

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Parts 380, 383, and 384**

[Docket No. FMCSA-2007-27748]

RIN 2126-AB06

**Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** FMCSA proposes to revise the standards for mandatory training requirements for entry-level operators of commercial motor vehicles (CMVs) in interstate operations who are required to possess a commercial driver's license (CDL). The proposed rule would not apply to drivers who currently possess a CDL or obtain a CDL before a date 3 years after a final rule goes into effect. Following that date, persons applying for new or upgraded CDLs would be required to successfully complete specified minimum classroom and behind-the-wheel training from an accredited institution or program. The State driver-licensing agency would only issue a CDL if the applicant presented a valid Driver Training Certificate obtained from an accredited institution or program. This NPRM would strengthen the Agency's entry-level driver training requirements as a means to enhance the safety of CMV operations on our Nation's highways.

**DATES:** Comments must be received on or before March 25, 2008.

**ADDRESSES:** You must include Docket ID Number FMCSA-2007-27748 for this rulemaking, your name, mailing address, or an email address to ensure that we can identify you so that your comments may be considered. You may submit your comments through the Federal Docket Management System (FDMS), under Docket ID Number FMCSA-2007-27748, by any one of the following methods:

- *Electronic:* You may submit documents electronically through the online FDMS docket Web site at <http://www.regulations.gov>. This site is the preferred method for receiving comments/submission. Follow the instructions for submissions.

- *Mail/Hand Delivery:* You may submit documents by mail or hand delivery to the Docket Management Facility, U.S. Department of Transportation, West Building Ground

Floor, Room W12-140, 1200 New Jersey Ave. SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. DOT will scan the submission and post it to FDMS.

- *Fax:* You may fax your submissions to 202-493-2251. DOT will scan the submission and post it to FDMS.

- *Confidential and Proprietary Information, and Sensitive Security Information:* Comments/submissions containing this type of information should be appropriately marked as containing such information and submitted by mail or hand delivery to the DOT's Docket Management Facility. This type of information will not go in the public docket, but will be placed in a separate file to which the public does not have access.

- *Accessing and Searching FDMS:* All comments will be posted without change to <http://www.regulations.gov>, including any personal information provided. Anyone may access FDMS to submit comments, or review and copy all comments and background material received on a particular rulemaking. Please see Privacy Act issues below.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, Driver and Carrier Operations Division (MC-PSD), telephone (202) 366-4325 or e-mail [mcpsd@dot.gov](mailto:mcpsd@dot.gov).

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**I. Legal Basis for the Rulemaking**

This notice of proposed rulemaking (NPRM) is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984, as well as the mandate of section 4007(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The rulemaking also responds to a 2005 decision of the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit).

The Motor Carrier Act of 1935 provides that "The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" [49 U.S.C. 3502(b)].

This NPRM is intended to improve the "safety of operation" of entry-level "employees" who operate large commercial motor vehicles (CMVs) by ensuring that they receive appropriate training before obtaining a commercial driver's license (CDL).

The Motor Carrier Safety Act of 1984 provides concurrent authority to regulate drivers, motor carriers, and

vehicle equipment. It requires the Secretary of Transportation to “prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles.” Although this authority is very broad, the Act also includes specific requirements: “At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators” [49 U.S.C. 31136(a)].

This NPRM is based primarily on 49 U.S.C. 31136(a)(1), requiring regulations to ensure that CMVs are “operated safely,” and secondarily on section 31136(a)(2), to the extent that untrained entry-level drivers might be given responsibilities that exceed their ability to operate CMVs safely. The NPRM would ensure training of entry-level drivers to operate CMVs safely and to meet the operational responsibilities imposed on them. This rulemaking does not address medical standards for drivers [section 31136(a)(3)] or possible physical effects caused by driving CMVs [section 31136(a)(4)].

Section 4007(a) of ISTEA (Public Law 102–240, December 18, 1991, 105 Stat. 1914, 2151) directed the Secretary of Transportation to undertake rulemaking on the need to require training of all entry-level drivers of “commercial motor vehicles.” The Agency published an advance notice of proposed rulemaking on this subject on June 21, 1993 (58 FR 33874), an NPRM on August 15, 2003 (68 FR 48863), and a final rule on May 21, 2004 (69 FR 29384).

The Motor Carrier Safety Act of 1984 defined a CMV, in part, as a vehicle operating in “interstate commerce” [49 U.S.C. 31132(1)]. The Commercial Motor Vehicle Safety Act of 1986, which created the CDL program, defined a CMV, in part, as a vehicle operating in “commerce,” a term separately defined to cover both interstate commerce and operations that “affect” interstate commerce [49 U.S.C. 31302(2), (4)]. Although both of these definitions were in effect when section 4007(a) was enacted (and still are), Congress did not specify whether an entry-level driver training rulemaking should be limited to

“CMV” drivers in interstate commerce, or whether it should also encompass “CMV” drivers in intrastate commerce.

Article I, section 8, clause 3 of the Constitution gives Congress the authority to regulate interstate commerce. The Supreme Court has held that Congress may also legislate on matters “affecting interstate commerce,” a phrase generally treated as equivalent to intrastate commerce. Federal legislation is presumed, therefore, to apply only to interstate commerce unless it reveals some indication of a Congressional intent to reach intrastate commerce. Neither section 4007(a) nor its legislative history includes evidence of any such intent. Under these circumstances, the Agency concluded that entry-level driver training may be required only for CMV drivers who intend to operate in interstate commerce. In view of the greater risks associated with larger vehicles and those transporting hazardous materials and passengers, as well as the special requirements Congress has imposed on drivers of such vehicles (particularly the CDL and the subsequent drug and alcohol testing program), FMCSA concluded that training requirements should focus on entry-level drivers applying for a CDL who intend to operate in interstate commerce.

Three parties petitioned the DC Circuit for review of the 2004 rule. The court held that FMCSA had failed to consider important aspects of an adequate entry-level training program and remanded the rule to the Agency for further consideration (*Advocates for Highway and Auto Safety v. Federal Motor Carrier Safety Administration*, 429 F.3d 1136 (DC Cir. 2005)). This NPRM addresses the issues raised by the court.

Before prescribing any regulations, FMCSA must consider their “costs and benefits” [49 U.S.C. 31136(c)(2)(A) and 31502(d)]. Those factors are discussed below in the section on “Regulatory Analyses and Notices.”

## II. Background

### A. Statement of the Problem

In the early 1980’s, the Federal Highway Administration (FHWA) Office of Motor Carriers, predecessor to FMCSA, determined that there was a need for technical guidance in the area of truck driver training. Research showed that few driver training institutions offered a structured curriculum or a standardized training program for any type of commercial motor vehicle (CMV) driver. A 1995 study entitled “Assessing the Adequacy of Commercial Motor Vehicle Driver

Training” (the Adequacy Report) concluded, among other things, that effective entry-level driver training needs to include behind-the-wheel instruction on how to operate a heavy vehicle.

In 2004, FMCSA implemented a training rule that focused on areas unrelated to the hands-on operation of a CMV, relying instead on the CDL knowledge and skills tests to encourage training in the operation of CMVs. These current training regulations cover four areas: (1) Driver qualifications; (2) hours of service limitations; (3) wellness; and (4) whistleblower protection. In 2005, the DC Circuit held that the Agency was arbitrary and capricious in promulgating the 2004 rule because it ignored an important conclusion of its own 1995 Adequacy Report, that behind-the-wheel training is essential. Therefore, in this rulemaking FMCSA is proposing new training standards for entry-level drivers that would include behind-the-wheel (BTW) as well as classroom training. [Note: In this notice “behind-the-wheel” training includes both training on public roads and training on private property, sometimes called “driving range” training.]

### B. History

#### Curriculum Standards

The FHWA published a “Model Curriculum for Training Tractor-Trailer Drivers” in 1985. The Model Curriculum provides non-regulatory guidelines and training materials pertaining to vehicles, facilities, instructor hiring practices, graduation requirements, and student placement. Curriculum content addresses basic operation, safe operating practices, vehicle maintenance, and non-vehicle activities. The Model Curriculum reflects a consensus among experts at the time of its publication. Its training standards are not based on any specific research showing that drivers who received training of a particular type or duration are less likely to be involved in crashes than drivers receiving other kinds of training, or no systematic training at all.

The 1985 Model Curriculum recommended the equivalent of a total of 148<sup>1</sup> hours of training, including on-

<sup>1</sup> The original Model Curriculum referred to a total of 320 hours. However, these hours of training include periods when the student is not receiving individual instruction, such as while waiting his/her turn to use an available truck to practice driving skills. Therefore, the Adequacy Report, identified later under this heading, states in relation to the training curriculum established by the Professional Truck Driver Institute (PTDI), which was based on

street training and additional hours of driving-range<sup>2</sup> time. At the time the Model Curriculum was published, the CDL program (49 CFR part 383) did not yet exist. The first CDLs were not issued until 1992.

In 1986, the motor carrier, truck driver training school, and insurance industries created the Professional Truck Driver Institute (PTDI) to certify high-quality training programs offered by training institutions. The PTDI used the truck driver Model Curriculum as the basis for its certification criteria. On January 24, 1999, the PTDI approved revisions to the curriculum and published three separate standards:

- “Skill Standards for Entry-Level Tractor-Trailer Drivers;”
- “Curriculum Standard Guidelines for Entry-Level Tractor-Trailer Driver Courses;” and
- “Certification Standards and Requirements for Entry-Level Tractor-Trailer Driver Courses.”

As of December 2006, PTDI-certified courses are offered at 61 schools in 28 States and Canada, according to PTDI’s Web site (<http://www.ptdi.org>). PTDI estimates that approximately 10,000 students graduate from its certified courses annually.

#### CMVSA: Minimum Uniform Standards for CDLs

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*) established a CDL program that includes national minimum testing and licensing standards for operators of CMVs. The CMVSA directed the Agency to establish minimum Federal standards that States must meet when testing and licensing CMV drivers. The CMVSA

the Model Curriculum, that “The PTDI[A] standard includes \* \* \* 147.5 per-student hours. This is equivalent to the 320 class hours required by the FHWA Model Curriculum” (Adequacy Report, Executive Summary, p. 26). There are several reasons for this variance in the total hours of the respective training programs. First, FHWA’s curriculum includes topics, such as first-aid training, that are not included in the PTDI curriculum. In addition, instructional time may be calculated as either 60- or 50-minute hours. FHWA’s curriculum was based on a 50-minute clock, and PTDI’s on a 60-minute clock. (In this NPRM, 60-minute instructional hours are used unless otherwise stated.) FHWA used a 3:1 ratio (student to instructor) for in-truck training, and PTDI uses a 1:1 ratio. If a 3:1 ratio is used, it is assumed that it will take 3 clock hours to achieve 1 hour of BTW instruction for a student, since only one of the three students can use the truck at a time. The others would have unproductive “waiting time.”

<sup>2</sup> “Driving range time” refers to time operating a CMV on private property, usually a large paved lot specially designed to allow practice of basic driving operations and maneuvers. Some schools’ curricula include both observation and behind-the-wheel time under range hours. This NPRM does not use “range time” in the regulatory text and therefore the term is not defined.

applies to anyone who operates a CMV in interstate or intrastate commerce, including employees of Federal, State, and local governments. The goal was to ensure that drivers of large trucks and buses possess the knowledge and skills necessary to operate safely on public highways.

In accordance with the CMVSA, all drivers of CMVs (as defined in § 383.5) must possess a valid CDL. In addition to passing the CDL knowledge and skill tests required for the basic vehicle group, all persons who operate or anticipate operating the following vehicles, which have special handling or operational characteristics, must obtain endorsements under § 383.93 for:

- Double or triple trailers;
- Passenger vehicles;
- Tank vehicles;
- Vehicles required to be placarded for hazardous materials; or
- School buses.

The driver is required to pass a knowledge test for each endorsement, plus a skills test to obtain a passenger vehicle endorsement or school bus endorsement.

#### ISTEA: Entry-Level Driver Training

The CDL standards require tests for knowledge and skills, but neither the CMVSA nor the FMCSRs requires driver training. The private sector, with guidance from FMCSA, has attempted to promote effective training. Formal, supervised training is available from private truck driver training schools, public institutions, and in-house motor carrier programs. Many drivers take some sort of private-sector training at their own expense. These courses vary in quality. Some provide only enough training to pass the skills test. Generally, however, with or without formal training, drivers individually prepare for the CDL test by studying such areas as vehicle inspection procedures, off-road vehicle maneuvers, and operating a CMV in traffic.

By 1991, Congress had become concerned about the quality of this training. As a result, section 4007(a)(1) of ISTEA required the Agency to study the effectiveness of private sector training efforts, to commence a rulemaking on the need to require training of entry-level drivers of CMVs, and to report to Congress on the results.

#### The Adequacy Report

In 1992, FHWA began to examine the effectiveness of private sector training. The result was a 1995 report entitled “Assessing the Adequacy of Commercial Motor Vehicle Driver Training” (the 1995 Adequacy Report), which the Secretary of Transportation transmitted

to Congress in 1996. A copy of the report is in the docket for this rulemaking.

In developing the Adequacy Report, the FHWA first assembled two groups of people experienced in motor carrier operations: one from the trucking sector and the other from the motorcoach and school bus sectors. These groups first identified baseline training standards for both the cargo- and passenger-transporting segments of the CMV industry. The truck group selected the Model Curriculum as a baseline. The bus group selected a combination of the Model Curriculum and the National Highway Traffic Safety Administration’s (NHTSA) “School Bus Driver Instructional Program,” developed in 1974. The groups reached a consensus on minimum requirements for the numbers of class and practice driving hours, student/teacher ratios, and course topics.

The question then was whether driver training could be effective in the absence of the formal instruction embodied in the baseline standards selected by the truck and bus experts. Without much analysis or data, the FHWA concluded formal training<sup>3</sup> is the key to adequate training. The Adequacy Report defined “effectiveness” as “the prevalence or frequency with which the motor carriers \* \* \* provided formal training for their entry-level drivers” (Adequacy Report, Executive Summary, p. 2). Evidence of the relationship, if any, between certain types and amounts of training and a reduction in crashes was scarce and statistically questionable.

The next step involved collecting information on and analyzing training programs currently offered by the cargo and passenger segments of the motor carrier industry. The groups developed an algorithm that they used to quantitatively compare existing driver training with the baselines.

In the final step, the study surveyed both drivers and employers. The survey asked 192 drivers what percentage of drivers they thought were adequately trained by training schools.

The conclusion of both the training analysis and the driver survey was that the heavy truck, motorcoach, and school bus segments of the CMV industry were not providing adequate entry-level driver training (*Id.*, p. 6). The Adequacy Report also stated that “\* \* \* it appears

<sup>3</sup> “Entry-level training” as the term is used in the Adequacy Report, includes all pre-service, on-the-job, and in-service training during the first 3 years of a driver’s experience. “Formal training” included only the pre-service training received through established programs of instruction presented by schools or the carriers (*Id.*, p.13).

the present level of training adequacy is not likely to improve due to the actions of the private sectors themselves (*Id.*, pg. 7)."

The Adequacy Report also made extensive comments on the form that "adequate" entry-level training would take. The report found that there was general agreement among transportation and training officials that the Model Curriculum, developed in the 1980's, represented an "adequate content and approach for training truck drivers." The report recommended the Model Curriculum as the starting point for defining adequate training. It also included criteria involving " \* \* \* classroom hours, practice (off-street and on-street) hours, student/teacher ratios, behind-the wheel time, and course content topics (*Id.*, p. 15)." The Adequacy Report did not reach a conclusion as to whether "testing-based," "training-based" or "performance-based" approaches to entry-level driver training would be more effective.

The Adequacy Report took the intuitive position that entry-level driver training is beneficial. However, it found " \* \* \* no evidence of a relationship between adequacy of the training the driver reported receiving and his/her frequency of crashes (*Id.*, p. 10)." The Adequacy Report included a literature review that also failed to identify studies or data indicating a positive correlation between driver training and crash reduction (*Id.*, p.22).

The Adequacy Report stated, "Few will argue that training is not necessary for CMV drivers. It is hard to imagine someone safely operating a heavy truck, motorcoach, or school bus without at least guidance from an experienced operator and a chance to practice the basic driving skills. FHWA and elements of the private sectors have gone beyond this in recommending formal training for CMV drivers because it is the only way to assure that all of the necessary knowledge and skills are covered, using a structure that maximizes the chances that learning will occur" (Adequacy Report, Volume III, pp. 7-24).

#### Previous Rulemakings

*Advance Notice of Proposed Rulemaking (ANPRM) and Public Meeting.* Pursuant to section 4007(a)(2) of ISTEA, the Agency began a rulemaking proceeding on the need to require training of all entry-level CMV drivers. On June 21, 1993, the Agency published an ANPRM in the **Federal Register** entitled "Commercial Motor Vehicles: Training for All Entry Level Drivers" (58 FR 33874). The Agency

asked 13 questions that addressed training adequacy standards, curriculum requirements, the CDL, the definition of "entry-level driver," training, pass rates, and costs. The Agency received 152 comments that were discussed in the preamble to the subsequent NPRM.

On November 13, 1996, twenty-six people participated in a public meeting to discuss mandatory training for entry-level CMV drivers.

There was no consensus in the written or oral comments on the issue of mandated entry-level driver training.

*Notice of Proposed Rulemaking (NPRM).* The FMCSA published an NPRM in the **Federal Register** on Friday, August 15, 2003 (68 FR 48863). The Agency received 38 comments; they were analyzed in the preamble to the 2004 final rule. For purposes of the NPRM, FMCSA defined an entry-level driver as a person with less than two years experience operating a CMV that requires a CDL.

The Agency proposed training for entry-level drivers based on three main principles. First, the Agency focused the NPRM requirements on drivers included in the Adequacy Report; i.e., only drivers in the heavy truck, motorcoach, and school bus industries. Second, the NPRM focused on drivers who operate in interstate commerce subject to the Motor Carrier Safety Act of 1984. Third, the Agency limited the NPRM to those training topics that extend beyond the scope of the CDL tests.

The NPRM proposed training in the following areas: (1) Driver medical qualification and drug and alcohol testing, (2) driver hours of service rules, (3) driver wellness, and (4) whistleblower protection. The Agency believed that training in these four areas would serve to establish a baseline of safety for entry-level CMV drivers at a reasonable cost for drivers or employers. The NPRM did not specify a required number of hours for the training or indicate who would provide the training. However, the Agency's cost-effectiveness estimate was premised on 10.5 hours of training for heavy truck and motorcoach drivers and 4.5 hours of training for school bus drivers. The FMCSA proposed only two training topics for school bus drivers: Driver wellness and whistleblower protection.

The NPRM proposed that the employer would have to maintain a training certificate in the driver's personnel file showing that the driver had received the training.

*Final Rule.* After review and analysis of the 38 comments on the NPRM, the Agency published a final rule in the **Federal Register** on May 21, 2004 (69 FR 29384). The final rule codified the

entry-level driver training requirements at 49 CFR part 380, subpart E, in much the same way that they were proposed, with a few minor adjustments.

All of the relevant documents from previous rulemakings on topics related to this NPRM are in the docket for this rulemaking as identified at the beginning of this notice.

#### DC Circuit Decision

The Advocates for Highway and Auto Safety (Advocates) challenged the rule in the DC Circuit. The Advocates argued that the final rule ignored earlier Agency recommendations because the Adequacy Report had concluded that effective entry-level driver training needed to include behind-the-wheel instruction on how to operate a heavy vehicle. Instead, FMCSA required training that focused on areas unrelated to the hands-on training of a CMV operator. In its December 2005 decision, the court agreed with the petitioner and remanded the rule to the Agency for further consideration consistent with the decision.<sup>4</sup> The court did not vacate the 2004 final rule, which remains in effect.

#### Training Research and Studies

Since completing the Adequacy Report, the Agency has continued to study the problems related to training commercial motor vehicle operators.

*Transportation Research Board (TRB) Reviews.* In 2004, FMCSA sponsored the TRB report "Training of Commercial Motor Vehicle Drivers" (Synthesis 5).<sup>5</sup> A copy of that report is in the docket for this rulemaking. For Synthesis 5, TRB researchers conducted an extensive literature review and surveyed experts in the CMV driver training field to identify training tools and techniques that hold the greatest potential to improve CMV safety. The following "recommended practices for improving training effectiveness for entry-level CMV drivers are supported by this synthesis" (Synthesis 5, p. 2): (1) Acceptance and adherence to standards put forward by the Professional Truck Driver Institute (PTDI), (2) "finishing training" for solo drivers, (3) use of multimedia instructional materials, (3) appropriate uses of affordable simulation options, (4) expansion of use of skid pads, and (5) employment of

<sup>4</sup> *Advocates for Highway and Auto Safety v. Federal Motor Carrier Safety Administration*, 429 F.3d 1136, at 1145 (DC Cir. 2005).

<sup>5</sup> Staplin, L., Lococo, K., Decina, L., and Bergoffen, G. (2004), *Training of Commercial Motor Vehicle Drivers*. Commercial Truck and Bus Safety Synthesis Program, Transportation Research Board, Washington, DC.

videos for health, wellness, and lifestyle issues.

In 2006, FMCSA contracted with TRB for a synthesis report on commercial motor vehicle driver training curricula and delivery methods and their effectiveness (Synthesis 13).<sup>6</sup> A copy of this report is in the docket. The purpose of Synthesis 13 is to provide information to assist the commercial vehicle safety community in assessing CMV training practices and their effectiveness.

In its conclusions, Synthesis 13 describes six aspects of CMV driver training in which shortcomings may exist: Content, instructional methods, trainers, training and curriculum design, measurement standards, and operator abilities. Each is described briefly as follows:

**1. Content:** There are no national curricular standards, but when various curricula are examined, little content difference can be found. There is general agreement across the industry that the 1985 FHWA Model Curriculum forms the core content of commercial driving training. That standard has not been updated since 1985. The industry should use a systematically developed modern commercial driver training curriculum.

**2. Instructional Methods:** By far, the favorite method for training commercial drivers is a combination of classroom lectures and supervised driving. Most of the research findings on adult learning and instructional technology from the last 30 years have not been adopted by a significant number of commercial driving enterprises. In those cases where advanced technologies are being applied, early data indicate that well designed computer based instruction, including simulation, can improve student performance and also realize efficiencies in the instructional process. Distance learning shows great promise for post-licensing training.

**3. Train the Trainers:** It is natural that older, experienced drivers are selected to be instructors, no matter if the training is administered by a school, carrier, bus company, or transit agency. But there is no evidence that a person who is a job expert is necessarily a good teacher. There are two clusters of skills a good driver training instructor must possess beyond driving competence. Classroom skills (presentation fundamentals, using classroom equipment, listening to students) are

well recognized as part of good train-the-trainer programs. The second cluster of skills, required of a behind-the-wheel instructor, consists of observational fundamentals, explaining activities in understandable and behavioral terms, remaining calm, and possessing the ability to anticipate risky situations. Since there are no standards for CMV driver training instructors, this role in the training process is extremely variable.

**4. Lack of Systematic Training Design:** As discussed above, the motor carrier and training school industries have reached an informal consensus on the subject matter of commercial driver training. However, it has been over 20 years since a formal curriculum design for commercial drivers was systematically developed. In that time, the CDL program has become law, new technologies and regulations for truck and bus operations have had a major impact on the drivers, and the collective knowledge about what affects commercial driver's performance (e.g., fatigue, distraction, age) has grown significantly.

**5. Lack of Standards for Measuring the Effectiveness of Driver Training Programs:** Currently, the only generally acceptable standard for measuring the effectiveness of commercial driver training is the number of graduates who can pass their CDL tests. In both the survey and in interviews, schools reported that they also track the number of graduates that are hired by carriers. Motor carriers, motorcoach operations, and transit agencies report that they are sure that training reduces crashes; however, there is little or no data that support that view. Standards purporting to measure training effectiveness tend to measure processes (classroom hours, time spent behind the wheel) rather than specific performance outcomes.

**6. CMV Operator Abilities:** There has been recent research on the capabilities and limitations of adolescent drivers. However, a similar scientific approach to commercial drivers is lacking. If CMV trainers understood more about the learning styles, cognitive strategies, and past educational experiences, training could be tailored to the relevant needs of the individual student. A set of diagnostic tests that could funnel students into the optimum learning context would improve commercial driver training.

The authors of Synthesis 13 stated, "Although the literature review produced instances of driving improvement linked to specific training interventions (e.g., simulators) there are no general data linking decreased crash rates to formal training programs. The

two primary reasons for this are: (1) Training, as a concept, is not well nor operationally defined and (2) there are no generally agreed upon standards by which various training programs can be compared. A third problem is the likelihood that most training effects are felt in the first six months of a driver being on the road" (Synthesis 13, p. 22).

Responding to TRB Review Conclusions

It would require years of research, systems design, standards development, and cost-benefit analysis involving many stakeholders to fully address the shortcomings identified in the TRB Syntheses 5 and 13 reports. This NPRM proposes core training for CDL applicants. The proposal includes minimum curricular requirements that were developed by FHWA in cooperation with the driver training industry, and that have elicited "general agreement across the industry" (*Id.*, p. 2). Minimum qualification standards for instructors are established, flexibility in use of various instructional methods is provided, and testing standards are specified.

The FMCSA believes that the mandatory training proposed in this NPRM need not be delayed until further research is conducted, standards developed, etc. The CMV driver-training industry will continue to address these issues, and the Agency and other interested parties will continue their research and development efforts. FMCSA will also monitor CMV driver training. In the meantime, FMCSA believes that the proposals in this NPRM would help entry-level CDL drivers learn to operate more safely.

The following remarks relate to the six aspects of CMV training in which shortcomings were identified in Synthesis 13. The FMCSA invites comments to the docket regarding each of these topics.

**1. Content:** Although the Model Curriculum has not been re-issued by a government agency since its original publication by FHWA in 1985, it has been formally updated on a regular basis by PTDI, and it remains the generally accepted basis for most current CMV driver-training curricula. The curricula in this proposed rule would be consistent with the standards currently adopted by many professional CMV driver-training schools and associations. Comments to this NPRM will be considered when determining the necessity and urgency of initiating a formal, official update to the original 1985 FHWA Model Curriculum.

**2. Instructional Methods:** The FMCSA agrees that recent changes in instructional technology, such as

<sup>6</sup>Brock, J., McFann, J., Inderbitzen, R., and Bergoffen, G. (2007). *Synthesis on Effectiveness of Commercial Motor Vehicle Driver Training Curricula and Delivery Methods*. Commercial Truck and Bus Safety Synthesis Program, Transportation Research Board, Washington, DC.

simulators, computer-based instruction, and “distance learning” can be effective in improving the quality and reducing the length of CMV driving instruction. The FMCSA is currently engaged in a multi-year research project, titled “Truck Simulator Validation (SimVal),” to determine the effectiveness of driving simulators in CMV training. The SimVal project will examine the subsequent driving performance records of four groups of new CDL drivers. Group 1 will receive 8 weeks of PTDI-certified training including behind-the-wheel training in a conventional tractor-trailer. Group 2 will receive the same training, but substitute a driving simulator for two-thirds of the behind-the-wheel training. Group 3 will receive a compressed (1 to 3 week) training program focusing primarily on passing a CDL examination. Group 4 will receive no formal training, which will allow evaluation of training in general compared to no formal training.

As data from the SimVal project and others become available to measure the effectiveness of these technologies and adopt standards for their use in a CMV driver-training environment, FMCSA will consider the need for further regulatory revisions.

**3. Train the Trainers:** In proposed § 380.609, this NPRM would adopt basic standards for both classroom and skills instructors. In addition, by requiring that all training be conducted at an accredited educational institution or program, the proposed rule would result in additional professional standards for instructors as determined by the accreditation criteria.

**4. Lack of Systematic Training Design:** Comments to this NPRM will be considered when determining the necessity, urgency, and best method of initiating a systematic design for CMV driver training. This would be part of the “content” review discussed in item 1, above.

**5. Lack of Standards for Measuring the Effectiveness of Driver Training Programs:** Currently, there are no data available to permit comparison of CMV driver training to the subsequent safety performance of the driver. In particular, no accessible records of training exist. By requiring standardized training as of a specified date, and by requiring certain information about that training to be entered into the Commercial Driver License Information System (CDLIS), this proposed rule would provide the baseline data needed to begin to study the effectiveness of the training when compared to the actual crash experience of the drivers. In addition, the Agency intends to continue working closely with

professionals in the field of CMV driver training to identify additional methods of measuring the effectiveness of CMV driver training.

**6. CMV Operator Abilities:** Synthesis 13 mentioned the tailoring of training to the relevant needs of each student, and suggested the potential use of diagnostic tests to “\* \* \* funnel students into the optimum learning contest. \* \* \*” The tests, tools, and standards for customizing driver training to an individual student’s needs do not yet exist on the scale necessary for development of regulatory provisions. However, these are currently being developed, implemented, and studied in training programs operated by large motor carriers and by CMV driver-training institutions. The FMCSA will continue to monitor and study the appropriateness of incorporating these concepts into regulatory provisions.

**Large Truck Crash Causation Study (LTCCS).** In September 2006, FMCSA conducted further analysis on the recently released FMCSA/National Highway Traffic Safety Administration Large Truck Crash Causation Study (LTCCS) for data regarding the training and experience of commercial drivers involved in crashes. The LTCCS provides information on nearly one thousand selected truck crashes from around the country.

The LTCCS data specify many characteristics of each crash, including the training of the drivers involved and whether or not the driver was at fault. However, analysis using the LTCCS was inconclusive and did not identify any statistically significant difference between trained and untrained drivers with regard to crash frequency. Analysts reported that the relatively small sample size and difficulty in differentiating the effects of training, experience, and age precluded useful conclusions.

#### C. Request for Comment on the Need for the Regulation

Although FMCSA believes that this proposal will improve the ability of entry-level drivers to operate more safely and reduce the likelihood that they will be involved in crashes, the agency has noted the lack of research findings indicating a relationship between standardized driver training and increased safety. Specifically,

- In the Adequacy Report, which included a literature review, the FHWA found no statistically valid relationship between specific types and amounts of training and crash rates.

- The TRB’s Synthesis 13 found no research data that linked a reduction in crash rates to formal training programs.

- An analysis of the data produced in the LTCCS failed to identify a statistically significant difference in crash frequency between trained and untrained drivers.

Given the lack of data that would indicate that the training requirements in this proposed rule would result in a reduction in crash rates, FMCSA solicits comments on the analytic basis and justification for this proposed rule. Comments are specifically invited that would address any of the research gaps that make it impossible to demonstrate a relationship between increased systematic training and improved safety.

### III. General Discussion of the Proposal

#### A. Scope and Applicability

Successful completion of training required by this proposed rule would ensure that an applicant for a commercial driver’s license (CDL) had successfully acquired essential knowledge and skills, based on classroom and behind-the-wheel training, to safely operate a CMV. The CDL knowledge and skills testing programs administered by State driver licensing agencies (SDLAs) would confirm that the applicant possesses and can demonstrate the minimum knowledge and skills. After obtaining the CDL and beginning to work for a motor carrier, the CDL holder would usually undergo further “finishing training” and supervision from the employer to ensure the driver has safe driving abilities. This NPRM addresses the first part of the CMV driver’s training—that obtained prior to being issued a CDL.

The new training requirements proposed in this NPRM would apply to all persons applying for a CDL for the first time who intend to operate CMVs in interstate commerce, and to persons upgrading from one class of CDL to another. The requirements would become operational 3 years after the effective date of the final rule. The requirements would apply to all persons required under § 383.3 to have a CDL, except for: (1) Those who intend to operate exclusively in intrastate commerce; (2) those who are excepted from obtaining a CDL under paragraphs (c) and (d) of § 383.3<sup>7</sup>; and (3) those who obtain a restricted license under paragraphs (e), (f), and (g) of § 383.3<sup>8</sup>.

A person who holds or obtains a CDL within 3 years after the effective date of the final rule would not be required to

<sup>7</sup> Certain military personnel, farmers, firefighters, emergency response vehicle drivers, and drivers removing snow and ice.

<sup>8</sup> Certain drivers in farm-related service industries and in the pyrotechnic industry.

meet these training requirements. However, 3 years after the effective date of this rule, a person whose CDL has been revoked or had expired more than 4 years earlier would be required to meet these training requirements. These training requirements would apply to all classes<sup>9</sup> of CDLs, although the curriculum requirements specified in appendix B would be different for Class A and for Class B/C license applicants.

In 2006, FMCSA personnel visited various training facilities to gain the benefit of their expertise. The training facilities chosen were Delaware Technical and Community College, a public school; Schneider National, Inc., a motor carrier; National Tractor Trailer School, Inc., a private school; and The SAGE Corp., a nationwide organization of 30 professional truck driver schools. All of these training entities agreed that current knowledge and skills testing for the CDL does not negate the need for training. They also agreed that training should be a prerequisite for the CDL. While FMCSA acknowledges these training facilities have a vested interest in increasing training requirements, the Agency believes that entry-level driver training should be a prerequisite for the CDL.

Under the proposed requirements, a person applying for a CDL would have to provide a Driver Training Certificate containing the required information and certifications to the State driver's license agency (SDLA). The State would have to include a record of the certificate in the Commercial Driver License Information System (CDLIS) and retain a copy or image of the certificate.

This NPRM also includes proposed requirements for the training program, including specific curriculum requirements and driver-instructor requirements, described below.

#### *B. Curriculum Content*

This NPRM contains minimum, mandated training requirements designed to enhance CMV safety. The mandated entry-level training concentrates on driver skills directly related to CMV safety. It is based on the FHWA Model Curriculum that addresses basic operation, safe operating practices, vehicle maintenance, and non-vehicle activities. As noted earlier, the training standards embodied in the Model Curriculum are not based on any research data indicating that drivers are more or less likely to be involved in crashes, depending on the type and

duration of their training. Accordingly, the agency invites commenters to provide information or research data that could demonstrate the relative effectiveness of the Model Curriculum compared to other training standards.

The Adequacy Report tried to determine what form "adequate" entry-level training should take. The report stated that, "With regard to heavy trucks, there is general agreement in the industry that the model tractor-trailer driver curriculum developed by the FHWA in the mid-1980s represents an adequate content and approach for training truck drivers." Although the Model Curriculum has not been formally updated since its original publication in 1985, it has been updated by private organizations such as PTDI, and it remains the generally-accepted basis for many current CMV driver-training curricula.

The Agency is proposing entry-level training that would be applicable to the operators of all types of CMVs, but would vary according to the class of CDL, as outlined in proposed appendix B to part 380. In developing these curricula, FMCSA compared the requirements of the FHWA Model Curriculum, the PTDI core curriculum, and the curricula and experiences of driver-training facilities surveyed by FMCSA personnel to define the core safety-training elements. The Agency chose curriculum topics that would provide training directly related to CMV safety. The FMCSA eliminated any peripheral training topics which, although worthwhile to the industry, are not related to safety.

The training programs proposed in part 380 appendix B are described in general terms and rely on testing and performance-based concepts, but the Agency believes it is necessary to specify both a minimum number of hours of training and the percentage of a student's time dedicated to behind-the-wheel training. These requirements would help to ensure the adequacy and uniformity of training. FMCSA seeks comments regarding methods of ensuring the adequacy and quality of training if minimum hours were not specified, including behind-the-wheel training. To what extent could performance standards be substituted for mandatory training time?

Difficulties arise in matching specific curriculum requirements to the classes of CDLs for which the training would qualify an applicant. The curriculum for applicants for Class A CDLs is well-established in the Model Curriculum; Class A covers all large, articulated vehicles, usually tractor-trailers. However, Class B vehicles include both

large straight trucks and buses. A separate curriculum that included passenger-safety issues would potentially include material not needed by a trainee who does not intend to obtain a passenger endorsement. And, since Class C CDLs are not based on vehicle configuration, but rather on passenger or hazardous materials use, the issue of curriculum development becomes even more complex. At the time an applicant applies for a Class C CDL, many States require that a passenger or hazardous materials endorsement also be obtained, even though not specifically required at that time by provisions of 49 CFR parts 383 or 384.

Further complications develop when considering upgrades in license classes or the addition of endorsements. Would a separate "add on" training component be needed specifically for those changing from one class to another or adding a specific endorsement? In this NPRM, the Agency has proposed only two curricula, contained in Parts I and II of Appendix B. Part I is for Class A CDL applicants, and Part II is for Class B and C applicants. The FMCSA invites comments and proposals regarding alternative methods of matching specific curricula components to licensing actions involving the State driver licensing agency (SDLA). For example, if a driver wants to upgrade from a Class B to a Class A CDL, what training should be required, and what type of training certificate should be presented to the SDLA? Should the driver be required to complete the entire Class A classroom and behind-the-wheel (BTW) training, or should a more limited supplemental training curriculum be required? Should a supplemental curriculum include modifications to both the classroom and BTW components?

The Adequacy Report determined that effective training for CMV drivers required behind-the-wheel instruction on how to operate a heavy vehicle. The proposed entry-level training curriculum contains 44 hours of practical behind-the-wheel experience for Class A applicants and 32 hours for Class B and C applicants. Vehicles requiring a Class A CDL are typically tractor-trailer combinations or large straight trucks towing trailers. The training standards for operating Class A vehicles are outlined in Part I of appendix B.

FMCSA believes that the skills to operate Class B and C vehicles are similar enough to be covered by the same training program, as outlined in Part II of Appendix B. Class B vehicles, while also over 26,000 pounds GVWR,

<sup>9</sup> Throughout this preamble, the commonly-used "class" is used to refer to the CDL "groups" as described in Part 383.

are more represented by operators of straight trucks and buses, which do not have the same operating characteristics as tractor-trailers.

Class C vehicles include those that do not meet the larger size/weight requirements for Class A, but which carry placardable quantities of hazardous materials or certain numbers of passengers. In some cases, Class C could include a standard automobile. For these reasons, the Agency believes that fewer behind-the-wheel training hours are needed for Class B/C applicants. The proposed classroom training for Class B/C applicants is similar to that for Class A, except for provisions associated with articulated vehicles and certain other topics applicable to tractor-trailers. This results in fewer classroom training hours for Class B/C applicants than for Class A.

For Class A applicants, the mandatory minimum hours of behind-the-wheel training must be conducted in a traditional tractor-trailer combination for which a Class A CDL would be required. For Class B applicants, the mandatory minimum hours of behind-

the-wheel training must be conducted in a vehicle representative of that class. For Class C applicants, the mandatory minimum hours of behind-the-wheel training must be conducted in a straight-truck having a gross vehicle weight rating of at least 14,000 pounds. Where appropriate in Class C training, the use of a trailer in addition to the required straight-truck is recommended.

The Class B/C training curriculum is intended to include those elements common to the safe operation of any CMV. Drivers of vehicles requiring a Class B CDL primarily operate either large straight trucks or buses. Drivers of vehicles requiring a Class C CDL generally operate "small" passenger-carrying vehicles or vehicles requiring placarding for hazardous materials (both 26,000 or less GVWR; otherwise, a Class A or B CDL would be required). Mandatory training requirements for drivers transporting hazardous materials already exist in 49 CFR 172.704. These Class C drivers must also obtain a CDL hazardous materials endorsement that requires a separate knowledge test (49 CFR 383.93). Drivers of passenger-carrying vehicles must obtain a CDL

passenger endorsement that requires separate knowledge and skills tests (49 CFR 383.93).

The FMCSA seeks comments on the content and extent of proposed training for Class A and Class B/C applicants and whether a separation of Class B and C requirements into individual curricula would have merit. If so, comments are sought regarding the content of these separate courses. Comments are also sought regarding the minimum specifications for the type of vehicle that should be required for Class B and C behind-the-wheel training, recognizing that when applying for a CDL, the driver may not yet know the specific type of vehicle he or she will be operating.

The Agency also seeks comments and data on the correlation between hours and content of training and the driving records of persons completing such training; i.e., data indicating the effectiveness of entry-level driver training.

The proposed hours of training requirements are shown in the table below:

TABLE 1.—MINIMUM HOURS OF TRAINING REQUIRED BY PART 380 APPENDIX B

Section	Minimum Hours		
	Classroom	* BTW	Total
<b>Part I: CLASS A APPLICANTS</b>			
(1) BASIC OPERATION .....	20	24	44
(2) SAFE OPERATING PRACTICES .....	8	17	25
(3) ADVANCED OPERATING PROCEDURES .....	15	3	18
(4) VEHICLE MAINTENANCE .....	7	0	7
(5) NON-DRIVING ACTIVITIES .....	26	0	26
Total .....	76	44	120
Percentage .....	63%	37%	100%
<b>Part II: CLASS B/C APPLICANTS</b>			
(1) BASIC OPERATION .....	15	18	33
(2) SAFE OPERATING PRACTICES .....	8	12	20
(3) ADVANCED OPERATING PROCEDURES .....	11	2	13
(4) VEHICLE MAINTENANCE .....	5	0	5
(5) NON-DRIVING ACTIVITIES .....	19	0	19
Total .....	58	32	90
Percentage .....	64%	36%	100%

\* Behind-the-wheel (BTW).

Modern technology provides opportunities, not otherwise available to entry-level drivers, to learn safe driving techniques using computers and simulators. However, current research has not fully substantiated the equivalency of simulator training and

behind-the-wheel training.<sup>10</sup> Therefore, although FMCSA encourages the use of simulators and computer-based instruction, and authorizes them when appropriate for classroom training, this NPRM does not propose to authorize

<sup>10</sup> The FMCSA is currently conducting a 4-year "Truck Simulator Validation Study" to help determine whether simulators add value to truck driver training and longer-term safety performance.

substitution of simulator training for the minimum hours of behind-the-wheel training. The FMCSA requests references to any studies showing the effectiveness of simulator training and comments on the potential for substituting such training for actual driving time.

The proposed curriculum lists the minimum number of hours an entry-

level driver must spend learning any core training element. To provide flexibility for instructors and drivers, however, the content of each unit of training is described in general terms. At the conclusion of the training, the driver-student must pass knowledge and skills tests to determine if he/she has mastered the required information. Tests must be based on the training provided to the driver-student and cover the entire range of information. The skills test must include all the maneuvers and operations practiced during the behind-the-wheel instruction.

Training institutions would be required to administer these tests to their entry-level driver students. Only qualified instructors, as defined in the proposed rule, may administer and score tests.

### C. Training Providers

Entry-level drivers would have to successfully complete a training program that meets the requirements of subpart F and appendix B of part 380. The FMCSA proposes that the training provider or program would have to be accredited by an agency recognized by the U.S. Department of Education (ED) or by the Council for Higher Education Accreditation (CHEA). A motor carrier could develop its own training program for entry-level drivers, but it would have to be accredited on the same basis as an independent training institution. On the other hand, motor carrier training programs or courses designed for drivers who already have CDLs would not be subject to this rule and would not require accreditation.

FMCSA recognizes that the accreditation process could impose a burden both on professional driving schools and on carrier-run programs. It can take 1–2 years for a school or program to obtain accreditation by an agency recognized by ED or CHEA. Accrediting agencies often require that a school be in business for 2 years before applying for accreditation. However, accreditation is important because it demonstrates a commitment to meeting research-based standards, engaging in continuous improvement, and providing for quality assurance through self-evaluation and peer review. In addition, if a school is not accredited by an agency recognized by ED, the student may not be eligible for Federal educational assistance loan programs. This may be an important consideration for students who are paying for their own entry-level driver training.

Extensive information about the accreditation process is available on the ED and CHEA Web sites at: <http://www.ed.gov/admins/finaid/accred/index.html> and <http://www.chea.org>. It is important to understand that ED and CHEA do not accredit institutions or programs directly. They officially recognize agencies that are authorized to accredit the institutions and programs. Although they do not accredit individual schools or programs, ED and CHEA maintain searchable databases of schools and programs that have been accredited by agencies recognized by them. Access to these databases is available through links on the ED and CHEA Web sites previously identified. The ED and CHEA point out that the information in these databases may not be completely current and accurate.

On its Web site, CHEA maintains a list of all accrediting agencies recognized by ED, CHEA, or both. As of February 2006 (last update), the list contained 81 individual agencies. These agencies accredit schools, programs, or both. Some, but not all, of these agencies accredit schools or programs involving truck-driver training. Based on a “keyword” search of databases at ED (<http://ope.ed.gov/accreditation/Search.asp>) and the National Center for Education Statistics’ College Opportunities Online Locator (<http://www.NCES.ed.gov/ipeds/cool/>) for truck-driver training programs, FMCSA identified approximately 130 accredited schools, some of which have numerous operating locations.

The following 11 agencies accredit most of these truck-driver training programs or schools: (1) Accrediting Commission of Career Schools and Colleges of Technology; (2) Council on Occupational Education; (3) Middle States Association of Colleges and Schools, Commission on Higher Education; (4) Middle States Commission on Secondary Schools; (5) New England Association of Schools and Colleges, Commission on Institutions of Higher Learning; (6) North Central Association Commission on Accreditation and School Improvement; (7) North Central Association of Colleges and Schools, The Higher Learning Commission; (8) Northwest Commission on Colleges and Universities; (9) Southern Association of Colleges and Schools, Commission on Colleges; (10) the Western Association of Schools and Colleges, Accrediting Commission for Schools, and; (11) the Accrediting Council for Continuing Education and Training.

The FMCSA seeks comments regarding the appropriateness of accreditation as a means of maintaining quality control over the training provided, the ability of existing entry-level training facilities to acquire accreditation, and the necessity of acknowledging CHEA in addition to ED as an entity that may recognize accrediting agencies for purposes of this entry-level driver training. Comments are also sought regarding any possible alternatives to accreditation that would accomplish similar objectives.

The proposed 3-year phase-in period would also allow time for the commercial driver training industry to develop and begin offering training that meets the proposed requirements. Some of these institutions would also need to obtain accreditation during this period.

Upon successful completion of the required training, the entry-level driver would receive a Driver Training Certificate from the training institution. The certificate would have to include: (1) Information about the driver and the training institution; and (2) a certification signed by an official of the training institution under penalty of perjury that the driver has successfully completed the training. The entry-level driver would provide the certificate to his/her SDLA as part of the CDL application process. The SDLA would have to review the certificate, include specified data from the certificate in the Commercial Driver License Information System (CDLIS), and retain a copy or image of the certificate in its records. An entry-level driver who failed to present a certificate meeting the requirements of this rule could not be issued a CDL.

### D. Compliance and Enforcement

*E. Implementation Date*

FMCSA proposes to begin requiring compliance with the requirements set forth in this NPRM 3 years after the effective date of the final rule. The Agency believes the 3-year phase-in period would provide the States with sufficient time to pass any implementing legislation that may be required. States would also need time to modify their information systems to begin recording the Driver Training Certificate information onto the CDLIS driver record. The Agency is seeking comments about the ability of States to carry out the proposals in this rulemaking within the required timeframe and on the length of the implementation period in general.

### E. Implementation Date

The proposed 3-year phase-in period would also allow time for the commercial driver training industry to develop and begin offering training that meets the proposed requirements. Some of these institutions would also need to obtain accreditation during this period.

The Agency seeks comments about existing student capacity at training schools and whether the proposed 3-year implementation period is appropriate. The Agency also seeks comments on the probable costs of entry-level training and any anticipated impacts on carrier operations.

The Agency seeks comments about existing student capacity at training schools and whether the proposed 3-year implementation period is appropriate. The Agency also seeks comments on the probable costs of entry-level training and any anticipated impacts on carrier operations.

#### F. Changes to the Existing Rule

The four types of entry-level training currently required by subpart E of part 380 would be incorporated into the new subpart F. Compliance with subpart F would be required 3 years after the effective date of the final rule. At that time, requirements for ensuring employees have received entry-level training and for maintaining records that show compliance, currently imposed on motor carriers by subpart E, would be removed. Training on driver qualification requirements, hours of service limitations, driver wellness, and whistleblower protection would be included in proposed appendix B to part 380, which will contain all of the curriculum requirements for expanded entry-level training.

### IV. Section-by-Section Explanation of Proposed Changes

#### A. Subparts A–E of Part 380 and Appendix to Part 380

Several amendments to part 380 would be needed to cover the entry-level driver training in proposed subpart F. First, the current undesignated appendix containing the curriculum requirements for Longer Combination Vehicle (LCV) driver training would be re-designated as Appendix A, along with all references to that appendix. Second, the title of subpart D would be revised to read “LCV Driver-Training Certification,” so that there would be no confusion with the requirements in new subpart F for entry-level drivers. Third, the title of subpart E, which contains the current entry-level training requirements, would be revised to read, “Entry-Level Training Requirements Before [date 3 years after effective date of final rule].” A new § 380.500 would be added to specify that compliance with current subpart E would not be required once new subpart F becomes effective. These changes would ensure a smooth transition from the current entry-level training rule to the more extensive requirements of subpart F. (See “III.F. Changes to the Existing Rule,” above.)

Finally, throughout subpart E the term “entry-level driver” would be changed to read “entry-level trainee,” to differentiate between the current rule in subpart E and the proposed rule in subpart F. This is necessary because both subparts would be in the Code of Federal Regulations during the proposed 3-year implementation period. In the current rules, an “entry-level driver” who has already obtained a CDL must receive training on 4 training topics listed in § 380.503. In this proposed rule, an “entry-level driver”

would be a person who has not yet received a CDL and who must complete the proposed extensive training requirements in this NPRM. FMCSA proposes to use “entry-level trainee” for the drivers subject to current subpart E during the implementation period, to avoid confusion between the drivers subject to the current rules and those subject to the future training requirements.

#### B. Subpart F of Part 380 and Appendix B to Part 380

*Section 380.600, Compliance date for entry-level drivers.* The proposed entry-level driver training requirements that would replace those in subpart E would be codified in a new subpart entitled “Subpart F—Entry-Level Driver Training and Driver-Instructor Requirements On and After [date 3 years after effective date of final rule].” The title of subpart E and proposed § 380.600 provide a 3 year compliance period for the new training requirements to become effective. (See “III.E. Implementation Date,” above.)

*Section 380.601, Purpose and scope.* Proposed § 380.601 specifies that subpart F establishes training requirements for entry-level drivers, standards for the institutions that provide the training, qualification requirements for CMV driver-instructors, and the curriculum requirements for the training.

*Section 380.603, Applicability.* Proposed § 380.603 summarizes the applicability of the subpart. This is discussed in “III.A. Scope and Applicability,” above.

*Section 380.605, Definitions.* Proposed § 380.605 contains definitions for various terms used in subpart F. The definition for “behind-the-wheel training” specifies that the student must have actual control of the power unit during the training; merely riding along or observing the operation of a CMV would not be considered behind-the-wheel training. The definition of “entry-level driver” would refer to persons applying for a CDL, whereas under the current rules in subpart E the term applies to drivers who already have CDLs and are employed by motor carriers. The terms “classroom instruction,” “classroom instructor,” “qualified driver-instructor,” and “skills instructor” are all similar to the definitions of those terms in current subpart A. Finally, we would add a definition for the term “training institution” which would require that the institution be accredited by an agency recognized by the U.S. Department of Education or by the Council for Higher Education

Accreditation. Accreditation is discussed under “III.C. Who Will Conduct the Training,” above.

*Section 380.607, Requirement to complete entry-level driver training.* Proposed § 380.607 would cover the requirements for successfully completing the appropriate training. Paragraph (a) explains which curriculum requirements in Appendix B would apply to students, depending on the class of CDL they intend to obtain. Paragraph (b) contains the specification for the Driver Training Certificate, which the training institution would have to provide to students who successfully complete the appropriate training. Paragraph (c) provides that any applicant for a CDL would have to present the original copy of the Driver Training Certificate to his/her State driver’s license agency when applying for a CDL.

*Section 380.609, Entry-level driver-instructor requirements.* Proposed § 380.609 would set forth the qualification requirements for CMV driver-instructors. Paragraph (a) contains the proposed requirements for classroom instructors and paragraph (b) contains the proposed requirements for skills instructors, i.e., instructors qualified to provide behind-the-wheel instruction. Paragraphs (a) and (b) would require instructors to pass or successfully complete courses they will instruct. However, current instructors would be grandfathered; and there would be a transition period allowing for instructors to meet the requirements of paragraphs (a) and (b) within the first 5 years after the effective date of the final rule. The extended time is necessary because new instructors would be required to successfully complete the course they are teaching, and some of these accredited courses will not be available until after the 3-year implementation period. This period would also allow for the development of a cadre of qualified instructors who could teach future instructors.

*Section 380.611, Driver testing.* Proposed § 380.611 would codify the requirements for testing students upon completion of their classroom and behind-the-wheel training. This testing should not be confused with the knowledge and skills tests required under part 383 for persons applying for a CDL. The tests under part 383 determine whether the person is qualified for the CDL. The tests under § 380.611 determine whether the person has learned the material taught in the training program. Paragraph (a) would specify the testing methods to be used. Paragraph (b) describes the standard for

determining the proficiency of the student, and paragraph (c) describes the actions that would result in an automatic failure of the test.

*Appendix B, Entry-Level Driver Training Curriculum.* Appendix B would describe the specific curriculum requirements for entry-level driver training. Parts I and II would contain the minimum program of instruction for Class A and Class B and C CDL applicants, respectively. Each part would contain five sections of training topics, including: basic operation, safe operating practices, advanced operating procedures, vehicle maintenance, and non-driving activities. For each section, the minimum number of hours of classroom training and behind-the-wheel training would be specified. For more discussion, see “III. B. Curriculum Content,” above.

#### *C. Part 383, Commercial Driver’s License Standards; Requirements and Penalties*

Several amendments to part 383 would be necessary to incorporate the requirement for a Driver Training Certificate into the procedures for applying for and issuing a CDL. A new paragraph (a)(10) would be added to § 383.71 to add the Driver Training Certificate to the list of items an applicant must provide when initially applying for a CDL. Section 383.73(a) would be amended to require the States to get the original Driver Training Certificate from the applicant, document the training in the driver’s history file in CDLIS, and keep a copy of the training certificate. Paragraph (d) would clarify when a driver with an intrastate-only CDL would be required to obtain training before applying for an upgrade to an unrestricted interstate CDL. If the application for the upgrade is within 3 years of the date the intrastate-only CDL was first issued, the applicant would need to complete the training. If application for the upgrade occurs beyond 3 years of the date of issuance of the intrastate-only CDL, the State could exempt the applicant from training as long as he/she has not had more than one license, had the license suspended, revoked, or cancelled, or had certain motor vehicle convictions during the 3 years before the requested upgrade. An applicant upgrading a CDL from Class B or C to Class A would be required to complete all of the training required for the higher class. The penalties for false information in § 383.73(g) would be amended to add falsification of information on the Driver Training Certificate. In addition, § 383.95 would be amended to add a reference to the procedures for removing

the intrastate restriction that is being added to § 383.73(d).

#### *D. Part 384, State Compliance With Commercial Driver’s License Program*

A new § 384.230 would be added to part 384 to specify that the States must follow the procedures prescribed in § 383.73 for obtaining, recording, and maintaining the Driver Training Certificate.

### **V. Regulatory Analyses and Notices**

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

FMCSA has determined that this proposed rule is a significant regulatory action under the terms of Executive Order 12866, and significant under the Department of Transportation’s regulatory policies and procedures because of substantial public, industry and Congressional interest. Furthermore, this proposed rule is in response to the Order by the U.S. Court of Appeals for the District of Columbia Circuit (*Advocates for Highway and Auto Safety v. FMCSA*, 429 F.3d 1136, DC Cir. 2005) remanding to FMCSA for further consideration the 2004 final rule concerning entry-level training.

Summarized below is a draft preliminary regulatory analysis of the costs and benefits of this undertaking. A preliminary analysis of the regulatory impact of this proposed rule on small entities is in the docket for this rulemaking.

#### Summary Cost-Benefit Analysis

The FMCSA already requires 10 hours of training for entry-level drivers. This proposed rule would require 110 additional hours of training for entry-level drivers of heavy trucks seeking a Class A license. It would require 80 additional hours for those seeking either a Class B or C license. Therefore, the total amount of training proposed is 120 hours for Class A and 90 hours for Classes B and C. The program of instruction includes both classroom and behind-the-wheel training. The behind-the-wheel driving component would require at least 44 hours for Class A and 32 hours for Classes B and C.

We estimate the total number of entry-level truck drivers affected by this rule to average 40,200 per year for the next 10 years. (We will round numbers to the nearest hundred or thousand where appropriate.) We estimate the numbers of affected entry-level drivers in the school bus and motor-coach industry segments at 119 and 2,600 per year, respectively, over the next 10 years. (As described below in the Estimated Costs

of the Proposed Rule section, the number of school bus drivers in interstate commerce is extremely small.) Therefore, the rule would affect only about 42,900 entry-level drivers annually. The estimated cost of mandatory training is \$176.4 million annually and \$1.325 billion (discounted at 7 percent) over the 10-year analysis period. Large trucks ultimately account for the vast majority of the total costs of this proposed rule—95 percent. Buses—school and inter-city—account for the other 5 percent.

The proposed standards for mandatory training for entry-level drivers of heavy trucks, school buses, and motor-coaches would promote the safe operation of CMVs nationwide. The total number of crashes potentially avoided through compliance with the rule is difficult to quantify, largely because of the absence of reliable information on the impact of training on the reduction of crashes.

It requires \$167.8 million annually to train the 40,200 entry-level large-truck drivers. At costs of \$3.6 million per fatal-injury crash (fatal crash) and \$195,000 per non-fatal-injury crash (non-fatal crash),<sup>11</sup> a crash-reduction of 19.7 percent for the proposed rule’s affected population—that is, entry-level interstate drivers who would not have obtained training were it not for the rule—would result in benefits of \$167.8 million (so that the benefits of the rule equal the costs). Our analysis estimates that entry-level interstate drivers who without the rule would not be trained are responsible for 97 of the approximately 4,568 fatal crashes and 2,574 of the 121,473 non-fatal crashes that occur annually.<sup>12</sup>

A 19.7 percent decrease in those crashes amounts to 19.1 and 507.2 fewer fatal and non-fatal crashes, respectively. This reduction in total crashes represents a *less than one-half of one percent* (0.42 percent) reduction from the annual totals.

This 19.7 percent reduction does not have to occur annually for the rule to be cost effective. The number of crashes, 19.1 fatal and 507.2 non-fatal, is in essence the number that has to be reduced by this “graduating class” of 40,200 trainees over the length of the effectiveness of the training. If we assume that the effect of training lasts 2 years and that it is half as effective in the second year as the first, then

<sup>11</sup> Zaloshnja, Eduard and Ted Miller, “Unit Costs of Medium and Heavy Truck Crashes,” Pacific Institute for Research and Evaluation, December 2006, Tables 2 and 4.

<sup>12</sup> Summarized crash statistics from: <http://ai.volpe.dot.gov/CrashProfile/NationalCrashProfileMain.asp>.

trainees would need to reduce crashes by 12.7 fatal and 338.1 non-fatal (first year) and then 6.4 and 169.1 (second year). In effect, they would only need to reduce by 13.1 percent the first year and 6.5 percent the second.

If we assume that the effect of training lasts 3 years and that it is half as effective in the second year as the first, and half as effective in the third year as the second,<sup>13</sup> then trainees would need to reduce crashes by 10.9 fatal and 290 non-fatal (first year), 5.4 and 145 (second year), and then 2.7 and 72 (third year). In effect, they would only need to reduce crashes by 11.3 percent the first year, 5.6 percent the second, and 2.8 the third.

For school bus drivers who would be affected by this proposed rule, the estimated annual cost to train the 119 entry-level drivers is \$346,000, while the costs of fatal and non-fatal bus crashes are (using the large truck figures above) about \$3.6 million and \$195,000. Therefore, either one fewer fatal crash every 10 years or one fewer non-fatal crash every 2 years would be enough for the benefits of crash reduction to equal the costs.

For intercity bus drivers, given the annual training cost for the 2,591 entry-level drivers of \$8.2 million and the costs of fatal and non-fatal crashes of \$3.6 million and \$195,000, 2.3 fewer fatal crashes or 42.2 fewer non-fatal crashes (or a combination of both) would produce benefits from crash reduction that are equal to the costs.

#### Estimated Costs of the Proposed Rule

Direct costs associated with this proposed rule include the cost of providing training to entry-level drivers of heavy trucks, school buses, and motor-coaches and some relatively minor record keeping costs. The largest component of direct costs is the training cost. Additionally, we estimated indirect costs to the driver (or the employer), which are the driver's opportunity cost of time (i.e., the driver's hourly wage rate, assuming the driver would be working if he or she did not have to attend training).

The two key factors in estimating the cost are the number of drivers who will need training and the hours of training that will be required. We estimate the number of entry-level drivers requiring training based on several factors, including employment trends, industry demand for transportation, expectations for economic growth, and an assumed

increasing presence of trucking in the transportation field.

#### Number of Entry-Level Drivers of Heavy Trucks

We used data from the Bureau of Labor Statistics (BLS) and FMCSA to estimate the number of drivers who would require entry-level driver training under this proposed rule. In their article, "A Summary of Occupational Employment Projections to 2014," the BLS presented estimates of the current number of truck drivers as well as the number needed in 2014. BLS estimates that there are currently 1.74 million heavy truck drivers and another 1.04 million light or delivery truck drivers.<sup>14</sup> The BLS forecasts that 507,000 new drivers of heavy trucks will be needed by 2014, 224,000 to fill new positions and 283,000 to replace current drivers, so an average of 50,700 new drivers will be needed for each of the next 10 years.

The BLS totals for CDL drivers tend to be lower than estimates established by FMCSA. For 2004, the FMCSA total of 4.20 million drivers<sup>15</sup> was 51 percent higher than the BLS estimate of 2.78 million (the sum of heavy and light truck drivers reported above—1.74 + 1.04). For that reason, we adjusted the annual new-driver total of 50,700 by a factor of 1.51—to 76,600—to reflect what may be an under-representation in the BLS when contrasted with our analysis.

Given the 76,600 driver baseline and assuming that 75 percent of entry-level drivers would operate in interstate commerce,<sup>16</sup> the number of entry-level truck drivers potentially affected each year by this proposed rule is 57,400 (75 percent of 76,600).

Further, if we assume 30 percent of the drivers would have received training regardless of whether this rule was in place or not,<sup>17</sup> then 17,200 of the 57,400

<sup>14</sup> BLS definitions do not exactly match the regulatory categories used by the FMCSA. For instance, it is not clear how many of the 1.04 million drivers of light or delivery trucks are required to hold a CDL.

<sup>15</sup> FMCSA, Estimates for the number of CDL and non-CDL Drivers in the National Fleet, Based on May 2005 Motor Carrier Management Information System Data and 2003 Drug & Alcohol Survey; Unpublished, June 15, 2005.

<sup>16</sup> Analysis Division, FMCSA, "Regulatory Evaluation, Minimum Training Requirements For Entry-Level Commercial Motor Vehicle Operators Final Rule," September 2003, p. 5.

<sup>17</sup> <http://www.ptdi.org/schools/schools.htm>. The PTDI Web site indicated that there are currently 61 PTDI certified training programs. These 61 certified programs represent roughly 30 percent of the 200 programs estimated to be currently operating in the United States. Assuming a similar distribution for the percentage of drivers being trained by certified or accredited programs versus those attending non-certified or accredited and employer-sponsored training courses, we assumed that 30 percent of

drivers would not be affected by this proposed rule. The cost to train these 17,200 is not a cost of this rule because these drivers would be trained regardless. That leaves 40,200 (70 percent of 57,400) entry-level interstate drivers who would not receive training were it not for this rule.

#### Number of Entry-Level Operators of School Buses

BLS estimates that the school bus industry employed 463,000 drivers in 2004 and that about 526,000 drivers will be employed in 2014—for an overall growth rate of 13.6 percent over the next 10 years. In addition to the 63,000 new entry-level drivers to meet this growth, there will be an additional 101,000 entry-level drivers needed to replace the current pool of drivers. Therefore, about 21.8 percent of the 2004 pool of drivers will be replaced by 2014. An average of 16,400 new school bus drivers will be needed for each of the 10 years in the BLS forecast period. We increased the BLS estimate by a factor of 1.51 to correspond to our CDL analysis—for an adjusted annual total of 24,800.

A recent FMCSA *final rule* (69 FR 29384, at 29398, May 21, 2004), addressing interstate school bus operations of local educational agencies, revealed that 32 percent of school bus drivers worked for non-governmental entities, mainly as contractors to the local educational agencies. However, not all of these drivers would be expected to receive training that would allow them to operate school buses in interstate commerce, since the number of non-home-to-school interstate trips by local education agencies represents less than 1 percent of all school district trips, according to the same 2004 rule. FMCSA assumed in that rule that a non-governmental employer would train 1.5 times more drivers than would be immediately required, since this provides the employer with short-term flexibility in its operations should the need for interstate school bus trips increase suddenly.

Based on this, the number of entry-level bus drivers who we estimate would be potentially affected by this rule each year is a very small number—119 drivers. This is 1 percent (those who would typically make interstate-based trips) of the 32 percent (those working for non-governmental contractors to local educational agencies) of the projected 24,800 entry-level drivers entering the industry each

entry-level drivers are already being taught the content specified under this rule. This estimate is close to the 31 percent that were estimated to be "adequately" trained in the driver survey of the 1995 FHWA Adequacy Study.

<sup>13</sup> Final Regulatory Evaluation, Entry-Level Driver Training, Federal Highway Administration, May 1995, pages 21–22.

year, multiplied by 1.5 to allow the employer greater flexibility in its operations.

#### *Number of Entry-Level Drivers of Motor-Coaches*

The BLS estimates that there were 190,000 drivers of transit and intercity buses in 2004. The American Public Transportation Association (APTA) estimates that 143,000 people are employed in vehicle operations in the public transit agencies, but does not provide the number of drivers. The APTA figures may also include operations of private motor-coach companies in the contract transit-commuter markets. The APTA's estimates of people employed in vehicle operations and BLS's estimates on the number of transit and intercity bus drivers provide an estimate of about 42,000 drivers employed in intercity buses. This is probably the lower range for drivers in the intercity market because it assumes about 1.2 drivers per motor-coach.<sup>18</sup>

There are currently about 34,800 motor-coaches operated by about 3,600 private motor-coach operators in the United States. There are no firm numbers on the proportion of motor-coaches used in the regularly scheduled services, contract commuters, charter, tours, and sightseeing markets. Assuming 2.5 drivers per motor-coach for about 6,000 motor-coaches operating in the regular route scheduled services and 1.5 drivers per motor-coach for the rest of the industry, the number of drivers operating motor-coaches is estimated as 58,200 in 2004.

Assuming that the intercity bus industry will grow at an average 1.28 percent per year for the next 10 years (and hence achieve the same overall growth rate of the school bus industry between 2004 and 2014), there will be 66,000 intercity bus drivers in 2014. In addition to the 7,900 entry-level drivers required to meet the industry's growth, another 9,200 entry-level drivers will be needed for replacement.<sup>19</sup> Therefore, we estimate the total number of entry-level drivers needed due to growth and replacement at 17,150 over the next 10 years or 1,715 per year. Since the motor-coach industry's growth rate has lagged behind its school bus counterpart, this estimate probably provides an upper

limit of the number of entry level drivers needed in the motor-coach industry by 2014. Applying the adjustment-factor of 1.51 (described above) increases the total from 1,715 to 2,600 drivers.

#### *Hours of Training*

This NPRM proposes that Class A drivers obtain an additional 110 hours of training while Class B and C drivers would need 80 additional hours. Of the 75 percent of entry-level heavy-truck drivers we estimate would be affected by this rule (57,400), we assume that 30 percent (or 17,200) are already being taught the content specified under this rule.

We assume the remaining 70 percent (or 40,200 entry-level drivers) receive training via a non-accredited training program or from their employer. They would be required to undertake an additional 110 or 80 hours (depending on class) of training.

Using data on CDLs issued by the States in 2000, we estimate that 64.5 percent were Class A and 35.5 percent Classes B and C. Applying these percentages to the 40,200 population, the split is 25,900 Class A, and 14,300 Class B and C. Given this class partition, 4 million additional hours of training to entry-level interstate large-truck drivers would be necessary to comply with the rule.

This rule would apply to those entry-level school bus drivers employed by non-governmental entities who are subject to the same requirements as Class B truck and motor-coach drivers. Since each school bus driver needs a Class B license, we assume this rule would result in 80 hours of additional training for each entry-level driver subject to its requirements. Therefore, we estimate that each year 119 entry-level school bus drivers would need an additional 80 hours of training for a total of 9,500 hours of training annually.

The FMCSA does not have information on the proportion of entry-level motor coach drivers who now receive training, nor is the Agency aware of any accredited training schools specifically for motor-coach drivers. Therefore, we estimate that all entry-level drivers of motor-coaches affected by this proposed rule (2,591) are going to obtain 80 hours of additional training. The total number of training hours necessary annually for motor coach drivers because of this rule would be 207,000.

In total, for large trucks, school buses, and motor-coaches combined, an additional 4,211,000 hours of training would be necessary to meet the requirements of the proposed rule.

Ninety-five percent of these additional hours would involve large trucks, while buses account for the other five percent.

#### *Hourly Cost of Training*

The principal components of costs of entry-level drivers' training are the cost of providing the training and the opportunity cost of the drivers' time. The cost of providing training is straightforward: It consists of the costs of hiring an instructor, producing training materials, equipment used for instruction, fuel, wear and tear on vehicles, etc. The concept of opportunity cost is somewhat less familiar, but is simply the value of the best alternative that must be foregone when an action is taken. In this case, the opportunity cost of training is the foregone value of the work that the driver would otherwise be performing. The standard value of this cost component is the driver's wage.

FMCSA interviewed the staff members of a number of training schools and associations regarding the costs of training. While the price of training varies considerably, most private training school respondents replied that a cost of \$4,000 for a 4-week course was typical. Many schools also offer longer courses that are more expensive. To be conservative, we use a figure of \$25 per hour of training in this analysis (calculated as \$4,000 divided by 4 weeks divided by 40 hours per week). This translates into \$1,000 of direct training cost for each 40-hours of training.

This is a reasonable estimate of the total hourly cost to train drivers, whether the training is taught by the employer or a third party. Employer-based training would most likely be less expensive than \$25 per hour, assuming new physical space would not have to be leased to conduct the training. To be conservative, we use the same figure whether the training is employer- or third-party-based. Using this approach ensures that we do not underestimate the costs of employer-based training programs.

We base our estimates on the BLS's May 2005, National Occupational Employment and Wage Survey. Since entry-level drivers generally earn at the low range of the industry wage standards, we use the BLS estimate of the 25th percentile wage for all of our entry-level drivers. We add 31 percent to cover the cost of fringe benefits. For truck drivers (heavy truck and tractor trailer), the hourly wage plus the fringe benefit is estimated at \$17.00. For school bus drivers, the hourly wage plus the fringe benefit is estimated at \$11.40. The wage plus the fringe benefit for

<sup>18</sup> According to Greyhound's annual 10K statement to Securities and Exchange Commission, driver to motor-coach ratio is about 1.65 for their fleet in 2001.

<sup>19</sup> The replacement component for transit and inter-city bus drivers combined is 42,000. Inter-city bus drivers are 22 percent of the total of transit and intercity bus drivers combined. So the calculation of inter-city bus driver replacement component is 22 percent of 42,000, or 9,200.

transit and intercity bus drivers is estimated at \$14.75.  
 The total cost of training is the opportunity cost of an hour of the driver's time (hourly compensation) plus the \$25 per hour of actual training costs. The unit cost of training is estimated at \$42.00 an hour for truck drivers (\$17.00 of foregone driver wages

plus \$25 in actual training costs), \$36.40 per hour for school bus drivers (\$11.40 of foregone driver wages plus \$25 in actual training costs), and \$39.75 per hour for the motor-coach industry (\$14.75 of foregone driver wages plus \$25 in actual training costs).

*Total Costs*

Given the estimates of required training hours and wage rates discussed above, the total cost to train entry-level drivers subject to this proposed rule would be \$176.4 million per year, with the large truck component comprising about 95 percent (\$167.8 million) of the total.

TABLE 2.—ANNUAL EXPENSE CALCULATIONS

	Heavy truck	School bus	Intercity bus	Total
Total Training Hours .....	3,994,602	9,514	207,285	4,211,402
Hourly Cost of Training .....	\$42.00	\$36.40	\$39.75	.....
Total Costs .....	\$167,788,481	\$346,294	\$8,239,710	\$176,374,486

Using the 7 percent discount rate recommended by the Office of Management and Budget, the present

value of training costs of the proposed rule is calculated as \$1.325 billion over 10 years (\$1.261 billion, \$2.6 million,

and \$61.9 million). The table below catalogues the total costs for each year and category of vehicle:

TABLE 3.—TOTAL COSTS OF FINAL RULE OVER A TEN-YEAR PERIOD

Year	Heavy truck \$167,788,481	School bus \$346,294	Intercity bus \$8,239,710
1 .....	\$167,788,481	\$346,294	\$8,239,710
2 .....	156,811,665	323,639	7,700,664
3 .....	146,552,958	302,467	7,196,882
4 .....	136,965,381	282,679	6,726,058
5 .....	128,005,029	264,186	6,286,035
6 .....	119,630,868	246,903	5,874,799
7 .....	111,804,550	230,750	5,490,467
8 .....	104,490,234	215,655	5,131,277
9 .....	97,654,424	201,546	4,795,586
10 .....	91,265,817	188,361	4,481,856
Total .....	1,260,969,407	2,602,481	61,923,334

Estimated Benefits of the Proposed Rule

The estimated cost of a large-truck fatal crash is \$3,605,000, and that of a non-fatal crash, \$195,000. The number of fatal crashes averaged 4,568 annually over the 5-year period from 2001 to 2005. The average for non-fatal crashes was 121,473.

We attribute 97 of the 4,568 fatal crashes annually to entry-level interstate truck drivers who would not be trained were it not for the rule. At most, 97 fatal crashes could potentially be reduced by enactment of the rule if training was 100% effective in reducing crashes. Similarly, 2,574 of the 121,473 non-fatal crashes are attributed to entry-level interstate drivers who would not be trained were it not for the rule.

We derive the figure of 97 in the following way. We estimate entry-level drivers to be 2.9 percent of the total number of drivers, based on the BLS estimates of the number of annual openings per year (50,700) and the total number of drivers (1,738,000). Proportionally, we attribute 2.9 percent

of average annual fatal crashes—or 133 of the 4,568—to entry-level drivers. However, since we are only concerned with interstate entry-level drivers, we attribute 75 percent of the 133—or 100 fatal crashes even—to drivers affected by the proposed rule. Further, since 30 percent of entry-level drivers (interstate or otherwise) would be trained regardless of the rule, only 70 percent of 100—or 70 fatal crashes—are attributed to the group that the proposed rule can actually affect.

Seventy drivers are 70 percent (not otherwise trained) of the 75 percent (interstate) of the 2.9 percent (entry-level) of drivers. Entry-level drivers are more likely to be involved in crashes than more experienced drivers. Assigning crashes to this group in exact proportion to their number undercounts the number of crashes attributable to the group. If we assume entry-level drivers are 1.4 times more likely to crash than

other drivers,<sup>20</sup> then 70 is adjusted up by a factor of 1.4 to 97. Ninety-seven of the 4,568 fatal crashes are attributed to entry-level interstate truck drivers who would not be trained were it not for the rule. Similarly, 2,574 of the 121,473 non-fatal crashes are attributed to the group.

In order for the benefits of crash reduction to equal the costs of the rule, crashes by must be reduced by 19.7 percent. That is, 19.1 fewer fatal crashes and 507.2 fewer non-fatal crashes result in crash-reduction benefits of \$167.8 million. Note that 19.1 fatal crashes and 507.3 non-fatal crashes are *less than one-half of one percent* of the total crashes that occur annually.

This 19.7 percent reduction does not have to occur annually. The 19.1 and 507.2 reductions are in essence the

<sup>20</sup>Federal Highway Administration, "Final Regulatory Evaluation, Entry-Level Driver Training," May 1995, p. D-1. Cites "This relationship was given in a GAO report \* \* \* (Promising Approach for Predicting Carriers' Safety, April 1991)."

number of crashes that would have to be reduced by this "graduating class" of (40,200) trainees over the length of the effectiveness of the training. The trainees could reduce by, for example, 12 and 360 the first year, and 7.1 and 147.2 in the second year (if, in fact, benefits to training were sustained for 2 years).

If we assume that the effect of training lasts 2 years and that it is half as effective in the second year as the first, then trainees would need to reduce by 12.7 and 338.1 (first year) and then 6.4 and 169.1 (second year). In essence, they would only need to reduce crashes by 13.1 percent the first year and 6.5 percent the second.

If we assume that the effect of training lasts 3 years and that it is half as effective in the second year as the first, and half as effective in the third year as the second, then trainees would need to reduce by 10.9 and 290 (first year), then 5.4 and 145 (second year), and then 2.7 and 72 (third year). Entry level drivers would only need to reduce crashes by 11.3 percent the first year, 5.6 percent the second, and 2.8 the third.

For school buses, the estimated annual cost to train the 119 entry-level drivers is \$346,000. The cost of a fatal crash is \$3,604,000 and of a non-fatal crash \$195,000. Therefore, either one fewer fatal crash every 10 years or one fewer non-fatal crash every 2 years would be enough for the benefits of crash reduction to equal the costs.

Given the annual training cost for the 2,591 entry-level intercity bus drivers of \$8.2 million and the costs of fatal and non-fatal crashes of \$3,604,000 and \$195,000, 2.3 fewer fatal crashes or 42.2 fewer non-fatal crashes (or some combination of the two) would produce benefits from crash reduction that are equal to the costs.

#### Further Discussion of the Proposed Rule

This proposed rule touches on several additional issues related to the analysis of costs and benefits and the entities affected. These topics include the supply of labor (i.e., drivers), the effectiveness of training, and the benefits of reduced personnel turnover due to training. For a discussion of these topics, please refer to the FMCSA document "Regulatory Evaluation, Regulatory Flexibility Analysis, and Regulatory Accountability and Reform Analysis," February, 2007, contained in the docket identified at the beginning of this notice.

#### B. Regulatory Flexibility Act

##### Introduction

The Regulatory Flexibility Act of 1980 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 and proposed rules on small entities. The DOT mandates that agencies shall strive to lessen any adverse effects on these businesses. This Initial Regulatory Flexibility Analysis covers the following topics:

(1) The reason the Agency is considering this action.

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

(3) A description of the small entities to which the proposed rule will apply, including an estimate of their number.

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

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

#### Reason the Action Is Being Considered

This document analyzes the costs and benefits of this NPRM, as required under Executive Order 12866 and U.S. Department of Transportation (DOT) Order 2100.5. The NPRM proposes to revise the standards for mandatory training for entry-level drivers of interstate CMVs. Individuals applying for new or upgraded CDLs would be required to successfully complete driver training that includes both classroom and behind-the-wheel hours. State driver-licensing agencies would only issue a CDL to a trained applicant. The proposed actions would reduce crashes by providing entry-level drivers with safety training and experience.

#### Objective and Legal Basis for This Action

A study required by Section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) found that the training of entry-level drivers in the heavy truck, motor-coach, and school bus industries was not adequate. Therefore, the objective of this NPRM is to enhance the safety of CMV operations on our Nation's highways.<sup>21</sup>

<sup>21</sup> An ancillary benefit to training may come in the form of fuel savings. According to an OECD report, "successful fuel economy driver training programmes have led directly to improved economy and increased safety." Organisation for Economic

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

This rulemaking would not directly affect small entities. The rule would primarily impact only the potential truck and bus drivers who are required to complete training prior to obtaining a CDL. Motor carriers are not required to take any action under the proposed rule, and, in fact, are relieved from burdens such as providing at least 10 hours of training for each entry-level driver and maintaining records of that training.

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

This proposed rule does not place any reporting, recordkeeping, or other compliance requirements on small entities; i.e., motor carriers.

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

The FMCSA is not aware of any other rules which duplicate, overlap, or conflict with the proposed action.

#### Summary

The FMCSA has considered the effects of this proposed regulatory action on small entities and determined that this proposed rule would not have a significant impact on a substantial number of small entities, as defined by the U.S. Small Business Administration's Office of Size Standards. This proposed rule would affect only potential truck drivers who are required to obtain training. Accordingly, FMCSA has considered the economic impacts of the requirements on small entities and determines preliminarily that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### C. Unfunded Mandates Reform Act of 1995

As defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), FMCSA has determined that this proposed rule does not contain an unfunded Federal mandate resulting in the expenditures of \$120.7 million or more (adjusted for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

#### D. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), Federal agencies must obtain approval

Co-Operation and Development, "Training Truck Drivers," Road Transport Research, 1996.

from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined this proposed rule would require revisions to an existing information collection requirement subject to approval by OMB. The currently approved information collection affected by this NPRM is titled "Training Certification for Entry-Level Commercial Motor Vehicle Operators." OMB Control Number 2126-0028, approved at 10,808 burden hours through September 30, 2007. However, this continues in effect until approval of a pending revision that is currently being review by OMB.

The implementation of this rule would take place over a period of 3 years immediately following its effective date. The program for the training and certification of entry-level drivers would not be operational before the end of this 3-year phase-in period. Thus, for the first 3 years, the paperwork burden of this rule would be minor. The start-up activities of training institutions and States would be the primary activities. Training institutions would incur a burden as they revise their training processes, and State driver-licensing agencies (SDLAs) would incur a burden as they modify their systems to record information to be collected under this proposed rule.

The sole document required by this rule would be the Driver Training Certificate (DTC). Under the proposed rule, an individual would be required to present the DTC to the SDLA in order to obtain a CDL. Existing training institutions may need to amend their "diploma" so that it contains all the information required for a DTC. The DTC must contain the information specified by the rule. SDLAs would also experience a burden as they absorb the mandates of this rule into their current CDL licensing systems and processes. For example, State systems would have to add the capacity to retain a copy of the Driver Training Certificate.

We anticipate that this rule, following 3 years of implementation, would impose additional information collection burdens on driver training institutions and SDLAs. The FMCSA will publish a notice within 3 years after the effective date of this proposed rule. This notice will contain an estimate of the burden for the following 3 years, and will seek public comment on it.

*Need for and use of the information to be collected:* The information collected under the requirements of this proposed rule would enable FMCSA to (1) Improve the safe driving of entry-level CDL drivers, (2) improve the

ability of motor carriers to hire safe operators of CMVs, and (3) enable future research on the impact of driver training on CMV crash reduction.

*Respondents:* The annual number of drivers providing training certificates under the current rule, which would remain in effect during the 3-year implementation period, is 45,611. The number of training institutions (public and private) that would provide training under the terms of this proposed rule is uncertain, but FMCSA estimates it to be between 200 and 500. The number of State licensing agencies is 51. The total for these three groups of potential respondents will vary from 45,862 to 46,162 during the initial 3-year implementation period.

*Frequency:* Information would not be collected with any specific frequency during the 3-year life of the information collection. The initial burdens on training institutions and SDLAs will be limited to startup activities.

*Annual Burden Estimate:* This proposal would result in an annual recordkeeping and reporting burden estimated to be 137,192 hours, calculated as follows:

Entry-level CDL drivers under the currently approved information collection incur a burden of 10,808 hours, and this burden would remain in effect until OMB approval of a pending revision of the information collection. During the 3-year phase-in period, the CDL-training institutions would incur an estimated burden of 125,000 hours to revise their processes to conform to the requirements of this rule. During the same period, State driver-licensing agencies would incur a burden of 4,590 hours to modify their systems. The total proposed annual burden is 137,192 hours (7,602 + 125,000 + 4,590).

Following the 3-year implementation period, calculation of the PRA burden would be revised because the rule would be fully operational.

FMCSA has submitted this NPRM and a supporting statement to OMB, estimating the paperwork burdens of this proposal. The Agency is soliciting comments to—

- (1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility,
- (2) Evaluate the accuracy of the Agency's estimate of the burden,
- (3) Enhance the quality, utility, and clarity of the information to be collected, and
- (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology. You may submit comments on the PRA aspects of this proposed rule directly to OMB. The deadline for such submissions is February 25, 2008. 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.

#### *E. National Environmental Policy Act (NEPA)*

FMCSA analyzed this proposed rule for the purpose of the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and conducted an assessment under the procedures in FMCSA Order 5610.1, published March 1, 2004 in the **Federal Register** (69 FR 9680). Accordingly, under Appendix 2, paragraph 6(s) of FMCSA Order 5610.1, this action is categorically excluded (CE) from further environmental documentation. This CE relates to establishing regulations and actions taken pursuant to these regulations concerning the requirements for a driver to have a commercial motor vehicle driver's license. In addition, the Agency believes that the action includes no extraordinary circumstances that would 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 the proposal 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. It would not result in any emissions increase nor would 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 would 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 training requirements for drivers seeking to hold a commercial driver's license.

#### *F. Privacy Impact Assessment*

Section 522 of the FY 2005 Omnibus Appropriations Act, enacted December 8, 2004, (Note to 5 U.S.C. 552a) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rulemaking would require new drivers pursuing a Commercial Drivers License (CDL) to obtain training that

follows a prescribed curriculum and is provided by an accredited training provider. The driver would then be responsible for providing a copy of a certificate that reflects successful completion of the training to the State Driver Licensing Agency (SDLA), upon application for a CDL. The SDLA would document receipt of this certificate on the driver's record in the Commercial Driver License Information System (CDLIS) and on the Motor Vehicle Record (MVR). The information would be made available to authorized personnel via CDLIS electronic inquiries and on the MVR obtained by employers and drivers. The information will be held to the same level of security as CDLIS.

Because the training institution would create the training certificate, and the States would examine and maintain the certificate and other records associated with the individual's CDL, FMCSA has determined this proposed rule would not result in a new or revised Privacy Act System of Records for FMCSA.

#### G. Federalism

FMCSA has analyzed this proposed rule in accordance with the principles and criteria of Executive Order 13132, "Federalism," and has determined that it does not have federalism implications.

The Federalism Order applies to "policies that have federalism implications," which it defines as regulations and other actions that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Sec. 1(a). The key concept here is "substantial direct effects on the States." Sec. 3(b) of the Federalism Order provides that "[n]ational action limiting the policymaking discretion of the States shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance."

This proposed rule would not preempt any State or local law or regulation. It would establish training standards applicable to entry-level commercial motor vehicle drivers. As part of the commercial driver's license (CDL) program, State driver licensing agencies (SDLAs) would have to require entry-level CDL applicants to present a copy of a certificate from a training institution accredited by an agency approved by the U.S. Department of Education or the Council for Higher Education Accreditation. SDLAs would

be required to reject the CDL application of an entry-level driver who was unable to present evidence of having received the training required by this NPRM.

The FMCSA's CDL program does not have preemptive effect. It is a voluntary program; States may withdraw at any time, although doing so would result in the loss of certain Federal-aid highway funds pursuant to 49 U.S.C. 31314. FMCSA recognizes that, as a practical matter, this rule would have an impact on State CDL programs. Accordingly, the Agency advised the National Governors' Association (NGA) of these proposed regulatory changes by letter dated January 12, 2007, and offered NGA officials an opportunity to meet and discuss issues of concern to the States. State and local governments will also be able to raise Federalism issues during the comment period for this NPRM.

The CDL program was authorized by the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. chapter 313). States have been issuing CDLs in accordance with Federal standards for well over a decade. Because this rule would make only small, incremental changes to the requirements already imposed on participating States, FMCSA has determined that it would not have substantial direct effects on the States, on the relationship between the Federal and State governments, or on the distribution of power and responsibilities among the various levels of government.

#### H. Civil Justice Reform

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

#### I. Protection of Children

FMCSA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We have determined preliminarily that this rulemaking would not concern an environmental risk to health or safety that may disproportionately affect children.

#### J. Taking of Private Property

This proposed rulemaking would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### K. Energy Effects

We have analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use. We have determined preliminarily that it would not be a "significant energy action" under that Executive Order because it would not be economically significant and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### List of Subjects

##### 49 CFR Part 380

Driver training, Instructor requirements.

##### 49 CFR Part 383

Administrative practice and procedure, Highway safety, and Motor carriers.

##### 49 CFR Part 384

Administrative practice and procedure, Highway safety, and Motor carriers.

In consideration of the foregoing, FMCSA proposes to amend parts 380, 383, and 384 of title 49, Code of Federal Regulations (49 CFR parts 380, 383, and 384) as follows:

#### PART 380—SPECIAL TRAINING REQUIREMENTS

1. The authority citation for part 380 continues to read as follows:

**Authority:** 49 U.S.C. 31133, 31136, 31307, and 31502; sec. 4007(a) and (b) of Pub. L. 102-240 (105 Stat. 2151-2152); and 49 CFR 1.73.

##### §§ 380.107, 380.109, 380.201, 380.203, and 380.205 [Amended]

2. Amend §§ 380.107(a), 380.109(a)(1), (5), (6), and (7), 380.201(a) introductory text and (b), 380.203(b), and 380.205(b) by removing the words "the appendix to this part" and adding the words "appendix A of this part" in their place.

#### Subpart D—LCV Driver-Training Certification

3. Revise the heading of subpart D to read as set forth above.

#### Subpart E—Entry-Level Training Requirements Before [date 3 years after effective date of final rule]

4. Revise the heading of subpart E to read as set forth above.

5. Add § 380.500 to read as follows:

##### § 380.500 Compliance date for training requirements for entry-level trainees.

Compliance with the provisions of this subpart is not required on and after

[date 3 years after effective date of final rule].

6. Amend § 380.502 by revising paragraph (b) to read as follows:

**§ 380.502 Definitions.**

\* \* \* \* \*

(b) As used in this subpart:

*Entry-level trainee* is a driver with less than one year of experience operating a CMV with a CDL in interstate commerce.

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

7. Amend § 380.503 by revising the section heading and introductory text to read as follows:

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

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

\* \* \* \* \*

8. Amend § 380.501 by removing the words "entry-level drivers" and adding the words "entry-level trainees" in their place.

9. Amend §§ 380.505, 380.507, 380.509(a), and 380.513 introductory text by removing the words removing the words "entry-level driver" each time they appear, and adding the words "entry-level trainee" in their place.

10. Amend § 380.513(e) by removing the words "entry-level driver training" and adding the words "entry-level training" in their place.

11. Add a new subpart F to read as follows:

**Subpart F—Entry-Level Driver Training and Driver-Instructor Requirements On and After [Date 3 Years After Effective Date of Final Rule]**

380.600 Compliance date for training requirements for entry-level drivers.

380.601 Purpose and scope.

380.603 Applicability.

380.605 Definitions.

380.607 Requirement to complete entry-level driver training.

380.609 Entry-level driver-instructor requirements.

380.611 Driver testing.

**Subpart F—Entry-Level Driver-Training and Driver-Instructor Requirements On and After [Date 3 Years After Effective Date of Final Rule]**

**§ 380.600 Compliance date for training requirements for entry-level drivers.**

Compliance with the provisions of this subpart is required on and after

[date 3 years after effective date of final rule].

**§ 380.601 Purpose and scope.**

(a) *Purpose.* The purpose of this subpart is to establish a minimum training program for entry-level drivers, as defined in § 380.605.

(b) *Scope.* This subpart establishes:

(1) Minimum training requirements for entry-level drivers who intend to operate commercial motor vehicles (CMVs) in interstate commerce;

(2) Minimum standards for training institutions that offer entry-level driver training that meets the requirements of this subpart;

(3) Minimum qualification requirements for CMV driver-instructors; and

(4) A CMV driver-training program that includes both the training topics set forth in appendix B to this part and behind-the-wheel instruction that is designed to provide an opportunity to develop the skills outlined under the Proficiency Development units of the training program.

**§ 380.603 Applicability.**

(a) The rules in this subpart apply to all entry-level drivers who intend to drive in interstate commerce and are subject to the commercial driver's license (CDL) requirements of part 383 of this subchapter, except drivers applying for a restricted CDL under § 383.3(e) through (g) of this subchapter.

(b) A driver who holds a valid CDL issued before [date 3 years after effective date of final rule] is not required to comply with this subpart except as otherwise specifically provided.

(c) A driver whose CDL has been revoked by the State of issuance for highway safety-related reasons, or whose CDL expired more than 4 years prior to the date of reapplication for a CDL, must comply with the requirements of this subpart when reapplying for a CDL.

**§ 380.605 Definitions.**

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

(b) As used in this subpart:

*Behind-the-wheel (BTW) training* means training provided by a qualified driver-instructor when the student has actual control of the power unit during a driving lesson conducted on public or private property. BTW training does not include time spent riding in a CMV or observing operation of a CMV when the student is not in control of the vehicle.

*Classroom instruction* means training provided by a qualified driver-instructor through lectures, demonstrations, audio-

visual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom is included if it does not involve actual operation of a CMV and its components by the student.

*Classroom instructor* means a qualified driver-instructor who provides knowledge instruction that does not involve the actual operation of a CMV or its components.

*Entry-level driver* means a person who applies for a CDL that would allow him/her to operate a CMV in interstate commerce.

*Qualified driver-instructor* means an instructor meeting the requirements contained in § 380.609. There are two types of qualified driver-instructors:

- (1) Classroom instructors, and
- (2) Skills instructors.

*Skills instructor* means a qualified driver-instructor who provides behind-the-wheel instruction involving the actual operation of a CMV or its components.

*Training institution* means any school, including a school operated by a motor carrier, that is accredited by an agency recognized by the U.S. Department of Education (ED) or by the Council for Higher Education Accreditation (CHEA), and any school providing a program of truck-driver training specifically accredited by an agency recognized by ED or CHEA.

**§ 380.607 Requirement to complete entry-level driver training.**

(a) A person who wishes to obtain a commercial driver's license (CDL) that would allow him/her to operate a commercial motor vehicle (CMV) in interstate commerce must first take and successfully complete a driver-training program that meets the requirements of this subpart and that is provided by a training institution, as defined in § 380.605. The specific types of knowledge and skills instruction that a training program must include are outlined in appendix B to this part. A person who intends to operate a CMV for which a Class A CDL is required must complete the training outlined in Part I of appendix B to this part, and a driver who intends to operate a CMV for which a Class B or C CDL is required must complete the training outlined in Part II of appendix B to this part.

(b) A training institution must provide a Driver Training Certificate to the driver-student who successfully completes entry-level driver training. The certificate must contain the following items of information:

- (1) Date of issuance of the certificate.
- (2) Name of training institution.

(3) Mailing address of training institution.

(4) Name of agency that accredited the training institution.

(5) Name of driver.

(6) A statement that the driver completed training under Part I of appendix B to this part, for Class A training, or under Part II of Appendix B to this part, for Class B and C training.

(7) A statement that the driver has successfully completed training as required by this subpart, substantially in accordance with the following sentence:

“I certify that [name of driver] has successfully completed the training requirements set forth in the Federal Motor Carrier Safety Regulations for entry-level drivers in accordance with 49 CFR part 380, subpart F. I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature) (printed name of the certifying official).”

(c) An applicant for a CDL who expects to operate in interstate commerce must present the original Driver Training Certificate to his/her State driver's license agency as part of the CDL application process.

#### **§ 380.609 Entry-level driver-instructor requirements.**

There are two types of CMV driver-instructors, classroom instructors and skills instructors. To be a qualified driver-instructor, a person must meet the conditions under paragraph (a) or (b) of this section.

(a) *Classroom instructor.* To qualify as a CMV classroom instructor, a person must:

(1) Have audited or instructed that portion of the driver-training course described in Appendix B to this part that he/she intends to instruct, or, until [date 5 years after the effective date of the final rule], an equivalent program;

(2) Be employed by a training institution; and

(3) Meet all State requirements for a vocational instructor.

(b) *Skills instructor.* To qualify as a CMV skills instructor, a person must:

(1) Have instructed or successfully completed that portion of the driver-training program described in Appendix B to this part that he/she intends to instruct, or, until [date 5 years after the effective date of the final rule], an equivalent program. The driver-training program he/she has completed or instructed must be for the operation of CMVs representative of the class and type of CMV for which training is to be provided;

(2) Be employed by a training institution;

(3) Meet all State requirements for a vocational instructor;

(4) Possess a valid CDL of the appropriate (or higher) class and with all endorsements necessary to operate the CMVs for which training is to be provided; and

(5) Have at least 2 years CMV driving experience in a vehicle representative of the class and type of CMV for which training is to be provided.

#### **§ 380.611 Driver testing.**

(a) *Testing methods.* To successfully complete the CMV driver training program set forth in this subpart, an entry-level driver-student must pass knowledge and skills tests in accordance with the following requirements. Any qualified driver-instructor may administer the written knowledge test. The skills tests, based on actual operation of a CMV, must be administered by a qualified CMV skills instructor.

(1) All tests must be constructed to determine if the driver-student possesses the required knowledge and skills set forth in appendix B of this part.

(2) Instructors may develop their own tests for the specific type of CMV 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) Qualified driver-instructors must establish specific methods for scoring the knowledge and skills tests.

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

(5) Each knowledge test must address the training provided during both classroom and behind-the-wheel instruction, and include at least one question from each of the units listed in the relevant part of appendix B of this part.

(6) Each skills test must include all the maneuvers and operations practiced during the proficiency development units of instruction described in the relevant part of appendix B of this part.

(b) *Proficiency determinations.* The driver-student must meet the following conditions to be certified as having successfully completed training under this subpart:

(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)(6) 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 CMV driver-instructor.

#### **Appendix to Part 380 [Amended]**

12. The appendix to part 380 is redesignated as appendix A to part 380.

13. Add appendix B to part 380 to read as follows:

#### **Appendix B to Part 380—Entry-Level Driver Training Curriculum**

##### **Part I. Entry-Level Driver Training; Required Minimum Program of Instruction for Class A CDL Applicants**

###### **Section 1—Basic Operation**

- Unit 1.1—Orientation
- Unit 1.2—Control systems
- Unit 1.3—Vehicle inspection
- Unit 1.4—Basic control
- Unit 1.5—Shifting
- Unit 1.6—Backing
- Unit 1.7—Coupling and uncoupling
- Unit 1.8—Proficiency development

###### **Section 2—Safe Operating Practices**

- Unit 2.1—Visual search
- Unit 2.2—Communication
- Unit 2.3—Speed management
- Unit 2.4—Space management
- Unit 2.5—Night operations
- Unit 2.6—Extreme driving conditions
- Unit 2.7—Proficiency development

###### **Section 3—Advanced Operating Procedures**

- Unit 3.1—Hazard perception
- Unit 3.2—Emergency maneuvers
- Unit 3.3—Skid control and recovery
- Unit 3.4—Special situations

###### **Section 4—Vehicle Maintenance**

- Unit 4.1—Vehicle systems
- Unit 4.2—Preventative maintenance and servicing
- Unit 4.3—Diagnosing malfunctions

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

- Unit 5.1—Handling cargo
- Unit 5.2—Hours of service requirements
- Unit 5.3—Crash procedures
- Unit 5.4—Trip planning
- Unit 5.5—Miscellaneous topics

For Class A applicants, the mandatory minimum hours of behind-the-wheel training must be conducted in a traditional tractor-trailer or truck-trailer combination vehicle for which a Class A CDL would be required.

In this appendix, the term “tractor trailer” includes a truck-trailer combination vehicle for which a Class A CDL would be required.

###### **Section 1—Basic Operation**

[MINIMUM HOURS—Classroom—20; BTW—24; Total Hours—44]

The units in this section must cover the interaction between the driver and the CMV. The student will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic CMV instruments and controls. The student will also receive basic instruction in the Hazardous Materials regulations issued by

the Pipeline and Hazardous Materials Safety Administration (PHMSA). The units in this section must also teach entry-level CDL driver-trainees how to properly perform vehicle inspections, control the motion of CMVs under various road and traffic conditions, shifting and backing techniques, and how to properly couple and uncouple tractor-trailers.

During the off-street driving exercises required by this section, entry-level CDL driver-trainees must first familiarize themselves with the basic operating characteristics of a CMV. Then, students must be able to perform the skills in each unit to a level of proficiency required to permit safe transition to on-street driving.

**Unit 1.1—Orientation.** This unit must introduce students to the tractor-trailer driver-training curriculum and the components of a tractor-trailer. The student will learn the safety fundamentals, essential regulatory requirements (i.e., overview of FMCSRs/HM regulations), and driver responsibilities not directly related to driving. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV.

**Unit 1.2—Control systems.** This unit must introduce students to vehicle instruments and controls. The student will learn to read gauges and instruments correctly and learn proper use of vehicle safety components, including safety belts and mirrors. The student will also learn to identify, locate, and explain the function of each of the primary and secondary controls including those required for steering, accelerating, shifting, braking, and parking.

**Unit 1.3—Vehicle inspection.** This unit must stress to students the importance of vehicle inspections and help them develop the skills necessary for conducting pre-trip, en-route, and post-trip inspections.

**Unit 1.4—Basic control.** This unit must introduce basic vehicular control and handling as it applies to tractor-trailers. This must include instruction addressing basic tractor-trailer controls in areas such as executing sharp left and right turns, centering the vehicle, and maneuvering in restricted areas.

**Unit 1.5—Shifting.** This unit must introduce shifting patterns and procedures to the students so that they can proficiently perform basic shifting maneuvers. This must include training each student to execute up and down shifting techniques on multi-speed dual range transmissions.

**Unit 1.6—Backing.** This unit must prepare students to back-up the tractor-trailer safely.

**Unit 1.7—Coupling and uncoupling.** This unit must provide instruction for the student to develop the skills necessary to conduct the procedures for safe coupling and uncoupling of tractor-trailer units.

**Unit 1.8—Proficiency development.** The purpose of this unit is to enable entry-level CDL driver-trainees to gain proficiency and demonstrate the skills taught in Units 1.1 through 1.7. 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. 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 2—Safe Operating Practices

[MINIMUM HOURS—Classroom—8; BTW—17; Total Hours—25]

The units in this section teach the practices required for safe operation of the tractor-trailer on the highway. Entry-level CDL driver-trainees must be taught 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 2.1—Visual search.** The purpose of this unit is to enable students to visually search the road for potential hazards and critical objects.

**Unit 2.2—Communication.** The purpose of this unit is to enable students to communicate their intentions to other road users (e.g., proper signaling). Students will learn techniques for different types of communication on the road.

**Unit 2.3—Speed management.** The purpose of this unit is to enable students to manage speed effectively in response to various road, weather, and traffic conditions. Emphasis must be placed upon maintaining safe vehicular speed.

**Unit 2.4—Space management.** The purpose of this unit is to enable students to manage the space required for safe vehicle operation. Emphasis must be placed upon maintaining appropriate space surrounding the vehicle under various traffic and road conditions.

**Unit 2.5—Night operations.** Students will learn how to operate safely at night. Emphasis must be placed upon the factors affecting operation of CMVs 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, and space management are needed to deal with the special problems night driving presents.

**Unit 2.6—Extreme driving conditions.** This unit must provide instruction addressing the driving of CMVs under extreme driving conditions. Emphasis must be placed upon the factors affecting the operation of CMVs in cold, hot, and inclement weather and on steep grades and sharp curves. Changes in basic driving habits are needed to deal with the specific problems presented by these extreme driving conditions. Students will also learn proper tire chaining procedures in this unit.

**Unit 2.7—Proficiency development.** This unit must provide entry-level CDL driver-trainees an opportunity to refine, within the on-street traffic environment, their vehicle handling skills learned in Units 1.4, 1.8, and the safe operating practices learned in Units 2.1 through 2.6. 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, driving through intersections, and parking has been attained. Driver-students must also be assessed for 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. To the extent possible, this must include urban and rural uncontrolled roadways, expressways, or freeways, under light, moderate, and heavy traffic conditions.

## Section 3—Advanced Operating Procedures

[MINIMUM HOURS—Classroom—15; BTW—3; Total Hours—18]

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 one and two have been mastered. Qualified driver-instructors must teach the perceptual skills necessary to recognize potential hazards, and must demonstrate the procedures needed to handle a CMV when faced with a hazard.

**Unit 3.1—Hazard perception.** The purpose of this unit is to enable students to recognize potential dangers in the driving environment and to take appropriate defensive action(s) before the dangers develop into emergency situations. The unit must provide instruction addressing the principles of recognizing hazards in sufficient time to reduce the severity of the hazard and neutralize possible emergency situations. Students must identify road conditions and other road users that are a potential threat to the safety of the tractor-trailer and suggest appropriate adjustments. Emphasis must be placed upon hazard recognition, visual search, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations. Included in this unit should be a discussion of driver distraction issues (e.g., in-cab technology).

**Unit 3.2—Emergency maneuvers.** The purpose of this unit is to enable students to carry out appropriate responses when faced with CMV emergencies. These must include evasive steering, emergency braking, off-road recovery, brake failures, tire blowouts, 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 3.3—Skid control and recovery.** The purpose of this unit is to teach the causes of skidding and jackknifing and techniques for avoiding and recovering from skids and jackknifes. The student must be able to maintain directional control and bring the CMV to a stop in the shortest possible distance while operating over a slippery surface.

**Unit 3.4—Special situations.** Students will learn to recognize potential dangers and appropriate safety procedures to utilize at railroad (RR) grade crossings, construction/work zones, and low clearance areas (e.g., CMV height restrictions).

## Section 4—Vehicle Maintenance

[MINIMUM HOURS—Classroom—7; BTW—0; Total Hours—7]

This section is intended to provide entry-level CDL driver-trainees with sufficient knowledge of the tractor-trailer and its systems and subsystems to ensure that they understand and respect their role in vehicle

inspection, operation, and maintenance and the impact of those factors upon highway safety and operational efficiency.

*Unit 4.1—Vehicle systems.* The purpose of this unit is to teach students to identify major tractor/trailer systems. The goal is to explain their function, and how to check all key vehicle systems, e.g., engine, engine exhaust auxiliary systems, brakes, drive train, coupling systems, and suspension. The student will be provided with a detailed description of each system, its importance to safe and efficient operation, and what is needed to keep the system in good operating condition.

*Unit 4.2—Preventative maintenance and servicing.* The purpose of this unit is to introduce students to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventative maintenance and simple emergency repairs.

*Unit 4.3—Diagnosing malfunctions.* The purpose of this unit is to enable the students to diagnose vehicle malfunctions and to perform emergency maintenance procedures correctly.

### Section 5—Non-Driving Activities

[MINIMUM HOURS—Classroom—26; BTW—0; Total Hours 26]

The units in this section are designed to prepare entry-level CDL driver-trainees to handle those responsibilities of a tractor-trailer driver that do not involve operating the CMV. 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—Handling cargo.* The purpose of this unit is to enable students to understand the basic theory of cargo weight distribution, cargo securement on the vehicle, cargo covering, and techniques for safe and efficient loading/unloading in the classroom followed by practical demonstration and practice. Basic information regarding the proper handling and documentation of hazardous materials cargo will also be covered in this unit.

*Unit 5.2—Hours of service requirements.* The purpose of this unit is to enable students to understand the basic concepts and requirements of the FMCSRs—Part 395, “Hours of Service of Drivers”—and to develop the ability to complete a Driver’s Daily Log and logbook recap. The issues of driver fatigue and staying alert will also be covered in this unit.

*Unit 5.3—Crash procedures.* The purpose of this unit is to teach students how to follow safe and legal procedures at a crash scene.

*Unit 5.4—Trip planning.* This unit must address the importance of and requirements for planning routes and trips. This instruction must address the importance of planning the safest route, including planning for rest stops, heavy traffic areas, rail-highway grade-crossing safe clearance, etc. Classroom discussion must include information on the importance of and requirements for planning trips, Federal and State requirements on the need for permits, and vehicle size and weight limitations.

*Unit 5.5—Miscellaneous topics.* In this unit, students will learn the Federal rules on

medical certification, medical examination procedures, general qualifications, responsibilities, and disqualifications based on various offenses, orders, and loss of driving privileges (49 CFR part 391, subparts B and E).

The student will learn about driver wellness. Basic health maintenance including diet and exercise and the importance of avoiding excessive use of alcohol must be covered in this unit.

The right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisals simply for stating a safety concern is included in this unit. The student will become familiar with the whistleblower protection regulations in 29 CFR Part 1978.

### Part II. Entry-Level Driver Training; Required Minimum Program of Instruction for Class B and C CDL Applicants

#### Section 1—Basic Operation

Unit 1.1—Orientation

Unit 1.2—Control systems

Unit 1.3—Vehicle inspection

Unit 1.4—Basic control

Unit 1.5—Backing

Unit 1.6—Proficiency development

#### Section 2—Safe Operating Practices

Unit 2.1—Visual search

Unit 2.2—Communication

Unit 2.3—Speed management

Unit 2.4—Space management

Unit 2.5—Night operations

Unit 2.6—Extreme driving conditions

Unit 2.7—Proficiency development

#### Section 3—Advanced Operating Procedures

Unit 3.1—Hazard perception

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#### Section 4—Vehicle Maintenance

Unit 4.1—Vehicle systems

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Unit 4.3—Diagnosing malfunctions

#### Section 5—Non-Driving Activities

Unit 5.1—Handling cargo

Unit 5.2—Hours of service requirements

Unit 5.3—Crash procedures

Unit 5.4—Trip planning

Unit 5.5—Miscellaneous topics

For Class B applicants, the mandatory minimum hours of behind-the-wheel training must be conducted in a representative vehicle for that class of license.

For Class C applicants, the mandatory minimum hours of behind-the-wheel training must be conducted in a straight-truck having a gross vehicle weight rating of at least 14,000 pounds. Where appropriate in Class C training, the use of a trailer in addition to the required straight-truck is recommended.

#### Section 1—Basic Operation

[MINIMUM HOURS—Classroom—15; BTW—18; Total Hours—33]

The units in this section must cover the interaction between the driver and the commercial motor vehicle (CMV). The entry-level CDL driver-trainee will receive instruction in the Federal Motor Carrier Safety Regulations (FMCSRs) and will be introduced to the basic vehicle instruments

and controls. The student will also receive basic instruction in the hazardous materials (HM) regulations issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The units in this section must also teach students how to properly perform vehicle inspections and control the motion of the vehicle under various road and traffic conditions.

During the driving exercises at off-highway locations required by this section, students must first familiarize themselves with the basic operating characteristics of the CMV. 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 1.1—Orientation.* This unit must introduce students to the driver training curriculum and the components of the vehicle. The student will learn the safety fundamentals, essential regulatory requirements (i.e., overview of FMCSRs/HM regulations), and driver responsibilities not directly related to driving. This unit must also include an overview of the applicability of State and local laws relating to the safe operation of the CMV.

*Unit 1.2—Control systems.* This unit must introduce students to vehicle instruments and controls. The student will learn to read gauges and instruments correctly and learn correct use of vehicle safety components, including use of mirrors and proper safety belt use for both driver and passengers.

*Unit 1.3—Vehicle inspection.* This unit must stress to students the importance of vehicle inspections and help them develop the skills necessary for conducting pre-trip, en-route, and post-trip inspections.

*Unit 1.4—Basic control.* This unit must introduce basic vehicular control and handling. This must include instruction addressing basic vehicular control in areas such as executing sharp left and right turns.

*Unit 1.5—Backing.* This unit must prepare students to back the vehicle safely, particularly related to the safety of pedestrians.

*Unit 1.6—Proficiency development.* The purpose of this unit is to enable entry-level CDL driver-trainees to gain proficiency and demonstrate the skills taught in Units 1.1 through 1.5. 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. 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 2—Safe Operating Practices

[MINIMUM HOURS—Classroom—8; BTW—12; Total Hours—20]

The units in this section teach the practices required for safe operation of the vehicle on the highway. Entry-level CDL driver-trainees must be taught 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 2.1—Visual search.* The purpose of this unit is to enable students to visually search the road for potential hazards and critical objects.

*Unit 2.2—Communication.* The purpose of this unit is to enable students to communicate their intentions to other road users (e.g., proper signaling). Students will learn techniques for different types of communication on the road.

*Unit 2.3—Speed management.* The purpose of this unit is to enable students to manage speed effectively in response to various road, weather, and traffic conditions. Emphasis must be placed upon maintaining safe vehicular speed.

*Unit 2.4—Space management.* The purpose of this unit is to enable students to manage the space required for safe vehicle operation. Emphasis must be placed upon maintaining appropriate space surrounding the vehicle under various traffic and road conditions.

*Unit 2.5—Night operations.* Students will learn how to operate safely at night. Emphasis must be placed upon the factors affecting operation of CMVs 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, and space management are needed to deal with the special problems night driving presents.

*Unit 2.6—Extreme driving conditions.* This unit must provide instruction addressing the driving of CMVs under extreme driving conditions. Emphasis must be placed upon the factors affecting the operation of CMVs in the extreme driving conditions of ice, snow, rain, and wind. Changes in basic driving habits are needed to deal with the specific problems presented by these types of driving conditions.

*Unit 2.7—Proficiency development.* This unit must provide entry-level CDL driver-trainees an opportunity to refine, within the on-street traffic environment, their vehicle handling skills learned in Section 1, and the safe operating practices learned in Section 2. 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, curves, lane changing, passing, driving through traffic restrictions, driving through intersections, and parking has been attained. Driver-students must also be assessed for 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 the vehicle configuration. To the extent possible, this must include urban and rural uncontrolled roadways, expressways, or freeways, under light, moderate, and heavy traffic conditions.

### Section 3—Advanced Operating Procedures

[MINIMUM HOURS—Classroom—11; BTW—2; Total Hours—13]

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 one and two have been mastered. Qualified driver-instructors must teach the perceptual skills necessary to recognize potential hazards, and must demonstrate the procedures needed to handle a CMV when faced with a hazard.

*Unit 3.1—Hazard perception.* The purpose of this unit is to enable students to recognize potential dangers in the driving environment and to take appropriate defensive action(s) before the dangers develop into emergencies. The unit must provide instruction addressing the principles of recognizing hazards in sufficient time to reduce the severity of the hazard and neutralize possible emergencies. Students must identify road conditions and other road users that are a potential threat to safety of the vehicle and suggest appropriate adjustments. Emphasis must be placed upon hazard recognition, visual search, and response to possible emergency-producing situations encountered in various traffic situations. Included in this unit should be a discussion of driver/passenger relationships relating to driver distraction issues.

*Unit 3.2—Emergency maneuvers.* The purpose of this unit is to enable students to carry out appropriate responses when faced with CMV emergencies. These must include evasive steering, emergency braking, off-road recovery, brake failures, tire blowouts, hydroplaning, skidding, and the rollover phenomenon. Instruction about the vehicle's center of gravity and weight distribution shifts which increases the risk of rollover should be covered in this unit. The discussion must include a review of unsafe acts and the role they play in producing hazardous situations.

*Unit 3.3—Skid control and recovery.* The purpose of this unit is to teach the causes of skidding and techniques for avoiding and recovering from skids. The student must be able to maintain directional control and bring the CMV to a stop in the shortest possible distance while operating over a slippery surface.

*Unit 3.4—Special situations.* Students will learn to recognize potential dangers and appropriate safety procedures to utilize at railroad (RR) grade crossings and construction/work zones.

### Section 4—Vehicle Maintenance

[MINIMUM HOURS—Classroom—5; BTW—0; Total Hours—5]

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

*Unit 4.1—Vehicle systems.* The purpose of this unit is to teach students to identify major CMV systems. The goal is to explain their function, and how to check all key vehicle systems, e.g., engine, engine exhaust auxiliary systems, brakes, and drive train. The student will be provided with a detailed description of each system, its importance to safe and efficient operation, and what is needed to keep the system in good operating condition.

*Unit 4.2—Preventative maintenance and servicing.* The purpose of this unit is to introduce students to the basic servicing and checking procedures for various engine and vehicle components and to help develop their ability to perform preventative maintenance and simple emergency repairs.

*Unit 4.3—Diagnosing malfunctions.* The purpose of this unit is to enable the students to diagnose vehicle malfunctions and to perform emergency maintenance procedures correctly.

### Section 5—Non-Driving Activities

[MINIMUM HOURS—Classroom—19; BTW—0; Total Hours 19]

The units in this section are designed to prepare entry-level CDL driver-trainees to handle those responsibilities of a CMV driver that do not involve operating the vehicle. The units in this section must ensure these activities are performed in a manner that ensures the safety of the driver, vehicle, passengers, cargo, and other road users.

*Unit 5.1—Handling cargo.* The purpose of this unit is to enable students to understand the basic theory of cargo weight distribution, cargo securement on the vehicle, covering, and techniques for safe and efficient loading/unloading in the classroom followed by practical demonstration and practice. Basic information regarding the proper handling and documentation of hazardous materials cargo will also be covered in this unit.

*Unit 5.2—Hours of service requirements.* The purpose of this unit is to enable students to understand the basic concepts and requirements of the FMCSRs—Part 395, “Hours of Service of Drivers”—and to develop the ability to complete a Driver's Daily Log and logbook recap. The issues of driver fatigue and staying alert will also be covered in this unit.

*Unit 5.3—Crash procedures.* The purpose of this unit is to teach students how to follow safe and legal procedures at a crash scene.

*Unit 5.4—Trip planning.* This unit must address the importance of and requirements for planning routes and trips. This instruction must address the importance of planning the safest route, including planning for rest stops, heavy traffic areas, etc.

*Unit 5.5—Miscellaneous topics.* In this unit, students will learn the Federal rules on medical certification, medical examination procedures, general qualifications, responsibilities, and disqualifications based on various offenses, orders, and loss of driving privileges (49 CFR part 391, subparts B and E).

The student will learn about driver wellness. Basic health maintenance including diet and exercise and the importance of avoiding excessive use of alcohol must be covered in this unit.

The right of an employee to question the safety practices of an employer without incurring the risk of losing a job or being subject to reprisals simply for stating a safety concern is included in this unit. The student will become familiar with the whistleblower protection regulations in 29 CFR part 1978.

The student will learn about proper passenger safety/protection including instruction in the proper use of emergency flares and fire extinguishers.

### PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

14. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 et seq., 31502; sec. 214 of Pub. L. 106-159, 113 Stat. 1766, 1767; sec. 1012(b) of Pub. L. 107-56, 115 Stat. 397; sec. 4140 of Pub. L. 109-59, 119 Stat. 1144; and 49 CFR 1.73.

15. Amend § 383.71 by adding paragraph (a)(10) to read as follows:

§ 383.71. Driver application procedures.

(a) \* \* \* (10) On and after [date 3 years after effective date of final rule], a person who operates or expects to operate in interstate commerce must provide to the State of issuance a copy of the Driver Training Certificate required by subpart F of part 380 of this subchapter showing that the applicant has successfully completed the training required therein. A person who operates or expects to operate entirely in intrastate commerce and is not subject to subpart F of part 380 is subject to State driver qualification requirements and must certify that he/she is not subject to subpart F of part 380.

\* \* \* \* \*

16. Amend § 383.73 by adding paragraph (a)(6), and revising paragraphs (a)(3)(ii), (d), and (g) to read as follows:

§ 383.73 State procedures.

(a) \* \* \* (3) \* \* \* (ii) A check with the CDLIS to determine whether the driver applicant has already been issued a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle, and, if the CDL was issued on or after [date 3 years after effective date of final rule], whether the applicant has completed the training required by subpart F of part 390 of this subchapter;

(6) On and after [date 3 years after effective date of final rule], for persons who operate or expect to operate in interstate commerce, or who are otherwise subject to subpart F of part 380 of this subchapter, obtain a copy of the Driver Training Certificate required by subpart F of part 380 showing that the applicant has successfully completed the training required therein, document such training in the CDLIS driver's history file, and maintain a copy of the certificate.

\* \* \* \* \*

(d) License upgrades. Prior to issuing an upgrade of a CDL, a State:

(1) Must require such driver applicant to provide certifications, pass tests, and meet applicable hazardous materials standards specified in § 383.71(d).

(2) On and after [date 3 years after effective date of final rule], must require drivers upgrading to a Class A CDL from a Class B or C CDL to complete all of the training required in Part I of Appendix B to part 380 of this subchapter.

(3) On and after [date 3 years after effective date of final rule], must require that a person with a CDL restricted to intrastate operations only who applies for an unrestricted CDL successfully complete the training required by subpart F of part 380 of this subchapter if the application is within 3 years of the issuance of the "intrastate operations only" restricted CDL, or

(4) On and after [Date 3 years after effective date of the final rule], may exempt from the training required by subpart F of part 380 a person with a CDL restricted to intrastate operations only who applies for an unrestricted CDL, if the application is more than 3 years after the date of issuance of the "intrastate operations only" restricted CDL and the applicant demonstrates that during the 3 years prior to applying for removal of the restriction, he/she:

- (i) Has not had more than one license;
(ii) Has not had any license suspended, revoked, or canceled;
(iii) Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in § 383.51(b);

(iv) Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in § 383.51(c);

(v) Has not had any conviction in a CMV for the disqualifying offenses in § 383.51(d) or (e); and

(vi) Has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic crash, and has no record of a crash in which he/she was at fault.

(5) Must complete a check of the driver applicant's record as described in § 383.73(a)(3).

\* \* \* \* \*

(g) Penalties for false information. If a State determines, in its check of an applicant's license status and record prior to issuing a CDL, or at any time after the CDL is issued, that the applicant has falsified information contained in subpart J of this part or any of the certificates or certifications required in § 383.71(a), the State must at a minimum suspend, cancel, or revoke the person's CDL or his/her pending application, or disqualify the person from operating a commercial motor

vehicle for a period of at least 60 consecutive days.

\* \* \* \* \*

17. Revise § 383.95 to read as follows:

§ 383.95 Restrictions on the CDL.

(a) Air brake restriction. (1) If an applicant either fails the air brake component of the knowledge test, or performs the skills test in a vehicle not equipped with air brakes, the State must indicate on the CDL, if issued, that the person is restricted from operating a CMV equipped with air brakes.

(2) For the purposes of the skills test and the restriction, air brakes include any braking system operating fully or partially on the air brake principle.

(b) Intrastate restriction. On and after [date 3 years after effective date of final rule] if an applicant has not completed the training specified in subpart F of part 380 of this subchapter, the State must restrict the license to intrastate operations only. This "intrastate operations only" restriction may be removed without requiring the training so specified after three years if the driver meets the requirements in § 383.73(d)(4).

18. Amend § 383.153 by adding paragraph (a)(10) to read as follows:

§ 383.153 Information on the document and application.

(a) \* \* \* (10) The restrictions on the driver's operating privileges, if any, indicated as follows:

- (i) "A" for air brakes.
(ii) "I" for intrastate only.

\* \* \* \* \*

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

19. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301 et seq., 31502; sec. 103 of Pub. L. 106-159, 113 Stat. 1753, 1767; sec. 4140 of Pub. L. 109-59, 119 Stat. 1144; and 49 CFR 1.73.

20. Add § 384.230 to read as follows:

§ 384.230 Entry-level training certificate.

On and after [date 3 years after effective date of final rule] a State may not issue a new CDL, a CDL upgraded from intrastate to interstate, or a CDL upgraded from one class to another, unless it follows the procedures prescribed in § 383.73 of this subchapter for obtaining the Driver Training Certificate required by subpart F of part 380 of this subchapter showing that the applicant has successfully completed the entry-level driver training required therein. Prior to that date, a State may not require an applicant to present a

Driver Training Certificate in order to  
obtain a CDL.

Issued on: December 17, 2007.

**John H. Hill,**  
*Administrator.*

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