While maintaining the safeguards that ensure “live code tests” will not confuse the public that the alert is only a test. Federal Communications Commission.

Katura Jackson,
Federal Register Liaison Officer, Office of the Secretary.

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration
49 CFR Parts 383 and 384
[Docket No. FMCSA–2018–0361]
RIN 2126–AC20
Lifetime Disqualification for Human Trafficking
AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule revises the list of offenses permanently disqualifying individuals from operating a commercial motor vehicle (CMV) for which a commercial drivers’ license or a commercial learner’s permit is required. This final rule reflects a change made by Congress in the “No Human Trafficking on Our Roads Act” (the Act) which prohibits an individual from operating a CMV for life if that individual uses a CMV in committing a felony involving a severe form of human trafficking, adding to the list of other disqualifying offenses identified in statute. A list of those disqualifying offenses already exists in the FMCSRs; this final rule is necessary to update that list to include the new disqualifying offense established by the Act. This final rule also sets a deadline for States to come into substantial compliance with this requirement.

DATES: This final rule is effective September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Kathryn Sinniger, Office of the Chief Counsel, Regulatory and Legislative Affairs, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or by telephone at 202–366–0908. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: This Final Rule is organized as follows:
I. Availability of Rulemaking Documents
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IV. Discussion of Final Rule
V. International Impacts
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VII. Regulatory Analyses
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B. Regulatory Flexibility Act (Small Entities)
C. Assistance for Small Entities
D. Unfunded Mandates Reform Act of 1995
E. Paperwork Reduction Act (Collection of Information)
F. E.O. 13132 (Federalism)
G. E.O. 12988 (Civil Justice Reform)
H. E.O. 13045 (Protection of Children)
I. E.O. 12630 (Taking of Private Property)
J. Privacy
K. E.O. 12372 (Inbargovernmental Review)
L. E.O. 13211 (Energy Supply, Distribution, or Use)
M. E.O. 13175 (Indian Tribal Governments)
N. National Technology Transfer and Advancement Act (Technical Standards)
O. Environment

I. Availability of Rulemaking Documents

For access to docket FMCSA–2018–0361 to read background documents, go to http://www.regulations.gov at any time, or to Docket Services 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

This final rule revises the list of offenses permanently disqualifying individuals required to have a commercial drivers’ license (CDL) or a commercial learner’s permit (CLP). This final rule reflects a change made by Congress in the “No Human Trafficking on Our Roads Act” (Pub. L. 115–106, 131 Stat. 2265, Jan. 8, 2018) (the Act). The Act prohibits an individual from operating a commercial motor vehicle (CMV), as defined in 49 U.S.C. 31301(4), for life, not eligible for reinstatement, if that individual uses a CMV in committing a felony involving a severe form of human trafficking, adding to the list of disqualifying offenses found in 49 U.S.C. 31310. A list of those existing disqualifying offenses already exists in 49 CFR 383.51; this final rule is necessary to update that list to include the new lifetime disqualifying offense established by the Act.

This final rule also sets a deadline for States to come into substantial compliance, as required by 49 U.S.C. 31311(a)(15).
III. Legal Basis for the Rulemaking

This final rule is based on the authority of the Commercial Motor Vehicle Safety Act of 1986, as amended (CMVSA) (Pub. L. 99–570, Title XII, 100 Stat. 3207–3240, 49 U.S.C. ch. 353). The CMVSA, implemented in 49 CFR parts 383 and 384, established the commercial driver’s license (CDL) and commercial learner’s permit (CLP) programs. As part of the standards governing the operation of CMVs for which a CDL or CLP is required, section 31310 sets forth the offenses for which the Secretary of Transportation (the Secretary) must disqualify an individual from operating a CMV. In accordance with 49 CFR 1.87, the FMCSA Administrator is delegated authority to carry out the motor carrier functions vested in the Secretary. Section 31310(d)(15) triggers the State, in order to avoid having amounts withheld from apportionment under section 31314, to disqualify the individual from operating a CMV for the same reasons and time periods set forth in section 31310, subsections (b–e), (i)(1)(A), and (i)(2).

The specific authority for this final rule derives from the “No Human Trafficking on Our Roads Act” (the Act) (Pub. L. 115–106, 131 Stat. 2265, Jan. 8, 2018), which amended 49 U.S.C. 31310(d) by adding the use of a CMV in committing a felony involving a severe form of trafficking in persons, as defined in 22 U.S.C. 7102. As noted in the Senate Report accompanying the legislation, “Human trafficking, particularly sex trafficking, is known to occur in truck stops and State-operated rest areas throughout the United States. Given their remoteness and insulation from communities, these locations can be a convenient place for sex traffickers to operate with minimal concerns for detection” (Senate Report 115–188, Nov. 30, 2017). While Congress noted that CMV drivers can play an important part in identifying trafficking incidents, it concluded that more can be done to combat human trafficking. The Act is therefore intended to serve as a deterrent measure, as well as to punish those felons involving severe forms of trafficking in persons.

The Act, which is self-executing, disqualifies any individual who uses a CMV in committing a felony involving a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(11), from operating a CMV for life. 22 U.S.C. 7102(11) defines the term “severe forms of trafficking in persons” to mean either “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;” or “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” The term “sex trafficking” is further defined as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act” (22 U.S.C. 7102(12)).

This final rule adds the lifetime disqualification without reinstatement to the list of disqualifying major offenses currently set forth in 49 CFR 383.51(b), Table 1. This final rule also gives States three years to come into substantial compliance with the Act, as required by 49 U.S.C. 31311(a)(15), which reads “The States shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under subsections (b)–(e), (i)(1)(A) and (i)(2) of section 31310.” Because, as noted above, the Act amended 49 U.S.C. 31310(d), States must satisfy the requirement to disqualify for life without reinstatement any individual who uses a CMV in committing a felony involving a severe form of trafficking in persons (as those terms are defined above). Recognizing that some States may need to conform their licensing statutes and regulations to include this new disqualifying offense, the Agency requires that States come into substantial compliance with 49 U.S.C. 31311(a) as soon as practicable, but not later than three years from the effective date of this final rule.

V. International Impacts

The 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 that they operate in, unless an international agreement states otherwise. Drivers and
carriers should be aware of the regulatory differences amongst nations.

VI. Section-by-Section Analysis

This final rule adds a new entry to 49 CFR 383.51(b), Table 1 to read as follows: (10) using the vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11).

This final rule also adds new paragraph (j) to 49 CFR 384.301, requiring States to come into substantial compliance with the changes made by this final rule within three years of its effective date.

VII. Regulatory Analyses

A. Executive Order (E.O.), 12866
(Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011). Accordingly, the Office of Management and Budget has not reviewed it under that Order. The rule also is not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6 dated December 20, 2018).

The Agency does not expect this rule to result in incremental costs or benefits. This rule brings FMCSRs into alignment with statute by adding the statutory provision in 49 U.S.C. 31310(d) to 49 CFR part 383.51. As described above in “III. Legal Basis for the Rulemaking,” the Act added a lifetime disqualification, not eligible for reinstatement, from operating a CMV to the list of disqualifying offenses found in 49 U.S.C. 31310 for individuals using a CMV in committing a felony involving a severe form of human trafficking. This offense, resulting in disqualification for life without reinstatement, is currently enforceable under the Act as of January 8, 2018. Therefore, individuals operating a CMV are already subject to enforcement under the existing statute regardless of whether this rule is promulgated.

This final rule requires States to come into substantial compliance with these changes within its three years of the effective date. This follows the Agency’s precedent of allowing States three years to take any required conforming legislative or regulatory actions.

B. E.O. 13771 Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) 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. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

FMCSA is not required to complete a regulatory flexibility analysis, because, as discussed earlier in the Legal Basis section, this action is not subject to notice and comment under section 553(b) of the APA.

D. 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 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 FMCSA point of contact 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.

E. 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. In particular, 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 $161 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2017 levels) or more in any one year. Though this final rule is not a discretionary regulatory action and thus will not result in such an expenditure, the Agency does discuss the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

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

G. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 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 would not have substantial direct effects on the 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.

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

This final 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.

I. 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 final 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.

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

FMCSA reviewed this final 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.

K. Privacy Impact Assessment

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 116 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 require the collection of personally identifiable information (PII).

The E-Government Act of 2002, Public Law 107–347, 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. Because no new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule, FMCSA did not conduct a privacy impact assessment.

L. 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.

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

FMCSA has analyzed this final 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.

N. 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.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through 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.

P. 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, paragraph(s)(5). The Categorical Exclusion (CE) in paragraph(s) covers Regulations intended to help reduce or prevent truck and bus accidents, fatalities, and injuries by requiring drivers to have a single commercial motor vehicle driver’s license and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner and provide for periods of disqualification and penalties for those persons convicted of certain criminal and other offenses and serious traffic violations. The content in this rule is covered by this CE and the final action does not have any effect on the quality of the environment. The CE determination is available for inspection or copying in the Regulations.gov website listed under ADDRESSES.

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Commercial driver’s license, Commercial motor vehicles, 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 as follows:

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

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


Subpart D—Driver Disqualifications and Penalties

2. In § 383.51, by add paragraph (b)(10) to table 1 to read as follows:

§ 383.51 Disqualification of drivers.

(b) * * *
If a driver operates a motor vehicle and is convicted of:

<table>
<thead>
<tr>
<th>Offense</th>
<th>Reinstatement Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>* * * * *</td>
<td>Not applicable</td>
</tr>
<tr>
<td>PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER’S LICENSE PROGRAM</td>
<td></td>
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<tr>
<td>§ 384.301 Substantial compliance—general requirements.</td>
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<td>* * * * *</td>
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</tbody>
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(j) A State must come into substantial compliance with the requirements of part 383 of this chapter in effect as of September 23, 2019, or as soon as practicable, but not later than September 23, 2023.

Issued under authority delegated in 49 CFR 1.87.

Dated: July 11, 2019.

Raymond P. Martinez,
Administrator.
[FR Doc. 2019–15611 Filed 7–22–19; 8:45 am]