

(b) The file must include:

(1) A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under § 391.23(d).

(2) A copy of the response(s) received for investigations required by paragraphs (d) and (e) of § 391.23 from each previous employer, or documentation of good faith efforts to contact them. The record must include the previous employer's name and address, the date the previous employer was contacted, and the information received about the driver from the previous employer. Failures to contact a previous employer, or of them to provide the required safety performance history information, must be documented.

(c) The safety performance histories received from previous employers for a driver who is hired must be retained for as long as the driver is employed by that motor carrier and for three years thereafter.

(d) A motor carrier must make all records and information in this file available to an authorized representative or special agent of the Federal Motor Carrier Safety Administration, an authorized State or local enforcement agency representative, or an authorized third party, upon request or as part of any inquiry within the time period specified by the requesting representative.

(Approved by the Office of Management and Budget under control number 2126-004)

Issued on: March 22, 2004.

**Annette M. Sandberg,**

*Administrator, Federal Motor Carrier Safety Administration.*

[FR Doc. 04-6793 Filed 3-29-04; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 380 and 391

[Docket FMCSA-97-2176]

RIN 2126-AA08

#### Minimum Training Requirements for Longer Combination Vehicle (LCV) Operators and LCV Driver-Instructor Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA)

establishes standards for minimum training requirements for the operators of longer combination vehicles (LCVs) and requirements for the instructors who train these operators. This action is in response to section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991, which directed that training for the operators of LCVs include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation (Secretary). The purpose of this final rule is to enhance the safety of commercial motor vehicle (CMV) operations on our Nation's highways.

**EFFECTIVE DATE:** June 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Redmond, Office of Safety Programs, (202) 366-9579, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Sec. 4007(b) of the Motor Carrier Act of 1991 [Title IV of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, 2152; 49 U.S.C. 31307] directs the U.S. Department of Transportation (DOT) to establish Federal minimum training requirements for drivers of LCVs. The ISTEA also requires that the certification of these drivers' proficiency be accomplished by instructors who meet certain Federal minimum requirements to ensure an acceptable degree of quality control and uniformity. Sec. 4007(f) of the ISTEA defines an LCV as "any combination of a truck tractor and 2 or more trailers or semi-trailers" that has a gross vehicle weight (GVW) greater than 80,000 pounds (36,288 kilograms) and is operated on the Interstate Highway System. This final rule implements the requirements of Sec. 4007.

#### Background

In the early 1980s, the Federal Highway Administration (FHWA) determined that a need existed for technical guidance in the area of truck driver training. FHWA is the predecessor agency to FMCSA within DOT. Research at that time had shown that many driver-training schools offered little or no structured curricula or uniform training programs for any type of CMV.

To help correct this problem, FHWA developed the *Model Curriculum for Training Tractor-Trailer Drivers*, issued in 1985 (GPO Stock No. 050-001-

00293-1). The Model Curriculum, as it is known in the industry, incorporated the agency's "Proposed Minimum Standards for Training Tractor Trailer Drivers" (1984). The Model Curriculum is a broad set of recommendations that incorporates standardized minimum core curriculum guidelines and training materials, as well as guidelines pertaining to vehicles, facilities, instructor hiring practices, graduation requirements, and student placement. Curriculum content includes the following areas: basic operation, safe operating practices, advanced operating practices, vehicle maintenance, and nonvehicle activities.

The Professional Truck Driver Institute (PTDI) was created in 1986 by the motor carrier industry to certify training programs offered by truck driver training schools. Originally named the Professional Truck Driver Institute of America, the group changed its name in November 1998 to reflect the addition of Canada to the organization. PTDI derived its certification criteria from the Model Curriculum, and, in mid-1988, began certifying truck-driver training programs across the country. As of February 2003, approximately 64 schools in 27 States and Canada have received the PTDI certification. Although many schools have a number of truck driving courses, most have only one course that is certified by PTDI.

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*), although not directly targeted at driver training, was intended to improve highway safety. Its goal was to ensure that drivers of large trucks and buses possess the knowledge and skills necessary to operate these vehicles safely on public highways. The CMVSA established the commercial driver's license (CDL) program and directed the agency to establish minimum Federal standards that States must meet when licensing CMV drivers. The CMVSA applies to virtually anyone who operates a commercial motor vehicle in interstate or intrastate commerce, including employees of Federal, State, and local governments. As defined by the implementing regulation, a CMV is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle meets one or more of the following criteria:

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

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

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

(d) Is of any size and used in the transportation of hazardous materials as defined in this section [49 CFR 383.5].

In accordance with the CMVSA, all drivers of commercial motor vehicles must possess a valid CDL in order to be properly qualified to operate the vehicle(s) they drive. In addition to passing the CDL knowledge and skills tests required for the basic vehicle group, all persons who operate or expect to operate any of the following vehicles, which have special handling characteristics, must obtain endorsements under 49 CFR 383.93(b):

(a) Double/triple trailers;

(b) Passenger vehicles;

(c) Tank vehicles;

(d) Vehicles required to be placarded for hazardous materials.

For all endorsements, the driver is required to pass a knowledge test that gauges the person's familiarity with the special handling characteristics of the specific vehicle type. To obtain a passenger endorsement, the driver also must pass a skills test.

The CDL standards do not require the comprehensive driver training proposed in the Model Curriculum, since the CDL is a licensing standard as opposed to a training standard. Accordingly, there are no prerequisite Federal or State training requirements to obtain a CDL.

In 1990, the National Transportation Safety Board (NTSB) recommended to FHWA (Safety Recommendation H-90-3) that drivers of specialized vehicles, including multiple-trailer vehicles, receive training in the special handling characteristics and other variables that influence the controllability and maneuverability of these vehicles. On September 12, 1990, NTSB voided this Safety Recommendation as "Closed—Reconsidered." NTSB determined that the knowledge and skills necessary for the operation of multiple-trailer combination vehicles are covered in the CDL requirements under 49 CFR subpart C as well as in the "the model driver manual and the model knowledge and skills tests," and that the trucking industry provided adequate training in these requirements.

In February 1991, FHWA awarded a contract to PTDI to develop voluntary criteria for training drivers in the safe operation of twin 8.534-meter (28-foot) trailer combination vehicles. The resulting "Twin Trailer Driver Curriculum" outlines how drivers should be trained in the safe operation of these vehicles. Subject matter experts from motor carrier fleets, industry associations, training institutions, and governmental organizations assisted in

developing the curriculum, which consists of 115 clock hours of direct driver participation including a minimum of 56 hours of behind-the-wheel training. The "Twin Trailer Driver Curriculum" is available for review in the public docket for this rulemaking.

The agency awarded two additional contracts to the PTDI to develop curriculum outlines addressing triple-trailer combination vehicles and Rocky Mountain/Turnpike Double combination vehicles. Ultimately, the curriculum outlines for twin trailers, Rocky Mountain/Turnpike Doubles, and triple-trailer combinations were merged into a single document, entitled "Multiple Trailer Combination Vehicle (MTCV) Driver Training Guide: Suggested Units of Instruction and Curriculum Outline." The PTDI was selected to develop a composite modular training curriculum outline embracing both the LCV driver and the LCV instructor.

Upon completion of the curricula, the agency coordinated with the U.S. Department of Education to ensure that the proposed training requirements were in concert with its accreditation requirements. Representatives from both agencies agreed that the proposed training requirements would be eligible for accreditation by any group meeting the criteria and procedures described in the publication *Nationally Recognized Accrediting Agencies and Associations, Criteria and Procedures for Listing by the U.S. Secretary of Education and Current List*. This document is available for review in the public docket for this rulemaking.

During this period, two additional FHWA initiatives—a series of highway-safety focus groups in December 1994, and FHWA's first National Truck and Bus Safety Summit, held in March 1995—contributed to an enhanced understanding of driver training. Although neither project specifically focused on driver training methods or minimum training standards, they nevertheless provided perspective on the importance of driver training and the need for minimum training requirements. The "Focus Group Report" on the 1994 initiative and the "1995 Truck and Bus Safety Summit, Report of Proceedings" are available for review in the rulemaking docket.

On January 15, 1993, FHWA's Office of Motor Carriers published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (58 FR 4638) seeking comments and responses to 13 specific questions. The agency received 24 comments, which were

summarized in the notice of proposed rulemaking (NPRM) discussed below.

### Summary of the NPRM

The agency used the results of the projects mentioned above, the research conducted over the past several years, and the comments to the 1993 ANPRM to develop the proposals in the NPRM, published in the **Federal Register** on August 12, 2003 (68 FR 47890).

The NPRM proposed standards for minimum training requirements for the operators of LCVs and requirements for the instructors who train these operators. It also outlined procedures for determining compliance with the proposed rule by operators, instructors, training institutions, and employers.

As agency research and crash data have not indicated that multiple-trailer combination vehicle operations pose a significant safety problem, FMCSA proposed to limit the training requirement to operators of LCVs, as defined in Sec. 4007(f) of the ISTEA, rather than extend it to multiple-trailer combinations weighing less than 80,000 pounds.

As for the training, the NPRM proposed general requirements pertaining to an LCV driver-training test—consisting of both a knowledge and skills assessment—for all students wishing to obtain an LCV Driver-Training Certificate. FMCSA believes that specialized vehicle combinations require somewhat different training requirements because of differing operating characteristics. Therefore, we proposed two separate training courses for LCV drivers: LCV Doubles and LCV Triples. Although the proposed minimum curricula would be identical, the training entity would tailor each course to the unique operational and handling characteristics of the specific LCV category. Specialized commodity training could be addressed as necessary by training institutions or carriers.

The NPRM also established guidelines as to which drivers must comply with the proposed rule. The individual seeking LCV training would have to possess a valid CDL with a double/triple trailer endorsement, have only one driver's license, have a good driving record, and provide evidence of experience operating the category of combination vehicle designated as a prerequisite for the desired LCV training. Evidence of driving experience would consist of a statement from one or more employers indicating the type and amount of driving experience while employed by that motor carrier.

In addition, FMCSA believes that for many current LCV drivers, the combination of a good driving record

and experience with an LCV double or triple indicates that the individual has the minimum knowledge and driving skills to operate such a vehicle. Accordingly, we proposed to allow certain drivers to substitute a good driving record and experience for the completion of the LCV driver-training requirements. The driver would have to provide the employing motor carrier with evidence that he or she had operated LCVs safely during the 2-year period prior to application. FMCSA believes that grandfathering such drivers will not diminish public safety or the overall safe operation of CMVs.

Regarding the training program, each instructor employed by a training institution offering LCV training would be required to meet all State requirements for a vocational education instructor. FMCSA believes that, initially, persons currently conducting double/triple trailer combination vehicle training would become qualified LCV instructors under the proposed grandfather requirements. Subsequently, when the need for new instructors arises, those qualified (grandfathered) LCV instructors would train new instructors, who would then be qualified to train drivers.

While the States assume varying degrees of control over education, institutions of postsecondary education are permitted to operate with considerable autonomy. As a consequence, educational institutions can vary widely in the quality and adequacy of their programs. To ensure a basic level of quality and adequacy, the U.S. Department of Education has established accreditation requirements. FMCSA therefore proposed that any entity—whether for-profit or not-for-profit, private or public—that meets these accreditation requirements would be allowed to offer the training.

As for employer responsibilities, the proposed rule expressly prohibits a motor carrier from employing an individual to operate an LCV unless he or she has first met the requirements under the proposal. FMCSA or Motor Carrier Safety Assistance Program (MCSAP) State enforcement officials would verify compliance with the LCV driver training and driver-instructor requirements at the carrier's place of business during the compliance review, rather than at the roadside. For this reason, carriers would be required to maintain proof of qualification of LCV drivers and LCV driver-instructors in the qualification files for these individuals. This enforcement approach emphasizes that the motor carrier and driver each have a responsibility for the LCV training requirement. The driver

would have to obtain the necessary LCV training, and the carrier would be required to prohibit a driver from operating an LCV without that training. Although enforcement officials would not be burdened with trying to determine at roadside whether a CMV driver is subject to the LCV training requirement, they could still check the CDL to determine whether the driver has the required doubles/triples endorsement.

Based on some of the public comments received in response to the NPRM, the agency made certain changes to the proposal as reflected in today's final rule. These are included in the discussion of comments below.

#### Discussion of Comments to the NPRM

FMCSA received nine comments on the NPRM. Five comments were from associations, two from individuals, one from a public interest group, and one from a motor carrier.

#### General Support

Several commenters praise FMCSA for taking this action. For example, the United Parcel Service (UPS) "commends the FMCSA for their efforts to promote commercial vehicle safety, particularly driver training standards." Advocates for Highway and Auto Safety (AHAS) supports the main framework of the proposed training regimen. The Motor Freight Carriers Association (MFCA) also commends FMCSA for closely following the training guidelines used by unionized less-than-truckload motor carriers.

#### General Opposition

Several commenters criticized this action. The American Trucking Associations (ATA) argues that the proposed mandatory training for LCV drivers is unlikely to result in safer LCV operations. ATA suggests that, rather than the proposed regulations, the agency adopt "a set of performance-based rules for training LCV drivers and driver-instructors that could result in enhanced public safety and will not impact the flow of freight on the nation's highways." Nonetheless, ATA provides recommendations to enhance the proposal. The chairman of the Montana Logging Association's Professional Log Haulers Committee opposes the new training rules for operators of LCVs, citing four points of contention: first, training would be a burden to rural log haulers; second, the proposed rule would compound the driver shortage; third, this highly specialized form of truck transportation needs particular skills; and fourth, a trainee already goes through an

extensive orientation with a trainer until both are satisfied about the new driver's skills. An individual commenter also expressed criticism of the proposed rule, explaining that insurance entities will make sure that motor carriers comply with industry standards.

Finally, the Commercial Vehicle Safety Alliance (CVSA) commented:

[CVSA is] concerned that the limited resources of both States and the FMCSA may be expended unnecessarily if this proposed rulemaking becomes regulation. Currently LCV operations have a crash rate lower than other commercial motor vehicle types and, at a time when State agencies are struggling financially, [CVSA does] not support an effort to expend substantive resources in an area that already operates in an overall safe manner.

*FMCSA Response:* Under section 4007(b) of the ISTEA, Congress expressly mandated the development of minimum training standards for operators of LCVs and requirements for those who instruct these drivers. Many of those who responded to the proposal, including dissenters, made useful recommendations for enhancing the proposal. FMCSA particularly appreciates information about how the industry currently trains LCV drivers and what entities offer this training. The agency has considered all comments and revised the final rule to reflect several recommended improvements.

One way in which the Montana Logging Association might meet the challenges of complying with this rule, as outlined in its comments, is for the association to provide the LCV driver-training program to the drivers of its member carriers.

#### Exclusion of Non-LCVs From Training Requirement

AHAS discusses at some length a series of studies and reports dealing with the relative safety of LCV operations. It quotes the Transportation Research Board's Special Report 211 (1986), which found that "[t]wins [i.e., Western Doubles, usually a tractor pulling two 28-foot trailers] probably have slightly more crash involvements per mile traveled than tractor-semi-trailers operated under identical conditions at highway speeds." AHAS believes this information and related data compel FMCSA to subject drivers of Western Doubles weighing less than 80,000 pounds to the training requirements of this rule. AHAS argues that FMCSA "has no adequate foundation in the administrative record of this rulemaking" for excluding Western Doubles "and, therefore, continued reliance upon the arguments advanced in the notice \* \* \* would

constitute arbitrary and capricious agency action.”

*FMCSA Response:* Sec. 4007(b) of ISTEA requires training for drivers of LCVs, which subsection (f) defines as “any combination of a truck tractor and 2 or more trailers or semi-trailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight [GVW] greater than 80,000 pounds.” This rule does not address drivers of Western Doubles, which normally operate at or below 80,000 pounds GVW, because Sec. 4007(b) is not applicable to them by its terms.

## Definitions

### *Training institution*

Two commenters questioned the definitions used in the proposed rule.

UPS and ATA remark that the definition of training institution is unclear. Section 380.105 would define a training institution as any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. Sections 380.301(b) and 380.303(a) would require an LCV driver-instructor to “meet all State requirements for a vocational instructor, if employed by a training institution.” Specifically, UPS asks for clarification about the process by which an employer’s internal training school [such as the UPS Driver Training School (DTS) or others] becomes accredited. ATA urges the agency to publish a clarification stating that training programs that are managed directly by a motor carrier or provide exclusive service to a motor carrier are not considered to be training institutions.

In a related comment, MFCA said it is unaware of any driver training school that trains instructors for triples, or, for that matter, triples drivers. Until now, individual motor carriers have filled that role, with State regulators providing oversight.

*FMCSA Response:* In the NPRM, the establishment of requirements for training institutions was not intended to be interpreted as a mandate to use these training institutions. The rule does not require a motor carrier to employ a training institution to provide the LCV driver training described in the appendix to part 380. Conversely, a motor carrier’s internal training school is not a training institution, as defined in § 380.105, unless it also accepts students from other motor carriers and charges them for training. However, if a motor carrier opts to use training institutions, the schools must be accredited, and the training institute

employee must meet State vocational instructor guidelines.

In today’s rule, FMCSA has clarified the definition of training institution under § 380.105(b) by stating that neither a motor carrier’s training school for its drivers nor an entity that exclusively offers services to a single motor carrier is a training institution. Accordingly, in-house trainers who are not affiliated with a training institution must comply with the standards under subpart C to part 380, except §§ 380.301(a)(2), 380.301(b)(2), or 380.303(b)(4). A motor carrier’s in-house training school for its drivers does not require accreditation.

### *LCV Double and LCV Double subcategories*

ATA and CVSA question the definition of the term longer combination vehicle (§ 380.105(b)). The NPRM defines a longer combination vehicle as “any combination of a truck-tractor and two or more trailers or semi-trailers, which operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).” An LCV double is defined as a Turnpike Double or a Rocky Mountain Double, and both terms are defined to include trailer-length specifications. ATA points out that the trailer-length specifications create the possibility that doubles weighing more than 80,000 pounds, whose two trailers are of equal length but less than 45 feet, would qualify as an LCV, but that the drivers of these vehicles would not have training requirements because the definition of an LCV double is length-specific. ATA and CVSA suggest that FMCSA clarify this issue or simply omit the trailer-length specification.

*FMCSA Response:* FMCSA agrees that the proposed definition of an LCV double (and the LCV double subcategories) would inadvertently exclude certain vehicles that Congress clearly intended be covered under the LCV training requirements, according to the LCV definition in section 4007(f). For example, the NPRM’s definition of Rocky Mountain double creates an applicability loophole for a vehicle that meets the weight and configuration thresholds established under section 4007(f) of ISTEA but exceeds the length specification for one of its components. To correct this error, the agency has in today’s final rule removed the terms “Rocky Mountain double,” “Turnpike double,” “twin trailers,” and “Western double” from the list of definitions under § 380.105. The definition of an LCV double has been modified to eliminate references to LCV

subcategories defined by trailer length. An LCV double is redefined to mean “an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers.”

### *Qualified LCV Driver-Instructor*

ATA and CVSA suggest that the definition of qualified LCV driver-instructor should properly refer to Subpart C, not Subpart B. Additionally, ATA comments that it is assumed that classroom instructors would not be included under this definition. ATA believes that classroom instruction activities need no driving prerequisites. Therefore, they request the rule clearly note that classroom instruction personnel need not meet any of the requirements of a “qualified LCV driver-instructor.”

*FMCSA Response:* FMCSA agrees. Under the definition of *Qualified LCV driver-instructor* in the section “§ 380.105 Definitions” of today’s final rule, we have corrected the erroneous cross-reference to read “subpart C of this part.” See the section “Driver-Instructor Requirement” for a complete discussion of substantive changes to the definition of classroom instructor.

## Driver Training Program

UPS believes the proposed rule would alter the way its training programs are currently operated. The UPS Driver Training School initially qualifies UPS drivers for twin trailers only. UPS does not have a separate school for LCV training but provides this special training to the driver at his or her work location, depending on the local State-by-State regulatory conditions that exist for LCV operations. After the extra training has occurred, a revised DOT road test form is prepared to indicate that the driver is qualified to drive LCVs. UPS asserts that the proposed rule would require the carrier to substantially modify its current training curriculum to include the requirements contained in the appendix to part 380, or to create a separate school specifically for LCV training away from the driver’s work location. UPS is not convinced that generic training and testing will accommodate the unique aspects of different regional operations (such as mountainous terrain versus turnpikes, or eastern U.S. versus western U.S.).

UPS also asserts that the terms of the proposed training and certification program assume that a driver operates a particular type of LCV combination exclusively, whereas “[i]n reality, UPS drivers may operate one or more of the LCV combinations in any given day, week or month.”

*FMCSA Response:* This rule establishes an LCV driver-training program and standards for driver instructors. The LCV driver-training program need not be offered in a different school from that used for other CMV training. Neither is the agency requiring UPS or any other carrier to incur the extra expense of training all drivers in the operation of an LCV; the rule applies only to those drivers who must operate an LCV as defined under § 380.105. However, UPS acknowledges that it already provides separate training for its drivers who operate LCVs. This training should be modified to include those requirements described in the appendix to part 380.

FMCSA has removed the definitions of LCV double subcategories in order to make clear that, while the rule applies to all LCV doubles, it does not require separate training for every conceivable subcategory of LCV double. Furthermore, the driver-training certificate will indicate the general LCV type(s) that a driver is authorized to operate: LCV doubles, LCV triples, or both.

#### **Requirements To Qualify for Driver Training**

Proposed §§ 380.203 and 380.205 would require drivers to have a doubles/triples endorsement on their CDLs for 6 months before applying for LCV doubles or triples training. ATA argues that it is likely that the knowledge and/or skills required to obtain the endorsement will be no more stringent than those required to obtain the LCV Driver-Training Certificate in this rule. Therefore, ATA believes that this requirement is duplicative, unnecessary, and not relevant. ATA explains that job opportunities occur randomly and a driver does not have the luxury of preparing for job changes ahead of time. The ATA urges FMCSA to remove the prerequisite to have a doubles/triples endorsement 6 months before applying for LCV doubles or triples training.

UPS and MFCA are concerned about the employer's responsibilities to provide evidence of a driver's experience. For example, MFCA asks if a verbal (*i.e.*, oral) statement from the employer would suffice as evidence when requested by an authorized FMCSA, State, or local official in the course of a compliance review. UPS strongly believes that further clarification is needed regarding the obligations and responsibilities of an employer to seek information regarding a driver's experience or, conversely, to provide such information to another employer.

*FMCSA Response:* The doubles/triples CDL endorsement is obtained by passing a knowledge test without a skills component. The purpose of the requirement that a driver-candidate possess this endorsement for at least 6 months prior to taking LCV training is to give the driver adequate time and opportunity to gain experience in operating combination vehicles having a GVW of less than 80,000 pounds. The doubles/triples endorsement qualifies drivers to operate combinations weighing less than 80,000 pounds (*e.g.*, Western doubles). The endorsement does not qualify drivers to operate either doubles or triples above the 80,000-pound threshold, and it cannot be substituted for the LCV Driver-Training Certificate. Drivers possessing the doubles/triples endorsement may not operate doubles and triples over 80,000 pounds until they successfully complete the required training and receive the LCV Driver-Training Certificate.

FMCSA believes it is important that drivers acquire this operational experience with lighter combination vehicles before being trained in the operation of LCVs. We concluded that the safety benefit of progressing from combination-vehicle experience to LCV training justifies the requirement that drivers hold the endorsement for 6 months. Today's rule clarifies that a written—but not an oral—statement from a previous employer is sufficient evidence of 6 months of combination-vehicle driving experience.

#### **Substitute for Driver Training—Grandfathering**

##### *General*

AHAS disputes the statement in the NPRM that “the combination of a good driving record and experience with a representative vehicle of the specific LCV category is an appropriate indication that the individual has the minimum knowledge and driving skills to operate such a vehicle.” AHAS contends that FMCSA has “no grounds for grandfathering the vast majority of LCV drivers” and is thus “forswearing significant crash reduction benefits.” AHAS also argues that the agency has no authority under Sec. 4007(b) to grandfather any LCV drivers.

*FMCSA Response:* The argument that the agency has no authority to grandfather drivers is contradicted by the broadly discretionary nature of the statutory mandate. Sec. 4007(b) simply directed the agency to “establish *minimum* training requirements” [emphasis added], *i.e.*, requirements sufficient in the judgment of the agency to improve the safety of LCV operations.

Congress did not specify classroom versus on-the-road instruction, or the degree of crash reduction to be achieved; nor did it require universal training. In view of the small population of LCV drivers subject to the rule, the far smaller number of crashes involving LCVs, the fact that most current LCV drivers have undergone LCV training, and the shortcomings of available data on the relative safety of LCV operations, FMCSA has concluded that grandfathering safe, experienced LCV drivers is an effective means of reducing the costs of this rule while retaining its safety benefits. The agency has therefore placed training requirements on the drivers most in need of instruction—those with no experience in LCVs and current LCV drivers with flawed safety records. This is entirely consistent with the Congressional mandate.

FMCSA indicated the strict preconditions for grandfathering in its proposal, and these conditions are retained in today's rule. A driver will be eligible only if, during the last two years immediately before applying for the exemption, he or she had no suspension, revocation, or cancellation of his or her CDL; no convictions for a major offense committed while operating a CMV; no convictions for a railroad-highway grade crossing violation while operating a CMV; no convictions for violating an out-of-service order; and, above all, no convictions for violating a State or local traffic law in connection with a CMV crash [§ 380.111(b)(3), (4), (5), (6), and (8), respectively]. The agency estimates that 1,750 of the 35,000 current LCV drivers will not qualify for grandfathering. Involvement in CMV crashes, however, will not automatically bar a driver from being grandfathered, nor does FMCSA believe it should. A 1996 report from the National Highway Traffic Safety Administration (NHTSA) shows that in 71 percent of two-vehicle fatal crashes involving a large truck and another type of vehicle, the behavior of the other driver was a causative factor while that of the truck driver was not (“Traffic Safety Facts 1996: Large Trucks”). There is no reason to believe that the distribution of fault in LCV crashes is significantly different. In short, current LCV drivers convicted of a wide range of reckless or irresponsible behaviors will be required to take the training set forth in today's rule, leaving only those drivers eligible for grandfathering who have actual experience operating LCVs and a driving record clear of the most serious violations. AHAS presented no evidence that good, experienced LCV drivers pose

a significant crash risk requiring mitigation through training.

#### *At-Fault Crash Involvement While Operating a CMV*

Under the proposed rule, drivers who meet certain criteria may be grandfathered from the new driver training. One such criterion is that, during the past 2 years, a driver had “[n]o accident in which he/she was found to be at fault, while operating a CMV” [§ 380.111(b)(9)]. MFCA, CVSA, and ATA remark that the term at-fault accident is never defined, nor does the NPRM state who determines fault when a crash occurs. ATA urges FMCSA to define an at-fault accident to mean an accident for which a truck driver has been convicted of an offense that contributed to the crash. FMCSA also should provide guidance, either in the preamble or in an interpretation, regarding what types of offenses would generally be considered as contributing to a crash. MFCA asks whether “at-fault” simply means a citation of any kind relating to a CMV accident. MFCA suggests following the criteria in § 383.51, Disqualification of drivers. CVSA recommends that FMCSA define the term and then use it throughout the regulation.

*FMCSA Response:* FMCSA has eliminated §§ 380.111(b)(9), 380.203(a)(10), and 380.205(a)(10), which referred to fault, because States do not uniformly define or assess fault in crashes. The agency believes that the requirement under §§ 380.111(b)(8), 380.203(a)(9), and 380.205(a)(9) for “no convictions for a violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic crash while operating a CMV” sufficiently addresses the issue of a CMV driver’s crash involvement.

#### *Two-Year Driving Experience for Grandfathering*

The NPRM proposed that a driver must have 2 years of driving experience, immediately preceding the date of application for a “Certificate of Grandfathering,” in the type of LCV he or she seeks to continue operating. ATA comments that the phrase “immediately preceding” would present a major problem for motor carriers operating LCVs because many drivers who are currently qualified could not meet the proposed qualification requirement. ATA explains that many drivers have several years of experience driving doubles and/or triples and are currently qualified to do so. For one reason or another, however, they are now driving a tractor-trailer combination or Western Doubles, or are teaching driver training

instead of driving. Disqualifying these individuals would be a hardship on them, and counterproductive for both motor carrier and employee. Therefore, ATA strongly recommends that FMCSA revise § 380.111(c)(2) to allow grandfathering of any driver who currently holds a CDL with a doubles/triples endorsement and is authorized by a State to operate LCVs. CVSA agrees, stating that “any driver who currently holds a CDL with a double/triples endorsement, has no CDL disqualifications, has not been involved in a preventable crash, and is authorized by a State to operate LCVs should be grandfathered.”

*FMCSA Response:* FMCSA has retained the 2-year driving experience requirement for grandfathered LCV drivers. However, in today’s rule the driver is not required to have operated an LCV continuously during the previous 2 years, nor must he or she have operated LCVs exclusively. The driver is required only to have operated LCVs periodically within the previous 2 years. Drivers often take the tests for endorsement classes they have no immediate intention of using. Grandfathering virtually anyone holding a double/triple trailer endorsement could exempt from training some individuals who had never driven an LCV at all, despite their having the requisite endorsement. This would change grandfathering into a simple exemption. The agency rejects that approach.

#### **Driver-Instructor Requirements**

UPS believes the issue of driver-instructor requirements is perhaps the most problematic portion of the entire proposed rule. UPS requests that the agency outline the process for driver-instructors to become certified. UPS also believes it would be most practical to allow UPS Driver Training School instructors to be able, in turn, to train other UPS management personnel.

One requirement of the NPRM is that an LCV driver-instructor have at least 2 years’ driving experience in the type of vehicle (LCV double or triple) for which he or she will provide training, as well as a Class A CDL with a doubles/triples endorsement. This requirement presents a major concern for UPS and ATA, which consider it infeasible. UPS states that, while it operates one of the Nation’s safest commercial vehicle fleets, some of its LCV training personnel have not had at least 2 years of LCV driving experience. UPS does not believe that 2 years’ experience operating an LCV is a relevant prerequisite for becoming a highly skilled LCV driver-trainer. All UPS LCV

driver-trainers have successfully completed the UPS Driver Training School but have not necessarily driven twin trailers or LCV Triples for 2 years. UPS’s position seems to be that driving experience in an LCV is less important than skill as an instructor. ATA agrees, and comments that the rule would make a large number of existing driver-instructors ineligible to continue their training duties. ATA also explains that motor carriers currently use driver-instructors who have never driven an LCV but have had a great deal of success training others to drive LCVs. ATA and UPS agree that the enactment of this provision would result in significant financial and administrative hardship to motor carriers.

Additionally, ATA assumes that classroom instructors would not be included under the definition of a qualified LCV driver-instructor. ATA comments that classroom instruction activities need no driving prerequisites. Therefore, ATA believes the rule should clearly state that classroom instruction personnel need not meet any of the requirements of a “qualified LCV driver-instructor.”

*FMCSA Response:* Based on the information that motor carriers routinely use nondrivers to teach training courses, FMCSA has revised the requirements for a qualified LCV driver-instructor in §§ 380.105(b), 380.109(a), 380.301, 380.303, 391.53, and the appendix to part 380. The definition of a qualified LCV driver-instructor now includes a distinction between (1) classroom instructors and (2) skills instructors. Motor carriers may use an individual who does not possess a CDL, a doubles/triples endorsement, or recent CMV driving experience to instruct or test LCV drivers in knowledge and skills that do not require the actual operation of an LCV or one of its components. However, only a skills instructor may train or test driver-candidates in those skills requiring the operation of an LCV or one of its components.

#### **Driver Testing**

UPS seeks additional guidance and clarification from FMCSA on proposed requirements for testing methods, proficiency determinations, and automatic test failure in order to determine if its Driver Training School meets the standards contemplated by FMCSA regarding these driver-testing provisions.

ATA directs its comment to § 380.109(a) in the NPRM, which discusses the administration of driver-student knowledge and skills tests. This paragraph would require a qualified LCV driver-instructor to administer

knowledge and skills tests to driver-students. ATA notes that knowledge tests could be administered by almost anyone since there is no need for interaction between the driver-student and the instructor. Skills tests are generally taken on private property on a "closed course." Therefore, a qualified LCV driver-instructor would not be needed. ATA strongly suggests that FMCSA remove the requirement that a "qualified driver-instructor" administer the knowledge and skills tests to driver-students and replace the term "a qualified driver-instructor" with the term "an authorized motor carrier or training institution employee."

*FMCSA Response:* Motor carriers needing guidance for testing methods and proficiency determinations are referred to the "Examiner's Manual for Commercial Driver's License Tests." You may obtain a copy of the document from the American Association of Motor Vehicle Administrators (AAMVA), 4300 Wilson Boulevard, Suite 400, Arlington, Virginia 22203. Automatic test failure determinations are made at the sole discretion of the qualified LCV driver-instructor.

Today's rule retains the requirement that only qualified LCV driver-instructors administer knowledge and skills tests. We anticipate that a number of small carriers will conduct in-house training to meet the rule's provisions. As most such training programs will be small, allowing test administration by persons other than qualified driver-instructors could open the door to driver-trainees administering tests to one another. Under the rule, a qualified LCV classroom instructor may administer knowledge tests (as well as skills tests not involving actual operation of an LCV or one of its components), while only a qualified skills instructor may administer skills tests based on actual operation of an LCV. These standards protect the integrity of knowledge and skills testing and increase assurances that only qualified LCV driver-candidates will receive certification.

#### **Merging the LCV Driver-Training Program With the Commercial Driver's License Program**

The National Private Truck Council, Inc. (NPTC) supports the additional training requirements for LCV drivers and the general categories of instruction outlined in § 380.201(a). However, NPTC advocates incorporating the four general LCV training areas into the CDL testing program rather than creating separate training requirements with which a motor carrier must comply. NPTC believes integrating the LCV

training areas into the CDL testing program would assist a motor carrier in attempting to demonstrate the adequacy of driver training in court cases for crash-related litigation involving its drivers. In addition the driver's training certification, like the CDL, would follow the driver from carrier to carrier.

*FMCSA Response:* LCVs are allowed to operate in fewer than half the States, and relatively small numbers of CDL drivers are covered under the LCV training requirements. FMCSA believes that requiring the State to administer, and enforce at roadside inspections, the LCV training requirements would add an unnecessary complication to the CDL program. FMCSA believes the Driver-Training Certificate is sufficient documentation that a driver has met the LCV training requirement.

#### **Compliance Enforcement**

CVSA believes that if an LCV operator is required to obtain additional training, this should be reflected on the CDL. CVSA is concerned about the lack of information provided for the roadside officer, since an additional endorsement will not be added to the CDL. The officer at roadside will not have access to any of the information concerning the LCV training, thus making this requirement unenforceable during a safety inspection. Therefore, any noncompliance will be discovered only through auditing the recordkeeping requirements for drivers and motor carriers, and not during a driver/vehicle safety inspection.

CVSA also questions why the proposed regulation is located in part 380 rather than parts 383 and 391, where other driver-related regulations are found. CVSA believes codifying this regulation in another part adds confusion with regard to compliance, both for the enforcement community and for the industry. CVSA recommends adding the proposed regulations to part 383 since they are applicable to CDL drivers.

*FMCSA Response:* By placing the LCV driver training and related requirements in part 380, FMCSA is emphasizing that these requirements are a training responsibility and that compliance would be checked at the carrier's place of business during a compliance review. Because the requirement is not a driver licensing issue to be administered by the State licensing agency, enforcement officials will not check for compliance at roadside. (Roadside enforcement officials may, however, check an LCV driver's CDL to verify the presence of a doubles/triples endorsement.)

#### **Appendix—Knowledge and Skills Training (Appendix to Part 380)**

ATA comments that many of the knowledge and skills requirements are already required for obtaining a CDL, and would therefore simply be repeated during LCV training. Like a postgraduate course, the training should build upon knowledge already acquired, not repeat it. Additionally, ATA strongly suggests that FMCSA eliminate the requirements already specified in part 383, subpart G, which would include units 1.2, 1.3, 1.4, and 2.1.

ATA also remarks that some requirements proposed in the appendix to part 380 would be imposed on LCV drivers, but not on other CDL holders, even though the situations addressed are not unique to LCVs. ATA states that security issues (Unit 3.5) are not unique to LCV drivers and asks why FMCSA finds it necessary to propose this requirement for LCV drivers when no other CDL holder is required to have this instruction. Also, ATA states that the proposed maintenance and troubleshooting requirements in Unit 4.3 go beyond those currently required for other CDL holders. ATA does not understand why FMCSA believes that only LCV drivers should have these skills. Furthermore, some motor carriers prohibit LCV driver-employees from performing maintenance or emergency repairs to their complex and high-technology vehicles. Therefore, ATA also suggests that units 3.5 and 4.3 be eliminated.

*FMCSA Response:* Although many of the knowledge and skills topics covered in the LCV training program may be similar to those in the CDL Licensing Test, the licensing test measures general knowledge and familiarity with best practices. The LCV training program is intended to cover topics much more comprehensively and tailor the instruction to the unique characteristics of an LCV. The proficiency development unit will allow the driver to apply what is learned in class and to perfect skills under the supervision of a qualified instructor.

In response to ATA's request, FMCSA has eliminated Unit 2.1—Inspection, because these skills are adequately covered under Unit 4.3—Maintenance and Trouble-shooting. Unit 3.5—Security has been revised to refer to Federal and State security requirements including those of the Transportation Security Administration and the Research and Special Programs Administration. The agency has also revised the Unit 4.3 description to include knowledge of certain maintenance functions and how to

communicate vehicle malfunctions. The rule does not compel a motor carrier to allow an LCV driver to perform maintenance, but the agency believes it would be beneficial for LCV drivers to have basic maintenance and troubleshooting skills. In some circumstances, it may be necessary to make temporary repairs that would allow the driver to move the vehicle to a safer location before permanent repairs are made.

**Comments on the Cost-Benefit Analysis**

ATA states that FMCSA inadvertently omitted “the opportunity cost to the motor carrier.” A few ATA members have furnished cost figures for their LCV operations. Using these figures, ATA estimates that the annual cost to motor carriers of compliance with the rule “would be \$4,995,650 while the 10-year cost would be \$49,956,500.” Therefore, ATA estimates that the 10-year cost “would exceed the 10-year benefits by \$25,556,500 when you consider a 10 percent crash rate reduction; for a five percent accident rate reduction, costs would exceed benefits by \$12,778,250.”

In addition, ATA believes that “because LCVs have such an exemplary safety record, FMCSA would be hard-pressed to develop a prescriptive training requirement that would pass a cost-benefit analysis. ATA, therefore, seriously questions the need for mandatory LCV training.” Recognizing, however, that the agency is under Congressional direction to develop an LCV training requirement, “ATA encourages the agency to develop a training requirement that is performance-based, with at-fault crash rates as the measure of performance for motor carriers.”

*FMCSA Response:* ATA is correct that FMCSA should have explicitly included the opportunity cost to motor carriers of requiring some of their drivers to undergo training. FMCSA implicitly recognized this cost by including drivers’ wages in its NPRM estimate of the cost of LCV training, but did not include the profits motor carriers would forgo. We have added these costs to the regulatory evaluation for today’s rule. However, in the above-quoted calculations based on figures provided by specific carriers, ATA overestimates the cost of compliance with the LCV training requirements by including motor carriers’ entire LCV operating

costs. Although carriers will forfeit some revenue as a result of LCV driver training, those losses will be partly offset by reduced costs: Motor carriers will not have hourly operating costs (e.g., fuel, wear and tear, tires) for drivers being trained. See the regulatory evaluation for a detailed comparison of costs and benefits.

**Comments on the Federalism Assessment**

ATA asks why FMCSA did not include an implementation date for State adoption of the proposed rule. According to ATA, 22 States allow the operation of LCVs within their borders, and many of those States have driver and vehicle requirements for LCV operations. Because FMCSA asserts that nothing in the NPRM preempts any State law or regulation, motor carriers and drivers that operate LCVs could be required to comply with two sets of training requirements. This would be confusing to the regulated motor carriers and would be considered counterproductive. ATA argues that the trucking industry needs a standardized rule that applies nationwide, and recommends that FMCSA review its Federalism assessment, revise it, and include an implementation date for State adoption.

*FMCSA Response:* Under the MCSAP, States have up to 3 years to adopt regulations compatible with the Federal Motor Carrier Safety Regulations [49 CFR 350.331(d)]. In any case, a State with special LCV requirements must continue to enforce them pursuant to the ISTEA freeze on the length and weight of LCVs and long doubles and triples [49 U.S.C. 31112(d)(1) and 23 U.S.C. 127(d)(1)(B), implemented by 23 CFR 658.21]. Failure to do so would force FHWA, our sister agency within DOT, to withhold some of that State’s Federal-aid highway funds or to take injunctive action against the State in Federal court. For both these reasons, it would be inappropriate to preempt current State regulations.

**Rulemaking Analyses and Notices**

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

FMCSA has determined that this action is a significant regulatory action

within the meaning of Executive Order 12866, and is significant within the meaning of the Department of Transportation’s regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979) because of significant public interest in the issues relating to CMV safety and training of certain CMV drivers. The Office of Management and Budget has completed its review of this rule under Executive Order 12866.

*Regulatory Evaluation*

Following is a summary of the regulatory evaluation. The complete evaluation has been placed in the docket.

Approximately 35,000 drivers currently operate LCVs; most are expected to be grandfathered. Approximately 1,200 LCV drivers are estimated to require training annually. ANPRM docket comments and conversation with industry representatives and analysts suggest that LCV drivers are currently obtaining about half the amount of training we estimate would be needed to cover the topics outlined in this rule, approximately 50 hours. The net cost of training (including drivers’ wages) is \$45.50 an hour. This results in a 10-year cost of approximately \$29 million.

Precisely quantifying the benefits of this rule is difficult. Congress clearly assumed that increased training reduces crash rates, and many analysts agree with this position. However, quantitative data examining the relationship between training and crash rates is not plentiful, and those studies we have located have not found a strong and consistent relationship. Therefore, we performed sensitivity analysis, estimating the benefits from a range of reductions in drivers’ crash rates for drivers who have received training. Net benefits ranged from –\$12 million for a 5 percent reduction in the crash rate to +40 million for a 20 percent reduction.

Table 1 presents the results for a number of possible deterrence levels.

TABLE 1.—BENEFIT COST RATIO WITH DIFFERENT CRASH RATE REDUCTIONS

Crash reduction	5%	10%	15%	20%
B/C Ratio .....	0.6	1.2	1.8	2.4



Table 2 shows costs, benefits, and the number of crashes and drivers that would be affected by these proposals, with an assumed 10 percent reduction in crashes.

TABLE 2.—SUMMARY RESULTS WITH 10% CRASH RATE REDUCTIONS  
[millions of dollars]

# Trained annually	10-year costs	10-year benefits	Net benefits	B/C ratio	Crashes prevented
1,172 .....	\$28.8	\$34.4	\$5.6	1.2	315

This analysis assumes that, under the rule, prospective LCV drivers will obtain an additional 50 hours of training. This is a conservative estimate, in that it is on the high end of the range of likely training time. Nonetheless, because of uncertainty over how many hours of training will be needed, we performed sensitivity analysis for different assumed hours of training. As expected, the sensitivity analysis shows that net benefits move in the opposite direction of the number of hours.

All costs and benefits are over a 10-year period, and are discounted at a 7 percent rate.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), as amended, requires Federal agencies to “\* \* \* endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.” Accordingly, DOT policy requires an analysis of the impact of all regulations (or proposals) on small entities, and mandates that agencies shall strive to lessen any adverse effects on these businesses. The following sections contain the FMCSA regulatory flexibility analysis.

*Need and Objective for the Rule*

This action is being promulgated in response to Congressional direction. Specifically, Sec. 4007(b) of ISTEA directed the Secretary to promulgate regulations requiring training for LCV drivers. Congress mandated this action because of concern over the number of LCV crashes. The objective of this rule is to reduce the number of LCV crashes through better training of LCV drivers.

*Significant Issues Raised in Response to IRFA*

Commenters to the NPRM docket did not raise any significant issues concerning the Initial Regulatory Flexibility Analysis. None of the eight commenters addressed any small business concerns.

*Number of Small Entities to Which the Action Will Apply*

This action will apply to all small entities regulated by FMCSA that own or operate LCVs. Using the number of drivers as a proxy for size, the majority of carriers can reasonably be described as small. As of April 2002, there were 610,000 motor carriers on the FMCSA Motor Carrier Management Information System (MCMIS) census file. Of the 500,000 carriers for which we have driver data, 435,000 (87 percent) have six or fewer drivers. Assuming that 87 percent of the 110,000 carriers with no driver information are also small, the total number of carriers with six or fewer drivers would exceed half a million.

*Reporting, Recordkeeping, and Other Compliance Requirements*

This action will impose a very modest burden on small entities, since it largely regulates the actions of drivers rather than motor carriers. Nonetheless, this action does impose some recordkeeping requirements on motor carriers. The primary carrier requirement would be to verify drivers’ eligibility before allowing them to operate an LCV. In addition, carriers must maintain a copy of the required driver-training certificate in each driver qualification (DQ) file. Carriers are currently required to maintain a DQ file for each driver, as outlined in part 391 of the Federal Motor Carrier Safety Regulations. No special skills are required to verify eligibility to operate an LCV or to place a driver-training certificate in a DQ file.

*Agency Steps To Minimize Impacts on Small Entities*

As discussed above, while this rule will affect a significant number of small entities, the impact on any individual small carrier will be minimal. Therefore, FMCSA certifies that this regulation will not have a significant impact on the small businesses subject to today’s final rule.

*Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and

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

*Executive Order 12372 (Intergovernmental Review)*

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

*Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (49 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FMCSA has determined that this final rule creates a new collection of information requiring OMB’s approval. This PRA section addresses the information collection burden for certifying new LCV drivers and current, non-grandfathered LCV drivers; the burden associated with grandfathering those current LCV drivers who are eligible for certification; and the burden associated with certifying that driver-instructors satisfy the qualification requirements of § 380.301.

FMCSA estimates that 35,000 drivers currently operate LCVs. Ninety-five percent of these drivers (or 33,250 LCV drivers) are expected to be eligible to be grandfathered during the first year after the rule becomes effective. The agency also estimates that approximately 1,200 new LCV drivers would require training each year, with an additional 1,750 non-grandfathered LCV drivers (or 5 percent of LCV drivers currently operating) requiring training during the first year. In addition, there would be a burden to the motor carrier or other training entity to complete, photocopy, and file the training certification form for LCV operation. FMCSA estimates that 10

minutes would be required for this paperwork activity, resulting in a first-year information collection burden of 491.7 hours, or rounded to the nearest tenth, 492 burden hours [1,200 new LCV drivers + 1,750 LCV drivers × 10 minutes per motor carrier/training entity, divided by 60 minutes = 492 hours] and an annual information collection burden in subsequent years of 200 hours [1,200 LCV drivers × 10 minutes divided by 60 minutes = 200 hours].

For grandfathering 33,250 LCV drivers, there would be a one-time, one-year-only information collection burden of 16,625 hours, since LCV drivers can be grandfathered only during the first year after the rule becomes effective. There are two parts to the burden for grandfathered drivers: (1) the burden for the driver to collect and provide the information to the motor carrier, and (2) the burden for the motor carrier to review the documents and to complete, duplicate, and file the certification form. FMCSA estimates that it would take approximately 15 minutes for the driver to collect the necessary information and provide the documentation to the motor carrier, and 15 minutes for the motor carrier to review the information, complete the certification, and duplicate and file the document. Therefore, the burden associated with grandfathering the 33,250 LCV drivers would be 16,625 burden hours [(33,250 LCV drivers × 15 minutes per driver, divided by 60 minutes = 8,312.5 hours) + (33,250 LCV drivers × 15 minutes per motor carrier, divided by 60 minutes = 8,312.5 hours) = 16,625 hours].

FMCSA estimates that the burden associated with driver-instructor certification would be 70 burden hours during the first year after the rule becomes effective and 3 annual burden hours thereafter. The agency based these estimates on the following.

We estimate that during the first year, training 1,200 new LCV drivers and 1,750 non-grandfathered LCV drivers would require 148 driving-instructors teaching four classes of five students each [2,950 drivers, divided by five students per class, divided by four classes per year = 147.5 LCV driving instructors, or rounded to the nearest tenth, 148 burden hours]. Approximately one-third (or 49) of the instructors would be classroom instructors and two-thirds (99) would be skills instructors. Instructors would provide to the training school (or to the training entity of the motor carrier) documentation certifying their qualifications under § 380.301.

FMCSA estimates that a classroom instructor would take 10 minutes to collect this instructor documentation and provide it to the certifying training school or motor carrier, while the skills instructor would require 15 minutes to collect and provide this documentation. The training school or motor carrier would require an estimated 15 minutes to review the documentation, complete the instructor certification, and duplicate and file the document. Therefore, the first-year burden associated with instructor certification would be 70 burden hours [(49 classroom instructors × 10 minutes per instructor = 490 minutes, divided by 60

minutes = 8.1 hours, or rounded to the nearest tenth, 8 burden hours) + (99 skills instructors × 15 minutes per instructor = 1,485 minutes, divided by 60 minutes = 24.75 hours, or rounded to the nearest tenth, 25 burden hours) + (148 total instructors × 15 minutes' administrative burden per instructor certification = 2,220 minutes, divided by 60 minutes = 37 burden hours) = 70 hours].

As the specialized nature of LCV training correlates with low instructor turnover, FMCSA estimates an annual turnover rate of 10 percent. Based on an estimated annual instructor pool of 60 instructors to train 1,200 new LCV drivers (with each instructor teaching four classes of five students), six new instructors (two classroom instructors and four skills instructors) would need to be certified each year after the first year. Therefore, the estimated subsequent-year annual burden associated with instructor certification would be 2.8 burden hours, or rounded to the nearest tenth, 3 burden hours [(two classroom instructors × 10 minutes = 20 minutes) + (four skills instructors × 15 minutes = 60 minutes) + (six new instructors × 15 minutes' administrative burden per instructor certification = 90 minutes) = 170 minutes/60 minutes = 3 hours].

Thus, the total first-year burden associated with this rule, when promulgated, is estimated to be 17,187 burden hours [492 + 16,625 + 70 = 17,187 hours]. The information collection burden for subsequent years would drop to 203 burden hours [200 + 3 = 203 hours].

Activity—Burden to complete and process the annual Certification form for LCV drivers and to certify driver-instructors	First-year burden hours	Burden hours for subsequent years
• First-year training of 1,200 new LCV drivers + 1,750 non-grandfathered LCV drivers .....	492	.....
• First-year instructor certification for 1,200 new LCV drivers + 1,750 non-grandfathered LCV drivers .....	70	.....
• Training & instructor certification in subsequent years—1,200 new LCV drivers annually .....	.....	203
Grandfathering 33,250 LCV drivers currently operating in the first year .....	16,625	.....
<b>Total .....</b>	<b>17,187</b>	<b>203</b>

*OMB Control Number:* 2126–(new).  
*Title:* Training Certification for Drivers of Longer Combination Vehicles.  
*Respondents:* 36,348 during the first year; 1,260 in subsequent years.  
*Estimated Annual Hour Burden for the Information Collection:* Year 1 = 17,187 hours; subsequent years = 203 hours.

Interested parties are invited to send comments regarding any aspect of these information collection requirements, including but not limited to: (1) Whether the collection of information is

necessary for the performance of the functions of FMCSA, including whether the information has practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

You may submit any additional comments on the *information collection burden* addressed by this final rule to the Office of Management and Budget. The OMB must receive your comments

by April 29, 2004. You must mail or hand deliver your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503.

*National Environmental Policy Act*

The agency analyzed this final rule for the purpose of the National Environmental Policy Act of 1969

(NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1 (published in the March 1, 2004 **Federal Register** at 69 FR 9680 with an effective date of March 30, 2004), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.d of the Order from further environmental documentation. That CE relates to establishing regulations and actions taken pursuant to these regulations that concern the training, qualifying, licensing, certifying, and managing of personnel. In addition, the agency believes that the action includes no extraordinary circumstances that will have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

We have 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 involves policy development and civil enforcement activities, such as, investigations, inspections, examinations, and the training of law enforcement personnel. See 40 CFR 93.153(c)(2). It will not result in any emissions increase nor will it have any potential to result in emissions that are above the general conformity rule's *de minimis* emission threshold levels. Moreover, it is reasonably foreseeable that the rule change will not increase total CMV mileage, change the routing of CMVs, how CMVs operate or the CMV fleet-mix of motor carriers. This action merely establishes standards for minimum training requirements for operators of LCVs and requirements for the instructors who train them.

*Executive Order 13211 (Energy Supply, Distribution, or Use)*

The agency has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of Section 4(b) of the Executive Order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule establishes training requirements for operators of LCVs and sets forth requirements for trainers of such operators. This action has no effect on the supply or use of energy, nor do we believe it will cause a shortage of drivers qualified to distribute energy, such as gasoline, fuel oil, or other fuels.

*Unfunded Mandates Reform Act of 1995*

This rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*). Under this rule, there are no costs to States, and costs to the private sector should be minimal. This action establishes minimum training standards for operators of LCVs.

Although not required to do so under the FMCSRs, motor carriers routinely provide similar training to their drivers who operate LCVs. The rule does not stipulate that motor carriers must provide such training, but requires them to use only those drivers and driver-instructors who have met the standards established by the rule.

*Executive Order 12630 (Taking of Private Property)*

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

*Executive Order 12988 (Civil Justice Reform)*

This action 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.

*Executive Order 13045 (Protection of Children)*

The agency has analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule sets forth training requirements for LCV drivers and sets standards for instructors of such drivers. Therefore, FMCSA certifies that this action is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

**List of Subjects**

*49 CFR Part 380*

Driver training, instructor requirements.

*49 CFR Part 391*

Highways and roads, Motor vehicle safety.

■ For the reasons stated in the preamble, the Federal Motor Carrier Safety Administration amends 49 CFR chapter III as set forth below:

■ 1. Chapter III is amended by adding part 380 to read as follows:

**PART 380—SPECIAL TRAINING REQUIREMENTS**

**Subpart A—Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements—General**

Sec.

380.101 Purpose and scope.

380.103 Applicability.

380.105 Definitions.

380.107 General requirements.

380.109 Driver testing.

380.111 Substitute for driver training.

380.113 Employer responsibilities.

**Subpart B—LCV Driver-Training Program**

380.201 General requirements.

380.203 LCV Doubles.

380.205 LCV Triples.

**Subpart C—LCV Driver-Instructor Requirements**

380.301 General requirements.

380.303 Substitute for instructor requirements.

380.305 Employer responsibilities.

**Subpart D—Driver-Training Certification**

380.401 Certification document.

Appendix to Part 380—LCV Driver Training Programs, Required Knowledge and Skills

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

**Subpart A—Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements—General**

**§ 380.101 Purpose and scope.**

(a) *Purpose.* The purpose of this part is to establish minimum requirements for operators of longer combination vehicles (LCVs) and LCV driver-instructors.

(b) *Scope.* This part establishes:

(1) Minimum training requirements for operators of LCVs;

(2) Minimum qualification requirements for LCV driver-instructors; and

(3) Procedures for determining compliance with this part by operators, instructors, training institutions, and employers.

**§ 380.103 Applicability.**

The rules in this part apply to all operators of LCVs in interstate commerce, employers of such persons, and LCV driver-instructors.

**§ 380.105 Definitions.**

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

(b) As used in this part:

*Classroom instructor* means a qualified LCV driver-instructor who provides knowledge instruction that

does not involve the actual operation of a longer combination vehicle or its components. Instruction may take place in a parking lot, garage, or any other facility suitable for instruction.

*Longer combination vehicle (LCV)* means any combination of a truck-tractor and two or more trailers or semi-trailers, which operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).

*LCV Double* means an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers.

*LCV Triple* means an LCV consisting of a truck-tractor in combination with three trailers and/or semi-trailers.

*Qualified LCV driver-instructor* means an instructor meeting the requirements contained in subpart C of this part. There are two types of qualified LCV driver-instructors: (1) classroom instructor and (2) skills instructor.

*Skills instructor* means a qualified LCV driver-instructor who provides behind-the-wheel instruction involving the actual operation of a longer combination vehicle or its components outside a classroom.

*Training institution* means any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. A motor carrier's training program for its drivers or an entity that exclusively offers services to a single motor carrier is not a training institution.

#### § 380.107 General requirements.

(a) Except as provided in § 380.111, a driver who wishes to operate an LCV shall first take and successfully complete an LCV driver-training program that provides the knowledge and skills necessary to operate an LCV. The specific types of knowledge and skills that a training program shall include are outlined in the appendix to this part.

(b) Before a person receives training:

(1) That person shall present evidence to the LCV driver-instructor showing that he/she meets the general requirements set forth in subpart B of this part for the specific type of LCV training to be taken.

(2) The LCV driver-instructor shall verify that each trainee applicant meets the general requirements for the specific type of LCV training to be taken.

(c) Upon successful completion of the training requirement, the driver-student shall be issued an LCV Driver Training Certificate by a certifying official of the training entity in accordance with the

requirements specified in subpart D of this part.

#### § 380.109 Driver testing.

(a) *Testing methods.* The driver-student must pass knowledge and skills tests in accordance with the following requirements, to determine whether a driver-student has successfully completed an LCV driver-training program as specified in subpart B of this part. The written knowledge test may be administered by any qualified driver-instructor. The skills tests, based on actual operation of an LCV, must be administered by a qualified LCV skills instructor.

(1) All tests shall be constructed to determine if the driver-student possesses the required knowledge and skills set forth in the appendix to this part for the specific type of LCV training program being taught.

(2) Instructors shall develop their own tests for the specific type of LCV-training program being taught, but those tests must be at least as stringent as the requirements set forth in paragraph (b) of this section.

(3) LCV driver-instructors shall establish specific methods for scoring the knowledge and skills tests.

(4) Passing scores must meet the requirements of paragraph (b) of this section.

(5) Knowledge and skills tests shall be based upon the information taught in the LCV training programs as set forth in the appendix to this part.

(6) Each knowledge test shall address the training provided during both theoretical and behind-the-wheel instruction, and include at least one question from each of the units listed in the table to the appendix to this part, for the specific type of LCV training program being taught.

(7) Each skills test shall include all the maneuvers and operations practiced during the Proficiency Development unit of instruction (behind-the-wheel instruction), as described in the appendix to this part, for the specific type of LCV training program being taught.

(b) *Proficiency determinations.* The driver-student must meet the following conditions to be certified as an LCV driver:

(1) Answer correctly at least 80 percent of the questions on each knowledge test; and

(2) Demonstrate that he/she can successfully perform all of the skills addressed in paragraph (a)(7) of this section.

(c) *Automatic test failure.* Failure to obey traffic laws or involvement in a preventable crash during the skills

portion of the test will result in automatic failure. Automatic test failure determinations are made at the sole discretion of the qualified LCV driver-instructor.

(d) *Guidance for testing methods and proficiency determinations.* Motor carriers should refer to the Examiner's Manual for Commercial Driver's License Tests for help in developing testing methods and making proficiency determinations. You may obtain a copy of this document by contacting the American Association of Motor Vehicle Administrators (AAMVA), 4300 Wilson Boulevard, Suite 400, Arlington, Virginia 22203.

#### § 380.111 Substitute for driver training.

(a) *Grandfather clause.* The LCV driver-training requirements specified in subpart B of this part do not apply to an individual who meets the conditions set forth in paragraphs (b), (c), and (d) of this section. A motor carrier must ensure that an individual claiming eligibility to operate an LCV on the basis of this section meets these conditions before allowing him/her to operate an LCV.

(b) An individual must certify that, during the 2-year period immediately preceding the date of application for a Certificate of Grandfathering, he/she had:

(1) A valid Class A CDL with a

"double/triple trailers" endorsement;

(2) No more than one driver's license;

(3) No suspension, revocation, or cancellation of his/her CDL;

(4) No convictions for a major offense while operating a CMV as defined in § 383.51(b) of this subchapter;

(5) No convictions for a railroad-highway grade crossing offense while operating a CMV as defined in § 383.51(d) of this subchapter;

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

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

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

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

(1) Is regularly employed in a job requiring the operation of a CMV that requires a CDL with a double/triple trailers endorsement; and

(2) Has operated, during the 2 years immediately preceding the date of application for a Certificate of Grandfathering, vehicles representative

of the type of LCV that he/she seeks to continue operating.

(d) A motor carrier must issue a Certificate of Grandfathering to a person who meets the requirements of this

section and must maintain a copy of the certificate in the individual's Driver Qualification file.

<b>Longer Combination Vehicle (LCV) Driver-Training Certificate of Grandfathering</b>	
I certify that _____ has presented evidence of meeting the prerequisites set forth in the Federal Motor Carrier Safety Regulations (49 CFR § 380.111) for the substitute for LCV driver training and is qualified to operate the LCVs indicated below:	
<b>YES</b>	<b>NO</b>
<input type="checkbox"/>	<input type="checkbox"/>
<b>LCV Doubles</b>	
<input type="checkbox"/>	<input type="checkbox"/>
<b>LCV Triples</b>	
DRIVER NAME (First name, MI, Last name)	
Commercial Driver's License Number	STATE
ADDRESS OF DRIVER (Street Address, City, State and Zip Code)	
FULL NAME OF MOTOR CARRIER	Telephone Number
ADDRESS OF PRINCIPAL PLACE OF BUSINESS (Street Address, City, State, and Zip Code)	
SIGNATURE OF MOTOR CARRIER OFFICIAL	DATE ISSUED

(e) An applicant may be grandfathered under this section only during the year following June 1, 2004.

**§ 380.113 Employer responsibilities.**

(a) No motor carrier shall:  
 (1) Allow, require, permit or authorize an individual to operate an LCV unless he/she meets the requirements in §§ 380.203 or 380.205 and has been issued the LCV driver-training certificate described in § 380.401. This provision does not apply to individuals who are eligible for the substitute for driver training provision in § 380.111.

(2) Allow, require, permit, or authorize an individual to operate an LCV which the LCV driver-training certificate, CDL, and CDL endorsement(s) do not authorize the driver to operate. This provision applies to individuals employed by or under contract to the motor carrier.

(b) A motor carrier that employs or has under contract LCV drivers shall provide evidence of the certifications

required by § 380.401 or § 380.111 of this part when requested by an authorized FMCSA, State, or local official in the course of a compliance review.

**Subpart B—LCV Driver-Training Program**

**§ 380.201 General requirements.**

(a) The LCV Driver-Training Program that is described in the appendix to this part requires training using an LCV Double or LCV Triple and must include the following general categories of instruction:

- (1) Orientation;
- (2) Basic operation;
- (3) Safe operating practices;
- (4) Advanced operations; and
- (5) Nondriving activities.

(b) The LCV Driver-Training Program must include the minimum topics of training set forth in the appendix to this part and behind-the-wheel instruction that is designed to provide an opportunity to develop the skills

outlined under the Proficiency Development unit of the training program.

**§ 380.203 LCV Doubles.**

(a) To qualify for the training necessary to operate an LCV Double, a driver-student shall, during the 6 months immediately preceding application for training, have:

- (1) A valid Class A CDL with a double/triple trailer endorsement;
- (2) Driving experience in a Group A vehicle as described in § 383.91 of this subchapter. Evidence of driving experience shall be an employer's written statement that the driver has, for at least 6 months immediately preceding application, operated a Group A vehicle while under his/her employ;
- (3) No more than one driver's license;
- (4) No suspension, revocation, or cancellation of his/her CDL;
- (5) No convictions for a major offense, as defined in § 383.51(b) of this subchapter, while operating a CMV;

(6) No convictions for a railroad-highway grade crossing offense, as defined in § 383.51(d) of this subchapter, while operating a CMV;

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

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

(9) No convictions for a violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic crash while operating a CMV.

(b) Driver-students meeting the preliminary requirements in paragraph (a) of this section shall successfully complete a training program that meets the minimum unit requirements for LCV Doubles as set forth in the appendix to this part.

(c) Driver-students who successfully complete the Driver Training Program for LCV Doubles shall be issued a certificate, in accordance with subpart D of this part, indicating the driver is qualified to operate an LCV Double.

#### § 380.205 LCV Triples.

(a) To qualify for the training necessary to operate an LCV Triple, a driver-student shall, during the 6 months immediately preceding application for training, have:

(1) A valid Class A CDL with a double/triple trailer endorsement;

(2) Experience operating the vehicle listed under paragraph (a)(2)(i) or (a)(2)(ii) of this section. Evidence of driving experience shall be an employer's written statement that the driver has, during the 6 months immediately preceding application, operated the applicable vehicle(s):

(i) Group A truck-tractor/semi-trailer combination as described in § 383.91 of this subchapter; or

(ii) Group A truck-tractor/semi-trailer/trailer combination that operates at a gross vehicle weight of 80,000 pounds or less;

(3) No more than one driver's license;

(4) No suspension, revocation, or cancellation of his/her CDL;

(5) No convictions for a major offense, as defined in § 383.51(b) of this subchapter, while operating a CMV;

(6) No convictions for a railroad-highway grade crossing offense, as defined in § 383.51(d) of this subchapter, while operating a CMV;

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

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

(9) No convictions for a violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic crash, while operating a CMV.

(b) Driver-students meeting the preliminary requirements in paragraph (a) of this section shall successfully complete a training program that meets the minimum unit requirements for LCV Triples as set forth in the appendix to this part.

(c) Driver-students who successfully complete the Driver Training Program for LCV Triples shall be issued a certificate, in accordance with subpart D of this part, indicating the driver is qualified to operate an LCV Triple.

#### Subpart C—LCV Driver-Instructor Requirements

##### § 380.301 General requirements.

There are two types of LCV driver-instructors: Classroom instructors and Skills instructors. Except as provided in § 380.303, you must meet the conditions under paragraph (a) or paragraph (b) of this section to qualify as an LCV driver-instructor.

(a) *Classroom instructor.* To qualify as an LCV Classroom instructor, a person shall:

(1) Have audited the driver-training course that he/she intends to instruct.

(2) If employed by a training institution, meet all State requirements for a vocational instructor.

(b) *Skills instructor.* To qualify as an LCV skills instructor, a person shall:

(1) Provide evidence of successful completion of the Driver-Training Program requirements, as set forth in subpart B of this part, when requested by employers and/or an authorized FMCSA, State, or local official in the course of a compliance review. The Driver-Training Program must be for the operation of CMVs representative of the subject matter that he/she will teach.

(2) If employed by a training institution, meet all State requirements for a vocational instructor;

(3) Possess a valid Class A CDL with all endorsements necessary to operate the CMVs applicable to the subject matter being taught (LCV Doubles and/or LCV Triples, including any specialized variation thereof, such as a tank vehicle, that requires an additional endorsement); and

(4) Have at least 2 years' CMV driving experience in a vehicle representative of the type of driver training to be provided (LCV Doubles or LCV Triples).

##### § 380.303 Substitute for instructor requirements.

(a) *Classroom instructor.* The requirements specified under

§ 380.301(a) of this part for a qualified LCV driver-instructor are waived for a classroom instructor-candidate who has 2 years of recent satisfactory experience teaching the classroom portion of a program similar in content to that set forth in the appendix to this part.

(b) *Skills instructor.* The requirements specified under § 380.301(b) of this part for a qualified LCV driver-instructor are waived for a skills instructor-candidate who:

(1) Meets the conditions of § 380.111(b);

(2) Has CMV driving experience during the previous 2 years in a vehicle representative of the type of LCV that is the subject of the training course to be provided;

(3) Has experience during the previous 2 years in teaching the operation of the type of LCV that is the subject of the training course to be provided; and

(4) If employed by a training institution, meets all State requirements for a vocational instructor.

##### § 380.305 Employer responsibilities.

(a) No motor carrier shall: (1) Knowingly allow, require, permit or authorize a driver-instructor in its employ, or under contract to the motor carrier, to provide LCV driver training unless such person is a qualified LCV driver-instructor under the requirements of this subpart; or

(2) Contract with a training institution to provide LCV driver training unless the institution:

(i) Uses instructors who are qualified LCV driver-instructors under the requirements of this subpart;

(ii) Is accredited by an accrediting institution recognized by the U.S. Department of Education;

(iii) Is in compliance with all applicable State training school requirements; and

(iv) Identifies drivers certified under § 380.401 of this part, when requested by employers and/or an authorized FMCSA, State, or local official in the course of a compliance review.

(b) A motor carrier that employs or has under contract qualified LCV driver-instructors shall provide evidence of the certifications required by § 380.301 or § 380.303 of this part, when requested by an authorized FMCSA, State, or local official in the course of a compliance review.

#### Subpart D—Driver-Training Certification

##### § 380.401 Certification document.

(a) A student who successfully completes LCV driver training shall be

issued a Driver-Training Certificate that is substantially in accordance with the following form.

<b>Longer Combination Vehicle (LCV) Driver-Training Certificate</b>	
I certify that _____ has presented evidence of meeting the training prerequisites set forth in the Federal Motor Carrier Safety Regulations (49 CFR §§ 380.203(a) and 380.205(a)) for LCV training, and has successfully completed the LCV Driver-Training Course(s) indicated below:	
<b>YES</b> <b>NO</b> <input type="checkbox"/> <input type="checkbox"/>	<b>LCV Doubles</b> _____ Date Training Completed _____
<input type="checkbox"/> <input type="checkbox"/>	<b>LCV Triples</b> _____ Date Training Completed _____
I certify that the indicated LCV Driver-Training course(s) was provided by a qualified LCV driver-instructor as defined under 49 CFR § 380.105 and meet(s) the minimum requirements set forth in 49 CFR part 380, subparts A and B.	
DRIVER NAME (First Name, MI, Last Name)	
Commercial Driver's License Number	STATE
ADDRESS OF DRIVER (Street Address, City, State and Zip Code)	
FULL NAME OF TRAINING ENTITY	Telephone Number
BUSINESS ADDRESS (Street Address, City, State, and Zip Code)	
SIGNATURE OF TRAINING CERTIFYING OFFICIAL	DATE ISSUED

(b) An LCV driver must provide a copy of the Driver-Training Certificate to his/her employer to be filed in the Driver Qualification File.

**Appendix to Part 380—LCV Driver Training Programs, Required Knowledge and Skills**

The following table lists topics of instruction required for drivers of longer combination vehicles pursuant to 49 CFR part 380, subpart B. The training courses for operators of LCV Doubles and LCV Triples must be distinct and tailored to address their unique operating and handling characteristics. Each course must include the minimum topics of instruction, including behind-the-wheel training designed to provide an opportunity to develop the skills outlined under the Proficiency Development unit of the training program. Only a skills instructor may administer behind-the-wheel training involving the operation of an LCV or one of its components. A classroom instructor may administer only instruction

that does not involve the operation of an LCV or one of its components.

TABLE TO THE APPENDIX—COURSE TOPICS FOR LCV DRIVERS

<b>Section 1: Orientation</b>	
1.1 .....	LCVs in Trucking
1.2 .....	Regulatory Factors
1.3 .....	Driver Qualifications
1.4 .....	Vehicle Configuration Factors
<b>Section 2: Basic Operation</b>	
2.1 .....	Coupling and Uncoupling
2.2 .....	Basic Control and Handling
2.3 .....	Basic Maneuvers
2.4 .....	Turning, Steering and Tracking
2.5 .....	Proficiency Development
<b>Section 3: Safe Operating Practices</b>	
3.1 .....	Interacting with Traffic
3.2 .....	Speed and Space Management

TABLE TO THE APPENDIX—COURSE TOPICS FOR LCV DRIVERS—Continued

3.3 .....	Night Operations
3.4 .....	Extreme Driving Conditions
3.5 .....	Security Issues
3.6 .....	Proficiency Development
<b>Section 4: Advanced Operations</b>	
4.1 .....	Hazard Perception
4.2 .....	Hazardous Situations
4.3 .....	Maintenance and Troubleshooting
<b>Section 5: Non-Driving Activities</b>	
5.1 .....	Routes and Trip Planning
5.2 .....	Cargo and Weight Considerations

**Section 1—Orientation**

The units in this section must provide an orientation to the training curriculum and must cover the role LCVs play within the

motor carrier industry, the factors that affect their operations, and the role that drivers play in the safe operation of LCVs.

*Unit 1.1—LCVs in Trucking.* This unit must provide an introduction to the emergence of LCVs in trucking and must serve as an orientation to the course content. Emphasis must be placed upon the role the driver plays in transportation.

*Unit 1.2—Regulatory factors.* This unit must provide instruction addressing the Federal, State, and local governmental bodies that propose, enact, and implement the laws, rules, and regulations that affect the trucking industry. Emphasis must be placed on those regulatory factors that affect LCVs, including 23 CFR 658.23 and Appendix C to part 658.

*Unit 1.3—Driver qualifications.* This unit must provide classroom instruction addressing the Federal and State laws, rules, and regulations that define LCV driver qualifications. It also must include a discussion on medical examinations, drug and alcohol tests, certification, and basic health and wellness issues. Emphasis must be placed upon topics essential to physical and mental health maintenance, including (1) diet, (2) exercise, (3) avoidance of alcohol and drug abuse, and caution in the use of prescription and nonprescription drugs, (4) the adverse effects of driver fatigue, and (5) effective fatigue countermeasures. Driver-trainees who have successfully completed the Entry-level training segments at § 380.503(a) and (c) are considered to have satisfied the requirements of Unit 1.3.

*Unit 1.4—Vehicle configuration factors.* This unit must provide classroom instruction addressing the key vehicle components used in the configuration of longer combination vehicles. It also must familiarize the driver-trainee with various vehicle combinations, as well as provide instruction about unique characteristics and factors associated with LCV configurations.

## Section 2—Basic Operation

The units in this section must cover the interaction between the driver and the vehicle. They must teach driver-trainees how to couple and uncouple LCVs, ensure the vehicles are in proper operating condition, and control the motion of LCVs under various road and traffic conditions.

During the driving exercises at off-highway locations required by this section, the driver-trainee must first familiarize himself/herself with basic operating characteristics of an LCV. Utilizing an LCV, students must be able to perform the skills learned in each unit to a level of proficiency required to permit safe transition to on-street driving.

*Unit 2.1—Coupling and uncoupling.* This unit must provide instruction addressing the procedures for coupling and uncoupling LCVs. While vehicle coupling and uncoupling procedures are common to all truck-tractor/semi-trailer operations, some factors are peculiar to LCVs. Emphasis must be placed upon preplanning and safe operating procedures.

*Unit 2.2—Basic control and handling.* This unit must provide an introduction to basic vehicular control and handling as it applies to LCVs. This must include instruction addressing brake performance, handling

characteristics and factors affecting LCV stability while braking, turning, and cornering. Emphasis must be placed upon safe operating procedures.

*Unit 2.3—Basic maneuvers.* This unit must provide instruction addressing the basic vehicular maneuvers that will be encountered by LCV drivers. This must include instruction relative to backing, lane positioning and path selection, merging situations, and parking LCVs. Emphasis must be placed upon safe operating procedures as they apply to brake performance and directional stability while accelerating, braking, merging, cornering, turning, and parking.

*Unit 2.4—Turning, steering, and tracking.* This unit must provide instruction addressing turning situations, steering maneuvers, and the tracking of LCV trailers. This must include instruction related to trailer sway and off-tracking. Emphasis must be placed on maintaining directional stability.

*Unit 2.5—Proficiency development: basic operations.* The purpose of this unit is to enable driver-students to gain the proficiency in basic operation needed to safely undertake on-street instruction in the Safe Operations Practices section of the curriculum.

The activities of this unit must consist of driving exercises that provide practice for the development of basic control skills and mastery of basic maneuvers. Driver-students practice skills and maneuvers learned in the Basic Control and Handling; Basic Maneuvers; and Turning, Steering and Tracking units. A series of basic exercises is practiced at off-highway locations until students develop sufficient proficiency for transition to on-street driving.

Once the driver-student's skills have been measured and found adequate, the driver-student must be allowed to move to on-the-street driving.

Nearly all activity in this unit will take place on the driving range or on streets or roads that have low-density traffic conditions.

## Section 3—Safe Operating Practices

The units in this section must cover the interaction between student drivers, the vehicle, and the traffic environment. They must teach driver-students how to apply their basic operating skills in a way that ensures their safety and that of other road users under various road, weather, and traffic conditions.

*Unit 3.1—Interacting with traffic.* This unit must provide instruction addressing the principles of visual search, communication, and sharing the road with other traffic. Emphasis must be placed upon visual search, mirror usage, signaling and/or positioning the vehicle to communicate, and understanding the special situations encountered by LCV drivers in various traffic situations.

*Unit 3.2—Speed and space management.* This unit must provide instruction addressing the principles of speed and space management. Emphasis must be placed upon maintaining safe vehicular speed and appropriate space surrounding the vehicle under various traffic and road conditions.

Particular attention must be placed upon understanding the special situations encountered by LCVs in various traffic situations.

*Unit 3.3—Night operations.* This unit must provide instruction addressing the principles of Night Operations. Emphasis must be placed upon the factors affecting operation of LCVs at night. Night driving presents specific factors that require special attention on the part of the driver. Changes in vehicle safety inspection, vision, communications, speed management, and space management are needed to deal with the special problems night driving presents.

*Unit 3.4—Extreme driving conditions.* This unit must provide instruction addressing the driving of LCVs under extreme driving conditions. Emphasis must be placed upon the factors affecting the operation of LCVs in cold, hot, and inclement weather and in the mountains and desert. Changes in basic driving habits are needed to deal with the specific problems presented by these extreme driving conditions.

*Unit 3.5—Security issues.* This unit must include a discussion of security requirements imposed by the Department of Homeland Security, Transportation Security Administration; the U.S. Department of Transportation, Research and Special Programs Administration; and any other State or Federal agency with responsibility for highway or motor carrier security.

*Unit 3.6—Proficiency development.* This unit must provide driver-students an opportunity to refine, within the on-street traffic environment, their vehicle handling skills learned in the first three sections. Driver-student performance progress must be closely monitored to determine when the level of proficiency required for carrying out the basic traffic maneuvers of stopping, turning, merging, straight driving, curves, lane changing, passing, driving on hills, driving through traffic restrictions, and parking has been attained. The driver-student must also be assessed for regulatory compliance with all traffic laws.

Nearly all activity in this unit will take place on public roadways in a full range of traffic environments applicable to this vehicle configuration. This must include urban and rural uncontrolled roadways, expressways or freeways, under light, moderate, and heavy traffic conditions. There must be a brief classroom session to familiarize driver-students with the type of on-street maneuvers they will perform and how their performance will be rated.

The instructor must assess the level of skill development of the driver-student and must increase in difficulty, based upon the level of skill attained, the types of maneuvers, roadways and traffic conditions to which the driver-student is exposed.

## Section 4—Advanced Operations

The units in this section must introduce higher level skills that can be acquired only after the more fundamental skills and knowledge taught in sections two and three have been mastered. They must teach the perceptual skills necessary to recognize potential hazards, and must demonstrate the procedures needed to handle an LCV when faced with a hazard.



The Maintenance and Trouble-shooting Unit must provide instruction that addresses how to keep the vehicle in safe and efficient operating condition. The purpose of this unit is to teach the correct way to perform simple maintenance tasks, and how to troubleshoot and report those vehicle discrepancies or deficiencies that must be repaired by a qualified mechanic.

*Unit 4.1—Hazard perception.* This unit must provide instruction addressing the principles of recognizing hazards in sufficient time to reduce the severity of the hazard and neutralize a possible emergency situation. While hazards are present in all motor vehicle traffic operations, some are peculiar to LCV operations. Emphasis must be placed upon hazard recognition, visual search, and response to possible emergency-producing situations encountered by LCV drivers in various traffic situations.

*Unit 4.2—Hazardous situations.* This unit must address dealing with specific procedures appropriate for LCV emergencies. These must include evasive steering, emergency braking, off-road recovery, brake failures, tire blowouts, rearward amplification, hydroplaning, skidding, jackknifing and the rollover phenomenon. The discussion must include a review of unsafe acts and the role they play in producing hazardous situations.

*Unit 4.3—Maintenance and trouble-shooting.* This unit must introduce driver-students to the basic servicing and checking procedures for the various vehicle components and provide knowledge of conducting preventive maintenance functions, making simple emergency repairs,

and diagnosing and reporting vehicle malfunctions.

#### **Section 5—Non-Driving Activities**

The units in this section must cover activities that are not directly related to the vehicle itself but must be performed by an LCV driver. The units in this section must ensure these activities are performed in a manner that ensures the safety of the driver, vehicle, cargo, and other road users.

*Unit 5.1—Routes and trip planning.* This unit must address the importance of and requirements for planning routes and trips. This must include classroom discussion of Federal and State requirements for a number of topics including permits, vehicle size and weight limitations, designated highways, local access, the reasonable access rule, staging areas, and access zones.

*Unit 5.2—Cargo and weight considerations.* This unit must address the importance of proper cargo documentation, loading, securing and unloading cargo, weight distribution, load sequencing and trailer placement. Emphasis must be placed on the importance of axle weight distribution, as well as on trailer placement and its effect on vehicle handling.

#### **PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS**

■ 2. The authority citation for 49 CFR part 391 is revised to read as follows:

**Authority:** 49 U.S.C. 322, 504, 31133, 31136 and 31502; Sec. 4007(b) of Pub. L. 102–240 (105 Stat. 2152); and 49 CFR 1.73.

■ 3. Part 391 is amended by revising the title to read as set forth above and by adding a new § 391.53 to subpart F to read as follows:

#### **§ 391.53 LCV Driver-Instructor qualification files.**

(a) Each motor carrier must maintain a qualification file for each LCV driver-instructor it employs or uses. The LCV driver-instructor qualification file may be combined with his/her personnel file.

(b) The LCV driver-instructor qualification file must include the information in paragraphs (b)(1) and (b)(2) of this section for a skills instructor or the information in paragraph (b)(1) of this section for a classroom instructor, as follows:

(1) Evidence that the instructor has met the requirements of 49 CFR 380.301 or 380.303;

(2) A photographic copy of the individual's currently valid CDL with the appropriate endorsements.

Issued on: March 22, 2004.

**Annette M. Sandberg,**  
*Administrator.*

[FR Doc. 04–6794 Filed 3–29–04; 8:45 am]

**BILLING CODE 4910-EX-P**