

adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule was reviewed under Executive Order 12866. It is significant within the meaning of the DOT's Regulatory Policies and Procedures. No regulatory analysis or evaluation accompanies this rule. When a rulemaking action does not include publication of a notice of proposed rulemaking, as is the case in this proceeding, economic assessments are not required for the final rule.

TSA recognizes that this rule will impose costs on affected carriers in Canada. These costs will stem from ensuring that the carrier, offeror, drivers, and train crew members are known to Transport Canada and to TSA. However, given the Act and the current security threat, TSA believes it is necessary to require these enhanced security measures, to avoid the potential of a serious disruption of trans-border transportation and to provide additional assurance that persons who transport explosives are authorized to do so. TSA will assess the costs and benefits of the rule as soon as possible and include the analysis in the docket of this rulemaking.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a

rule will not have a significant economic impact on a substantial number of small entities.

TSA recognizes that this rule will impose costs on affected foreign carriers, offerors, drivers, and train crew members, and that some of these carriers are small businesses. However, given the Act and the current security threat, TSA believes it is necessary to require these enhanced security measures. In any event, when a rulemaking action does not include publication of a notice of proposed rulemaking, as is the case in this proceeding, economic assessments are not required for the final rule.

Unfunded Mandates Determination

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the TSA consider the impact of paperwork and other information collection burdens imposed on the public. A person is not required to respond to a collection of information unless it displays a current valid Office of Management and Budget (OMB) control number.

Under this rule, the Canadian Government will gather information from their carriers and railroads and share it with TSA as a part of Government-to-Government consultation and coordination. Persons operating from Canada transporting explosives across the border pursuant to this rule will not be subject to additional paperwork burdens. The information that they will present to Customs is already required under other international, statutory, and regulatory provisions. We note that this rule is an interim measure that must be issued quickly to prevent disruption of commerce. We are working closely with

OMB to obtain expedited clearance under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) for the Government-to-Government paperwork collection.

International Trade Impact Statement

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The statute also requires consideration of international standards, and where appropriate, that they be the basis for U.S. standards. DOT has assessed the potential effect of this rulemaking in consultation with the Government of Canada, and has determined that it will not have a significant impact on foreign commerce and, therefore, has no effect on any trade-sensitive activity.

Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

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

List of Subjects in 49 CFR Part 1572

Motor carriers, Motor vehicle carriers, Railroads, Security measures.

The Interim Final Rule

In consideration of the foregoing, the Transportation Security Administration amends Chapter XII of Title 49, Code of Federal Regulations, by adding a new subchapter D to read as follows: