

made final, and for the contents in these buildings.

**National Environmental Policy Act.** This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a

regulatory flexibility analysis has not been prepared.

**Regulatory Classification.** This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 12612, Federalism.** This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform.** This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

#### List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

#### PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground Elevation in feet (NGVD) *Elevation in feet (NAVD)	
				Existing	Modified
Massachusetts .....	Duxbury (Town), Plymouth County.	Massachusetts Bay .....	Approximately 1,000 feet southwest of the intersection of Plymouth Avenue and Bay Avenue.	*10	*11
			Approximately 250 feet east of the intersection of Plymouth Avenue and Bay Avenue.	*19	*21
		Duxbury Bay/Bluefish River.	Approximately 600 feet west of the intersection of River Lane and Washington Street.	*9	*10
		Massachusetts Bay/Kingston Bay.	Approximately 500 feet southeast of the intersection of Loring Street and Bay Road.	*13	*11
			Approximately 850 feet south of the intersection of Bay Road and Landing Road.	*14	*15
		Duxbury Bay .....	Approximately 500 feet south of the intersection of Powder Point Avenue and King Caesar Road.	*14	*17
		Massachusetts Bay/Duck Hill River/The Marsh.	Approximately 1,000 feet north of the intersection of St. George Street and Strawberry Lane.	*9	*11

Maps available for inspection at the Duxbury Town Hall, 878 Tremont Street, Duxbury, Massachusetts.

Send comments to Mr. Rocco Longo, Duxbury Town Manager, 878 Tremont Street, Duxbury, Massachusetts 02332.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: January 28, 2005.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 05-2115 Filed 2-3-05; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 385, 390 and 395

[Docket No. FMCSA-2004-19608; Formerly FMCSA-1997-2350]

RIN 2126-AA90

#### Hours of Service of Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of availability in public docket; addendum to the regulatory impact analysis for the hours of service rulemaking; request for comments.

**SUMMARY:** On January 24, 2005, the Federal Motor Carrier Safety Administration (FMCSA) published in the **Federal Register** (70 FR 3339) a Notice of Proposed Rulemaking (NPRM) regarding hours of service of commercial motor vehicle drivers. In that NPRM, FMCSA announced it is reviewing and reconsidering the regulations on hours of service of drivers published on April 28, 2003, and amended on September 30, 2003. In the docket to this January 24, 2005, NPRM, FMCSA re-filed the same Regulatory Impact Analysis (RIA), or comprehensive analysis of economic benefits and costs of the proposed rule, as was filed in the docket for the April 2003 final rule. However, effective

January 1, 2005, the Office of Management and Budget (OMB) imposed new analytical requirements on Federal agencies regarding the preparation of RIAs for economically significant rulemakings. These new requirements include an uncertainty analysis, or an analysis of the “degree of uncertainty” associated with key variables used in the analysis (*i.e.*, the percent of all truck-related crashes where commercial driver fatigue is a factor) and how significantly that uncertainty affects the benefit and cost estimates derived. A primary value of uncertainty analysis is its ability to highlight those key variables where additional data collection (to reduce uncertainty) would most benefit the decision making process.

Additionally, OMB now requires a cost-effectiveness analysis for those rulemakings where improved public health and safety are the primary benefits. The cost effectiveness of a regulatory action is typically measured as a ratio of the change in costs occasioned by the action compared to its positive results (*i.e.*, lives saved). A primary value of cost-effectiveness analysis is its ability to identify regulatory options that achieve the most effective use of the resources available without requiring monetization of all of the relevant benefits or costs. In light of these new requirements, FMCSA has prepared an addendum to the original RIA containing the two supplemental analyses and has made it available in Docket FMCSA–2004–19608.

**DATES:** Comments must be received by March 10, 2005, which is the end of the comment period announced January 24, 2005, in the NPRM for hours of service (70 FR 3339).

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA–2004–19608 by any of the following methods. Identify your comments as responding to “RIA ADDENDUM.” Do not submit the same comments by more than one method. However, in order to allow effective public participation in this rulemaking before the statutory deadline, we encourage use of the Web site that is listed first below. It will provide the most efficient and timely method of receiving and processing your comments.

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building,

Room PL–401, Washington, DC 20590–0001.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number (FMCSA–2004–19608) or Regulatory Identification Number (RIN) for this rulemaking (RIN–2126–AA90). Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Yager, Hours-of-Service Team, Federal Motor Carrier Safety Administration, 202–366–1425.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On January 24, 2005, FMCSA published in the **Federal Register** (70 FR 3339) an NPRM regarding hours of service of commercial motor vehicle drivers. In that NPRM, FMCSA announced that it is reviewing and reconsidering the regulations on hours of service of drivers published on April 28, 2003 (68 FR 22456), and amended on September 30, 2003 (68 FR 56208). These regulations were vacated by the

U.S. Court of Appeals for the District of Columbia Circuit on July 16, 2004.

*Public Citizen et al. v. Federal Motor Carrier Safety Administration*, 374 F.3d 1209 (D.C. Cir. 2004). Congress subsequently provided that the 2003 regulations will remain in effect until the effective date of a new final rule addressing the issues raised by the court, or September 30, 2005, whichever occurs first (Section 7(f) of the Surface Transportation Extension Act of 2004, Part V). FMCSA is reconsidering the 2003 regulations to determine what changes may be necessary to be consistent with the holdings and *dicta* of the *Public Citizen* decision. To facilitate discussion, the agency is putting forward the 2003 rule as the “proposal” on which public comments are requested.

Accordingly, in the docket of the NPRM published on January 24, 2005, FMCSA has included a Regulatory Impact Analysis (RIA), or comprehensive analysis of economic benefits and costs of the proposed rule (Docket Number FMCSA–1997–2350–23302, refiled as FMCSA–2004–19608–80), which is the same RIA filed in the docket of the April 2003 hours-of-service rulemaking. However, effective January 1, 2005, the Office of Management and Budget (OMB) imposed new analytical requirements on Federal agencies in the preparation of RIAs for economically significant rulemakings (OMB Circular No. A–4, Guidelines for the Conduct of Regulatory Analysis). These new requirements include: (1) a quantitative analysis of the degree of uncertainty associated with key inputs to the calculation of benefits and costs (henceforth referred to as “uncertainty analysis”), and (2) a cost-effectiveness analysis (CEA) for major rulemakings for which primary benefits are improved public health and safety. To meet these new requirements, FMCSA has prepared an addendum to the original RIA containing the two supplemental analyses and has made it available in Docket FMCSA–2004–19608. For instructions to access the docket, see the “Docket” heading, above.

##### **Uncertainty Analysis**

As stated in OMB Circular A–4, “The precise consequences (benefits and costs) of regulatory options are not always known with certainty,” and the uncertainty associated with key inputs to a regulatory impact analysis (*i.e.*, the percent of all truck-related crashes where commercial driver fatigue is a factor) has the potential to affect the accuracy of the benefit and cost estimates derived. However, while the

precise consequences of a regulatory option may not be known with certainty, in many cases the probability of their occurrence can be developed. By examining the uncertainty of several key variables used in the analysis (by way of evaluating the probability of their occurrence), analysts and decision makers can become better informed as to which variables most significantly affect the benefit and cost results and where additional information or data collection (to reduce uncertainty) would be most beneficial.

As such, a primary benefit of an uncertainty analysis is that it highlights which variables in the analysis are the most important, and where additional information for given variables would most contribute to the accuracy of results. In the present analysis, FMCSA developed uncertainty distributions for 20 key variables. Examples include (1) the percent of long-haul drivers with "intense" schedules (or those drivers in long-haul operations who are fully utilizing the daily and weekly driving limits on a consistent basis), (2) the percentage of hours worked by commercial drivers in excess of allowed hours, and (3) the percent of all truck-related crashes where commercial driver fatigue was determined to be a factor. A complete list of the variables examined is included in the Addendum filed in the docket. It should be noted here that the original RIA examined the economic impacts of the 2003 final rule from two sets of baseline assumptions: the first, termed the "Current Rules/100%" option, assumed full compliance by commercial drivers with the pre-2003 HOS rules when estimating the economic impacts of the regulatory change, while the second, termed the "Status Quo" option, assumed less than full compliance with the pre-2003 rules prior to estimating economic impacts. However, the uncertainty analysis conducted here was limited only to the "Status Quo" (or less than full compliance) baseline assumption, since only under this set of assumptions did the annual costs of the rulemaking rise above the dollar threshold (*i.e.*, greater than \$1 billion in annual costs) outlined in OMB Circular A-4 that requires such an analysis. As such, when reporting on the range of possible cost, benefit, and net cost outcomes of this uncertainty analysis, all results are measured relative to the point estimates derived from the original RIA under the "Status Quo" baseline assumption.

Regarding total costs of the NPRM, the uncertainty analysis revealed that there was an 80 percent chance that total annual costs of this rulemaking would fall between \$1 and \$1.5 billion. Under

the "Status Quo" baseline, the original RIA derived a point estimate of total annual costs equal to \$1.3 billion. As such, the distribution of cost results derived from the uncertainty analysis closely tracked the point estimate of costs derived under the original RIA. Regarding total annual benefits of the NPRM, the uncertainty analysis revealed that there is about an 80 percent chance that annual benefits would fall between \$0.5 and \$0.8 billion. Under the "Status Quo" baseline, the original RIA had derived a point estimate of total annual benefits equal to \$0.7 billion. Regarding net costs, the uncertainty analysis indicated about an 80 percent chance that net costs of the NPRM would fall between \$0.3 and \$0.8 billion, and about a five percent chance that net benefits would accrue from implementation of the proposed rule. Under the "Status Quo" baseline, the original RIA had derived a point estimate of total net annual costs equal to \$0.6 billion.

#### Cost Effectiveness Analysis

The cost effectiveness of a regulatory action is typically measured as a ratio of the change in costs occasioned by the action compared to its positive results (*i.e.*, lives saved). A primary value of cost-effectiveness analysis is its ability to identify regulatory options that achieve the most effective use of the resources available without requiring monetization of all of the relevant benefits or costs. Regarding the results of the cost effectiveness analysis, the implementation of the NPRM was estimated to result in a total annual cost of \$10.8 million for each fatality prevented, and \$0.4 million for each injury prevented. It must be noted here that the CEA results presented here will tend to exaggerate the costs of preventing injuries and fatalities, because implementation of the NPRM would not just prevent injuries and fatalities, but would also prevent truck-related crashes limited to property-damage only. Additionally, the rule is expected to result in time savings as a result of the prevention of truck-related crashes. Full details regarding the results of these analyses may be found in Docket FMCSA-2004-19608.

Issued on: February 1, 2005.

Annette M. Sandberg,  
Administrator.

[FR Doc. 05-2185 Filed 2-3-05; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List *Ptilagrostis porteri* (Porter feathergrass) as Threatened or Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to list *Ptilagrostis porteri* (Porter feathergrass) as threatened or endangered under the Endangered Species Act of 1973, as amended (the Act). We find that the petition and additional information in Service files do not present substantial scientific or commercial information indicating that listing this species may be warranted. We will not be initiating a further status review in response to this petition. The public may submit to us any new information that becomes available concerning the status of or threats to the species.

**DATES:** The finding announced in this document was made on January 28, 2005. New information concerning this species may be submitted for our consideration at any time.

**ADDRESSES:** Data, information, comments, or questions concerning this petition finding should be submitted to the Western Colorado Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506. The petition finding and supporting information are available for public inspection, by appointment, during normal business hours at the above address. The petition and finding are available on our Web site at <http://r6.fws.gov/plants/feathergrass>.

**FOR FURTHER INFORMATION CONTACT:** Allan R. Pfister, Supervisor, Western Colorado Ecological Services Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section) (telephone (970) 243-2778; facsimile (970) 245-6933).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to