

TABLE 26.—NET CHANGE IN ENERGY CONSUMPTION BY CONSUMER BY ALTERNATIVE—Continued

Energy consumer	No action alternative	Full compliance baseline	PATT alternative	ATA alternative	FMCSA alternative
Total U.S. ....	0	(0.00 percent) .....	0.10 percent .....	(0.00 percent) .....	0.00 percent.

Source: Environmental Assessment for Hours of Service (HOS) Rule, Table 21.

In accordance with Executive Order 13211, the agency prepared a Statement of Energy Effects for this final rule. A copy of this statement is in Appendix D to the environmental assessment.

*Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations)*

The FMCSA evaluated the environmental effects of the Proposed Action and alternatives in accordance with Executive Order 12898 and determined that there were no environmental justice issues associated with revising the hours of service regulations. Environmental justice issues would be raised if there were “disproportionate” and “high and adverse impact” on minority or low-income populations. The FMCSA determined through the analyses documented in the Environmental Assessment in the docket prepared for this final rule that there were no high and adverse impacts associated with any of the alternatives. In addition, FMCSA analyzed the demographic makeup of the trucking industry potentially affected by the alternatives and determined that there was no disproportionate impact on minority or low-income populations. This is based on the finding that low-income and minority populations are generally underrepresented in the trucking occupation. In addition, the most impacted trucking sectors do not have disproportionate representation of minority and low-income drivers relative to the trucking occupation as a whole. Appendix E of the Environmental Assessment provides a detailed analysis that was used to reach this conclusion.

*Executive Order 13045 (Protection of Children)*

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (April 23, 1997, 62 FR 19885), requires that agencies issuing “economically significant” rules that also concern an environmental health or safety risk that an agency has reason to state may disproportionately affect children must include an evaluation of the environmental health and safety effects of the regulation on

children. Section 5 of Executive Order 13045 directs an agency to submit for a “covered regulatory action” an evaluation of its environmental health or safety effects on children.

The FMCSA evaluated the projected effects of the proposed action and alternatives and determined that they would not create disproportionate environmental health risks or safety risks to children. The only adverse environmental effect with potential human health consequences is the projected increase in emissions of air pollutants. The FMCSA has projected that the PATT alternative and the FMCSA alternative would result in a minor increase in emissions on a national scale. The FMCSA projects no adverse human health consequences to either children or adults because the magnitude of emission increases is small. The proposed action and alternatives, however, would reduce the safety risk posed by tired, drowsy, or fatigued drivers of CMVs. These safety risk improvements would accrue to children and adults equally.

*Executive Order 12988 (Civil Justice Reform)*

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

*Executive Order 12630 (Taking of Private Property)*

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

*Executive Order 13132 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. The FMCSA has determined this rule does not have a substantial direct effect on States, nor would it limit the policymaking discretion of the States. Nothing in this document preempts any State law or regulation.

A State that fails to adopt the new amendments in this final rule within three years of the effective date of June

27, 2003, will be deemed to have incompatible regulations and will not be eligible for Basic Program nor Incentive Funds in accordance with 49 CFR 350.335(b).

*Executive Order 12372 (Intergovernmental Review)*

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

**List of Subjects**

*49 CFR Part 385*

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

*49 CFR Part 390*

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

*49 CFR Part 395*

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, the FMCSA is amending Title 49, CFR, chapter III, parts 385, 390, and 395 as set forth below:

**PART 385—SAFETY FITNESS PROCEDURES [AMENDED]**

■ 1. The authority citation for part 385 continues to read as follows.

**Authority:** 49 U.S.C. 113, 504, 521(b), 5113, 31136, 31144, 31148, and 31502; and 49 CFR 1.73.

■ 2. Amend appendix B to part 385 as follows:

■ a. Revise section II.(c) as follows:

■ b. Amend section VII as follows:

(i) Revise the citations and text for §§ 395.1(h)(1)(i) through (h)(1)(iv) and 395.3(a)(1) through 395.3(b)(2) as follows; and

(ii) Add the citations and text for §§ 395.1(h)(2)(i) through (h)(2)(iv), 395.1(o), and 395.3(c)(1) through 395.5(b)(2) in numerical order as follows: