.

Unit BA1.4.1 Identification and Diagnosis of Malfunctions

This unit must teach driver-trainees to identify major combination vehicle systems. The goal is to explain their function and how to check all key vehicle systems, (*e.g.,* engine, engine exhaust auxiliary systems, brakes, drive train, coupling systems, and suspension) to ensure their safe operation. Driver-trainees must be provided with a detailed description of each system, its importance to safe and efficient operation, and what is needed to keep the system in good operating condition.

Unit BA1.4.2 Roadside Inspections

This unit must instruct driver-trainees on what to expect during a standard roadside inspection conducted by authorized personnel. The training providers must teach driver-trainees on what vehicle and driver violations are classified as out-of-service (OOS), including the ramifications and penalties for operating a CMV when subject to an OOS order as defined in section 390.5.

Unit BA1.4.3 Maintenance

This unit must introduce driver-trainees to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventive maintenance and simple emergency repairs.

Section BA1.5 Non-Driving Activities

This section must teach driver-trainees the activities that do not involve actually operating the CMV.

Unit BA1.5.1 Hours of Service Requirements

This unit must teach driver-trainees to understand that there are different hours-of-service (HOS) requirements applicable to different industries. The training providers must teach driver-trainees all applicable HOS regulatory requirements. The training providers must teach driver-trainees to complete a Driver's Daily Log (electronic and paper), timesheet, and logbook recap, as appropriate. The training providers must teach driver-trainees the consequences (safety, legal, and personal) of violating the HOS regulations, including the fines and penalties imposed for these types of violations.

Unit BA1.5.2 Fatigue and Wellness Awareness

This unit must teach driver-trainees about the issues and consequences of chronic and acute driver fatigue and the importance of staying alert. The training providers must teach driver-trainees wellness and basic health maintenance information that affect a driver's ability to safely operate a CMV.

Issued under authority delegated in 49 CFR 1.87 on February 14, 2019.

Raymond P. Martinez,

Administrator.

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