



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 389

[FMCSA-2016-0341]

RIN 2126-AB96

Rulemaking Procedures Update

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled “Regulatory Freeze Pending Review,” the Department delays the effective date of the final rule, “Rulemaking Procedures Update,” until March 21, 2021.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of the final rule published on December 31, 2020, at 85 FR 86843, is delayed until March 21, 2021.

FOR FURTHER INFORMATION CONTACT: Mr. Steven J. LaFreniere, Regulatory Ombudsman, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave, SE, Washington, DC 20590-0001, (202) 366-0596, steven.lafreniere@dot.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the notice of proposed rulemaking (82 FR 36719, August 7, 2017), all comments received, the final rule, and all background material may be viewed online at <http://www.regulations.gov> using the docket number listed above. A copy of this document will be placed in the docket. Electronic retrieval help and guidelines are

available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at <http://www.ofr.gov> and the Government Publishing Office's website at <http://www.gpo.gov>.

Background

On January 20, 2021, the Assistant to the President and Chief of Staff issued a memorandum titled, "Regulatory Freeze Pending Review." The memorandum requested that the heads of executive departments and agencies (agencies) take steps to ensure that the President's appointees or designees have the opportunity to review any new or pending rules. With respect to rules published in the *Federal Register*, but not yet effective, the memorandum asked that agencies consider postponing the rules' effective dates for 60 days from the date of the memorandum (i.e., March 21, 2021) for the purpose of reviewing any questions of fact, law, and policy the rules may raise.

In accordance with this direction, FMCSA has decided to delay the effective date of the final rule, "Rulemaking Procedures Update" (RIN 2126-AB96), until March 21, 2021. The final rule amends FMCSA's rulemaking procedures by revising the process for preparing and adopting rules and petitions. Also, the Agency adds new definitions, and makes general administrative corrections throughout its rulemaking procedures. The delay in the rule's effective date will afford the President's appointees or designees an opportunity to review the rule and will allow for consideration of any questions of fact, law, or policy that the rule may raise before it becomes effective.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), FMCSA generally offer interested parties the opportunity to comment on proposed regulations and publish rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or

delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as they are impracticable. A delay in the effective date of the final rule, “Rulemaking Procedures Update,” is necessary for the President’s appointees and designees to have adequate time to review the rule before it takes effect, and neither the notice and comment process nor the delayed effective date could be implemented in time to allow for this review.

List of Subjects in 49 CFR Part 389

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

Issued under authority delegated in 49 CFR 1.87.

John W. Van Steenburg,
Assistant Administrator.

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