at the Department of Defense level and is responsible for acknowledging receipt or rejecting SSRs submitted under an individual subcontracting plan in eSRS for the Department of Defense.

(b) Subcontracts awarded to qualified nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (41 U.S.C. 8502–8504), may be counted toward the Contractor's small business subcontracting goal.

* * * * *

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Standard Form 294, Subcontracting Report for Individual Contracts, shall be submitted in accordance with the instructions on that form.

(ii) Submit the consolidated SSR to the ''Department of Defense.''

(2) For DoD, the authority to acknowledge receipt of or reject SSRs submitted under an individual subcontracting plan in eSRS resides with the SSR Coordinator.

* * * * *

[FR Doc. 2018–14069 Filed 6–28–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 380

[Docket No. FMCSA–2017–0371]

RIN 2126–AC05

ELDT; Commercial Driver's License Upgrade From Class B to Class A

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes to amend the entry-level driver training (ELDT) regulations published on December 8, 2016, titled ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' by adopting a new Class A 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 NPRM does not propose any changes to behind-the-wheel (BTW) training requirements set forth in the ELDT final rule. This proposal would be a deregulatory action as defined by Executive Order (E.O.) 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' 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 would maintain the same level of safety established by the ELDT final rule.

DATES: Comments on this notice must be received on or before August 28, 2018.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2017–0371 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

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.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking (NPRM) is organized as follows:

I. Public Participation and Request for Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
D. Waiver of Advance Notice of Proposed Rulemaking
II. Executive Summary
III. Abbreviations
IV. Legal Basis
V. Background
VI. Discussion of Proposed Rulemaking
VII. Section-by-Section
VIII. Regulatory Analyses
A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)
C. Regulatory Flexibility Act
D. Assistance for Small Entities
E. Unfunded Mandates Reform Act of 1995
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G. E.O. 13132 (Federalism)
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J. E.O. 12630 (Taking of Private Property)
K. Privacy
L. E.O. 12372 (Intergovernmental Review)
M. E.O. 13211 (Energy Supply, Distribution, or Use)
N. E.O. 13783 (Promoting Energy Independence and Economic Growth)
O. E.O. 13175 (Indian Tribal Governments)
P. National Technology Transfer and Advancement Act (Technical Standards)
Q. Environment (NEPA, CAA, E.O. 12898 Environmental Justice)

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA–2017–0371), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov,* put the docket number, FMCSA–2017–0371, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial

information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives that is not designated specifically as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2017–0371, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. 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.*

D. Waiver of Advance Notice of Proposed Rulemaking

Under the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking ''if a proposed rule is likely to lead to the promulgation of a major rule'' (49 U.S.C. 31136(g)(1)). As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

II. Executive Summary

MAP–21 required the issuance of final regulations establishing minimum entry-level driver training requirements addressing the knowledge and skills necessary for the safe operation of a 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 (81 FR 88732), FMCSA published a final rule establishing minimum ELDT requirements meeting the MAP–21 mandate. Today, as part of the Agency's ongoing effort to review existing regulations to evaluate their continued necessity and effectiveness, FMCSA proposes a new theory instruction upgrade curriculum for Class B CDL holders upgrading to a Class A CDL.

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 in the CMV industry, they should not require the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency proposes to add 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.'' Such 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.

The proposed theory instruction upgrade curriculum for Class B CDL holders would not have a required minimum number of instruction hours, but the training provider would be required to cover all topics in the curriculum and driver-trainees would be required to 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 NPRM does not propose any changes to 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 Class A vehicle.

Costs and Benefits

The Agency estimates that an annual average of approximately 11,340 driver-trainees would be affected by the proposed rule, with each experiencing a reduction of 27 hours in time spent completing their theory instruction. This results in a substantial cost savings to these driver-trainees, as well as a cost savings to the motor carriers that employ these drivers. The proposed rule would not result in any *increase* in costs. As presented in Table 1, the Agency estimates that the proposed rule would result 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 PROPOSED 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)

TABLE 1—SUMMARY OF THE TOTAL COST OF THE PROPOSED RULE—Continued

[In millions of 2014$]

Year	Undiscounted			Discounted	
	Driver-trainee costs	Motor carrier costs	Total costs [a]	Discounted at 3%	Discounted at 7%
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, SDLAs, and the Federal government would also incur costs as a result of the ELDT final rule. For this proposed 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 anticipates that there would be no change in the benefits of the ELDT final rule as a result of the proposed 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 proposed theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from today's proposed rule.

The regulatory evaluation for the ELDT final rule addressed the potential safety benefits of ELDT. In considering the potential safety impacts from today's proposed rule, the Agency notes that Class B CDL holders have prior training or experience in the CMV industry, which serves as an adequate substitute for the eight non-driving instructional units that would be removed from the theory instruction upgrade curriculum. Therefore, the Agency does not anticipate any change in potential safety benefits associated with the proposed rule.

III. Abbreviations and Acronyms

ANPRM Advance Notice of Proposed Rulemaking
ATA American Trucking Associations
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
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
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. Today's proposal to amend regulations established by that final rule is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Act of 1984 (the 1984 Act), both as amended, and the Commercial Motor Vehicle Safety Act of 1986 (CMVSA).

The Motor Carrier Act of 1935, 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 NPRM addresses the qualifications of certain motor carrier employees, consistent with the safe operation of CMVs.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Section 211(b) of the 1984 Act (Pub. L. 98–554, 98 Stat. 9851 (Oct. 30, 1984), codified at 49 U.S.C. 31133(a)(10)), grants the Secretary of Transportation broad power in carrying out motor carrier safety statutes and regulations. The 1984 Act grants the Secretary broad authority to issue regulations ''on commercial motor vehicle safety,'' including to ensure that ''commercial motor vehicles are . . . operated safely.'' 49 U.S.C. 31136(a)(1). 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 would 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, we note that the theory training curricula for Class B CDLs, which drivers upgrading to Class A CDLs would continue to receive under today's proposed rule, includes a 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. Driver-trainees would also be instructed 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 proposed amendment to the ELDT theory training curriculum for the Class A CDL addresses the fitness of specified individuals 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 § 32304 of the Moving Ahead for Progress in the 21st Century Act (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, which provide that regulations and other agency actions are periodically reviewed and, if appropriate, are 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 proposes to revise 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, would remain unchanged for all driver-trainees, including Class B CDL holders upgrading to a Class A CDL.

VI. Discussion of 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 concludes that this approach imposes an unnecessary regulatory burden because, due to prior training or experience in the CMV industry, Class B CDL holders do not require the same level of theory training as individuals who have never held a CDL. Accordingly, the Agency proposes 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. The theory instructional units that, under this proposal, 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, but for minor editorial differences in some of the topic 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.

Driver-trainees affected by this proposal fall into one of two categories: Those who obtain a Class B CDL in accordance with the training requirements set forth in the ELDT final rule (*i.e., after* the compliance date of February 7, 2020) and those who obtain a Class B CDL *before* the compliance date of the final rule and thus are not subject to the Class B CDL ELDT 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. Consequently, the Agency believes that 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

[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 (December 8, 2016).

[3] *See* Exec. Order No. 13777, § 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''); 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, § 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, § 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'').

[4] As discussed subsequently 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).

regulatory burden on those individuals. In the preamble to the ELDT final rule, FMCSA acknowledged that there is overlapping content in the Class A and Class B curricula. However, the Agency, while recognizing the value of some repetition to enforce key learning concepts, noted that certain instructional units, while topically the same, would be taught differently to reflect the different operating characteristics of the two underlying vehicle groups, combination vehicles (Group A, as defined in § 383.91(a)(1)) and heavy straight vehicles (Group B, as defined in § 383.91(a)(2)).[5] Upon reconsideration, the Agency concludes that, because instruction in the ''non-driving'' theory topics identified above would not vary based on the underlying vehicle group, additional training in those topics is unnecessary.

On the other hand, FMCSA believes that instruction in two ''non-driving'' theory topics—Hours of Service (HOS) Requirements and Fatigue and Wellness Awareness—will vary, to some extent, depending on the vehicle group. Class B CDL holders driving straight trucks may be more likely to drive CMVs for shorter distances, thereby spending less time at the driving controls, than drivers operating combination vehicles for which a Class A CDL is required. For example, drivers engaged in short-haul operations, as defined in 49 CFR 395.1(e)(1), are permitted to record their hours-of-service using timecards in lieu of electronic logging devices or paper records of duty status, and thus may not use and retain HOS-related instruction they obtained when completing the Class B theory curriculum. Therefore, in light of the safety importance of compliance with HOS requirements, the Agency believes that Class B CDL holders upgrading to a Class A CDL will benefit from additional training in this essential theory topic.

It is also true that some Class B CDL holders operating straight trucks for comparatively shorter distances than Class A CDL holders operating combination vehicles may not be as prone to fatigue and wellness concerns associated with long-haul driving. For example, the extensive time away from home experienced by many long-haul drivers may impact their ability to sleep well, exercise regularly, and eat healthy meals. In terms of alertness and fatigue management, the uninterrupted stretches of driving time experienced by some drivers of combination vehicles will likely present new challenges to some Class B CDL holders. Accordingly, the Agency believes that Class B CDL holders upgrading to Class A CDL would benefit from fatigue and wellness training focused specifically on the operation of Group A vehicles.

FMCSA also believes that instruction will 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 proposes to retain those theory topics in the Theory Instruction Upgrade Curriculum.

The second category of driver-trainees affected by this proposal are drivers who obtained their Class B CDL prior to the February 7, 2020, compliance date of the final rule (or who obtained a Class B CLP prior to the compliance date and obtained the Class B CDL after the compliance date, but before the CLP or renewed CLP expired in accordance with § 380.603(c)(1)). FMCSA presumes that these Class B holders seeking to upgrade to a Class A CDL would already have varying levels of CMV driving experience and pre-CDL training, and thus knowledge of the commercial motor carrier industry.[6] [7] Accordingly, FMCSA does not consider Class B CDL holders in this category to be novice CMV drivers. Additionally, many of these drivers would have received some degree of post-CDL ''finishing'' training provided by their employers. The Agency thus believes it is appropriate to permit Class B CDL holders who already possess some CMV training or experience to more efficiently obtain theory training by focusing specifically on the safe operation of combination vehicles requiring a Class A CDL.

Further, drivers who obtain a Class B CDL prior to the compliance date of the ELDT final rule, but after July 20, 2003, will have received employer-provided training in driver qualification requirements, hours of service, driver wellness, and whistleblower protection in accordance with § 380.503.[8] In addition, drivers who obtain a Class B CDL before the compliance date of the ELDT final rule will have received detailed information from employers concerning the drug and alcohol testing regulations in 49 CFR parts 40 and part 382, as required by § 382.601. As explained above, FMCSA believes it is appropriate for Class B CDL holders upgrading to a Class A CDL to obtain additional theory training in HOS requirements and driver wellness. However, because the remaining three topics (*i.e.,* driver qualifications, whistleblower protection, and drug and alcohol testing) in which Class B holders already received employer-provided training, are included in the ''non-driving'' portion of the Class A theory curricula, it is unnecessary to require those Class B CDL holders to be retrained in those topics when upgrading to a Class A CDL. The theory instruction upgrade curriculum proposed in today's rule would therefore be available for all Class B CDL holders seeking to upgrade to a Class A CDL (*i.e.,* drivers who obtained the Class B CDL before *or* after the compliance date of the ELDT final rule). Under the proposed curriculum, these Class B CDL holders would be required to demonstrate proficiency, in accordance with § 380.715(a), in the Class A theory instruction units included in Sections A.1.1, A.1.2, A.1.3, A.1.4 and units A.1.5.3 and A.1.5.4 as set forth in Appendix A to 49 CFR part 380. The Agency notes that the proposed upgrade curriculum is optional in the sense that Class B holders who wish to receive instruction in the ''full'' Class A Theory Instruction curriculum would be free to do so.

FMCSA reiterates that the Class A BTW range and public road curriculum remains unchanged for all driver-trainees, including those who hold a Class B CDL. In the preamble to the final rule, FMCSA thoroughly explained the basis for the Agency's adoption of a performance-based standard for BTW range and public road training curricula for Class A and Class B CDLs, in lieu of a required minimum number of BTW hours, as proposed. FMCSA noted its intent to evaluate data that will be submitted to the Training Provider Registry, which will assist FMCSA in assessing, over time, whether minimum BTW hours for entry-drivers correlate to safer driving outcomes. Shortly after publication of the final rule, several

[5] 81 FR 88732, 88761 (Dec. 8, 2016).

[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.'' (ELDT Final Rule Regulatory Evaluation). November 2016. Docket ID FMCSA–2007–27748. Page 8, Table 18 page 59. Available at: *https://www.regulations.gov/document?D=FMCSA-2007-27748-1291* (accessed October 27, 2017).

[7] In the ELDT Final Rule Regulatory Evaluation, FMCSA estimated that 85% of CMV drivers receive pre-CDL training that, at a minimum, would meet the requirements of the ELDT final rule.

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

stakeholders submitted a petition for reconsideration of the performance-based approach to BTW training, urging the Agency to instead adopt the required minimum BTW hours approach as set forth in the NPRM. FMCSA denied the petition for reasons explained in our responses.[9] In the Agency's judgment, it is premature to revisit the issue of BTW training requirements until the post-rule quantitative data can be evaluated.

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 would maintain the same level of safety established in the ELDT final rule. FMCSA invites comments on this issue and welcomes the submission of qualitative or quantitative data addressing the safety impacts of this NPRM. The Agency also requests comment on whether additional Class A theory instructional units should be removed from the proposed upgrade theory curriculum applicable to Class B CDL holders.

The purpose of this proposal is to address the narrow issue of theory training requirements for Class B CDL holders wishing to upgrade to a Class A CDL. Accordingly, FMCSA will not respond to comments on broader aspects of the ELDT final rule. This proposed change, if adopted, would have no impact on driver-trainees other than Class B CDL holders upgrading to a Class A CDL; it imposes virtually no new requirements on State Driver Licensing Agencies (SDLAs), the Federal government, or training providers eligible for listing on the Training Provider Registry (TPR).[10]

Finally, the Agency notes that this proposal sets forth *minimum* theory training requirements applicable to Class B CDL holders upgrading to a Class A CDL. Should any training provider listed on the TPR wish to impose more extensive theory training requirements for Class B CDL holders to whom they provide Class A theory training, nothing in this NPRM would preclude them from doing so. Additionally, States remain free to impose theory training requirements more stringent than those proposed in this NPRM, just as they remain free to impose ELDT requirements more stringent than those set forth in the ELDT final rule.

VII. Section-by-Section Analysis

In § 380.707(a), FMCSA proposes 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, FMCSA proposes to add 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 proposes to rename the Class A ''Theory Instruction'' as ''Theory Instruction Standard Curriculum.'' Finally, the Agency proposes to add a new section, ''Theory Instruction Upgrade Curriculum.''

VIII. 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 proposed 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 proposed rule would establish 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 proposed rule does not change the BTW training requirements set forth in the ELDT final rule. Consistent with the ELDT final rule, the proposed theory instruction curriculum for Class B CDL holders upgrading to a Class A CDL would 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 would result 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 would be affected by the proposed 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 proposed rule does not result in any *increase* in costs. As presented in Table 3, the Agency estimates that the proposed rule would result 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 proposed 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 proposed 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 proposed rule. Furthermore, to ensure that meaningful relative comparisons can be made between the results of the regulatory analysis for this proposed 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 for the proposed rule,[11] and, where applicable, the

[9] *https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=postedDate&po=0&dct=N%2BFR%2BPR%2BO&D=FMCSA-2007-27748.*

[10] In accordance with § 380.707(a), training providers listed on the TPR would be required to verify that a driver-trainee wishing to take the theory instruction upgrade curriculum holds a valid Class B CDL.

[11] 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

Continued

Agency cites that document in the analysis below.

Number of Driver-Trainees Affected by the Proposed Rule

The Agency estimates that an annual average of 11,340 driver-trainees would be affected by the proposed 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 proposed rule are presented below in Table 2.

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

Year	Driver-trainees affected by the proposed 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 proposed 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 information regarding the number of upgrades of Class B CDLs to Class A CDLs issued in 2014.[12] 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.[13]

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.[14] 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.[15]

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 that are not affected by the ELDT final rule because these drivers are already receiving training in the absence of that rule. These drivers would not be affected by the proposed 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.[16] The remaining portion (16%) of driver-trainees are those affected by the ELDT final rule, and therefore, by the proposed 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 proposed rule. This results in the estimated number of driver-trainees affected annually by the proposed rule, as presented earlier in Table 2. FMCSA invites comments on these estimates, and welcomes the submission of qualitative or quantitative data addressing the number of driver-trainees affected annually by the proposed rule.

Estimated Hours To Complete the Proposed Theory Instruction Upgrade Curriculum

The estimated number of hours necessary to complete the proposed 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 proposed 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 would need 60 hours to complete the Class A theory instruction curriculum set forth in the ELDT final rule,[17] which, in this proposed rule, is renamed the ''Theory Instruction Standard Curriculum.'' For this proposed rule, the Agency estimates that Class B CDL holders upgrading to a Class A CDL would on average need 33 hours to complete the proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates the proposed rule would result 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,

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 December 22, 2017).

[12] 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.

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

[14] 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).

[15] 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.

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

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

including 10 instructional units related to non-driving activities. The proposed 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 proposed 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 would not necessarily be 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 proposed 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).[18] 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 proposed rule. Based on the minimum number of hours of training required under the PTDI standards for each of the individual 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 proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates that Class B CDL holders upgrading to a Class A CDL would, on average, now only require 33 hours to complete the proposed theory instruction upgrade curriculum. Accordingly, the Agency estimates the proposed rule would result in a time savings of 27 hours for each Class B CDL holder upgrading to a Class A CDL. FMCSA invites comments on these estimates, and welcomes the submission of qualitative or quantitative data addressing the estimated number of hours necessary to complete the proposed theory instruction upgrade curriculum.

Other Inputs to the Analysis

The reduction of 27 hours in theory training for each of the driver-trainees affected by the proposed 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.[19]

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 proposed rule, would have been spent in training but now would be 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.[20]

Finally, the reduction of 27 hours in theory training for each of the driver-trainees affected by the proposed rule would also reduce 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.[21] Under the proposed rule, an input of production (driver labor) that was previously unavailable to carriers in the absence of the proposed rule would now be 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%.[22]

Costs

The proposed rule would 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 proposed 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.[23] Under the proposed rule, training providers would still need to register with the TPR, and for those driver-trainees affected by the proposed rule,

[18] 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).

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

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

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

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

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

training providers would 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 proposed 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 proposed rule, SDLAs would continue to receive and store the same information. Therefore, FMCSA does not anticipate any change in costs to SDLAs resulting from the proposed 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 proposed 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, would remain unchanged under the proposed rule as compared to the ELDT final rule, and FMCSA's review of training provider registration forms would also remain unchanged. Accordingly, FMCSA does not anticipate any change in costs to the Federal government resulting from the proposed rule.

As discussed above, FMCSA estimates a reduction in costs incurred by driver-trainees and motor carriers affected by the proposed rule. Because there is an estimated reduction of 27 hours of training for each driver-trainee affected by the proposed rule, the Agency estimates that both driver-trainees and motor carriers would experience negative costs, that is, a decrease in costs or a cost savings. The proposed rule would not result in any *increase* in costs for driver-trainees or motor carriers. The proposed 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 would be affected by the proposed 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),[24] yielding an estimate of the overall change in tuition costs experienced by 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 proposed rule would result in a 10-year tuition cost savings to driver-trainees of $80 million on an undiscounted basis. The Agency estimates that the proposed rule would also result 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 proposed rule would result 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 proposed rule. For each year of the 10-year analysis period, the estimated number of driver-trainees who would be affected by the proposed 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 proposed rule would result 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 proposed rule would result 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.

[24] 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.

TABLE 3—TOTAL COST OF THE PROPOSED RULE

[In millions of 2014$]

Year	Driver-trainees affected by the proposed 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 the proposed 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.[25] Because these two instructional units remain in the proposed theory instruction upgrade curriculum, the Agency does not anticipate any change in these non-safety benefits from the proposed 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 today's proposed 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 proposed theory instruction upgrade curriculum. Therefore, the Agency anticipates that there would be no change in potential safety benefits associated with the proposed rule.

FMCSA invites comments and the submission of qualitative or quantitative data addressing the potential impacts to both non-safety benefits and safety benefits from the proposed rule.

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

This proposed rule is expected to be an E.O. 13771 deregulatory action.[26] The present value of the cost savings of this rule, measured on an infinite time horizon at a 7 percent discount rate, is approximately $212 million. Expressed on an annualized basis, the cost savings are $15 million. These values are expressed in 2016 dollars.

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 proposals 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.[27] 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 would affect 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.

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

[26] Executive Office of the President. *Executive Order 13771 of January 30, 2017. Reducing Regulation and Controlling Regulatory Costs.* 82 FR 9339–9341. Feb. 3, 2017.

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

Motor carriers affected by this rulemaking would most likely be those that hire Class A CDL drivers. Passenger motor carriers generally rely on Group B CMVs that do not require a Class A CDL to operate, and thus would 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 would be affected by this rule. FMCSA estimates that this proposed rule would affect 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).[28] 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 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 much of 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 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 would be affected by this rule. Therefore, FMCSA estimates that this rule would not impact a substantial number of small entities. FMCSA invites comment on the number of small entities that would be affected by this rule.

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 would remove 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 would provide 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 proposed rule would result 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 proposed rule, the cost savings realized by the motor carriers would be 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 would result in a significant impact. However, the SBA, in guidance to government agencies, provides some objective measures of significance that the agencies can consider using.[29] One measure that could be used to illustrate a significant impact is labor costs, specifically, if the cost of the proposed 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.[30] 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 regulation would be 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 would 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. FMCSA requests comments on this certification.

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 proposed rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the proposed rule would affect 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 proposed 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.[31]

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

[28] 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).

[29] 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 May 3, 2018).

[30] 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: May 3, 2018).

[31] 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).

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 $156 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2015 levels) or more in any one year. Because this proposed rule would not result in such an expenditure, a written statement is not required. However, the Agency does discuss the costs and benefits of this proposed 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 proposed rule does not alter the Agency's estimates of the paperwork burden outlined on page 88788 of the final ELDT rule. 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. If this notice generates public comment on Agency PRA estimates, the Agency will respond accordingly.

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.[32] This NPRM does not change that conclusion.

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

This proposed 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 proposed 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 proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it would 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 (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 NPRM 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 NPRM 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 proposed 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. 13783 (Promoting Energy Independence and Economic Growth)

Executive Order 13783 directs executive departments and agencies to review existing regulations that potentially burden the development or use of domestically produced energy resources, and to appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources.[33] In accordance with E.O. 13783, the DOT prepared and submitted a report to the Director of OMB providing specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency action that burden domestic energy production. The DOT has not identified this proposed rule as potentially alleviating unnecessary burdens on domestic energy production under E.O. 13783.

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

[33] Exec. Order No. 13783, 82 FR 16093 (March 31, 2017).

O. 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.

P. 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.

Q. Environment (NEPA, CAA, E.O. 12898 Environmental Justice)

FMCSA analyzed this NPRM 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 proposed requirements in this rule are covered by this CE and the proposed 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**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401, *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O. and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

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 proposes to amend 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.

■ 2. In § 380.707 amend paragraph (a) by adding the words ''or Class A theory instruction upgrade curriculum applicants'' to 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 as ''Theory Instruction Standard Curriculum;'' and

■ c. Adding section Theory Instruction Upgrade Curriculum.

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 Standard Curriculum

* * * * *

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 provide 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: June 21, 2018.

Raymond P. Martinez,

Administrator.

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