

incremental cost to the Government for the entire name-based background check process is estimated to be \$5.2 million (present value, \$5.2 million).

The second primary incremental cost component is associated with recurring fingerprint-based checks required for new, renewed or transferred hazardous materials endorsements. It is estimated that it will take approximately 40 staff-years to adjudicate the fingerprint check results. This estimate is based on 25 percent of the checks returning results that require further review, with each review taking, on average, 5 minutes to complete. The fully loaded labor rate for personnel conducting these reviews is approximately \$40.00 an hour. The incremental cost to adjudicate these results, including labor and other direct costs, over a ten-year period is estimated to be \$44.4 million (present value, \$33.8 million).

Consistent with the name-based check, applicants notified of disqualifying offenses have the right to appeal and apply for a waiver under this rule. It is estimated that it will take approximately 4.8 staff-years to process and respond to these actions. This figure is based on an estimate of 1 percent of those individuals notified of disqualifying offenses electing to appeal or apply for a waiver of the initial notification, with each action taking, on average, 1 hour to process. The fully loaded labor rate for personnel processing these actions is approximately \$40.00 an hour. The incremental cost to adjudicate these actions, including labor and other direct costs, over a ten-year period is estimated to be \$4.2 million (present value, \$3.2 million). The total incremental cost to the Government for the fingerprint process over a ten-year period is estimated to be \$48.6 million (present value, \$36.9 million).

To implement these processes, TSA will need to modify current systems to handle name check and fingerprint check data. The one-time cost of these changes is estimated to be \$450,000 to modify existing software programs to store data, and to train system users and administrators. Annual maintenance costs associated with administration of this system are estimated to be \$90,000 annually. Using these assumptions, it is estimated that the incremental cost associated with TSA systems over a ten-year period is \$1.35 million (present value, \$1.13 million).

Using these assumptions, it is estimated that the total increment cost impact on the government of this final rule over a ten-year period is \$55.2 million (present value, \$43.3 million).

States Impact

Every State and the District of Columbia has a Department of Motor Vehicles (DMV) that administers records for all of its licensed drivers, including programs for CDLs and HM endorsements. This rule may require States to change procedures for issuing HM endorsements and, therefore, has an incremental cost. States will have to develop and implement procedures to process background check information for all applicants for an HM endorsement.

The Association of American Motor Vehicle Administrators (AAMVA) estimates that it will cost States \$15,000 each to upgrade computer systems to handle these requirements. This amount includes a one-time cost to modify existing software programs to store data, train system users and administrators, and modest informational outreach to interested parties concerning the changes. It is assumed that all of these activities can occur with existing equipment. To obtain the \$15,000 estimate, AAMVA looked at several State motor vehicle data systems retrofits that they believe were comparable to the changes required by this IFR. Using these assumptions, it is estimated that the incremental cost of computer system and process changes over a ten-year period is \$765,000 (present value, \$765,000).

Benefits

The primary benefit of the rule will be increased protection to U.S. property, citizens and others traveling in the U.S. from acts of terrorism. The changes envisioned in this interim final rule are an integral part of the total program needed by the transportation industry to prevent a terrorist incident in the future.

As stated previously in this preamble, part of TSA's mission is to ensure the security of hazardous materials in transportation so that these materials are not used in an act of terrorism. Two tragedies provide examples of the harm that can occur from explosive material delivered in a van or light truck; the 1993 New York World Trade Center (WTC) and the 1995 Oklahoma City Federal Building. Although drivers with hazardous material endorsements did not perpetrate these terrorist acts, the examples do provide a basis of comparison. Vehicles used in the transportation of hazardous materials typically have much larger capacities than the vehicles used in these two incidents. If these vehicles were used to carry out a terrorist act, the damage would be far greater. If certain hazardous materials were involved, if

could affect an even greater number of people and amount of property over a larger area.

The 1993 WTC bombing killed six people, injured over 1,000, and resulted in over \$510 million in insured losses. The Oklahoma City bombing killed 168 people, injured 601, and resulted in over \$125 million in insured losses. In order to provide a benchmark comparison of the expected benefits of this final rule with estimated costs in dollars, a minimum of \$3.0 million is used as the value of avoiding a fatality (based on the willingness to pay approach for avoiding a fatality). The value of avoiding bodily injury depends on the severity of the injury and ranges from \$6,000 for a minor injury to \$2.3 million for a critical injury. These figures are based on Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs (Economic Values), FAA-APO-98-8, June 1998, adjusted to 2002 dollars.

The intent of this rule is to prevent a terrorist attack similar to, or worse than, these examples. The 1993 WTC resulted in \$113 million in loss of life and bodily injury, and over \$510 million in insured losses (based on figures from the Federal Emergency Management Agency). Total losses are estimated to be \$623 million (present value, \$468 million). The 1995 Oklahoma City bombing resulted in \$560 million in loss of life and bodily injury, and over \$125 million in insured losses. Total losses are estimated to be \$685 million (present value, \$514 million). The prevention of one of these tragedies would offset the cost of this final rule, and supports the rule as cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980, as amended, (RFA) was enacted by Congress to ensure that small entities (small businesses, small not-for-profit organizations, and small governmental jurisdictions) are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires agencies to review rules to determine if they have "a significant economic impact on a substantial number of small entities." TSA has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Current industry practice is for drivers to obtain their CDL certification as a condition of employment. Individuals are required to have a current CDL with appropriate endorsements to be eligible for employment. This is an employment