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December 27, 2016

The Honorable John Thune
Chairman
The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Bill Shuster
Chairman
The Honorable Peter A. DeFazio
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Motor Carrier Safety Administration: Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators*

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 "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (RIN: 2126-AB66). We received the rule on December 14, 2016. It was published in the *Federal Register* as a final rule on December 8, 2016, with an effective date of February 6, 2017. 81 Fed. Reg. 88,732.

The final rule establishes new minimum training standards for certain individuals applying for their commercial driver's license (CDL) for the first time; an upgrade of their CDL; or a hazardous materials, passenger, or school bus endorsement for the first time. FMCSA believes this final rule enhances the safety of commercial motor vehicle operations on our Nation's highways by establishing a minimum standard for entry-level driver training (ELDT) and increasing the number of drivers who receive ELDT.

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). This final rule was published in the *Federal Register* on December 8, 2016, and Congress received this rule on December 14, 2016. The final rule has a stated effective date of February 6, 2017. Therefore, the final rule does not have the required 60-day delay in its effective date. However, the compliance date for this rule is February 7, 2020.

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. With the exception of the

60-day delay in the effective date requirement, our review of the procedural steps taken indicates that FMCSA complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Steven J. LaFreniere
FMCSA Regulatory Ombudsman
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
“MINIMUM TRAINING REQUIREMENTS FOR
ENTRY-LEVEL COMMERCIAL MOTOR VEHICLE OPERATORS”
(RIN: 2126-AB66)

(i) Cost-benefit analysis

The Federal Motor Carrier Safety Administration (FMCSA) stated in the rule that entry-level drivers, motor carriers, training providers, state driving licensing agencies, and the federal government would incur costs for compliance and implementation of the final rule. FMCSA estimates that the 10-year cost of the final rule would total \$3.66 billion on an undiscounted basis, \$3.23 billion discounted at 3 percent, and \$2.76 billion discounted at 7 percent (all in 2014 dollars).

FMCSA also states that the final rule will result in benefits to commercial vehicle operators, the transportation industry, the traveling public, and the environment. FMCSA estimated benefits in two broad categories: safety benefits and non-safety benefits. FMCSA estimates that the 10-year quantifiable benefits would total \$2.39 billion on an undiscounted basis, \$2.36 billion discounted at 3 percent, and \$2.37 billion discounted at 7 percent (all in 2014 dollars).

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

FMCSA prepared an Initial Regulatory Flexibility Analysis for the proposed rule and a Final Regulatory Flexibility Analysis for the final rule. Based on these analyses, FMCSA certified that this final rule will not have a significant economic impact on a substantial number of small entities.

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

FMCSA states that a written statement under the Unfunded Mandates Reform Act is not required for regulations that incorporate requirements specifically set forth in law, citing 2 U.S.C. § 1531. FMCSA also states that the Moving Ahead for Progress in the 21st Century Act (MAP-21) mandated that the administration issue regulations to establish minimum entry-level training for all first-time commercial driver license (CDL) applicants, CDL holders seeking a license upgrade from one class of CDL to another, and applicants for the passenger or hazardous materials endorsements. (FMCSA notes that the requirement for mandatory school bus endorsement training is consistent with MAP-21.) Therefore, FMCSA determined that because this final rule implements the direction of Congress, a written statement under the Unfunded Mandates Reform Act is not required.

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

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

On March 7, 2016, FMCSA published a notice of proposed rulemaking in the *Federal Register*. 81 Fed. Reg. 11,944. FMCSA received 338 submissions during the public comment period, 190 of which provided substantive comments. In addition to private citizens, examples of the types of entities providing comments include: academic institutions, motor carriers, commercial vehicle driver trainers, safety advocacy groups, and school bus operations. FMCSA responded to the comments in the final rule.

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

This final rule requires training providers to obtain, collect, maintain, and in some cases transmit, information about individuals who complete entry-level driver training (a new information collection). On March 7, 2016, FMCSA provided a preliminary estimate of the time burden that would be imposed on training providers and asked for public comment. 81 Fed. Reg. 11,967. No comments were received. The compliance date for this final rule is 3 years after the effective date, and Office of Management and Budget (OMB) approval of the information collection contained in this final rule must be obtained before the compliance date. Therefore, FMCSA states that in approximately 2 years, it will submit its burden estimate to OMB approval and provide notice and an opportunity for public comment.

Statutory authorization for the rule

FMCSA states that this final rule is based on the authority of the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and implements section 32304 of MAP-21.

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

FMCSA determined that this final rule is an economically significant regulatory action under Executive Order 12,866, as supplemented by Executive Order 13,563. FMCSA also deemed it significant under Department of Transportation regulatory policies and procedures because the economic costs and benefits of the rule exceed the \$100 million annual threshold and because of the substantial congressional and public interest concerning the lack of federal entry-level driver training requirements. FMCSA provided an analysis of the costs and benefits of the rule.

Executive Order No. 13,132 (Federalism)

FMCSA analyzed this final rule in accordance with Executive Order 13,132 and determined that it does not have federalism implications. FMCSA states that because this rule makes conforming, and not substantive, changes to the requirements already imposed on participating states, this final rule does 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. Nonetheless, FMCSA recognized that this rule may have some impact on the states. Accordingly, FMCSA sought advice from the National Governors Association, the National Conference of States legislatures, the American Association of Motor Vehicle Administrators, and the National Association of Publicly Funded Truck Driving Schools.