



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA-2018-0068]

RIN 2126-AC12

Fees for the Unified Carrier Registration Plan and Agreement

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FMCSA proposes reductions in the annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2019, 2020, and subsequent registration years. The proposed fees for the 2019 registration year would be reduced below the 2017 registration fee level that was in effect by approximately 17.59 percent to ensure that fee revenues do not exceed the statutory maximum, and to account for the excess funds held in the depository. The proposed fees for the 2020 registration year would be reduced below the 2017 level by approximately 9.5 percent. The reduction of the current 2019 registration year fees (finalized on January 5, 2018) would range from approximately \$10 to \$9,530 per entity, depending on the number of vehicles owned or operated by the affected entities. The reduction in fees for subsequent registration years would range from approximately \$4 to \$3,565 per entity.

DATES: Comments on this notice of proposed rulemaking (NPRM) must be received on or before [Insert date 10 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2018-0068 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Folsom, Office of Registration and Safety Information, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001 by telephone at 202-385-2405. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA-2018-0068), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but

please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2018-0068, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act (5 U.S.C. 552), CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as “confidential” or “CBI.” Submissions designated as CBI

and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2018-0068, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy.

D. Advance Notice of Proposed Rulemaking Not Required

Under 49 U.S.C. 31136(g), added by section 5202 of the Fixing America’s Surface Transportation or FAST Act, Pub. L. 114-94, 129 Stat.1312, 1534 (Dec. 4, 2015),

FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking “if a proposed rule is likely to lead to the promulgation of a major rule.” 49 U.S.C. 31136(g)(1). As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

II. Executive Summary

A. Purpose and Summary of the Major Provisions

The UCR Plan and the 41 States participating in the UCR Agreement establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors; 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA. Revenues collected are allocated to the participating States and the UCR Plan. In accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), fee adjustments must be requested by the UCR Plan when annual revenues exceed the maximum allowed. Also, if there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan’s depository and subsequent fees must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct provisions are the reasons for the two-stage adjustment proposed in this rule. This NPRM proposes to reduce the annual registration fees established pursuant to the UCR Agreement for 2019, 2020, and subsequent years.

Currently the UCR Plan estimates that by December 31, 2018, total revenues will exceed the statutory maximum for the 2017 registration year by approximately \$9.17 million. Therefore, in January 2018, the UCR Plan made a formal recommendation that

FMCSA adjust the fees in a two-stage process. The proposed fees for the 2019 registration year, with collection beginning on or about October 1, 2018, the fees would be reduced below the 2017 registration fee level that was in effect by approximately 17.59 percent to ensure that fee revenues do not exceed the statutory maximum, and to reduce the excess funds held in the depository. The proposed fees for the 2020 registration year, with collection beginning on or about October 1, 2019, the fees would be reduced below the 2017 level by approximately 9.5 percent to ensure the fee revenues in that and future years do not exceed the statutory maximum. The UCR Plan requested that the adjusted fees be adopted no later than August 31, 2018, to enable the participating States and the UCR Plan to reflect the new fees when collections for the 2019 registration year begin on or about October 1, 2018. The adoption of the adjusted fees must be accomplished by rulemaking by FMCSA under authority delegated from the Secretary of Transportation (Secretary).

The UCR Plan's formal recommendation requested that FMCSA publish a rule reducing the fees paid per motor carrier, motor private carrier of property, broker, freight forwarder, and leasing company based on an analysis of current collections and past trends. The UCR Plan's recommendation reduces fees based on collections over the statutory cap in 2017, and also includes a reduction in the amount of the administrative cost allowance from \$5,000,000 to \$3,500,000 for the 2019 and 2020 UCR Agreement registration years. The Board completed an analysis estimating the amount of administrative cost allowance needed for the 2019 and 2020 registration period and has determined that an allowance of \$3,500,000 will be needed each year for those registration years. The Agency reviewed the UCR Plan's formal recommendation and

concluded that the UCR Plan’s projection of the total revenues received for registration year 2017 is acceptable.

B. Benefits and Costs

The changes proposed in this NPRM would reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier would realize a reduced burden, fees are considered by the Office of Management and Budget (OMB) Circular A-4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. Therefore, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

III. Abbreviations and Acronyms

The following is a list of abbreviations and acronyms used in this document.

ANPRM	Advance Notice of Proposed Rulemaking
CAA	Clean Air Act
CBI	Confidential Business Information
CE	Categorical Exclusion
E.O.	Executive Order
FMCSA	Federal Motor Carrier Safety Administration
OMB	Office of Management and Budget
RFA	Regulatory Flexibility Act
Secretary	Secretary of Transportation
SBREFA	Small Business Regulatory Enforcement Fairness

	Act
SSRS	Single State Registration System
UCR	Unified Carrier Registration
UCR Agreement	Unified Carrier Registration Agreement
UCR Plan	Unified Carrier Registration Plan

IV. Legal Basis for the Rulemaking

This rule proposes to adjust the annual registration fees required by the UCR Agreement established by 49 U.S.C. 14504a. The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2017, the total revenues collected are expected to exceed the total revenue entitlements of \$107.78 million distributed to the 41 participating States plus the \$5 million established for the administrative costs associated with the UCR Plan and Agreement. The requested adjustments have been submitted by the UCR Plan in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires the UCR Plan to request an adjustment by the Secretary when the annual revenues exceed the maximum allowed. In addition, 49 U.S.C. 14504a(h)(4) states that any excess funds held by the UCR Plan in its depository, after payments to the States and for administrative costs, shall be retained “and the fees charged ... shall be reduced by the Secretary accordingly.”

The UCR Plan is also requesting approval of a revised total revenue to be collected because of a reduction in the amount for costs of administering the UCR Agreement. No changes in the revenue allocations to the participating States have been recommended by the UCR Plan. The revised total revenue must be approved in accordance with 49 U.S.C. 14504a(d)(7).

The Secretary also has broad rulemaking authority in 49 U.S.C. 13301(a) to carry out 49 U.S.C. 14504a, which is part of 49 U.S.C. subtitle IV, part B. Authority to administer these statutory provisions has been delegated to the FMCSA Administrator by 49 CFR 1.87(a)(2) and (7).

V. Statutory Requirements for the UCR Fees

A. Legislative History

The statute states that the “Unified Carrier Registration Plan ... mean[s] the organization ... responsible for developing, implementing, and administering the unified carrier registration agreement.” (49 U.S.C. 14504a(a)(9)) (UCR Plan). The UCR Agreement developed by the UCR Plan is the “interstate agreement ... governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies...” (49 U.S.C. 14504a(a)(8)).

The legislative history of the statute indicates that the purpose of the UCR Plan and Agreement is both to replace the Single State Registration System (SSRS) for registration of interstate motor carrier entities with the States and to “ensure that States don’t lose current revenues derived from SSRS” (S. Rep. 109-120, at 2 (2005)). The statute provides for a 15-member board of directors for the UCR Plan to be appointed by the Secretary. The statute specifies that the board of directors should consist of one individual from DOT (either the FMCSA Deputy Administrator or another Presidential appointee); four directors from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement (one from each of the four FMCSA service areas); five directors from among the professional staffs of State

agencies responsible for administering the UCR Agreement (who are nominated by the National Conference of State Transportation Specialists); and five directors from the motor carrier industry (at least one must be from a national trade association representing the general motor carrier of property industry and one from a motor carrier that falls within the smallest fleet fee bracket).

The UCR Plan and the participating States are authorized by 49 U.S.C. 14504a(f) to establish and collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The current annual fees charged for registration year 2018 are set out in 49 CFR 367.40 and for registration years 2019 and thereafter in § 367.50. These fees were adopted by FMCSA in January 2018 after a rulemaking proceeding. See Fees for the Unified Carrier Registration Plan and Agreement, 83 FR 605 (Jan. 5, 2018).

For carriers and freight forwarders, the fees vary according to the size of the vehicle fleets, as required by 49 U.S.C. 14504a(f). The fees collected are allocated to the States and the UCR Plan in accordance with 49 U.S.C. 14504a(h).

B. Fee Requirements

The statute specifies that the fees set by the Agency are to be based on the recommendation of the UCR Plan (49 U.S.C. 14504a(f)(1)(B)). In recommending the level of fees to be charged in any registration year, and in setting the fee level, both the UCR Plan and the Agency shall consider the following factors:

- Administrative costs associated with the UCR Plan and Agreement;

- Whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the UCR Plan; and
- Provisions governing fees in 49 U.S.C. 14504a(f)(1) (49 U.S.C. 14504a(d)(7)(A)). The fees may be adjusted within a reasonable range on an annual basis if the revenues derived from the fees are either insufficient to provide the participating States with the revenues they are entitled to receive or exceed those revenues (49 U.S.C. 14504a(f)(1)(E)).

Overall, the fees charged under the UCR Agreement must produce the level of revenue established by statute. Section 14504a(g) establishes the revenue entitlements for States that choose to participate in the UCR Agreement. That section provides that a participating State, which participated in SSRS in the registration year prior to the enactment of the Unified Carrier Registration Act of 2005, is entitled to receive revenues under the UCR Agreement equivalent to the revenues it received in the year before that enactment. Participating States that also collected intrastate registration fees from interstate motor carrier entities (whether they participated in SSRS or not) are also entitled to receive revenues of this type under the UCR Agreement, in an amount equivalent to the amount received in the year before the Act's enactment. The section also provides that States that did not participate in SSRS, but which choose to participate in the UCR Plan, may receive revenues not to exceed \$500,000 per registration year.

FMCSA's interpretation of its responsibilities under 49 U.S.C. 14504a in setting fees for the UCR Plan and Agreement is guided by the primacy the statute places on the need both to set and to adjust the fees to ensure they "provide the revenues to which the

States are entitled” (49 U.S.C.14504a(f) (1)(E)(i)). The statute links the requirement that the fees be adjusted “within a reasonable range” to the provision of sufficient revenues to meet the entitlements of the participating States (49 U.S.C. 14504a(f)(1)(E)). See also 49 U.S.C. 14504a(d)(7)(A)(ii).

Section 14504a(h)(4) gives additional support for this interpretation. This provision explicitly requires FMCSA to reduce the fees charged in the registration year following any year in which the depository retains any funds in excess of the amount necessary to satisfy the revenue entitlements of the participating States and the UCR Plan’s administrative costs.

VI. Background

On December 14, 2017, the board of directors voted unanimously to submit a recommendation to the Secretary to reduce the fees collected by the UCR Plan for registration years 2019 and thereafter. The recommendation was submitted to the Secretary on January 11, 2018.¹ The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2017, the total revenues collected are expected to exceed the total revenue entitlements of \$107.78 million distributed to the 41 participating States plus the \$5 million established for “the administrative costs associated with the unified carrier registration plan and agreement” (49 U.S.C. 14504a(d)(7)(A)(i)). The maximum revenue entitlements for each of the 41 participating States, established in accordance with 49 U.S.C. 14504a(g), are set out in a table attached to the January 11, 2018 recommendation.

¹ The January 11, 2018 recommendation from the UCR Plan and all related tables are available in the docket.

As indicated in the analysis attached to the January 11, 2018 recommendation letter, as of the end of November 2017, the UCR Plan had already collected \$7.30 million more than the statutory maximum of \$112.78 million for registration year 2017. The UCR Plan estimates that by the end of 2018, total revenues will exceed the statutory maximum by \$9.17 million, or approximately 8.13 percent. The excess revenues collected will be held in a depository maintained by the UCR Plan as required by 49 U.S.C. 14504a(h)(4).

The UCR Plan's recommendation estimated the minimum projection of revenue collections for December 2017 through December 2018 by summing the collections within each of the registration years 2013 through 2015² and then comparing across years to find the minimum total amount. This is the same methodology used to project collections and estimate fees in the previous fee adjustment rulemaking (83 FR 605 (Jan. 5, 2018)).

Under 49 U.S.C. 14504a(d)(7), the costs incurred by the UCR Plan to administer the UCR Agreement are eligible for inclusion in the total revenue to be collected, in addition to the revenue allocations for the participating States. The total revenue for registration years 2010 to 2018, as approved in the 2010 final rule (75 FR 21993 (April, 27, 2010)), has been \$112,777,059.81, including \$5,000,000 for administrative costs. The UCR Plan's latest recommendation includes a reduction in the amount of the administrative cost allowance to \$3,500,000 for the 2019 and 2020 registration years. The reduction of \$1,500,000 recommended by the UCR Plan was based on estimates of future administrative cost allowances needed to operate the UCR Plan and Agreement. No

² Collections for registration year 2016 are not available for use for this purpose because registration and fee collection for that year was not finalized at the time of the UCR Plan Recommendation.

changes in the State revenue entitlements are recommended, and the entitlement figures for 2019 and 2020 for the 41 participating States are the same as those previously approved for the years 2010 through 2018. Therefore, for registration years 2019 and 2020, the UCR Plan recommends total revenue to be collected of \$111,277,060 (rounded to the nearest dollar). FMCSA proposes to approve this recommendation for the total revenue to be collected by the UCR Plan, as shown in the following table.

State UCR Revenue Entitlements And Final 2019 Revenue Target	
State	Total 2019 UCR Revenue Entitlements
Alabama	\$2,939,964.00
Arkansas	\$1,817,360.00
California	\$2,131,710.00
Colorado	\$1,801,615.00
Connecticut	\$3,129,840.00
Georgia	\$2,660,060.00
Idaho	\$547,696.68
Illinois	\$3,516,993.00
Indiana	\$2,364,879.00
Iowa	\$474,742.00
Kansas	\$4,344,290.00
Kentucky	\$5,365,980.00
Louisiana	\$4,063,836.00
Maine	\$1,555,672.00
Massachusetts	\$2,282,887.00
Michigan	\$7,520,717.00

Minnesota	\$1,137,132.30
Missouri	\$2,342,000.00
Mississippi	\$4,322,100.00
Montana	\$1,049,063.00
Nebraska	\$741,974.00
New Hampshire	\$2,273,299.00
New Mexico	\$3,292,233.00
New York	\$4,414,538.00
North Carolina	\$372,007.00
North Dakota	\$2,010,434.00
Ohio	\$4,813,877.74
Oklahoma	\$2,457,796.00
Pennsylvania	\$4,945,527.00
Rhode Island	\$2,285,486.00
South Carolina	\$2,420,120.00
South Dakota	\$855,623.00
Tennessee	\$4,759,329.00
Texas	\$2,718,628.06
Utah	\$2,098,408.00
Virginia	\$4,852,865.00
Washington	\$2,467,971.00
West Virginia	\$1,431,727.03
Wisconsin	\$2,196,680.00
Sub-Total	\$106,777,059.81
Alaska	\$500,000.00
Delaware	\$500,000.00
Total State	

Revenue Entitlement	\$107,777,060.00
Administrative Expenses	\$3,500,000.00
Total Revenue Target	\$111,277,060.00

VII. Discussion of Proposed Rulemaking

FMCSA has reviewed the formal recommendation from the UCR Plan and proposes to approve it, including the reduction in the allowance for administrative costs necessary to continue administering the UCR Agreement and the UCR Plan. Overall, the UCR Plan and the Agency agree on the reduction of the current fees for 2019 and subsequent registration years, and that there would be no change in the State UCR revenue entitlements.

VIII. International Impacts

Motor carriers and other entities involved in interstate and foreign transportation in the United States that do not have a principal office in the United States, are nonetheless subject to the fees for the UCR Plan. They are required to designate a participating State as a base State and pay the appropriate fees to that State (49 U.S.C. 14504a(a)(2)(B)(ii) and (f)(4)).

IX. Section-By-Section Analysis

In this NPRM, FMCSA proposes that the provisions of 49 CFR 367.50 (which were just adopted in the January 5, 2018 final rule) would be revised to establish new reduced fees applicable only to registration year 2019. A new 49 CFR 367.60 would establish the proposed fees for registration year 2020, which would remain in effect for subsequent registration years unless revised in the future.

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 performed an analysis of the impacts of the proposed rule and determined it is not a significant regulatory action under section 3(f) of E.O. 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), as supplemented by E.O. 13563, Improving Regulation and Regulatory Review (76 FR 3821, January 21, 2011). Accordingly, OMB has not reviewed it under those Orders. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979).

The changes proposed by this rule would reduce the registration fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the UCR Plan and the participating States. While each motor carrier would realize a reduced burden, fees are considered by OMB Circular A-4, Regulatory Analysis, as transfer payments, not costs. Transfer payments are payments from one group to another that do not affect total resources available to society. By definition, transfers are not considered in the monetization of societal costs and benefits of rulemakings.

This rule would establish reductions in the annual registration fees for the UCR Plan and Agreement. The entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the State UCR revenue entitlements would remain unchanged, the participating States would not be impacted by this rule. The primary impact of this rule

would be a reduction in fees paid by individual motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The reduction of the current 2019 registration year fees (finalized on January 5, 2018) would range from approximately \$10 to \$9,530 per entity, depending on the number of vehicles owned or operated by the affected entities. The reduction in fees for subsequent registration years would range from approximately \$4 to \$3,565 per entity.

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

E.O. 13771, “Reducing Regulation and Controlling Regulatory Costs,” does not apply to this action because it is nonsignificant and has zero costs; therefore, it is not subject to the “2 for 1” and budgeting requirements.

This rulemaking is not a significant regulatory action as defined in section 3(f) of E.O. 12866

C. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (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 any adverse effects on these businesses. Section 605 of the RFA allows an agency to certify a rule, in

lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule would directly affect the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Under the standards of the RFA, as amended by the SBREFA, the participating States are not small entities. States are not considered small entities because they do not meet the definition of a small entity in section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under section 601(5) of the RFA, both because State government is not included among the various levels of government listed in section 601(5), and because, even if this were the case, no State or the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under section 601(5) of the RFA.

The Small Business Administration's size standard for a small entity (13 CFR 121.201) differs by industry code. The entities affected by this rule fall into many different industry codes. In order to determine if this rule would have an impact on a significant number of small entities, FMCSA examined the 2012 Economic Census³ data for two different industries; truck transportation (Subsector 484) and transit and ground transportation (Subsector 485). According to the 2012 Economic Census, approximately 99 percent of truck transportation firms, and approximately 97 percent of transit and ground transportation firms, had annual revenue less than the Small Business

³ U.S. Census Bureau, *2012 US Economic Census*, available at https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_48SSSZ4&prodType=table (accessed Apr. 27, 2017).

Administration's⁴ revenue thresholds of \$27.5 million and \$15 million, respectively, to be defined as a small entity. Therefore, FMCSA has determined that this rule will impact a substantial number of small entities.

However, FMCSA has determined that this rule would not have a significant impact on the affected entities. The effect of this rule would be to reduce the annual registration fee motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies are currently required to pay. The reduction will range from approximately \$10 to \$9,530 per entity, in the first year, and from approximately \$4 to \$3,565 per entity in subsequent years, depending on the number of vehicles owned and/or operated by the affected entities. Accordingly, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the SBREFA, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed 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, Gerald Folsom, listed in the **For Further Information Contact** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small

⁴ U.S. Small Business Administration. "Table of Small Business Size Standards Matched to North American Industry Classification System Codes." Published February 26, 2016. Available at: https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf

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 \$156 million (which is the value equivalent of \$100,000,000 in 1995, adjusted for inflation to 2015 levels) or more in any one year. Though this proposed rule would not result in such an expenditure, the Agency does discuss the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This proposed rule would call 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 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 proposal 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.

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

This proposed 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, April 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 proposed 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 proposed 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

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 of a regulation that will affect the privacy of individuals. This rule does not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, Pub. L. 107-347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted 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 proposed 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 proposed 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 (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 (NEPA, CAA, Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (NEPA) (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 6.h. The Categorical Exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to regulation implementing procedures to collect fees that will be charged for motor carrier registrations. The proposed requirements in this rule are covered by this CE and the NPRM does not have any effect on the quality of the environment. The CE determination is available in the docket.

FMCSA also analyzed this rule under section 176(c) of the Clean Air Act, as amended (CAA) (42 U.S.C. 7406(c)), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement because it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, each Federal agency must identify and address, as appropriate, "disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

Q. 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 proposed rule has not been identified by DOT under E.O. 13783 as potentially alleviating unnecessary burdens on domestic energy production.

List of Subjects in 49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter III, part 367 to read as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

1. The authority citation for part 367 continues to read as follows:

Authority: 49 U.S.C. 13301, 14504a; and 49 CFR 1.87.

2. Revise § 367.50 to read as follows:

§367.50 Fees under the Unified Carrier Registration Plan and Agreement for registration year 2019.

**FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR
REGISTRATION YEAR 2019**

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0-2	\$63	\$63
B2	3-5	187	
B3	6-20	372	
B4	21-100	1,299	
B5	101-1,000	6,190	
B6	1,001 and above	60,441	

3. Add new § 367.60 to subpart B to read as follows:

§367.60 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2020.

**FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR
REGISTRATION YEAR 2020 AND EACH SUBSEQUENT REGISTRATION YEAR**

THEREAFTER

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0-2	\$69	\$69
B2	3-5	206	
B3	6-20	409	
B4	21-100	1,427	
B5	101-1,000	6,800	
B6	1,001 and above	66,406	

Issued under authority delegated in 49 CFR 1.87 on: August 15, 2018

Raymond P. Martinez
Administrator

[FR Doc. 2018-17976 Filed: 8/20/2018 8:45 am; Publication Date: 8/21/2018]