



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket No. FMCSA-2024-0121]

RIN 2126-AC59

Transportation of Fuel for Agricultural Aircraft Operations

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

ACTION: Final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations to allow States to waive the hazardous materials (HM) endorsement requirement for holders of Class A commercial driver's licenses (CDL) who transport no more than 1,000 gallons of aviation grade jet fuel in support of seasonal agricultural aircraft operations.

DATES: Effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Petitions for reconsideration of this final rule must be submitted to the FMCSA Administrator no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Rehberg, Transportation Specialist, CDL Division, Office of Safety Programs, FMCSA; (850)-728-2034; rebecca.rehberg@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

FMCSA organizes this final rule as follows:

- I. Availability of Rulemaking Documents
- II. Executive Summary
 - A. Purpose and Summary of the Regulatory Action
 - B. Costs and Benefits
- III. Abbreviations

- IV. Legal Basis
- V. Discussion of Proposed Rulemaking and Comments
 - A. Proposed Rulemaking
 - B. Comments and Responses
- VI. International Impacts
- VII. Section-by-Section Analysis
- VIII. Regulatory Analyses
 - A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures
 - B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
 - C. Congressional Review Act
 - D. Regulatory Flexibility Act
 - E. Assistance for Small Entities
 - F. Unfunded Mandates Reform Act of 1995
 - G. Paperwork Reduction Act
 - H. E.O. 13132 (Federalism)
 - I. Privacy
 - J. E.O. 13175 (Indian Tribal Governments)
 - K. National Environmental Policy Act of 1969

I. AVAILABILITY OF RULEMAKING DOCUMENTS

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2024-0121/document> and choose the document to review. To view comments, click this final rule, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations at U.S. Department of Transportation, 1200 New Jersey Avenue S.E., Washington, D.C. 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. EXECUTIVE SUMMARY

A. Purpose and Summary of the Regulatory Action

FMCSA amends the CDL regulations to allow States additional flexibility to waive the HM endorsement¹ requirement for certain drivers transporting aviation fuel in furtherance of agricultural aircraft operations.² Many farm operations rely on aircraft to apply pesticides or fertilizers to their crops. Agricultural aviation companies often deliver aircraft fuel to staging areas some distance from their headquarters. These companies, particularly in remote, rural areas have difficulty finding CDL holders with HM endorsements to complete these deliveries. Under the current regulations found in 49 CFR 383.93(b)(4), most CDL holders must obtain an HM endorsement before transporting fuels. However, 49 CFR 383.3(i) provides a limited exception to this requirement and allows States to waive the requirement of an HM endorsement if the holder of a Class A CDL is transporting diesel fuel (1) in the CDL holder's State of domicile or in another State that has adopted the waiver and (2) as an employee of four specific agriculture-related businesses. The four business categories are custom harvesters, farm retail outlets and suppliers, agrichemical businesses, and livestock feeders. This final rule gives States authority to waive the HM endorsement requirement in an additional category for Class A CDL holders who transport up to 1,000 gallons of aviation grade jet fuel (often called Jet A, referred to as *jet fuel* for the purposes of this preamble) in the CDL holder's State of domicile (or in another State that has adopted the waiver) and in support of agricultural aircraft operations.

B. Costs and Benefits

¹ *Endorsement*, as defined in § 383.5, means an authorization to an individual's commercial learner's permit (CLP) or CDL required to permit the individual to operate certain types of commercial motor vehicles (CMVs).

² FMCSA notes that the term "waive" or "waiver" is used throughout this preamble in the ordinary sense of those terms, rather than in the sense of the term "waiver" as contemplated by 49 CFR 381.200, which permits only temporary regulatory relief from the specified regulations for up to three months.

This final rule may result in costs to States and their licensing agencies, and may result in cost savings to drivers and to agricultural aircraft operations. States and their State driver's licensing agencies (SDLAs) may incur costs for updating their websites to reflect the changes in requirements for Class A CDL holders transporting HM and for training roadside officers. The final rule will result in cost savings for agricultural aircraft operators and the drivers these operators hire to mix, load, and transport jet fuel in quantities of 1,000 gallons or less in participating States. Class A CDL holders affected by the final rule will avoid approximately \$260 in costs associated with obtaining an HM endorsement, and agricultural aircraft operations will be able to run their businesses more efficiently by making use of satellite airstrips. FMCSA does not expect that this final rule will negatively impact commercial motor vehicle (CMV) safety. For various reasons, drivers who transport jet fuel operate in low-risk safety conditions and rarely experience crashes. More in depth discussion of the potential impacts resulting from this rule are found in the regulatory analyses section below.

III. ABBREVIATIONS

ARDOT	Arkansas Department of Transportation
BLS	Bureau of Labor Statistics
CDL	Commercial driver's license
CE	Categorical exclusion
CFR	Code of Federal Regulations
CLP	Commercial learner's permit
CMV	Commercial motor vehicle
CMVSA	Commercial Motor Vehicle Safety Act of 1986
DOT	Department of Transportation
FAST Act	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
FMCSA	Federal Motor Carrier Safety Administration
FR	Federal Register
HM	Hazardous materials
IRFA	Initial regulatory flexibility analysis
NAAA	National Agricultural Aviation Association
NAICS	North American Industry Classification System
NATA	Nebraska Aviation Trades Association
NEIA	Nebraska-Iowa Aviation
NPRM	Notice of proposed rulemaking
PHMSA	Pipeline and Hazardous Materials Safety Administration

PIA	Privacy Impact Assessment
PTA	Privacy Threshold Assessment
RFA	Regulatory Flexibility Act
SBA	Small Business Administration
SDLA	State driver's licensing agency
STA	Security Threat Assessment
TPR	Training Provider Registry
TSA	Transportation Security Administration
UMRA	Unfunded Mandates Reform Act
U.S.C.	United States Code

IV. LEGAL BASIS

The CDL regulations are based on the authority of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA). Section 12013 of the CMVSA allowed the Federal Highway Administration (FHWA), FMCSA's predecessor agency, to "waive, in whole or in part, application of any provision of this title or any regulation issued under this title with respect to class of persons or class of commercial motor vehicles if the Secretary of Transportation determines that such waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles" (Pub. L. No. 99-570, Title XII, 100 Stat. 3207-170, 3207-186, Oct. 27, 1986, codified at 49 U.S.C. app. 2711).

On the basis of section 12013, FHWA authorized the States to waive the knowledge and skills tests otherwise required to obtain a CDL for employees of custom harvesters, farm retail outlets and suppliers, agricultural businesses, and livestock feeders (57 FR 13650, Apr. 17, 1992). CDL applicants in States that exercised this waiver option were required to meet certain conditions, including a prohibition on carrying any placarded quantities of HM, except for diesel fuel in quantities of 1,000 gallons or less (57 FR 13650, 13654). The 1992 CDL waiver option, with the 1,000-gallon restriction on the transportation of diesel fuel, was codified originally as 49 CFR 383.3(f)(3)(v) (61 FR 9546, Mar. 8, 1996).

Following statutory amendments,³ the language of the CMVSA’s section 12013—that a waiver must be “not contrary to the public interest” and “not diminish the safe operation of commercial motor vehicles”—has been replaced by the standard that a waiver or exemption must “likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved in the absence of the waiver” (49 U.S.C. § 31315(a)) or “absent such exemption” (49 U.S.C. § 31315d(b)(1)).

Section 7208 of the Fixing America’s Surface Transportation (FAST) Act (Pub. L. No. 114-94, Dec. 4, 2015, 129 Stat. 1312, 1593) allowed the States to waive the requirement that a holder of a Class A CDL obtain the HM endorsement required by 49 CFR 383.93(b)(4), provided the Class A CDL holder is an employee of one of the four categories of business specified in FHWA’s 1992 waiver who transports diesel fuel in quantities of 1,000 gallons or less. As thus amended, the State waiver authority is now codified at section 383.3(i).

The 1992 rule required that the State waiver option not diminish the safe operation of CMVs, and all subsequent versions of the statute and regulation have retained that concept. Congress itself embraced that standard when section 7208 was explicitly limited to the same four agriculture-related businesses covered by the 1992 waiver.

Pursuant to 49 U.S.C. § 31305(a), which sets forth the general standards for the CDL rules, FMCSA “shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle.” Implicit in that provision is the authority to decide whether certain CDL holders may meet the “fitness” requirement without complying with every part of the CDL regulations.

³ As part of the recodification of Title 49, United States Code (U.S.C.) in 1994, the waiver authority in 49 U.S.C. app. 2711 was redesignated as 49 U.S.C. 31315 (Pub. L. No. 103-272, 108 Stat. 745, 1029, July 5, 1994), and the Transportation Equity Act for the 21st Century (TEA-21) revised 49 U.S.C. 31315 as “Waivers, exemptions, and pilot programs” (Pub. L. No. 105-178, 112 Stat. 107, 401, June 9, 1998).

Exempting employees of agricultural aviation companies who hold Class A CDLs and transport jet fuel from the requirement to obtain an HM endorsement is consistent both with the standard of the CMVSA's section 12013 and with the current equivalent level of safety and "fitness" standards enacted by Congress. A waiver granted by a State under this rule, as under section 7208 of the FAST Act, would also exempt eligible drivers from the Transportation Security Administration's (TSA) background records check in 49 CFR part 1572, subpart B.

V. DISCUSSION OF PROPOSED RULEMAKING AND COMMENTS

A. Proposed Rulemaking

On December 4, 2024, FMCSA published in the *Federal Register* (89 FR 96176) an NPRM titled "Transportation of Fuel for Agricultural Aircraft Operations." The NPRM proposed to amend the CDL regulations to provide States additional flexibility to waive the HM endorsement requirement for certain drivers transporting jet fuel in furtherance of agricultural aircraft operations. FMCSA proposed to give States authority to waive the HM endorsement requirement for Class A CDL holders who transport up to 1,000 gallons of aviation grade jet fuel in the CDL holder's State of domicile (or in another State that has adopted the waiver) and in support of agricultural aircraft operations.

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 60 days ending February 3, 2025. Sixty-four comments were received from the following parties: Arkansas Agricultural Aviation Association, Arkansas Department of Transportation (ARDOT), Arkansas Trucking Association, National Agricultural Aviation Association (NAAA), Nebraska Aviation Trades Association (NATA), South Dakota Aviation Association, 41 businesses (mainly agricultural aircraft operators), and 14 individuals. A total of 42 commenters fully supported the rule. A group of 20 commenters generally supported the

rule but suggested modifications, mainly to expand the applicability of the waiver to other CDL classes. Two commenters opposed the rulemaking.

Support for the Rule

Supportive commenters, including ARDOT, trade associations, and many agricultural aircraft operators stressed that the rulemaking would promote cost efficiency while improving seasonal agricultural operations. Many commenters said that finding and retaining drivers with an HM endorsement for seasonal work, in addition to the claimed shortage in qualified drivers, is especially difficult and costly. Many business owners or agricultural aircraft operators explained that some employers take on the additional cost of training drivers who do not have an HM endorsement. Retention issues were also identified as challenging because drivers often leave for higher-paying jobs, as one commenter explained.⁴

ARDOT noted that waiving the HM endorsement would reduce expenses for the employer, and provide for additional new entrants to the workforce, while still maintaining appropriate regulatory controls.⁵ NAAA pointed out that, in addition to the difficulty in finding drivers with an HM endorsement, operations are primarily located in rural areas and are at a considerable distance from SDLAs, let alone fingerprinting facilities. This can make accessing SDLAs offering the HM endorsement especially challenging.⁶ Many other commenters agreed that adopting the rule would alleviate the burden of finding drivers for seasonal work, while expanding the pool of applicants would allow operators to serve agricultural communities more efficiently and in a timely

⁴ The individual's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0027>.

⁵ ARDOT's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0025>.

⁶ NAAA's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0062>. See also comment from an individual in this docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0062>.

manner. The commenters pointed out that, as a result, this would increase crop yields, which would be beneficial to farming communities and the operators who serve them.

Commenters including R&M Spraying Service⁷ and the HeliTeam⁸ pointed to the similar properties of diesel and jet fuel. As NAAA noted, jet fuel has nearly identical properties to diesel fuel, as diesel engines can—and often do—run on jet fuel, since they are virtually identical in behavior and volatility.⁹

Other commenters who own or operate agricultural aircraft operations added that the waiver, if adopted, would streamline the process for applying products to crops for farmers in a timely manner, benefitting the farming community and reducing costs associated with ferrying aircraft to a fueling location. Specifically, NAAA estimated that 758 agricultural aircraft operations across the United States could utilize this waiver, saving an additional \$1,378.08 per day for a single agricultural aircraft.

Suggestions for Modifications

1. Applicability to Other CDL Classes

Approximately one third of commenters, including individuals, agricultural aircraft operations, and trade associations such as NATA, suggested expanding the waiver, mainly to Class B CDL holders. Morgan's Flying Service explained that most agricultural aircraft operations use straight trucks with no trailer or medium duty non-CDL trucks, and that drivers either carry a Class B CDL or a State-designated Class D for non-CDL trucks carrying jet fuel tanks holding less than 100 gallons each.¹⁰ In a

⁷ R&M Spraying Service's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0064>.

⁸ The HeliTeam's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0033>.

⁹ NAAA's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0018>.

¹⁰ Morgan's Flying Service comments can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0014> and <https://www.regulations.gov/comment/FMCSA-2024-0121-0015>.

subsequent comment, the same commenter suggested extending the waiver to any class of driver for agricultural aircraft operations. Other commenters, such as Brett's Spray Service, JBI Helicopter Services, Lake Air Service, NEIA Aviation (NEIA), and one individual, requested that Class B CDL holders be included in the waiver, as vehicles in that category are the most widely used in support of agricultural aircraft operations.

Hexagon Helicopters, Inc. explained that they operate both Class A and Class B vehicles and suggested broadening the scope of the waiver by changing "Class A" as it was proposed to "properly licensed in the vehicle class." The commenter explained that this change would maintain the intent of the waiver without restricting its use to only a portion of the intended drivers and vehicles.¹¹

Vincent Flying Service suggested adding to the waiver both Class B CDL drivers and holders of State-designated Class D (or equivalent) licenses operating medium duty loader trucks for support of agricultural aircraft operations. The rationale provided for the suggested change is that most drivers carry either a Class B CDL or Class D license for non-CDL trucks carrying jet fuel tanks holding less than 100 gallons.¹² Similarly, Central Valley Helicopters suggested the waiver would only be beneficial if Classes A, B, and C CDLs were included.¹³

An individual commenter pointed to a potential misinterpretation of the rule, as many commenters thought that other Classes of CDLs would be included in this waiver. The commenter added that many were under the impression that the rule would apply to

¹¹ Hexagon Helicopters' comment can be found in the docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0026>.

¹² Vincent Flying Service's comment can be found in the docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0043>.

¹³ Central Valley Helicopters' comment can be found in the docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0050>.

Class B CDL holders and requested clarification whether the waiver applies to Class B CDL holders as well.¹⁴

FMCSA Response:

This final rule amends the regulations in response to NAAA's petition for a rulemaking to allow States to waive the HM endorsement requirement for CDL holders who transport jet fuel to support seasonal agricultural aircraft operations. The jet fuel waiver is intended to mirror the diesel fuel waiver, as provided by Congress in section 7208 of the FAST Act, which was limited to Class A CDL holders transporting 1,000 gallons or less of diesel fuel. NAAA stated "It is NAAA's request that section 383.3(i) be further amended to allow for the drivers supporting agricultural aircraft operations holding a CDL also be exempted from a hazardous materials endorsement for the transportation of 1,000 gallons or less of aviation grade kerosene (Jet A) due to its similar chemical makeup as diesel fuel, as well as other factors." This final rule amends section 383.3(i) to expand the waiver options.

In the NPRM, FMCSA noted the similarity in chemical composition of jet fuel and diesel fuel, which was an important component of the Agency's safety analysis (89 FR 96180). This factor supports an identical waiver option for the transport of jet fuel with the same required CDL class. FMCSA also noted the high level of knowledge and skills required to obtain a Class A CDL will not be affected by the waiver of the HM endorsement.

As for Class D or similarly designated non-CDLs, FMCSA does not have the authority to issue regulations governing non-CDL categories. Based on these factors, the scope of this rule extends only to Class A CDL holders.

¹⁴ The individual's comment can be found in the docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0028>.

In response to the commenters suggesting that FMCSA expand the waiver to Class B CDL holders and to clarify potential confusion on the applicability of the waiver, FMCSA declines to extend the waiver to Class B CDL holders to maintain parity with the diesel waiver. In addition, extension to Class B CDL holders was not included in NAAA's petition.

2. Additional Suggestions to Modify the Rule

NATA commented in support of the rule, with some additional suggestions for modifications, including increasing the limit of jet fuel that can be transported from 1,000 gallons to 1,500 or 2,000 gallons, provided that proper safety measures were followed. It explained this would reduce the number of trips required to deliver fuel, which would further reduce costs, emissions, and driver shortages.

Second, NATA said that although States can choose whether to adopt the waiver, agricultural aircraft operations frequently cross State lines during the growing season. It requested that FMCSA provide guidance on whether States adopting the waiver will honor waivers granted in other States. NATA stated that clear interstate reciprocity guidelines would prevent regulatory confusion and ensure consistent rule application across State lines, reducing administrative burdens on businesses that operate in multiple jurisdictions.

NATA also pointed out that drivers transporting larger quantities of jet fuel in association with agricultural aircraft operations still require HM endorsements, and that obtaining the endorsement requires background checks and fingerprinting, which can be challenging to accomplish in rural areas where testing locations are scarce. NATA requested that FMCSA explore ways to streamline this process for such drivers, such as mobile testing units in rural areas or an expedited approval process during peak seasons.

Finally, NATA requested that FMCSA consider a broader seasonal waiver for transportation of other types of fuel used in association with agricultural aircraft

operations to ensure that all needed fuels can be transported without unnecessary regulatory barriers. NATA explained that agricultural aircraft operations utilize other fuel types (e.g., aviation gasoline (avgas) for piston-engine aircraft) and stated this would reduce operational inefficiencies, enhance safety, and provide greater regulatory flexibility for agricultural aircraft operations.¹⁵

FMCSA Response:

One of NATA's suggestions proposed increasing the limit of jet fuel for transport to 1,500 or 2,000 gallons to minimize the number of trips traveled for refueling. FMCSA declines to make this change as increasing the allowable fuel volume could jeopardize the level of safety, which FMCSA intentionally set to mirror the safety standard of the waiver permitted by the FAST Act.

In addition, FMCSA clarifies that the waiver would impact Class A CDL holders responsible for transporting 1,000 gallons or less of jet fuel, who are employed by agricultural aircraft operations in participating States. Issuing reciprocity guidelines is not appropriate, as the current regulations are clear that drivers transporting jet fuel across State lines into non-participating States are still required to obtain an HM endorsement.

FMCSA understands the unique challenges for conducting fingerprinting and testing in remote or rural areas. While this comment is outside the scope of this rulemaking, FMCSA encourages NATA to work with the appropriate SDLAs to devise adequate solutions to increase the efficiency of testing and fingerprinting.

FMCSA also declines to incorporate avgas for piston-engine aircraft among the fuel types included in this waiver, due to the difference in composition and chemical characteristics as compared to diesel fuel and jet fuel. The waiver finalized in this rule incorporates jet fuel only. However, diesel and jet fuel have similar characteristics and

¹⁵ NATA's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0074>.

are subject to the same Pipeline and Hazardous Materials Safety Administration (PHMSA) guidance on handling in the initial stages of an HM transportation incident.¹⁶ These similarities allowed FMCSA to conclude that the safety of the waiver for jet fuel is consistent with the equivalent level of safety determination under the FAST Act for diesel fuel.

Opposition to the Rule

1. Safety Concerns Related to Transporting Fuel

An anonymous commenter and the National Tank Truck Carriers, Inc. (NTTC) opposed the rulemaking, raising concerns about the safety of exempting Class A CDL drivers from the HM endorsement when transporting up to 1,000 gallons of jet fuel. NTTC expressed concern that unscreened and undertrained drivers transporting jet fuel would pose safety concerns, while the anonymous commenter argued that transporting such a quantity of fuel can be dangerous and potentially damaging, implying the waiver from the HM endorsement would decrease roadway safety. The commenter added that the HM endorsement requirement should be retained for safety purposes.¹⁷

FMCSA Response:

FMCSA expects the waiver option from the HM endorsement will not diminish the safe operation of CMVs, in part because training and testing are still required under 49 CFR parts 172 and 177 for drivers transporting jet fuel. Parts 172 and 177 are within chapter I, subchapter C of PHMSA's regulations and outline HM placarding requirements (part 172, subpart F) and driver training. Under sections 172.700, 172.704, and 177.816, operators of vehicles used to transport HM must undergo employer-provided training so

¹⁶ See PHMSA's 2024 Emergency Response Guidebook, available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/ERG2024-Eng-Web-a.pdf>. The guidebook (at pp. 107 and 113) references the same recommended emergency response guidance (Guide No. 128) for both "Diesel fuel" (ID Nos. UN1202 and NA1993) and "Fuel, aviation, turbine engine" (ID No. UN1863).

¹⁷ The comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0060>.

they have familiarity with applicable HM regulations (49 CFR parts 171–177); are able to recognize and identify HM; and have knowledge of emergency response information, self-protection measures, and accident prevention methods and procedures. Also, under section 172.702, operators of vehicles used to transport HM must be tested on these subjects. The testing and training requirements under PHMSA’s regulations are distinct from the testing and training requirements for CDLs and HM endorsements under part 383 and are not affected by this rulemaking. Furthermore, non-participating States would still require an HM endorsement for drivers crossing State lines.

FMCSA notes that allowing States to waive the HM endorsement requirement does not constitute a waiver from all the other HM safety regulations outlined in 49 CFR parts 100 through 180.

2. Security Concerns Related to Vetting Drivers

NTTC raised concerns about the relaxed requirements that would result from this rule, specifically regarding the security checks TSA performs to assess an individual’s security risk as part of the Security Threat Assessment (STA) program. The commenter added that the thoroughness and extensiveness of the screening assessment, which checks for multiple types of criminal convictions, violations, and offenses through multiple watchlists and databases, ensures that individuals transporting HMs have been thoroughly vetted. Furthermore, NTTC stated that FMCSA’s proposal is not satisfactory to communities within the NTTC group, which include the Safety Security Council, Workforce Committee, and Energy Services Committee. NTTC added that the rule will result in allowing drivers with inadequate levels of experience and training to transport jet fuel and expressed concern about the environmental risks posed by fuel spills, regardless of the quantity being hauled.

Finally, NTTC expressed concerns about the possibility that fuel racks will not authorize non-HM credentialed drivers to enter their facility to load.¹⁸

FMCSA Response:

FMCSA does not believe waiving the HM endorsement will negatively impact safety. The diesel fuel waiver option, already codified in section 383.3(i), allows drivers to transport a limited quantity of HM under certain conditions without an HM endorsement. The diesel fuel waiver has been in place for over 30 years without a negative impact on safety. Because jet fuel has a similar chemical composition to diesel and the conditions under this rule for transporting jet fuel without an HM endorsement are identical to those for transporting diesel without an HM endorsement, a jet fuel waiver option is expected to maintain an equivalent level of safety.

In addition, drivers covered by this waiver must have and maintain Class A CDLs. As such, they are subject to the driver disqualification and penalty rules in subpart D of part 383 and the drug and alcohol testing requirements in part 382.

FMCSA disagrees that allowing a waiver for the HM endorsement for jet fuel would increase environmental risks posed by fuel spills because the waiver is limited to a specific quantity of fuel. In addition, the quantities of jet fuel hauled in support of agricultural aircraft operations are typically vastly less than the 1,000-gallon limit established by this rule. Those operations typically occur using smaller trucks operating out of smaller, rural, airports.

Finally, NTTC mentioned fuel racks might not authorize non-HM credentialed drivers to access their loading facilities. A fuel rack, as a private wholesale distribution facility for fuel products, can establish its own entry requirements, such as requiring a CDL with an HM endorsement. However, agricultural aircraft operation drivers who

¹⁸ NTTC's comment can be found in the docket for this rulemaking at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0063>.

qualify for the waiver may have alternative options for obtaining jet fuel, such as loading from a storage tank owned by their company rather than relying on a fuel rack.

Out of Scope Comments

1. Inclusion of a New Definition

FMCSA received a comment from NEIA requesting the addition of a definition for *agricultural aviation* because it is a unique type of business that operates seasonally.¹⁹

FMCSA Response:

FMCSA disagrees that a definition of *agricultural aviation* should be added because the current language in the regulations is not ambiguous. FMCSA declines to make modifications based on the commenter's suggestion because this comment concerns a topic that is beyond the scope of the rulemaking.

2. 14 CFR parts 133 and 137

Two commenters requested that all types of aviation operators under parts 133 and 137, which cover rotorcraft external-load operations and agricultural aircraft operations, also be eligible for this waiver. One of the commenters added that suspended load operations that are not covered under a part 137 certificate should be included in the HM endorsement waiver, as well.

FMCSA Response:

FMCSA does not have authority to adopt the proposed changes in this rulemaking because they do not address the licensing of CMV drivers.

VI. INTERNATIONAL IMPACTS

Motor carriers and drivers are subject to the laws and regulations of the countries in which they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences between nations.

¹⁹ NEIA's comment can be found in the docket at: <https://www.regulations.gov/comment/FMCSA-2024-0121-0031>.

VII. SECTION-BY-SECTION ANALYSIS

This section-by-section analysis describes the changes in numerical order. Part 383 “Applicability” will be amended in five locations. Paragraph (i) of section 383.3 will be amended to add “or jet fuel” to the commodities States may exempt from the subpart H CDL requirement. Paragraph (i)(1) will be amended by adding “agriculture aviation operation” to the list of industries to which the hazardous material endorsement waiver applies. Paragraph (i)(2)(i) will be amended to add operators of vehicles transporting jet fuel in a quantity of 1,000 or less gallons to the conditions of the hazardous material waiver. Paragraph (i)(2)(ii) will be revised to make clear to readers that jet fuel or diesel fuel transported under this hazardous material endorsement waiver must be clearly placarded in accordance with Part 172 subpart F and all other applicable hazardous materials regulations.

Finally, section 383.5 “Definitions” will be amended to add a definition for *jet fuel*. The definition includes all classes of fuel, aviation, turbine engine as listed in the Hazardous Materials Table in 49 CFR 172.101, including Jet A, that are reclassified as a combustible liquid in accordance with 49 CFR part 173.

VIII. REGULATORY ANALYSES

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

FMCSA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Order 2100.6B, Policies and Procedures for Rulemakings.²⁰ The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final

²⁰ DOT Order 2100.6B is *available at* <https://www.transportation.gov/regulations/dot-order-21006b-policies-and-procedures-rulemakings>

rule is not a significant regulatory action under Section 3(f) of E.O. 12866 and has not reviewed it under that E.O.

This final rule will amend the CDL regulations to allow States additional flexibility to waive the HM endorsement requirement for holders of a Class A CDL that are transporting aviation fuel in quantities of 1,000 gallons or less in service of agricultural aircraft operations. Under the current regulations, drivers working for agricultural aircraft operators must obtain an HM endorsement, which requires completing training and testing requirements, and passing a TSA background check. This final rule will allow flexibility for a limited population of drivers that operate within their State of domicile and contiguous States that have adopted the same waiver, while providing services to agricultural aircraft operations.

This final rule is voluntary in nature and does not require that States adopt any flexibilities contained herein. This final rule could impact States, SDLAs, agricultural aircraft operators, and drivers. The analysis below discusses these affected entities, the need for the regulation, and the costs and benefits that may result from the final rule.

Affected Entities

States

States could be impacted by this final rule, however, FMCSA does not know how many States will opt to waive the HM endorsement for agricultural aviation businesses and their drivers under this final rule. In response to Section 7208 of the FAST Act, 16 of 50 States chose to grant the waiver for diesel fuel, which is similar to the jet fuel waiver specified in this final rule. FMCSA assumes that there will be a similar level of adoption for this final rule, and that the majority of participating States will be those with agriculture-dependent economies.

SDLAs

This final rule will impact SDLAs in States that choose to waive the requirement for HM endorsements for Class A CDL holders employed by agricultural aircraft operators transporting 1,000 gallons or less of jet fuel. SDLAs are responsible for administering CDLs and endorsements for the motor carrier driver population. SDLAs in participating States will need to become familiar with these new requirements and update information on requirements for CDL holders.

Drivers

This final rule will impact Class A CDL holders that are employed by agricultural aircraft operations in participating States and are responsible for transporting jet fuel in quantities of 1,000 gallons or less. Drivers serve as “mixer-loaders” for crop protection products and load agricultural aircrafts with these products and fuel. Drivers pump fuel from fixed base tanks into the fuel truck and then transport it to the satellite airstrip to load into agricultural aircraft. Under this final rule, drivers operating CMVs will still need to hold a Class A CDL since this final rule will only allow States to waive the HM endorsement requirement. These drivers will still be required to obtain an HM endorsement when transporting jet fuel across State lines to a State that has not adopted the waiver.

FMCSA anticipates that any impacted drivers will work in the same NAICS industry as agricultural aircraft operators; 11511—support activities for crop production. As of May 2023, BLS reports that there are 5,430 heavy tractor-trailer drivers working in the 1151 industry.²¹ The 1151 industry is broader than agricultural aircraft operations, and as such drivers impacted by this rule will be a subset of the 5,430 within this industry. FMCSA did not receive specific comments on the number of affected drivers. However, the NAAA commented that an agricultural aircraft operation might want to

²¹ Bureau of Labor Statistics (BLS), date extracted: July 11, 2024.

have two supply trucks for a single aircraft operation, and five supply trucks to support three aircraft. Therefore, every impacted agricultural aircraft operation might have two to three drivers total, but it is not clear that all their drivers would have Class A CDLs. As stated by several commenters, many drivers in this industry have a Class B CDL and will therefore not be subject to the waiver provided in this final rule.

Agricultural Aircraft Operations

According to the NAAA, there are approximately 1,560 agricultural aviation businesses and 3,400 agricultural pilots (approximately 2,000 are hired pilots and 1,400 are owner/operators) operating in the United States.²² NAAA provided further comment to the NPRM explaining that of the 1,560 agricultural aircraft operations in the United States, 748 operate in States that currently grant the HM waiver for diesel fuel. This would be an upper-bound estimate as some of these entities only operate out of a single airport and would not make use of an HM waiver for jet fuel. FMCSA does not know how many agricultural aircraft operations will be impacted by this rule.

Need for the Regulation

Both fueling and mixing and loading of crop-protection products (*e.g.*, fertilizers, insecticides, fungicides, or herbicides) are normally conducted at a location where agricultural aircraft operations have permanent fuel tanks and mixing and loading facilities. Sometimes, however, operators and pilots work so far from their permanent facility that it is cost-effective to use a satellite landing strip and an on-site fuel truck. When on-site fuel trucks or drivers are not available, pilots must fly agricultural aircraft back to their permanent mixing and loading facilities, which limits the amount of land pilots can spray on a given day and increases fuel costs, leading to reduced revenue for

²² <https://www.agaviation.org/about/about-ag-aviation/industry-facts-faqs/>.(accessed Jul. 16, 2025).

agricultural aircraft operations and decreased crop yields for the acreage that was not accessible by agricultural aircraft.

Agricultural aircraft operations face a need for qualified drivers because a Class A CDL with an HM endorsement is a marketable asset, and these drivers are likely to find consistent, non-seasonal work. Furthermore, these businesses tend to operate in remote, rural areas that may be hundreds of miles away from the nearest SDLA, making it more difficult for drivers to obtain the HM endorsement. These factors limit agricultural aviation businesses from meeting their workforce needs.

Costs and Benefits

Costs

This final rule could result in costs to States and their licensing agencies, and may result in cost savings to drivers and to agricultural aircraft operations.

Under this final rule, States and their SDLAs may incur costs. SDLAs in participating States may need to update their websites to reflect the changes in requirements for Class A CDL holders transporting HM. Also, roadside officers in participating States would need to undergo training to be able to determine which drivers are operating under the waiver. FMCSA anticipates that participating States would update their biannual training to include a module on any changes to the CDL regulations and model any changes resulting from this rule after the training for the diesel fuel waiver. Because this training is ongoing, FMCSA anticipates that any additional costs related to this change would be de minimis. FMCSA does not have data with which to estimate these potential State and SDLA costs.

The final rule will result in cost savings for agricultural aircraft operations and the drivers these operations hire to mix, load, and transport jet fuel in quantities of 1,000 gallons or less in participating States. Under the final rule, Class A CDL holders will not need to undergo the four-step process of obtaining an HM endorsement: completing a

theory training module, passing a written exam, passing a TSA STA, and paying an SDLA fee, if applicable. As outlined below, the total cost per driver to obtain an HM endorsement is approximately \$260.

Drivers must take theory training from training providers listed on the FMCSA Training Provider Registry (TPR). FMCSA anticipates that drivers impacted by this rule will opt to take online theory training because they live in remote areas. There are over 1,000 providers listed on the TPR that provide online HM endorsement training. FMCSA took a random sample of approximately 180 providers and researched websites to develop estimates of training cost and time. Based on those websites that provided information, FMCSA found that the theory training cost ranges from \$16 to \$200, with an average cost of \$96 and a median cost of \$99. These trainings tend to be self-paced, so few companies advertise the average length of time to complete the training. From those companies that provided information, the time ranges from 1 hour to 16 hours, with an average of 5 and a median of 2 hours. For estimation purposes, FMCSA anticipates that drivers impacted by this rule will save a \$99 theory training fee and 2 hours of training, valued at \$61.50. The value of opportunity cost of training time is calculated at the rate at which drivers would accept in exchange for it, \$30.75 per hour (\$20.75 median hourly wage \times 48.19 percent fringe benefit rate).^{23,24}

Drivers seeking an HM endorsement must complete a background investigation through the TSA HM Endorsement Threat Assessment Program online application,

²³ Department of Labor (DOL), BLS, *Occupational Employment Statistics (OES)* (May 2023). Median hourly wage for Heavy and Tractor-Trailer truck drivers in the 115110 occupation is \$20.75. Available at: <http://www.bls.gov/oes/tables.htm> (accessed July 11, 2024).

²⁴ DOL, BLS, *Employer Cost for Employee Compensation for Transportation and Warehousing, Table 4: Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group*, (Mar. 17, 2023), available at: <https://www.bls.gov/news.release/pdf/ecec.pdf> (accessed Apr. 22, 2024).

visiting an application center, and paying a non-refundable fee of \$85.25.²⁵ This process must be completed every 5 years to maintain the HM endorsement. Drivers operating under the waiver will not be required to complete this process.

Lastly, Class A CDL holders operating under the waiver will not need to return to the SDLA to obtain an HM endorsement and will not be required to pay the associated SDLA fee. The SDLA HM endorsement fee changes by jurisdiction, ranging from \$0 to over \$40. For illustrative purposes, FMCSA estimates the average SDLA fee to be \$14. As displayed in the table below, the total per driver cost to obtain an HM endorsement is approximately \$260.

Table 1: Costs to Obtain HM Endorsement

Component	Value
Theory Training Fee	\$99.00
Driver Opportunity Cost of Training	\$61.50
TSA Background Fee	\$85.25
SDLA HM Endorsement Fee	\$14.00
Total Cost Savings for each Class A CDL Holder	\$260.00

FMCSA does not expect this final rule to immediately impact drivers who currently hold a Class A CDL and HM endorsement. The final rule could impact these drivers at the time of renewal by eliminating the fees for the HM endorsement.

These estimates do not include the costs associated with traveling to a TSA appointment center for the STA or traveling to the SDLA to take an HM knowledge test or obtain the HM endorsement. In rural areas where agricultural aircraft operations are based, an SDLA may be several hundred miles away. FMCSA does not have data on how

²⁵ The requirements associated with obtaining a HM endorsement are outlined in 49 CFR 1572, subpart E, which can be found at: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-XII/subchapter-D/part-1572>.

far drivers must travel to a TSA appointment center or an SDLA to obtain an HM endorsement.

Agricultural aircraft operations could gain efficiencies from this final rule because pilots working for operators in participating States would not need to expend time and fuel to travel back to their home bases to refuel. Instead, they would rely on CMV drivers with Class A CDLs to transport jet fuel and crop protection products from permanent facilities, that are often far from the agricultural fields, to satellite airstrips. According to an NAAA survey from 2005, operators shared that in many cases they could not work because drivers were not available. The NAAA maintains that a shortage of available drivers with HM endorsements prevents the use of satellite airstrips, limiting the amount of land that can be sprayed on a given day and resulting in increased jet fuel costs of over \$1,300 per day. In its comment to the NPRM, NAAA stated that an operation able to make use of satellite airstrips would be able to complete 20 additional loads per day, a 50 percent increase relative to when a satellite airstrip is unavailable. This increase in loads would allow for more efficient crop spraying, lower fuel costs, and increase the ability to reach fields that would not be accessible otherwise. Even so, FMCSA does not have the data to accurately quantify the aggregate impact of this provision. Agricultural aircraft operations vary based on the season, the current weather conditions, and the specific crop requiring service. As such, FMCSA cannot estimate the cost savings that could result from this provision.

Benefits

FMCSA does not expect this final rule will negatively impact CMV safety. For various reasons, drivers who transport jet fuel operate in low-risk safety conditions and rarely experience crashes. According to the aforementioned survey from 2005 cited in the NAAA's initial petition for rulemaking, 95.3 percent of agricultural aircraft operations had never been involved in any type of accident and 92.9 percent travel on rural roads

with minimal traffic. The NAAA also noted in this survey that drivers transporting fuel and chemicals travel an average of 57.81 miles per day although they only drive once or twice a week to a satellite facility. Furthermore, the NAAA provides highway safety education for a large portion of the small business owners of agricultural aircraft operations throughout the country through its Professional Agricultural Aviation Support System.

Some commenters provided information on the non-safety benefits that could be realized as a result of this final rule, many of them highlighting the increase in crop yields that result from aerial application. NATA commented that “aerial application directly contributes to higher crop yields, benefits not just Nebraska farmers but also the entire agricultural supply chain, from grain processors to livestock feeders.” NAAA further commented that “the value in additional crop yield that the aerial application industry brings to farmers, input suppliers, processors, and agricultural transportation and storage industries for corn, wheat, cotton, soybean, and rice production in the U.S. is estimated to be about \$37 billion.” FMCSA does not have the tools or information to measure the potential increase in crop yields or its impact on the economy that could result from this rule, but notes that any additional increase in crop yield would be beneficial.

FMCSA has not identified any other positive or negative benefits to society that would result from the proposed change to section 383.3(i).

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, January 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”²⁶

²⁶ Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 90 FR 9065-9067 (Feb. 6, 2025).

Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.²⁷

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This rulemaking is expected to have total costs less than zero, and therefore is considered an E.O. 14192 deregulatory action. As explained in the E.O. 12866 analysis section, the cost savings of this rulemaking could not be quantified.

C. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. §§ 801–808).²⁸

D. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act (RFA, 5 U.S.C. § 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,²⁹ 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

²⁷ Executive Office of the President, Office of Management and Budget, *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation,”* Memorandum M-25-20 (Mar. 26, 2025).

²⁸ A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. § 802(4)).

²⁹ Pub. L. No. 104-121, 110 Stat. 857, (Mar. 29, 1996).

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

FMCSA has prepared a final regulatory flexibility analysis discussing the impact of this final rule on small entities and addresses each component below.

1) A statement of the need for, and objectives of, the rule.

FMCSA amends the CDL regulations to provide States additional flexibility to waive the HM endorsement³⁰ requirement for certain drivers transporting 1,000 gallons or less of jet fuel in furtherance of agricultural aircraft operations. Agricultural aviation companies often deliver aircraft fuel to staging areas some distance from their headquarters. These companies, particularly in remote, rural areas, have difficulty finding CDL holders with HM endorsements to complete these deliveries. This final rule gives States authority to waive the HM endorsement requirement for Class A CDL holders who transport up to 1,000 gallons of jet fuel in the CDL holder's State of domicile (or in another State that has adopted the waiver) and in support of agricultural aircraft operations.

2) A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis (IRFA), a statement of the assessment of the Agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

FMCSA reviewed the comments submitted in response the NPRM and discusses them in the preamble to this rule. There were no comments submitted in response to the IRFA.

3) The response of the Agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the

³⁰ *Endorsement* as defined in section 383.5 means an authorization to an individual's CLP or CDL required to permit the individual to operate certain types of CMVs.

proposed rule, and a detailed statement of any change made to the proposed rule in the final rules as a result of the comments.

The Office of Advocacy did not issue comments in response to the proposed rule.

- 4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available.

This rule could affect drivers, agricultural aircraft operations, and State governments. Drivers are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, drivers are considered neither a small business under section 601(3) of the RFA, nor are they considered a small organization under section 601(4) of the RFA. State governments do not meet the definition of a small entity because they are governmental jurisdictions with populations greater than 50,000.

Section 601(3) of the RFA defines a *small business* as having the same meaning as *small business concern* under section 3 of the Small Business Act. This includes any firm that is “independently owned and operated” and is “not dominant in its field of operation.” The SBA has developed size standards used to classify entities as small, establishing separate standards for each industry, as defined by the North American Industry Classification System (NAICS). In the NPRM, FMCSA estimated that the impacted entities would fall within NAICS industry 11511 (Support activities for crop production). More specifically, in the NAICS national industry, 115112 (Soil preparation, planting, and cultivating), which has an SBA size standard based on annual revenue of \$9.5 million.

The 2022 Economic Census provides summary statistics for industries, including the number of firms, value of revenue, and number of employees. From this data, FMCSA estimated that the average revenue per firm is \$1.9 million per year, well under the SBA size standard of \$9.5 million. The Census data estimates that there are 3,181

firms in this national industry. FMCSA anticipates that this rule would impact less than 748, or 24 percent, of all firms.

- 5) A description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

There are no projected reporting, recordkeeping, or other compliance requirements in this rulemaking. It provides States authority to waive the HM endorsement requirement for Class A CDL holders who transport up to 1,000 gallons of aviation grade jet fuel in the CDL holders' State of domicile (or in another State that has adopted the waiver).

- 6) A description of the steps the Agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the Agency which affect the impact on small entities was rejected.

FMCSA anticipates that this final rule would result in cost savings to the impacted entities. While the cost savings for impacted agricultural aircraft operations is not quantified, it is possible that they will exceed one percent of revenue for small entities. FMCSA did not consider alternatives to minimize the economic impact on small entities. Many commenters requested, and FMCSA considered, the possibility of extending the flexibility provided in the rule to Class B CDL holders. Ultimately, FMCSA decided against this alternative because the final rule amends the regulations in response to NAAA's petition for rulemaking, and is intended to mirror the diesel fuel

waiver, as provided by Congress in section 7208 of the FAST Act, which was limited to Class A CDL holders transporting 1,000 gallons or less of diesel fuel.

E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104-121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

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 (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-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.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA, 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 \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024 levels) or more in any

one year. Though this final rule would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, the Agency discusses the effects of this rule elsewhere in this preamble.

G. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 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 has determined that this rule will not have substantial direct costs on or for States, nor will 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.

I. Privacy

The Consolidated Appropriations Act, 2005,³¹ requires agencies to assess the privacy impact of a regulation that will affect the privacy of individuals. This rule will not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

³¹ Pub. L. No. 108-447, 118 Stat. 2809, 3268, note following 5 U.S.C. § 552a (Dec. 4, 2014).

The E-Government Act of 2002,³² requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted 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 was adjudicated by DOT's Chief Privacy Officer on July 8, 2025.

J. 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.

K. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to 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 DOT Order 5610.1D,³³ Subpart B, paragraph e(6)(t)(2). The categorical exclusion (CE) in paragraph (e)(6)(t)(2) covers requirements ensuring that States have the appropriate regulations concerning the qualification and licensing of

³² Pub. L. No. 107-347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

³³ Available at <https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>.

persons who apply for, and are issued, a CDL. The proposed requirements in this rule are covered by this CE.

List of Subjects in 49 CFR Part 383

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

Accordingly, FMCSA amends 49 CFR chapter III, part 383 as follows:

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

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

Authority: 49 U.S.C. 521, 31136, 31301, *et seq.*, and 31502; secs. 214 and 215 of Pub. L. No. 106-159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. No. 107-56, 115 Stat. 272, 397, sec. 4140 of Pub. L. No. 109-59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. No. 112-141, 126 Stat. 405, 830; secs. 5401 and 7208, Pub. L. No. 114-94, 129 Stat. 1312, 1546, 1593 (49 U.S.C. 31305(d)), sec. 23019 of Pub. L. No. 117-58, 135 Stat. 429, 777; and 49 CFR 1.87.

SUBPART A-GENERAL

2. Amend § 383.3 by revising paragraph (i) to read as follows:

§ 383.3 Applicability.

* * * * *

(i) *Hazardous materials endorsement exemption for certain drivers transporting diesel or jet fuel.* A State may waive the requirement for a holder of a Class A commercial driver’s license to obtain a hazardous materials endorsement under this part, if the license holder is:

(1) Acting within the scope of the license holder’s employment, and within the State of domicile (or another State with a hazardous materials endorsement exemption) as an employee of a custom harvester operation, agrichemical business, farm retail outlet and supplier, livestock feeder, or agricultural aviation operation; and

(2) Operating a service vehicle that is:

(i) Transporting diesel or jet fuel in a quantity of 3,785 liters (1,000 gallons) or less; and

(ii) Clearly placarded in accordance with 49 CFR part 172 subpart F.

3. Amend § 383.5 by adding in alphabetical order the definition for *Jet fuel* to read as follows:

§ 383.5 Definitions.

* * * * *

Jet fuel means “fuel, aviation, turbine engine” as listed in the Hazardous Materials Table in 49 CFR 172.101 that is reclassified as a combustible liquid in accordance with 49 CFR part 173.

* * * * *

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs
Administrator