[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA-2019-0066]

RIN 2126-AC26

Fees for the Unified Carrier Registration Plan and Agreement

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

ACTION: Final rule.

SUMMARY: This rule establishes reductions in the annual registration fees the 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 registration years beginning in 2020. For the 2020 registration year, the fees will be reduced by 14.45 percent below the 2018 registration fee level to ensure that fee revenues collected do not exceed the statutory maximum, and to account for the excess funds held in the depository. The fees will remain at the same level for 2021 and subsequent years unless revised in the future. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) range from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

DATES: This final rule is effective [Insert date of publication in the FEDERAL REGISTER].

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than [Insert date 30 days after date of publication in the FEDERAL REGISTER].

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, (202)-385-2405.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Documents

A. Availability of Rulemaking Documents

For access to docket FMCSA-2019-0066 to read background documents, go to https://www.regulations.gov at any time, or to Docket Operations 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.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its rulemaking process. DOT posts any 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 https://www.transportation.gov/privacy.

II. Abbreviations and Acronyms

The following is a list of abbreviations used in this document

CE	Categorical Exclusion

DOT	U.S. Department of Transportation
E.O.	Executive Order
FMCSA	Federal Motor Carrier Safety Administration
NPRM	Notice of Proposed Rulemaking
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
SBREFA	Small Business Regulatory Enforcement Fairness Act
SBTC	Small Business in Transportation Coalition
SSRS	Single State Registration System
UCR	Unified Carrier Registration
UCR Agreement	Unified Carrier Registration Agreement
UCR Board	Unified Carrier Registration Board of Directors
UCR Plan	Unified Carrier Registration Plan

III. 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 (UCR Board); 14 appointed from the participating States and the industry, plus the Deputy Administrator of FMCSA or another Presidential appointee from the Department. Revenues collected are allocated to the participating States and the UCR Plan. The maximum amount that the UCR Plan may collect is

established by statute. If annual revenue collections will exceed the statutory maximum allowed, then the UCR Plan must request adjustments to the fees (49 U.S.C. 14504a(f)(1)(E)). In addition, any excess funds held by the UCR Plan after payments are made to the States and for administrative costs are retained in the UCR depository, and fees subsequently charged must be adjusted further to return the excess revenues held in the depository as required by 49 U.S.C. 14504a(h)(4). Adjustments in the fees are requested by the UCR Plan and approved by FMCSA. These two provisions are the reasons for the two-stage adjustment adopted in this final rule. The final rule provides for a reduction for registration years beginning in 2020 to the annual registration fees established for the UCR Agreement.

Beginning in the 2020 registration year, the fees will be reduced by 14.45 percent below the 2018 registration fee level to ensure that fee revenues do not exceed the statutory maximum and to account for the excess funds held in the depository. The fees beginning with the 2021 registration year will remain at the same level as the fees for 2020, unless there is a future adjustment. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) ranges from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

B. Benefits and Costs

The changes imposed by this final rule reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies to the participating States. While each motor carrier will 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.

IV. Legal Basis for the Rulemaking

This rule adjusts the annual registration fees for the UCR Agreement established by 49 U.S.C. 14504a. The requested fee adjustments are required by 49 U.S.C. 14504a because, for the registration year 2018, the total revenues collected were expected to exceed the total revenue entitlements of $108 million distributed to the 41 participating States plus the $5 million established for the administrative costs associated with the UCR Plan and Agreement.[1] 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 Board to request an adjustment by the Secretary of Transportation (Secretary) when the annual revenues collected 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 also requested approval of a revised total revenue target to be collected because of an adjustment in the amount for costs of administering the UCR Agreement. No changes in the revenue entitlements to the participating States were recommended by the UCR Plan. The revised total revenue target must be approved in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4).

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[1] The UCR Plan is "the organization ... responsible for developing, implementing, and administering the unified carrier registration agreement." 49 U.S.C. 14504a(a)(9). 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 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).[2]

The Administrative Procedure Act allows agencies to make rules effective immediately with good cause, instead of requiring publication 30 days prior to the effective date. 5 U.S.C. 553(d)(3). FMCSA finds there is good cause for this rule to be effective upon publication so that the UCR Plan and the participating States may begin collection of fees immediately for the registration year that will begin on January 1, 2020. The immediate commencement of fee collection will avoid further delay in distributing revenues to the participating States.

V. Statutory Requirements for the UCR Fees

A. Legislative History

The legislative history of 49 U.S.C. 14504a 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" (Sen. 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 UCR Board should consist of one director (either the FMCSA Deputy Administrator or another Presidential appointee from the Department) from DOT; four directors from among the chief administrative officers of

[2] For the purpose of this rulemaking, the term "FMCSA" will frequently be used in place of "Secretary" due to the delegated authority provided by the Secretary. The term "Secretary" will be used in quoted material and as otherwise appropriate.

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, to be nominated by the National Conference of State Transportation Specialists; and five directors from the motor carrier industry, of whom 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 (49 U.S.C. 14504a(d)(1)(B)).

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 annual fees charged for registration year 2019 are set out in 49 CFR 367.50.

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). Participating States submit a plan demonstrating that an amount equivalent to the revenues received are used for motor carrier safety programs, enforcement, or the administration of the UCR Plan and Agreement (49 U.S.C. 14504a(e)(1)(B)).

The UCR Plan and the participating States collect registration fees for each registration year, which is the same period as the calendar year. Usually, collection begins on October 1 of the previous year, and continues until December 31 of the year following the registration year. All of the revenues collected are distributed to the participating States or to the UCR Plan for administration of the UCR Agreement. No funds are distributed to the Federal government.

B. Fee Requirements

The statute specifies that fees are to be based on the recommendation of the UCR Board (49 U.S.C. 14504a(d)(7)(A)). In recommending the level of fees to be assessed in any registration year, and in setting the fee level, the statute states that both the UCR Board and FMCSA "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 Board; and
- Provisions governing fees in 49 U.S.C. 14504a(f)(1).

FMCSA, if asked by the UCR Board, may also adjust the fees within a reasonable range on an annual basis if the revenues collected 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 assessed 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 Plan. That section provides that a State, participating 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. Section 14504a(g) also requires that States that did not participate in SSRS previously, but that choose to participate in the UCR Plan, may receive revenues not to exceed $500,000 per

year. The UCR Board calculates the amount of revenue to which each participating State is entitled under the UCR Agreement, which is then approved by FMCSA.

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 so 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" by both the UCR Plan and FMCSA 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) provides additional support for this interpretation. The provision explicitly requires FMCSA to reduce the fees for all motor carrier entities in the 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. Recommendations from the UCR Plan

On December 13, 2018, the UCR Board voted unanimously to submit a recommendation to the FMCSA to reduce the fees collected by the UCR Plan for registration years 2020 and thereafter. The recommendation was submitted to the FMCSA on February 25, 2019.[3] The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2018, the total revenues collected were expected to exceed the total revenue entitlements of $108 million distributed to the 41 participating States plus the $5 million established for "the administrative costs associated with the

[3] The February 25, 2019, recommendation from the UCR Plan and all related tables are available in the docket.

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), were set out in a table attached to the February 25, 2019, recommendation.

On August 27, 2019, FMCSA published a notice of proposed rulemaking (NPRM) reflecting the February 25 recommendation from the UCR Board (84 FR 44826). The NPRM requested comments addressing both the proposed adjustment in the fees and the separate new total revenue target recommendation by September 6, 2019.

In comments submitted on September 6, 2019, following a vote of the Plan's board of directors on September 5, the Plan updated its recommendations for the fee adjustments and provided a revised analysis supporting the recommendation. The principal components of the revised analysis were: (1) an increase in the recommended amount for administrative costs of the UCR Agreement from $3.2 million to $4 million; and (2) an update in the amount of actual and estimated revenue collections for 2018. In the original analysis attached to the February 25, 2019, recommendation letter, the UCR Plan estimated that, by the end of 2019, total revenues would exceed the statutory maximum by $9.38 million, or approximately 8.31 percent. The revised analysis submitted with the comments indicates that total revenues will now exceed the statutory maximum by $10.83 million, or approximately 9.61 percent. The excess revenues collected are being held in a depository maintained by the UCR Plan as required by 49 U.S.C. 14504a(h)(4).

The UCR Plan's revised recommendation includes actual revenues collected through the end of August 2019. The Plan will now terminate collections for each

registration year on September 30 of the following year, instead of the previous termination date of December 31 of the following year. For the only remaining month of collections for 2018 (September 2019), the UCR Plan estimated the minimum projection of revenue collections for that month by summing the collections within each of the registration years 2013 through 2015[4] 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 67124, 67126, December 28, 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 target, in addition to the revenue entitlements for the participating States. The total revenue target for registration years 2010 to 2018, as approved in the 2010 final rule (75 FR 21993, April 27, 2010), was $112,777,060, including $5,000,000 for administrative costs. The final rule establishing the fees for the 2019 registration year was based on an allowance for administrative costs of $3,500,000 (83 FR 67126, 67128). The UCR Plan's original recommendation included a reduction in the amount of the administrative costs to $3,225,000 for the 2020 and 2021 registration years. The reduction of $275,000 recommended by the UCR Plan was based on estimates of future administrative costs needed to operate the UCR Plan and Agreement. The comments submitted on September 6 included an updated estimate of future annual administrative costs of $4,000,000, primarily because of an increase in legal expenses.

[4] 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.

No changes in the State revenue entitlements were recommended, and the entitlement figures for 2020 and 2021 for the 41 participating States are the same as those previously approved for the years 2010 through 2019. Therefore, for registration years 2020 and thereafter, the UCR Plan now recommends approval of a total revenue target of $111,770,060.

VII. Discussion of the Comments

FMCSA received three comments in response to the NPRM.

Unified Carrier Registration Plan Board of Directors

As explained above, a comment was submitted by the UCR Plan Board of Directors by its Acting Chairperson Elizabeth Leaman providing more current financial data since several months had elapsed since the Board's initial fee recommendation was submitted in February and revenue collections were exceeding the previous estimates. This comment also requested approval of an increased allowance for administrative costs above what was originally requested in the February 25, 2019, recommendation for both 2020 and 2021. The net effect was a slight reduction in the fees recommended for 2020, as shown in the table below:

	1-2	3-5	6-20	21-100	101-1000	1000 and above
2020 Fee (Original)	$60	$180	$357	$1,248	$5,946	$58,060
2020 Fee (Updated)	$59	$176	$351	$1,224	$5,835	$56,977

The comment also included an analysis of the revenues already received from the fees put into effect at the beginning of the 2019 registration year and accounted for the need to carry over the amount of excess revenues from a previous year. It then

determined that by the end of the collection period for the 2019 registration year on September 30, 2020, revenues would exceed the statutory maximum revenue by approximately $7.7 million. The Plan therefore made a recommendation that the fees for 2021 and after be set at the same level as the fees for 2020.

FMCSA has conducted an analysis of the Plan's revised recommendation. It accepts the adjustment in the 2020 fees that would result in a slightly lower level of fees than proposed in the NPRM. It also accepts the recommendation to keep the fees at the same level after 2020, instead of the increase from 2020 to 2021 proposed in the NPRM. This change from the proposal in the NPRM is necessary to conform to the maximum revenue target established by statute. If future circumstances warrant further adjustment in the fee levels for 2021 or subsequent years, either to ensure that the participating States receive the revenues to which they are entitled, or to ensure that the statutory maximum is not exceeded, then the UCR Plan can request an adjustment in accordance with 49 U.S.C. 14504a(d)(7) and/or (h)(4).

Small Business in Transportation Coalition

The comment from the Small Business in Transportation Coalition (SBTC) asserts that since October 1, 2018, the UCR Plan has been collecting fees from "intrastate carriers" under the new registration system. SBTC claims that such collections from "intrastate carriers" are unlawful and could require refunds that might affect the revenues available for distribution to the participating States and for the costs of administering the UCR Agreement. These concerns were, according to SBTC, also communicated directly to the UCR Plan without any response.

FMCSA has considered the concerns expressed by SBTC, and has concluded that they do not require any adjustment in the fees established by this final rule. An intrastate motor carrier operating in any one of 37 States must register with the Agency and receive a USDOT number (see 49 U.S.C. 31134(a) and (e) and https://www.fmcsa.dot.gov/registration/do-i-need-usdot-number). It is the responsibility of the carrier to indicate correctly when registering with FMCSA whether it is an intrastate motor carrier. FMCSA does provide information to the UCR Plan about motor carriers that are issued USDOT numbers for the purpose of administering the UCR Agreement (cf. 49 U.S.C. 13908). It is the responsibility of each motor carrier to determine if it is required to register with the UCR Plan under the UCR Agreement because it is an interstate carrier, including carriers engaged in interstate transportation in a single state that involved a prior or subsequent movement across a State line.

SBTC has not provided any data on the number of intrastate carriers, if any, that have registered incorrectly or have been registered incorrectly by a third-party service. It has also not provided any estimate of the impact on the revenues of any incorrect registrations by intrastate motor carriers. It appears from the information submitted for the record by the UCR Plan in its comments that, since 2019 registrations began, revenue collections by the Plan and the participating States through August 2019 have already generated almost $104 million towards the 2019 total revenue target of just over $111 million. The UCR Plan anticipates receiving an additional amount of over $4 million when 2019 registration closes in September 2020. FMCSA considers it unlikely that incorrect registration of intrastate motor carriers will have any significant impact on the revenues derived from the fees.

Daniel Rodriguez

Mr. Rodriguez submitted a comment stating that lowering the fees would be good for trucking companies. The continuing reduction in the fees after 2020 would provide additional benefits to trucking companies and other entities required to register with the UCR Plan.

VIII. Approval of Total Revenue Target

The comments from the UCR Plan, as indicated above, addressed the adjustment proposed in the NPRM in the total revenue target to $111,002,060, based on the original recommendation in February, which reflected a reduction in the amount of the administrative costs from $3,500,000 to $3,225,000. The UCR Plan is now recommending an adjustment up to $4,000,000 for administrative costs, resulting in a total revenue target of $111,777,060. The adjustment is based on an analysis approved by the board of directors that indicated that legal expenses for the administration of the UCR Agreement will be significantly higher on an ongoing basis. Therefore, in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4), FMCSA approves the following table of State revenue entitlements, administrative costs, and the total revenue target under the UCR Agreement, as proposed in the NPRM and revised to reflect the updated recommendation. These State revenue entitlements, the administrative costs, and the total revenue target will remain in effect for 2020 and subsequent years unless and until approval of a revision occurs.

State UCR Revenue Entitlements And Final 2020 Total Revenue Target	
State	**Total 2020 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 Costs	$4,000,000.00
Total Revenue Target	$111,777,060.00

IX. 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).

X. Section-By-Section Analysis

Under this final rule, provisions of 49 CFR 367.60 (which were adopted in the December 28, 2018, final rule) are revised to establish new reduced fees applicable beginning in registration year 2020. These fees will remain in effect in subsequent registration years unless and until revised, so the new 49 CFR 367.70 proposed in the NPRM is not necessary and will not be adopted.

XI. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, 58 FR 51735 (October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563, Improving Regulation and Regulatory Review (76 FR 3821, January 21, 2011), and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it

under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6 dated Dec. 20, 2018).

The changes imposed by this final rule adjust 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. 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 establishes 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 will remain unchanged, the participating States will not be impacted by this rule. The primary impact of this rule will 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 December 28, 2018) ranges from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

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

This final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.[5]

C. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801, et seq.), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).[6]

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (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 impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term "small entities" means 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 under 50,000.[7] 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 entities. Section 605 of the RFA allows an agency to certify a

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[5] Executive Office of the President, Office of Management and Budget. Guidance Implementing Executive Order 13771, Titled "Reducing Regulation and Controlling Regulatory Costs." Memorandum M–17–21. April 5, 2017.

[6] A "major rule" means any rule that the Administrator of Office of Information and Regulatory Affairs at the Office of Management and Budget finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

[7] Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

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 rule will 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 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 nor 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 (SBA) 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 Census[8] 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 SBA revenue threshold of

[8] 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 October 24, 2018).

$27.5 million and $15 million, respectively. Therefore, FMCSA has determined that this rule will impact a substantial number of small entities.

However, FMCSA has determined that this rule will not have a significant impact on the affected entities. The effect of this rule will be to reduce the 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 $3 to $2,712 per entity depending on the number of vehicles owned and/or operated by the affected entities. FMCSA asserts that the reduction in fees will not have a significant impact on the affected small entities. Accordingly, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

E. Assistance for Small Entities

In accordance with section 213(a) of the SBREFA, FMCSA wants to assist small entities in understanding this final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final 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 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.

F. 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 $165 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2018 levels) or more in any one year. Though this final rule will not result in any such expenditure, the Agency discusses the effects of this rule elsewhere in this preamble.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no information collection requirements are associated with this final rule. Therefore, the PRA does not apply to this final rule.

H. 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 has determined that this rule 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, imposes substantial direct unreimbursed compliance costs on any State, or diminishes the power of any State to enforce its own laws. As detailed above, the UCR Board includes substantial State representation. The States have already had opportunity for input through their representatives. Accordingly, this rulemaking does not have federalism implications warranting the application of E.O. 13132.

I. 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, eliminates ambiguity, and reduce burden.

J. 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 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.

K. 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.

L. Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (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 and will not affect the privacy of individuals.

M. 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.

N. 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 this rule 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.

O. 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.

P. 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.

Q. National Environmental Policy Act

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 6.h. The Categorical Exclusion (CE) in paragraph 6.h. covers regulations and actions taken pursuant to the regulations implementing procedures to collect fees that will be charged for motor carrier registrations. 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 in the docket.

List of Subjects in 49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

For the reasons discussed in the preamble, FMCSA is amending title 49 CFR chapter III, part 367 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 § 367.60 to read as follows:

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

TABLE 1 TO §367.60—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	$59	$59
B2	3-5	176	
B3	6-20	351	
B4	21-100	1,224	
B5	101-1,000	5,835	
B6	1,001 and above	56,977	

Issued under authority delegated in 49 CFR 1.87 on:

Dated:

Jim Mullen
Acting Administrator

PUBLIC NOTICE – ALL INTERESTED PARTIES

CATEGORICAL EXCLUSION DETERMINATION

Federal Motor Carrier Safety Administration (FMCSA)
Fees for the Unified Carrier Registration Plan and Agreement
Docket No. FMCSA-2019-0066

The final rule establishes reductions in the annual registration fees collected 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 registration years beginning in 2020. For the 2020 registration year, the fees will be reduced below the 2018 registration fee level that was in effect by 14.45 percent to ensure that fee revenues collected do not exceed the statutory maximum, and to account for the excess funds held in the depository. The fees will remain at the same level for 2021 and subsequent years unless revised in the future. The reduction of the current 2019 registration year fees (finalized on December 28, 2018) range from approximately $3 to $2,712 per entity, depending on the number of vehicles owned or operated by the affected entities.

This action is not expected to result in any significant adverse environmental impacts as described in the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. § 4321 et seq.). The action has been thoroughly reviewed by the FMCSA, and the undersigned have determined this action to be categorically excluded from further environmental documentation, in accordance with paragraph 6.(h) of Appendix 2 of FMCSA's NEPA Implementing Procedures and Policy for Considering Environmental Impacts (FMCSA Order 5610.1), since implementation of the action will not result in any of the following:

1. Significant cumulative impacts on the human environment.
2. Substantial controversy or substantial change to an existing environmental condition.
3. Impacts that are more than minimal on properties protected under 4(f) of the DOT Act as superseded by Public Law 97-449, and Section 106 of the National Historic Preservation Act.
4. Inconsistencies with any Federal, State, tribal or local laws or administrative determinations relating to the environment.

12/3/2019 Brian Dahlin
Date Brian Dahlin, Chief, Regulatory Evaluation Division

12/3/2019 Larry W. Minor
Date Larry W. Minor, Associate Administrator for Policy

In reaching my decision/recommendation on the FMCSA's action, I have considered the information contained in this CED (and in any attached environmental checklists or other supplemental environmental analyses) on the potential for environmental impacts.

1/24/20 Jim Mullen
Date Jim Mullen, Acting Administrator for FMCSA