

Compliance and Effective Dates

The agency is specifying when motor carriers and drivers must comply with this interim final rule. The effective date cited in the **DATES** heading at the top of this document is the date that this interim final rule's amendments affect the current Code of Federal Regulations published by the Office of the Federal Register. Motor carriers and drivers transporting household goods may not begin to comply with this interim final rule on that date.

The compliance date is the date that motor carriers and drivers must begin to comply with this interim final rule.

Motor carriers, drivers, and the FMCSA must do many necessary things before the rules can be enforced. The FMCSA must update motor carrier information, compliance, and enforcement computer systems and manuals. The FMCSA has eight computer software packages where it must find the correct code, write new code, test the new software, and distribute it to its division offices.

The agency must develop training, distribute training materials, and ensure training materials are read, taught, and understood by the FMCSA's inspectors, investigators, and auditors. The agency also plans to provide training and presentations to the public about the new rules.

Motor carriers must develop training or use FMCSA's training materials, distribute training materials, and ensure training materials are read, taught, and understood by the drivers engaged in interstate commerce who transport household goods. The FMCSA cannot do its part, and cannot expect motor carriers to do their part, within 90 days after today.

The agency believes a compliance date near the end of the "off-season" will be the least burdensome to all carriers and enforcement officials. Most affected carriers subject to this interim final rule have fewer household goods shipments between October and March and most affected carriers would suffer less disruption to their operations if the rule took effect near the beginning of a new moving season (April through September). Therefore, the agency is providing a compliance date when all carriers, drivers, and enforcement officials will switch from the current rule to the new rule: Monday, March 1, 2004.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is a significant regulatory action

within the meaning of Executive Order 12866 and the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979) because there is substantial public interest. It is anticipated that the economic impact of this rulemaking will be minimal.

The rules affect a broad segment of the public. In addition, the agency received comments to the NPRM from the California, Colorado, Idaho, Michigan, New Hampshire, Oregon, and Pennsylvania Departments of Agriculture, the elected Attorney Generals from 26 States, and numerous consumer groups.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (Pub. L. 104–121), requires federal agencies to analyze the impact of rulemakings on small entities, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The changes being made to the existing rule by FMCSA do not impose a significant economic impact on a substantial number of small entities. The original rule issued by the ICC imposed paperwork requirements that would take 785 hours for each entity. Today's IFR increases that burden by 458 hours; the new total of the burden hours is 1,243 hours. The total is being added to FMCSA's information collection budget, since the original amount was never "transferred" from the ICC.

The interim final rule bases this estimate of 1,243 hours upon the estimated costs identified to create records, duplicate records, store the original and duplicated copies of records, and practice inventory control for the records.

The information required for preparing these documents is the type of information already developed by such entities in the normal course of conducting a household goods transportation business. The time necessary to compile the incremental data for the documents required in these regulations should be minimal and would vary proportionately with the number of shipments transported by the carrier.

FMCSA did not propose any different requirements or timetables for small entities. As noted above, we do not believe these requirements will be onerous, with many carriers already having to comply with these requirements. Furthermore, FMCSA has

eliminated existing performance reporting requirements for both large and small carriers.

As explained above, FMCSA cannot exempt small carriers from these proposals without seriously diminishing the agency's ability to ensure the protection of consumers. Exempting them could have the same impact as not issuing (or enforcing) these proposals. Therefore, FMCSA certifies that this interim final rule will not have a significant impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). State Attorneys General submitted comments to the May 2, 1998 NPRM, which were considered in developing this interim final regulation. The FMCSA has addressed the concerns of the Attorneys General in the interim final rule. The FMCSA certifies that this interim final rule has federalism implications because it directly impacts the distribution of power and responsibilities among the various levels of government.

Federalism Summary Impact Statement

The FMCSA Position Supporting the Need To Issue This Regulation

The State Attorneys General generally believe they hold authority to enforce laws and regulations governing the interstate transportation of household goods and want FMCSA to acknowledge their role. However, the interstate transportation of household goods involves issues that are national in scope that have been regulated exclusively by the Federal government for many years. Regulations implementing the Household Goods Transportation Act of 1980 were promulgated by the Interstate Commerce Commission (ICC) in 1981 and were subsequently transferred to DOT by the ICC Termination Act of 1995 where Congress, in 49 U.S.C. 14104, conferred authority on the Secretary of Transportation to "issue regulations protecting individual shippers." The Secretary subsequently delegated this authority to FMCSA under 49 CFR 1.73(a)(6). Thus, the Carmack Amendment, now codified at 49 U.S.C. 14706, imposes a uniform regime of carrier liability for interstate shipments of property designed to eliminate the uncertainty resulting from potentially conflicting State laws. Federal and State courts have consistently held that