



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Parts 382, 383 and 384

[Docket No. FMCSA-2019-0120]

RIN 2126-AC32

Extension of Compliance Date for States' Query of the Drug and Alcohol Clearinghouse

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking; extension of compliance date.

SUMMARY: FMCSA proposes to extend the compliance date for the requirement established by the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) final rule that States request information from the Clearinghouse ("query") before completing certain commercial driver's license (CDL) transactions. The States' compliance with this requirement, currently due to begin on January 6, 2020, would be delayed until January 6, 2023. This proposal would, however, allow States the option to voluntarily request Clearinghouse information beginning on January 6, 2020. As explained further below, the proposed delay of the State query requirement would have no impact on highway safety. The compliance date of January 6, 2020 would remain in place for all other requirements set forth in the Clearinghouse final rule.

DATES: Comments on this document must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2019-0120 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Nikki McDavid, Chief, Commercial Driver’s License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001 by telephone at 202-366-0831 or by email, nikki.mcdavid@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this notice of proposed rulemaking (NPRM) (Docket No. FMCSA-2019-0120), indicate the specific

section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2019-0120, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is

customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” FMCSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2019-0120, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described

in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

D. Waiver of Advance Notice of Proposed Rulemaking

Under the Fixing America's Surface Transportation Act, Public Law, 114-94 (FAST Act), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking "if a proposed rule is likely to lead to the promulgation of a major rule" (49 U.S.C. 31136(g)(1)). As this proposed rule is not likely to lead to the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

II. Executive Summary

A. Purpose and Summary of the Proposed Rule

Regulations established by the final rule, "Commercial Driver's License Drug and Alcohol Clearinghouse" (Clearinghouse final rule) (81 FR 87686 (Dec. 5, 2016)), require that, beginning January 6, 2020, State Driver Licensing Agencies (SDLAs) request information from the Clearinghouse ("query") prior to issuing, renewing, upgrading, or transferring a CDL.¹ The Clearinghouse final rule did not otherwise address how SDLAs would use Clearinghouse information for drivers licensed, or seeking to become licensed, in their State. This proposed delay of the States' query requirement, from January 6, 2020 to January 6, 2023, is necessary to allow the Agency time to complete its forthcoming rulemaking to address the SDLAs' access to and use of driver-specific information from the Clearinghouse, as discussed below.

¹ See 49 CFR 383.73(b)(10); (c)(10); (d)(9); (e)(8); and (f)(4).

FMCSA emphasizes that the compliance date of January 6, 2020, continues to apply to all other requirements set forth in the Clearinghouse final rule. Beginning January 6, 2020, CDL holders' drug and alcohol testing program violations must be reported to the Clearinghouse, and motor carrier employers must perform the required queries for prospective and current driver-employees.

In addition, under this proposal, beginning on January 6, 2020, SDLAs wishing to access a CDL applicant's drug or alcohol violation information *may* do so by registering in the Clearinghouse as an authorized user and logging in to view the individual's record. This optional access to the Clearinghouse would be exercised solely at the States' discretion. FMCSA will provide operational guidance on Clearinghouse registration for all authorized users in the coming weeks.

B. Costs and Benefits

Because the Clearinghouse final rule did not establish a cost or benefit to the SDLA query, there are neither costs nor benefits associated with this rulemaking.

III. Legal Basis for The Rulemaking

This NPRM would amend regulations established by the Clearinghouse final rule by extending the date by which States would be required to achieve compliance with the query requirements currently set forth in 49 CFR 383.73 and 384.235. The Clearinghouse final rule implements section 32402 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-41, 126 Stat. 405, codified at 49 U.S.C. 31306a), which requires the Secretary of Transportation (the Secretary) to establish a national clearinghouse for records related to drug and alcohol testing of CDL holders. As part of that mandate, MAP-21 requires the Secretary to establish a process by which States can

request and receive an individual's Clearinghouse record (49 U.S.C. 31306a(h)(2)). In addition, section 32305(b)(1) of MAP-21, codified at 49 U.S.C. 31311(a)(24), requires that States request information from the Clearinghouse prior to issuing or renewing a CDL. This proposed extension of the compliance date for those State-specific requirements relies on these statutory authorities. This NPRM is also based on the broad authority of the Commercial Motor Vehicle Safety Act of 1986, as amended, codified generally in 49 U.S.C. chapter 313, which requires the Secretary to establish minimum standards for the issuance of CDLs (49 U.S.C. 31308), as well as minimum standards to ensure the fitness of individuals operating a CMV (49 U.S.C. 31305(a)).

Finally, under 49 CFR 1.87(e)(1), the FMCSA Administrator is delegated authority to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313, relating to CMV operation.

IV. Background

The Clearinghouse final rule implemented the Congressional mandate, set forth in section 32402 of MAP-21, requiring the establishment of a national Drug and Alcohol Clearinghouse containing CDL holders' violations of FMCSA's drug and alcohol testing regulations set forth in 49 CFR part 382. The Clearinghouse regulations, which go into effect on January 6, 2020, will enable FMCSA and motor carrier employers to identify drivers who, under 49 CFR 382.501(a), are prohibited from operating a CMV due to drug and alcohol program violations.

Additionally, as discussed above in section III. "Legal Basis," MAP-21 required that SDLAs be provided access to the Clearinghouse records of individuals applying for a CDL in order to determine whether they are qualified to operate a CMV, and that SDLAs

request information from the Clearinghouse before renewing or issuing a CDL to an individual. FMCSA incorporated these statutory requirements into the Clearinghouse final rule.

Subsequently, the American Association of Motor Vehicle Administrators (AAMVA), a trade association representing driver licensing authorities from the 50 States and the District of Columbia, asserted that the final rule failed to address various operational issues related to the States' role in the Clearinghouse.² Some of the concerns AAMVA raised were: what does FMCSA intend that the States do with information they receive from the Clearinghouse; what specific information would States receive in response to a request for information about an individual CDL holder or applicant; what privacy and data controls will be applied to the transmission of Clearinghouse information to SDLAs; how would an erroneous Clearinghouse record be corrected; and what are the cost implications for the SDLAs.

As discussed further below, the Agency intends to publish a separate proposed rule ("Clearinghouse II NPRM"), which will specifically address the issues raised by AAMVA. Delaying the implementation of the query requirement would provide FMCSA additional time to resolve AAMVA's concerns and ensure a seamless implementation of the States' Clearinghouse-related requirements.

V. Discussion of Notice of Proposed Rulemaking (NPRM)

As noted above, regulations established by the 2016 Clearinghouse final rule require that, beginning on January 6, 2020, States query the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL. FMCSA proposes to extend that

² See AAMVA Petition for Reconsideration of the Commercial Driver's License Drug and Alcohol Clearinghouse Final Rule (June 29, 2017), Docket No. FMCSA-2011-0031, accessible through www.regulations.gov.

compliance date, *only as it applies to the States' query requirement*, to January 6, 2023. All other provision of the Clearinghouse final rule will go into effect on January 6, 2020. Extending the compliance date at this time would provide sufficient notice to the States that the query requirement will not take effect on January 6, 2020, thereby permitting them to allocate their information technology (IT), training, and other resources accordingly.

In the Agency's judgment, it would be premature to implement the States' query requirement before addressing the questions and concerns raised by AAMVA in its 2017 petition for reconsideration, discussed above in section IV, "Background." FMCSA therefore proposes this extension so that it can address the States' use of Clearinghouse information, and respond to the issues raised by AAMVA, which will be the basis of the Clearinghouse II NPRM. Further, the Clearinghouse II NPRM will solicit the States' input concerning the most efficient means of electronically transmitting the information from the Clearinghouse to the SDLAs. Thus, the additional time afforded by extending the compliance date for the States' query requirement, as proposed, is also necessary for FMCSA to establish the IT interface between the SDLAs and the Clearinghouse.

FMCSA anticipates that the Clearinghouse II NPRM will be published no later than March 1, 2020. The Agency notes that, due to the delay in issuing the Clearinghouse II NPRM, this proposal to extend the compliance date to January 6, 2023, is essentially a placeholder; the final rule resulting from the Clearinghouse II proposal will establish the date by which States' compliance will ultimately be required. The Agency does not anticipate that the final compliance date will be sooner than January 6, 2023.

Although, under this proposal, SDLAs would not be required to query the Clearinghouse beginning on January 6, 2020, some SDLAs may nevertheless want to request information about a CDL applicant as soon as the information starts to become available in the Clearinghouse. Accordingly, FMCSA proposes that, beginning on January 6, 2020, SDLAs wishing to request information from the Clearinghouse may do so on a voluntary basis by logging in as a registered user and conducting a query prior to issuing, renewing, transferring or upgrading a CDL. The Agency recognizes that manually-conducted queries for large numbers of drivers could pose logistical and operational challenges, and will explore more efficient means of providing driver information to SDLAs wishing to request information from the Clearinghouse on a voluntary basis.³ If Clearinghouse information received in response to a voluntary query by an SDLA indicates the driver is prohibited from operating a CMV due to a drug or alcohol testing violation, it would be up to the State to decide whether, and how, to act on that information.

Finally, FMCSA concludes that the delayed implementation of the SDLAs' query requirement, as proposed, would not impact highway safety. The Clearinghouse final rule required only that SDLAs query the Clearinghouse prior to completing specified commercial licensing transactions. However, there is currently no requirement that States act on Clearinghouse information indicating the driver is prohibited from operating a CMV because the individual violated FMCSA's drug and alcohol program requirements. Consequently, the Regulatory Impact Analysis for the Clearinghouse final

³ The Clearinghouse final rule discussed the possible use of the Commercial Driver Licensing Information System (CDLIS) pointer system or other automated electronic means of transmitting Clearinghouse information to the SDLAs. *See* 81 FR 87866, 87708 (Dec. 5, 2016).

rule⁴ did not associate any specific safety benefit with the SDLAs' mandatory query of the Clearinghouse, although the Agency did identify quantitative and qualitative benefits for the Clearinghouse final rule as a whole.

VI. International Impacts

The FMCSRs, and any exceptions to the FMCSRs, apply only within the United States (and, in some cases, United States territories). Motor carriers and drivers are subject to the laws and regulations of the countries that they operate in, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences amongst nations.

VII. Section-By-Section Analysis

A. Proposed Change to 49 CFR 382.725

FMCSA proposes to amend § 382.725(a) to permit States to request information from the Clearinghouse before January 6, 2023, and to require that States request information from the Clearinghouse on or after January 6, 2023.

B. Proposed Changes to 49 CFR parts 383 and 384

In parts 383 and 384, FMCSA proposes to amend §§ 383.73(b)(10), (c)(10), (d)(9), (e)(8), and (f)(4), and 384.235, by changing the date from January 6, 2020, to January 6, 2023.

VIII. Regulatory Analyses

⁴ The Final Rulemaking Regulatory Impact Analysis (November 2016) is available in the docket of the ELDT final rule (Docket No. FMCSA-2011-0031), accessible through www.regulations.gov.

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

Under section 3(f) of E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, this proposed rule does not require an assessment of potential costs and benefits under section 6(a)(4) of that Order. This proposed rule is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6, dated Dec. 20, 2018). Accordingly, the Office of Management and Budget has not reviewed it under these Orders. Because the Clearinghouse final rule did not establish a cost or benefit for the SDLA query, there are neither costs nor benefits associated with this rulemaking

B. E. O. 13771 Reducing Regulation and Controlling Regulatory Costs

This rule has been designated as a deregulatory action under Executive Order (E.O.) 13771 by the Office of Information and Regulatory Affairs because it delays a compliance date for a requirement.

C. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 110 Stat 857) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT

policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen the adverse effects on these businesses.

As described above, the Clearinghouse final rule requires the SDLAs to query the Clearinghouse before completing certain licensing transactions. This proposal would extend the Clearinghouse final rule compliance extended from January 6, 2020 to January 6, 2013. The extension of the compliance date is limited to the SDLAs. The proposed extension does not impose costs on the SDLAs.

The regulatory flexibility analysis the Agency prepared for the Clearinghouse final rule did not include the SDLAs among the small entities affected by the rule because they are a governmental entity with a population of greater than 50,000. That determination, combined with the fact that the SDLAs are the only entity affected by the proposed extension of the compliance date, and no costs would be imposed on the SDLAs demonstrates that the proposed rule does not have a significant impact on small entities. Consequently, I certify the action will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this NPRM so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Ms. Nikki McDavid, listed in the FOR FURTHER INFORMATION CONTACT section of this NPRM. Small

businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$161 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2017 levels) or more in any one year. This proposed rule would not result in such an expenditure. As discussed above, FMCSA estimates the NPRM would result in costs less than zero.

F. Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under Section 1(a) of Executive Order 13132 if it has “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.” FMCSA determined that this proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a federalism impact statement.

H. E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing "economically significant" rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights,

and has determined it will not effect a taking of private property or otherwise have taking implications.

K. Privacy

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment of a regulation that will affect the privacy of individuals. The Agency will complete a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA will be submitted to FMCSA’s Privacy Officer for review and preliminary adjudication and to DOT’s Privacy Officer for review and final adjudication.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

M. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

P. Environment

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph (6)(t)(2). The Categorical Exclusion (CE) in paragraph (6)(t)(2) covers regulations ensuring States comply with the provisions of the Commercial Motor Vehicle Act of 1986, by having the appropriate information technology systems concerning the qualification and licensing of persons who apply for and persons who are issued a CDL. The proposed requirements in this rule are covered

by this CE, and the proposed action does not have the potential to significantly affect the quality of the environment. The CE determination is available for inspection or copying in the regulations.gov website listed under ADDRESSES.

Q. E.O. 13783 (Promoting Energy Independence and Economic Growth)

E.O. 13783 directs executive departments and agencies to review existing regulations that potentially burden the development or use of domestically produced energy resources, and to appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources. In accordance with E.O. 13783, DOT prepared and submitted a report to the Director of OMB that provides specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency action that burden domestic energy production. This proposed rule has not been identified by DOT under E.O. 13783 as potentially alleviating unnecessary burdens on domestic energy production.

List of Subjects

49 CFR Part 382

Administrative practice and procedure, Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Penalties, Safety, Transportation.

49 CFR Parts 383 and 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter III as follows:

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

1. The authority citation for part 382 continues to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31301 et seq., 31502; sec. 32934 of Pub. L. 112-141, 126 Stat. 405, 830; and 49 CFR 1.87.

2. Amend § 382.725 by revising paragraph (a) to read as follows:

§ 382.725 Access by State licensing authorities.

(a)(1) Before January 6, 2023, in order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State may obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

(2) On or after January 6, 2023, in order to determine whether a driver is qualified to operate a commercial motor vehicle, the chief commercial driver's licensing official of a State must obtain the driver's record from the Clearinghouse if the driver has applied for a commercial driver's license from that State.

* * * * *

**PART 383—COMMERCIAL DRIVER’S LICENSE STANDARDS;
REQUIREMENTS AND PENALTIES**

3. The authority citation for part 383 is revised to read as follows:

Authority: 49 U.S.C. 521, 5103a, 31136, 31301 *et seq.*, and 31502; secs. 214 and 215 of Pub. L. 106-159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107-56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109-59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112-141, 126 stat. 405, 830; and 49 CFR 1.87.

§ 383.73 [Amended]

4. Amend § 383.73 by removing the date “January 6, 2020” and adding in its place the date “January 6, 2023” in paragraphs (b)(10), (c)(10), (d)(9), (e)(8), and (f)(4).

**PART 384---STATE COMPLIANCE WITH COMMERCIAL DRIVER’S
LICENSE PROGRAM**

5. The authority citation for part 384 is revised to read as follows:

Authority: 49 U.S.C. 31102, 31104, 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106-159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112-141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114-94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

§ 384.235 [Amended]

6. Amend § 384.235 by removing the date “January 6, 2020” and adding in its place the date “January 6, 2023.”

Issued under authority delegated in 49 CFR 1.87.

Raymond P. Martinez
Administrator

[FR Doc. 2019-18986 Filed: 9/5/2019 8:45 am; Publication Date: 9/6/2019]