

this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing Title V operating permit program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove an operating permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of an operating permit program submission that otherwise satisfies the

provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 May 14, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 5, 2002.

**William Rice,**

*Acting Regional Administrator, Region 7.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding under "Iowa" paragraph (d) to read as follows:

#### Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

Iowa

\* \* \* \* \*

(d) The Iowa Department of Natural Resources (IDNR) submitted amendments to Iowa Rule, 567 Iowa Administrative Code (IAC) 22.108(3), as a revision to the Iowa Title V operating permits program on August 31, 2001, effective August 15, 2001. The amendments incorporate existing periodic monitoring guidance and adopt by reference compliance assurance monitoring requirements. The IDNR submitted a supplement regarding these amendments on November 7, 2001, clarifying IDNR's authority to establish periodic monitoring on a case-by-case basis. This revision to the Iowa program is effective April 15, 2002.

\* \* \* \* \*

[FR Doc. 02-6272 Filed 3-14-02; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 1

[Docket No. OST-1999-6189]

#### Organization and Delegation of Powers and Duties, Update of Secretarial Delegation to the Administrator, Federal Motor Carrier Safety Administration

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary of Transportation (OST) is updating the delegations of authority from the Secretary to the Administrator of the Federal Motor Carrier Safety Administration in response to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

Section 1012 of the USA PATRIOT ACT amends the United States Code by adding a new section relating to limitations on issuance of licenses to individuals who operate motor vehicles transporting hazardous materials in commerce. By this action, the Secretary delegates the authority to carry out this provision to the FMCSA Administrator.

**EFFECTIVE DATE:** This final rule is effective on March 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Patricia A. Burke, Office of the Chief Counsel, MC-CC, (202) 366-0834, Federal Motor Carrier Safety Administration, U.S. Department of

Transportation, 400 7th Street, SW., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

##### Background

Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, (Public Law 107-56, 115 Stat. 272 at 396, (October 26, 2001)), amends chapter 51 of title 49 United States Code, by adding a new section 5103a, relating to limitations on issuance of licenses to individuals who operate motor vehicles transporting hazardous materials in commerce. The new provision is best administered by the FMCSA, which is responsible for the commercial driver's license (CDL) program. This delegation broadens the FMCSA Administrator's delegated authority relating to hazardous materials transportation programs.

This final rule updates the delegations of authority from the Secretary to the FMCSA Administrator to reflect the organizational posture of the Department. As such, the final rule is ministerial in nature and relates only to Departmental management, organization, procedure, and practice. Since this amendment relates to departmental organization, procedure and practice, notice and comment are unnecessary under 5 U.S.C. 553(b).

Furthermore, this rule does not impose substantive requirements on the public. Also, this final rule expedites the Department of Transportation's ability to implement section 1012 of the USA PATRIOT ACT. Consequently, the Department finds that there is good cause under 5 U.S.C. 553(d)(3) to make this rule effective on the date of publication in the **Federal Register**.

##### Regulatory Analyses and Notices

###### *A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

The final rule is not considered a significant regulatory action under Executive Order 12866 and the Regulatory Policies and Procedures of

the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

###### *B. Executive Order 13132*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation and funding requirements do not apply.

###### *C. Executive Order 13084*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

###### *D. Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify this final rule, which amends the CFR to reflect a delegation of authority from the Secretary to the FMCSA Administrator, will not have a significant economic impact on a substantial number of small businesses.

###### *E. Paperwork Reduction Act*

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

###### *F. Unfunded Mandates Reform Act*

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

##### List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

#### PART 1—[AMENDED]

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

**Authority:** 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101-552, 104 Stat. 2736; Pub. L. 106-159, 113 Stat. 1748; Pub. L. 107-56, 115 Stat. 396.

2. In § 1.73, revise paragraph (d)(2) to read as follows:

#### § 1.73 Delegation to the Administrator of the Federal Motor Carrier Safety Administration.

\* \* \* \* \*

(d) \* \* \*

(2) Carry out the functions vested in the Secretary by 49 U.S.C. 5103a relating to limitations on issuance of licenses to operate motor vehicles transporting hazardous materials in commerce; 49 U.S.C. 5112 relating to highway routing of hazardous materials; 49 U.S.C. 5109 relating to motor carrier safety permits, except subsection (f); 49 U.S.C. 5113 relating to unsatisfactory safety ratings of motor carriers; 49 U.S.C. 5125(a) and (c)-(f), relating to preemption determinations or waivers of preemption of hazardous materials highway routing requirements; 49 U.S.C. 5105(e) relating to inspections of motor vehicles carrying hazardous material; and 49 U.S.C. 5119 relating to uniform forms and procedures.

\* \* \* \* \*

Issued in Washington, DC on March 7, 2002.

**Norman Y. Mineta,**  
Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Parts 244 and 1106

[FRA Docket No. 1999-4985, Notice No. 4]

#### Surface Transportation Board

[STB Ex Parte No. 574]

RIN 2130-AB24

#### Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control; and Procedures for Surface Transportation Board Consideration of Safety Integration Plans in Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control

**AGENCIES:** Federal Railroad Administration (FRA), Surface Transportation Board (STB), DOT.

**ACTION:** Final rules.