

BOB A. RICKS  
COMMISSIONER



BRAD HENRY  
GOVERNOR

STATE OF OKLAHOMA

DEPARTMENT OF PUBLIC SAFETY

June 16, 2003

Dockets Management System  
US Department of Transportation  
Room PL 401  
400 Seventh St., SW  
Washington, DC 20590-0001

RE: Docket No.  
FMCSA- 2001-11117  
TSA-2003-14610

The Oklahoma Department of Public Safety has the following comments and questions relating to the Interim final Rules issued May 5, 2003.

FMCSA - 2001-11117

1. Time constraints: This state is greatly impacted as a result of this rule for two reasons: One, because we have received little guidance as to how these procedures are to be carried out. Without this guidance, we cannot possibly set up the appropriate infrastructure. There are too many unanswered questions. Secondly, this couldn't have come at a worse time. The legislature recessed for the remainder of the year and will not return until next year. Many of the requirements of the rule will require legislation and will not be introduced until the legislative session starts.
2. Does a person who applies for an initial, transfer or upgrade of a license and who undergoes the security threat assessment necessarily need to undergo the same if they apply for subsequent licenses (duplicates, upgrades) within the same renewal period?
3. Who needs and does not need the Hazmat endorsement needs clarified. It is currently based on the transportation of materials in amounts that require placards. The or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 should include "in amounts requiring placards."



4. What provisions will be made for individuals who are to renew their license starting in November who will not receive any notice. This will, in effect, preclude these individuals from do work they are qualified to do as of today. In other words, one day it's okay for them to haul a tanker of fuel but as of 11/03/03 they will not be able to work. There needs to be provisions for these individuals. This state does not have the capability of extending a persons license without legislative approval
5. Unfunded mandate: The rule states that it is assumed the costs will be passed to the applicant of the hazardous material endorsement. As stated, the legislature is in recess and any fee increase requires legislative approval. It might be rebutted that a private party can charge the fee, and that requires legislative approval as well. The estimate of \$15,000 per State is minimal at best for the implementation of and maintenance of the Hazmat endorsement including programming, postage, personnel, training will likely exceed \$50,000 per year, not including what could possible be passed on to the applicant (fingerprinting fees etc.)

TSA - 2003-14610

1. Time constraints: in less than five months this rule will be enforced by TSA and FMCSA, yet TSA to this date cannot answer how many of the required procedures will be carried out. Supposing TSA and FMCSA issue the final rule by August 1, 2003, Jurisdictions will have approximately 90 days to be in full compliance. It will take computer programmers at minimum 60 days to make necessary changes, once they know the procedures and Protocols. Compliance with this will have a substantial impact on commerce, and on a personal level, will place a large number of drivers out of work until their clearance is returned.
2. This rule appears to create multiple notices, one for the renewal notice sent 180 days before the license expiration. The second notice will be required so as to notify the driver that the check has resulted in the notification of no security threat. As the rule reads, the State will be notified for appropriate action. It appears that TSA will not send notices to applicants when they pose no security threat, leaving this task to the states. It is suggested that TSA send applicants a notification on all responses whether they are a security threat or not. Simultaneously, TSA should place appropriate designator on CDLIS so States will automatically have current applicant status upon inquiry.
3. Conflicting terminology: A new term, possibly "hazmat ineligible" or anything else rather than disqualification. Disqualification pertains to "whole" CDL. We know disqualified means; the suspension, revocation, cancellation or any other withdrawal by a State of a person's driving privilege to drive a commercial motor vehicle and all the other reasons as specified in 383.5. Again this pertains to the privilege to drive or the inability to apply for a CDL. With revoked, suspend, cancel or deny having different meanings with any Jurisdiction, we request this language be changed to a unique qualifier.
4. Streamline process: From all appearances on or after November 3, 2003 persons wishing to apply for a hazardous material endorsement (renew, issue or transfer) will be required to submit fingerprints (unknown who will do this) The information will be forwarded to (not yet specified to whom) and the applicant waits for response. From previous experience with applicants, the individual will likely become anxious and start calling local exam offices on a daily basis until they get an answer. A system of sending out approval notices will invariably be established. Local exam stations will be inundated with calls (estimated 700 hazmat applicants per



month Statewide) and the state bears the expense of mailing out the approval notice. This approval notice is in addition to the renewal notice sent out 180 days prior to renewal, not to mention other costs associated with mailing 1400 notices per month. This process should be streamlined in such a way for TSA to automatically post to CDLIS and submit notice to the applicant simultaneously. For TSA to send the applicant the notice will also provide the satisfaction that the individual they just investigated actually does receive mail at the location they indicated.

5. Who will maintain the waiver documentation? How will it be documented for jurisdictions? Are these waivers only good for five years?

Other comments: The State of Oklahoma fully supports the Federal Government's efforts to suppress terrorist activity and will fully cooperate with TSA and FMCSA in implementing rules. However, these rules, Part V and Part VI should not be effective until such time as every procedure is in place, tested and satisfactory results achieved. At such time, states should be given at least one calendar year to achieve compliance with said rule so legislatures can pass required legislation to effect these rules.

