

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by February 11, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 2, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.770, the table in paragraph (e) is amended by revising the entry for “Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements” and adding an entry for “Lake and Porter Counties 2008 8-hour Ozone Negative Declaration” immediately following the entry “Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements” to read as follows:

§ 52.770 Identification of plan.

* * * * *
(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements.	2/28/2017, 1/9/2018, and 10/25/2018.	12/13/2019, [insert Federal Register citation].	2011 base year emissions inventory, Reasonable Further Progress (RFP) plan, RFP contingency measure plan, 2017 VOC and NO _x motor vehicle emissions budgets, nonattainment new source review certification, VOC RACT Certification, and enhanced motor vehicle inspection and maintenance program certification.
Lake and Porter Counties 2008 8-hour Ozone Negative Declarations.	10/25/2018	12/13/2019, [insert Federal Register citation].	Includes: Fiberglass Boat Manufacturing Materials CTG and Oil and Gas Industry CTG.

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DEPARTMENT OF TRANSPORTATION

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: Final rule; extension of compliance date.

SUMMARY: FMCSA extends the compliance date for the requirement

established by the December 5, 2016, Commercial Driver’s License Drug and Alcohol Clearinghouse (Clearinghouse) final rule that States request information from the Clearinghouse (“query”) about individuals before completing certain commercial driver’s license (CDL) transactions for those drivers. The States’ compliance with this requirement, currently due to begin on January 6, 2020, is delayed until January 6, 2023. This rule will, however, allow States the option to voluntarily request Clearinghouse information beginning on January 6, 2020. The compliance date extension allows FMCSA the time needed to complete its work on a forthcoming rulemaking to address the States’ use of driver-specific information from the Clearinghouse, and time to develop the information technology platform through which States will electronically request and receive Clearinghouse information. The

compliance date of January 6, 2020, remains in place for all other requirements set forth in the Clearinghouse final rule.

DATES: This final rule is effective December 13, 2019.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than January 13, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Nikki McDavid, Chief, Commercial Driver’s License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 366-0831, *nikki.mcdavid@dot.gov*.

SUPPLEMENTARY INFORMATION:

Rulemaking Documents

For access to docket FMCSA-2019-0120 to read background documents, go to <https://www.regulations.gov> at any time, or to Docket Operations at U.S.

Department of Transportation, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Executive Summary

A. Purpose and Summary of the 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 prior to issuing, renewing, upgrading, or transferring a CDL.¹ The Clearinghouse final rule did not address how SDLAs would use Clearinghouse information for drivers licensed, or seeking to become licensed, in their State. Accordingly, the final rule’s Regulatory Impact Analysis did not identify any safety benefit associated with the States’ query requirement. This final rule, which delays the States’ query requirement, from January 6, 2020, to January 6, 2023, would therefore have no impact on safety. In addition, under this final rule, beginning on January 6, 2020, SDLAs wishing to access the Clearinghouse may do so as an authorized user to determine whether the individual is prohibited from operating a commercial motor vehicle (CMV) because the individual has not completed the return-to-duty process. This optional access to the Clearinghouse would be exercised solely at the States’ discretion.

This extension of the compliance date is necessary to allow the Agency time to complete its forthcoming rulemaking to address SDLA access to and use of driver-specific information from the Clearinghouse, as discussed below. 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.

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.

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

III. Legal Basis for the Rulemaking

This final rule amends 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 49 CFR 384.235. The Clearinghouse final rule implements section 32402 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 405, 795, 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. The Agency’s authority to extend the compliance date for those State-specific requirements relies on these MAP-21 provisions. This final rule 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)).

The Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date, except “as otherwise provided by the agency for good cause found and published with the rule” (5 U.S.C. 553(d)(3)). Due to the imminence of the initial compliance date of January 6, 2020 for the States’ query requirement, established by the Clearinghouse final rule, the Agency finds “good cause” to make this final rule effective on the date of publication.

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.

Following publication of the final rule, 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 rule failed to address various operational issues related to the States’ role in the Clearinghouse.² Some of the concerns and questions AAMVA raised were: (1) What does FMCSA intend that the States do with information they receive from the Clearinghouse; (2) what specific information would States receive in response to a request for information about an individual CDL holder or applicant; (3) what privacy and data controls will be applied to the transmission of Clearinghouse information to SDLAs; (4) how would an erroneous Clearinghouse record be corrected; and (5) what are the cost implications for the SDLAs.

The Agency is currently working on a proposed rule (“Clearinghouse II” notice of proposed rulemaking (NPRM)), which will specifically address the issues raised by AAMVA. Delaying the implementation of the States’ query requirement will provide FMCSA time to resolve AAMVA’s concerns and ensure a seamless implementation of the States’ Clearinghouse-related requirements.

V. Discussion of Notice of Proposed Rulemaking

FMCSA published a NPRM on September 6, 2019 (84 FR 46923) to extend the date by which States must query the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL. The NPRM proposed extending the compliance date of the

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.

States' query requirement, established by the 2016 Clearinghouse final rule, from January 6, 2020, to January 6, 2023. The NPRM made clear that all other provisions of the Clearinghouse final rule would go into effect on January 6, 2020. Additionally, under the NPRM, SDLAs wishing to request information from the Clearinghouse could do so on a voluntary basis, beginning on January 6, 2020, by accessing the Clearinghouse as an authorized user and conducting a query prior to issuing, renewing, transferring or upgrading a CDL. 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.

VI. Discussion of Comments on Notice of Proposed Rulemaking

The Agency received 13 comments in response to the NPRM. Three individuals opposed extending the compliance date for the States' query requirements, noting the importance of implementing the Clearinghouse without delay. However, two of those commenters erroneously believed the proposal was to delay the entire Clearinghouse final rule and not solely the States' query provision.

The Owner-Operator Independent Drivers Association (OOIDA) commented that the proposed extension may cause confusion, noting that "[d]rivers might interpret any delay in the Clearinghouse as a delay in the entire program, thus failing to register at the proper time." OOIDA suggested that FMCSA consider extending the compliance date for all Clearinghouse requirements "to allow the entire industry sufficient opportunity to register . . . and provide additional time for the Agency to ensure an efficient rollout."

The American Trucking Associations (ATA) expressed disappointment that FMCSA proposed to delay the States' query requirement by three years, but acknowledged the need to "resolve AAMVA's concerns and ensure a seamless implementation of the States' Clearinghouse requirements." ATA also recommended that, during the 3-year delay, the Agency encourage States to "to adopt their own procedures to review Clearinghouse information through the FMCSA portal before issuing, upgrading, renewing, or transferring a CDL."

The Virginia Department of Motor Vehicles supported the proposal "on the grounds provided in the NPRM." The Oregon Department of Transportation

(Oregon DOT) also supported the proposed compliance date extension, noting the need "to permit both FMCSA and the States to complete necessary IT changes, and additionally for States to pursue any required statutory changes related to the Clearinghouse." The Drug and Alcohol Testing Industry Association supported the proposed extension, but only if employers, or Consortia/Third-Party Administrators (C/TPAs) acting on their behalf, are also granted a 3-year extension from the requirement "for mandatory queries to the database."

An individual from Connecticut asked whether the States' query requirement would apply only to a CDL, or whether a State would also have to query the Clearinghouse prior to the issuance, renewal, or upgrade or transfer of a Commercial Learner's Permit (CLP). A commenter wanted to know if Clearinghouse registration would open in the fall.

Several comments were beyond the scope of this rulemaking. One commenter believed that the pre-employment verification process "should be easier for businesses and more thorough," and suggested that DOT create "a multi-modal solution of DOT safety sensitive work with all divisions of the DOT to qualify or suspend the individual." Another commenter questioned how drivers without access to the internet would authorize the release of information when an employer makes a full query. The Oregon DOT advocated extending the States' Clearinghouse requirements to the issuance of CLPs. Two commenters did not take a position on the proposal.

VII. FMCSA Responses to Comments

The Agency finds that comments suggesting FMCSA should delay the entire Clearinghouse rule, or parts of the rule unrelated to the States' query requirement, are without merit. Clearinghouse registration for authorized users has been underway since October 1, 2019, and FMCSA intends to make the Clearinghouse operational beginning January 6, 2020, as required by the 2016 final rule. The Clearinghouse represents an important step forward in improving compliance with FMCSA's drug and alcohol use testing requirements and removing drivers from the roadway until the return-to-duty process has been completed, thus enhancing highway safety. It is neither necessary nor desirable to delay implementation of the core Clearinghouse reporting and query obligations applicable to motor carrier employers and their service agents,

including medical review officers, C/TPAs, and to substance abuse professionals.

For the reasons stated in the NPRM, this final rule does, however, extend the compliance date applicable to the States' query requirement, from January 6, 2020, to January 6, 2023. Accordingly, FMCSA adopts, without change, the regulatory text as proposed in the NPRM. Additionally, as proposed, States wishing to voluntarily access the Clearinghouse to obtain driver-specific information prior to the issuance, renewal, transfer, or upgrade of a CDL, may do so beginning January 6, 2020. Instructions for SDLAs wishing to access the Clearinghouse will be available on the Clearinghouse website prior to that date. States opting to access the Clearinghouse during the 3-year voluntary query period would determine what, if any, action the SDLA would take if the query indicates the applicant is prohibited from operating a CMV due to a drug and alcohol program violation.

In response to the question concerning whether the State query requirement pertains to CLP holders, or only to CDL holders, FMCSA notes that the Clearinghouse final rule required only that States conduct a query prior to the issuance, renewal, transfer, or upgrade of a CDL; CLPs were not included within the scope of the requirement. While the question of whether the States' query requirement should be extended to include CLPs, as suggested by the Oregon DOT, is outside the scope of this rule, that issue will be addressed in the Clearinghouse II NPRM.

The Agency acknowledges ATA's comment suggesting that FMCSA "encourage" States to "adopt procedures" to review Clearinghouse information when conducting the specified CDL transactions. In response, FMCSA again emphasizes that the Clearinghouse final rule did not require that States take any licensing action based on driver-specific information obtained by conducting a query. As noted in the NPRM, a query does not, in and of itself, confer a safety benefit. When a voluntary query conducted in accordance with this final rule indicates an applicant is prohibited from operating a CMV because the individual has failed to complete the return-to-duty process following a drug or alcohol program violation, whether or not an SDLA would take a licensing action would be determined by State law. As discussed above, issues involving the States' use of Clearinghouse information will be addressed in the Clearinghouse II rulemaking.

VIII. International Impacts

The Federal Motor Carrier Safety Regulations (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 in which they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences among nations.

IX. Section-By-Section Analysis

A. Change to 49 CFR 382.725

FMCSA amends § 382.725(a) to permit States to request information from the Clearinghouse beginning January 6, 2020, and to require that States request information from the Clearinghouse on or after January 6, 2023.

B. Changes to 49 CFR Parts 383 and 384

In parts 383 and 384, FMCSA amends §§ 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.

X. Regulatory Analyses

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

FMCSA determined that this final rule is not a significant regulatory action 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. Accordingly, the Office of Management and Budget has not reviewed it under those Orders. This rule is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6, dated Dec. 20, 2018). In addition, this rule does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. 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 E.O. 13771 by the Office of Information and Regulatory Affairs because it delays a compliance date for a requirement.

C. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).³

D. 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 final rule extends that compliance date from January 6, 2020, to January 6, 2023. The extension of the compliance date is limited to the SDLAs’ query requirement. The 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. State governments and their agencies are not included in the definition of “small governmental jurisdictions” (5 U.S.C. 601(5)) or “small entities” (5 U.S.C. 601(6)). That determination, combined with the fact that the SDLAs are the only entity affected by the extension of the compliance date, and no costs would be imposed on the SDLAs, demonstrates that the rule does not have a significant

³ A “major rule” means any rule that the Administrator of Office of Information and Regulatory Affairs at the Office of Management and Budget 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, Federal agencies, State agencies, local government agencies, or geographic regions; 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. 804(2)).

impact on small entities. Consequently, I certify the action will not have a significant economic impact on a substantial number of small entities.

E. 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 final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final 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 final rule. 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.

F. 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 \$165 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2018 levels) or more in any one year. This rule would not result in such an expenditure. As discussed above, FMCSA estimates the final rule would result in costs less than zero.

G. Paperwork Reduction Act

This rule would call for no new collection of information 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 determined that this rule 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.

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

This 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.

J. 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 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.

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

FMCSA reviewed this 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.

L. 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 (PIA) of a regulation that will affect the privacy of individuals. This rule does not change the collection of personally identifiable information (PII) as set forth in the 2016 Clearinghouse final rule. The supporting

PIA, available for review on the DOT website, <http://www.transportation.gov/privacy>, gives a full and complete explanation of FMCSA practices for protecting PII in general and specifically in relation to the 2016 Clearinghouse rule, which would also apply to this final rule.

M. 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.

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

FMCSA has analyzed this 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.

O. 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.

P. 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 the Office of Management and Budget (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.

Q. Environment

FMCSA analyzed this rule 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, paragraphs (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 requirements in this rule are covered by this CE, and the 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](http://www.regulations.gov) website listed under **ADDRESSES**.

R. 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 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 Part 383

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

49 CFR Part 384

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

In consideration of the foregoing, FMCSA amends 49 CFR chapter III, parts 382, 383, and 384, 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) Beginning January 6, 2020, and 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 continues to read as follows:

Authority: 49 U.S.C. 521, 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” from paragraphs (b)(10), (c)(10), (d)(9), (e)(8), and (f)(4) and adding, in its place, the date “January 6, 2023.”

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 5. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 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.

Dated: December 10, 2019.

Jim Mullen,
Acting Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 180209155–8589–02; RTID 0648–XP005]

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Limited Reopening of the 2019 U.S. Pelagic Longline Fishery for Bigeye Tuna in the Western and Central Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery reopening; fishery closure; request for comments.

SUMMARY: NMFS is temporarily reopening the 2019 U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean (WCPO) for five days because the fishery did not catch the entire 3,554 metric ton (t) limit. This action is intended to allow the fishery to access the remainder of the available limit.

DATES: The U.S. longline fishery for bigeye tuna reopens at 12:01 a.m. local time on December 23, 2019, until 11:59 p.m. local time on December 27, 2019. NMFS must receive comments by January 13, 2020.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–725–5176.

SUPPLEMENTARY INFORMATION: Pursuant to regulations implemented under the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6901 *et seq.*, NMFS established an annual limit of 3,554 t of bigeye tuna for U.S. longline vessels fishing in the Convention Area (83 FR 33851, July 18, 2018, codified at 50 CFR 300.224). The

limit applies only to U.S. vessels, but does not apply to U.S. vessels operating as part of the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands (CNMI). Regulations at 50 CFR 300.224(b), (c), and (d) detail the manner in which longline-caught bigeye tuna is attributed among the fisheries of the United States and the U.S. Participating Territories.

NMFS monitored catches of longline-caught bigeye tuna using logbook data submitted by vessel captains and other available information, and determined that the 3,554 t catch limit for 2019 would be reached by July 27, 2019. In accordance with 50 CFR 300.224(e), NMFS closed the U.S. longline fishery for bigeye tuna in the Convention Area through a temporary rule effective on July 27, 2019 through December 31, 2019 (84 FR 35568; July 24, 2019). The closure does not apply to vessels operating as part of the longline fisheries of American Samoa, Guam, or the CNMI, including vessels identified in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f)(1)(iv).

NMFS also specified a 2019 limit of 2,000 t of longline-caught bigeye tuna for each of the U.S. territories (American Samoa, Guam, and the CNMI) (84 FR 34321, July 18, 2019). That rule allows each territory to allocate up to 1,000 t to U.S. longline vessels identified in a valid specified fishing agreement.

On August 1, 2019, NMFS announced a valid specified fishing agreement between the CNMI and the Hawaii Longline Association (HLA) (84 FR 37592). In accordance with procedures in 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), NMFS began attributing bigeye tuna caught by vessels identified in the CNMI/HLA agreement to the CNMI beginning on July 20, 2019. NMFS forecasted that the fishery would reach the CNMI allocation limit by November 4, 2019, and closed the fishery on that date (84 FR 57827, October 29, 2019).

On October 28, 2019, NMFS announced a valid specified fishing agreement between American Samoa and HLA, and began attributing bigeye tuna caught by vessels identified in the agreement to American Samoa starting on that date (84 FR 57652). NMFS forecasts that the fishery will reach the American Samoa allocation limit by December 22, 2019, and will stop attributing on that date.

Since NMFS closed the U.S. longline fishery in July 2019, NMFS has subsequently determined that the fishery caught and retained only 3,456 t of the 3,554 t limit while it was open