

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, FMCSA 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.

Although this IFR has direct effects on the States, they are not substantial because the IFR will continue the status quo while allowing States more time to comply with the May 5, 2003, interim final rules. Thus, FMCSA has determined that this IFR does not have sufficient Federalism implications to warrant the preparation of a Federal Assessment.

As discussed in detail in the May 5 IFR [see 68 FR at 23847–23848], the provisions of 49 U.S.C. 31314, which require DOT to withhold certain Federal-aid highway funds from States that fail to comply substantially with the requirements for State participation in the CDL program, apply also to State compliance with those portions of the Transportation Security Administration (TSA) rule implementing Sec. 1012 that apply to States. In addition, 49 U.S.C. 31312 authorizes DOT to prohibit States from issuing CDLs if the Secretary determines "that a State is in substantial noncompliance" with 49 U.S.C. chapter 313. These penalties are available for DOT to use when and if appropriate to encourage State compliance with TSA's Sec. 1012 rule.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards-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. FMCSA has assessed the potential effect of this IFR and has determined that it will not impose any costs on domestic or international entities and thus would have a neutral trade impact.

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 FMCSA 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 FMCSA 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 IFR 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, FMCSA has not prepared a written assessment under the UMRA.

National Environmental Policy Act

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

Energy Impact

FMCSA 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). FMCSA has determined that this IFR is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 383

Administrative practice and procedure, Commercial driver's license, Commercial motor vehicles, Highway safety, Motor carriers.

■ For the reasons set forth in the preamble, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES [AMENDED]

■ 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; Sec. 214 of Pub. L. 106–159, 113

Stat. 1766; Sec. 1012(b) of Pub. L. 107–56, 115 Stat. 397; and 49 CFR 1.73.

■ 2. Revise § 383.141 paragraphs (a) and (c) to read as follows:

§ 383.141 General.

(a) *Applicability date.* Beginning on April 1, 2004, this section applies to State agencies responsible for issuing hazardous materials endorsements for a CDL, and applicants for such endorsements. Individual State licensing agencies, pursuant to 49 CFR 1572.5(c)(4), may request an extension of the compliance date.

* * * * *

(c) *Individual notification.* At least 180 days before the expiration date of the CDL or hazardous materials endorsement, a State must notify the holder of a hazardous materials endorsement that the individual must pass a Transportation Security Administration security screening process as part of any application for renewal of the hazardous materials endorsement. The notice must advise a driver that, in order to expedite the security screening process, he or she should file a renewal application as soon as possible, but not later than 90 days before the date of expiration of the endorsement. An individual who does not successfully complete the Transportation Security Administration security screening process referenced in paragraph (b) of this section may not be issued a hazardous materials endorsement.

* * * * *

Issued on: November 5, 2003.

Annette M. Sandberg,
Administrator.

[FR Doc. 03–28175 Filed 11–5–03; 2:44 pm]

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1572

[Docket No. TSA–2003–14610; Amendment No. 1572–2]

RIN 1652–AA17

Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License; Amended Interim Final Rule

AGENCY: Transportation Security Administration (TSA), Department of Homeland Security (DHS).