

the requirements of 49 CFR part 383. The security risk review mandated by this rule and the corresponding TSA rule is merely an incremental addition to the broader CDL requirements and will be managed by State licensing personnel who are already familiar with that program. The amendments to part 383 included in this rule will not have a substantial direct effect on the States or change the relationship between the national government and the States.

Sec. 4(c) of E.O. 13132 also provides that [a]ny regulatory preemption of State law shall be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated. FMCSA has tailored this IFR as narrowly as possible to the purposes of Sec. 1012. Furthermore, the rule does not preempt State law.

Sec. 3(a) of E.O. 13132 requires Federal agencies, "[t]o the extent practicable," to consult with State and local officials before taking actions that have federalism implications. As discussed above, this rule does not have federalism implications requiring consultation. In any case, formal consultation with the States before issuing this rule would not be "practicable," because the objectives of Sec. 1012 and the continued threat of terrorism require implementation of the security risk review at the earliest possible moment. Nonetheless, FMCSA has communicated with all of the States on this issue. The Assistant Administrator wrote to licensing officials in each State on October 31, 2001, briefly summarizing Sec. 1012 and asking them to continue issuing and renewing hazardous materials endorsements until the rulemaking necessary to implement the new requirement had been completed. Furthermore, DOT and TSA have held extensive discussions with the Compact Council created pursuant to the National Crime Prevention and Privacy Compact Act of 1998 [42 U.S.C. 14616] about the requirement that fingerprints be submitted when seeking criminal history record checks for noncriminal justice purposes. The new regulations and the corresponding implementation plans have been explained to Compact Council, nine of whose fifteen members are State officials.

#### **Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental

consultation on Federal programs and activities do not apply to this program.

#### **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. An analysis of this rule has been made by the FMCSA, and it has been determined that it will affect the information collection burden associated with the currently-approved information collection covered by OMB Control No. 2126–0011, entitled "Commercial Driver Licensing and Test Standards." The OMB approved the most recent update of this information on October 3, 2002, at 819,982 burden hours. The approval period runs through October 31, 2005.

This IFR will increase the burden hours associated with this information collection by 17,250 hours. The implementation of this IFR will require the State DMVs to enter into the Commercial Driver's License Information System (CDLIS) an indication of whether the applicant is a U.S. citizen or resident alien (and if a resident alien, the alien registration number); and whether the driver is or is not a security risk. We estimate the time required to add this information to CDLIS to be approximately 1 minute, and the number of annual hazardous materials endorsement applications to be 1,035,000 per year. Therefore, we estimate the additional burden associated with this IFR to be 17,250 hours (1,035,000 x 1 minute, divided by 60 minutes).

We estimate the additional costs to the State DMVs associated with this information collection to be approximately \$765,000. This will be a one-time cost that each State and the District of Columbia (at \$15,000 per State) would need to expend to update their systems to accommodate the new fields and recordkeeping requirements of this IFR.

We particularly request your comments on whether the collection of information is necessary for FMCSA to achieve the purpose of Sec. 1012 in helping to prevent terrorist incidents, including (1) whether the information is useful to this goal; (2) the accuracy of the estimate of the burden of the information collection; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

You may submit comments on the information collection burden addressed by this interim final rule to the Office of Management and Budget (OMB). The OMB must receive your comments by August 4, 2003. You must mail or hand deliver your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503.

#### **National Environmental Policy Act**

FMCSA has analyzed this rule under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) and has determined that it will not have a significant impact on the quality of the human environment. The rule will slightly expand the number of commercial drivers who must obtain a hazardous materials endorsement and require minor changes to State regulations and procedures. The TSA rule, which this rule is designed in part to enforce, will disqualify an unknown number of drivers who have been convicted of certain offenses from holding a hazardous materials endorsement to a CDL. That should reduce the risk that hazardous materials could be used as a terrorist weapon. The net effect of these two rules on the human and physical environment is expected to be positive.

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

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of Section 4(b) of the Executive Order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

FMCSA anticipates that the TSA rule, which this rule requires the States to comply with, will prevent some drivers with criminal records from receiving or renewing hazardous materials endorsements. As mentioned above, however, comprehensive criminal history data on CMV drivers do not exist, and neither FMCSA nor TSA can reliably estimate the number who may be disqualified by the TSA rule. Anecdotal evidence suggests that the number of drivers who have committed the serious disqualifying offenses listed in the TSA rule is quite small. In addition, endorsements will henceforth