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Washington, DC 20548

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February 14, 2020

The Honorable Roger Wicker  
Chairman  
The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Frank Pallone  
Chairman  
The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Transportation, Federal Motor Carrier Safety Administration: Extension of Compliance Date for Entry-Level Driver Training*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) entitled "Extension of Compliance Date for Entry-Level Driver Training" (RIN: 2126-AC25). We received the rule on February 4, 2020. It was published in the *Federal Register* as an interim final rule with request for comment on February 4, 2020. 85 Fed. Reg. 6088. The effective date of the rule is February 4, 2020.

The interim final rule with request for comment extends the compliance date for the rule "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" from February 7, 2020, to February 7, 2022. 81 Fed. Reg. 88732 (Dec. 8, 2016); 84 Fed. Reg. 8029 (Mar. 6, 2019). According to FMCSA, this extension will provide it additional time to complete development of the Training Provider Registry (TPR), which will allow training providers to self-certify that they meet the training requirements and will provide the electronic interface that will receive and store entry-level driver training (ELDT) certification information from training providers and transmit that information to the State Driver Licensing Agencies (SDLAs). Also according to FMCSA, the extension will provide SDLAs with time to modify their information technology (IT) systems and procedures, as necessary, to accommodate their receipt of driver-specific ELDT data from the TPR.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). FMCSA found that a delay in the effective date

of this interim final rule with request for comment is impracticable because of IT development issues. In addition to being impracticable FMCSA also found it would be contrary to the public interest to prolong uncertainty among individuals seeking to obtain the impacted commercial driver's licenses and endorsements as to what training provisions will apply to them. Additionally, according to FMCSA, questions regarding a firm compliance date could potentially delay motor carriers from hiring or otherwise utilizing those drivers until the uncertainty is lifted. FMCSA therefore found good cause not to delay the effective date.

Enclosed is our assessment of FMCSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Sarah Coleman Stella  
Chief, Regulatory Development Division  
Federal Motor Carrier Safety Administration  
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a) (2) (A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
ENTITLED  
“EXTENSION OF COMPLIANCE DATE  
FOR ENTRY-LEVEL DRIVER TRAINING”  
(RIN: 2126-AC25)

(i) Cost-benefit analysis

The Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) estimated the impacts of this interim final rule and request for comment for years 2020 through 2023 using the 2016 and 2019 entry-level driver training (ELDT) rules as the baseline for its estimates. 81 Fed. Reg. 88732 (Dec. 8, 2016); 84 Fed. Reg. 8029 (Mar. 6, 2019). FMCSA estimated that the ELDT rules would have imposed costs on entry-level drivers, motor carriers, training providers, state driver licensing agencies, and the federal government, and costs for maintenance and repair. FMCSA estimates that these costs, annualized, would have been \$179 million at the 3 percent discount rate and \$196 million at a 7 percent discount rate for the years 2020 through 2023. Therefore, FMCSA calculates extending the compliance date of the ELDT rules results in an estimated cost savings of \$179 million at a 3 percent discount rate and \$196 million at a 7 percent discount rate.

FMCSA estimated benefits from the ELDT rules in two broad categories: safety benefits and non-safety benefits. The non-safety benefits included decreased fuel consumption and climate benefits from lower carbon emissions. FMCSA estimated the non-safety benefits of the ELDT rules to be \$108 million at a 3 percent discount rate and \$112 million at a 7 percent discount rate for years 2020 through 2023. Therefore, FMCSA calculates extending the compliance date of the ELDT rules results in forgone benefits of \$108 million at a 3 percent discount rate and \$112 million at a 7 percent discount rate. FMCSA also stated that extending the compliance date of the ELDT rules will also delay the associated qualitative safety benefits.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FMCSA determined that it is not required to complete a regulatory flexibility analysis for this interim final rule with request for comment because, as discussed below, FMCSA found good cause to waive notice-and-comment procedures under the Administrative Procedure Act.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

FMCSA determined that this interim final rule with request for comment will not result in the expenditure by a state, local, or tribal government, in the aggregate, or by the private sector of \$165 million (\$100 million, adjusted for inflation) or more in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On July 18, 2019, FMCSA published a proposed rule. 84 Fed. Reg. 34324. Under this proposed rule, the compliance date for only two provisions of the ELDT rules would have been

extended. FMCSA received 56 comments on the proposed rule. FMCSA responded to comments in this interim final rule with request for comment. Under this interim final rule with request for comment, the compliance date for all the provisions of ELDT rules are extended. FMCSA found good cause to proceed with the immediate extension of the compliance date for all the provisions, including those not included proposed rule. FMCSA found that allowing for notice and comment on extending the compliance date for the training provider curriculum and registration requirements and the driver applicant training portions of the minimum training rule is impracticable and contrary to the public interest because, due to information technology development issues, FMCSA determined it cannot complete any portion of the Training Provider Registry in time for the February 7, 2020, compliance date.

In addition to being impracticable to provide prior notice and comment on extending the compliance date for the final rule, FMCSA determined it would also be contrary to the public interest to prolong uncertainty among individuals seeking to obtain the impacted commercial driver's licenses and endorsements as to what training provisions will apply to them. Additionally, according to FMCSA, questions regarding a firm compliance date could potentially delay motor carriers from hiring or otherwise utilizing those drivers until the uncertainty is lifted. FMCSA therefore found good cause to forgo prior notice-and-comment procedures before extending the compliance date. This interim final rule with request for comment includes a 45-day comment period. FMCSA stated that it will consider and address any submitted comments in the final rule that will follow this interim final rule. For the same reasons it found good cause to waive notice-and-comment procedures, FMCSA also found good cause to make this final rule effective less than 30 days after publication. 5 U.S.C. 553(d).

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

FMCSA determined that this interim final rule with request for comment includes an information collection requirement (ICR) under the Act. According to FMCSA, this ICR is currently being revised as part of its renewal cycle and FMCSA will submit its estimate of the burden of the proposal contained in this interim final rule to the Office of Management and Budget (OMB) for its review of the collection of information renewal. FMCSA published the 60-day notice on July 3, 2019. 84 Fed. Reg. 31982. FMCSA stated that it will publish the 30-day notice in the *Federal Register* reflecting the changes made by this interim final rule with request for comment.

Statutory authorization for the rule

FMCSA promulgated this interim final rule with request for comment under the authority of sections 31305, 31502(b), and 31136(a)(1) and (2) of title 49, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Office of Information and Regulatory Affairs within OMB determined that this interim final rule with request for comment is an economically significant regulatory action under the Order because the economic costs and benefits of the rule exceed the \$100 million annual threshold.

Executive Order No. 13,132 (Federalism)

FMCSA determined that this interim final rule with request for comment will not have substantial direct costs on or for states and will not limit the policymaking discretion of states.