

cost typically borne by the individual employee. Therefore, the burden on small business entities from this final rule is expected to be *de minimis*.

TSA conducted the required review of this rule and determined that it will not have a significant economic impact. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), TSA certifies that this rule will not have a significant impact on a substantial number of small entities.

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. This interim final rule contains the following new information collection requirements.

This rule contains information collection activities subject to the Paperwork Reduction Act (44 U.S.C. 3507(d)) (PRA). Accordingly, the paperwork burden associated with the rule will be submitted to the Office of Management and Budget (OMB) for review. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after the Office of Management and Budget has approved it.

Need: Truck drivers will complete an application and provide fingerprints for the purpose of conducting a background check. It is anticipated that State and local agencies will collect this information when individuals apply for, renew or transfer commercial drivers licenses that includes a hazardous material endorsement. This information will be used to conduct background checks to ensure that these individuals do not have a disqualifying criminal offense, as described in 49 CFR 1572.103.

Description of Respondents: Individuals applying for, renewing or transferring a hazardous materials endorsement for a CDL.

Burden: It is estimated that 3.5 million people have hazardous material endorsements for a CDL. This number is expected to grow by approximately 2.8% people per year for a ten-year total of approximately 4.5 million people (450,000 annualized). The number of fingerprint applications to be collected over a ten-year period is approximately

8.7 million (870,000 annualized). This number includes new applicants and renewals, which on average, occur every five years.

Fingerprint costs consist of a processing fee, processing time, and material. The average cost for the fingerprint process is approximately \$50 per set. It is estimated that it will take an average of thirty minutes to complete an FBI fingerprint card and forward it to the FBI for further processing. Based on these factors, it is estimated that the background check process will involve 4.4 million hours over the ten-year period (436,000 annualized) and will cost \$452 million over the ten-year period (\$45.2 million annualized).

TSA requests comments on the estimates of the paperwork and information collection burden, and whether these burdens can be minimized. TSA believes that requesting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by this regulation.

Executive Order 13132 (Federalism)

Executive Order 13132 requires TSA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under the Executive Order, TSA may construe a Federal statute to preempt State law only where, among other things, the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

This action has been analyzed in accordance with the principles and criteria in the Executive Order, and it has been determined that this interim final rule does have Federalism implications or a substantial direct effect on the States. The rule does not presently require States to collect or process fingerprints. TSA will be developing those procedures in consultation with the States over the next 180 days.

TSA notes that FMCSA has communicated with the States on the requirements of the USA PATRIOT Act. The Assistant Administrator of FMCSA wrote to licensing officials in each State

on October 31, 2001, briefly summarizing section 1012 of the USA PATRIOT Act, and asking them to continue issuing and renewing hazardous materials endorsements until the regulations implementing section 1012 were completed. Some States have already enacted legislation they consider necessary to carry out the mandates of section 1012.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires TSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows TSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This interim final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Thus, TSA has not prepared a written assessment under the UMRA.

Environmental Analysis

TSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this final rule will not have any significant impact on the quality of the human environment.

Energy Impact

TSA has assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). TSA has determined that this rule is not a major regulatory action under the provisions of the EPCA.