who makes a false statement in connection with a grantee's inquiry concerning the individual's criminal history, is not eligible to serve in a covered position.

§§ 2552.42, 2552.43, 2552.44, 2552.45, and 2552.46 [Redesignated as §§ 2552.43, 2552.44, 2552.45, 2552.46, and 2552.47]

■ 5. Amend subpart D of part 2552 by redesignating §§ 2552.42, 2552.43, 2552.44, 2552.45, and 2552.46 as §§ 2552.43, 2552.44, 2552.45, 2552.46, and 2552.47, respectively.

■ 6. Add adding the following new section to subpart D: § 2552.42.

§ 2552.42 May an individual who is subject to a State sex offender registration requirement serve as a Foster Grandparent or as a Foster Grandparent grant-funded employee?

Any individual who is registered, or required to be registered, on a State sex offender registry is deemed unsuitable for, and may not serve in, a position as a Foster Grandparent or as a Foster Grandparent grant-funded employee.

Dated: August 16, 2007.

Frank R. Trinity,

General Counsel.

[FR Doc. E7–16681 Filed 8–23–07; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2007–27871]

RIN 2126–AB09

Fees for Unified Carrier Registration Plan and Agreement

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

ACTION: Final rule.

SUMMARY: This rule establishes initial fees for 2007 and a fee bracket structure for the Unified Carrier Registration Agreement. This action is required under the Uniform Carrier Registration Act of 2005, enacted as Subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

EFFECTIVE DATE: August 24, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, Regulatory Development Division, (202) 366–5370, or by e-mail at: FMCSAregs@dot.gov.

Availability of Rulemaking Documents

For access to the docket to read background documents and comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, Room W12–140, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Legal Basis for the Rulemaking

This rule involves the fees to be set for the Unified Carrier Registration Agreement established by 49 U.S.C. 14504a, enacted by section 4305(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (119 Stat. 1144, 1764 (2005)). Section 14504a 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 Unified Carrier Registration Agreement (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)).

Congress also repealed the statutory provisions of 49 U.S.C. 14504 governing the Single State Registration System (SSRS) (SAFETEA–LU section 4305(a)).[1] The legislative history indicates that the purpose of the UCR Plan and Agreement is both to ''replace the existing outdated 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)).[2]

The statute provides for a 15-member Board of Directors for the UCR Plan and Agreement (Board) appointed by the Secretary of Transportation. The statute specified that the Board should consist of one individual (either the FMCSA Deputy Administrator or another Presidential appointee) from the Department of Transportation; four directors, including one from each of the four FMCSA service areas, selected from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement; 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 (NCSTS); and five directors representing 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. The establishment of the Board was announced in the **Federal Register** on May 12, 2006 (71 FR 27777).

Among its responsibilities, the Board was required to submit to the Secretary of Transportation [3] a recommendation for the initial annual fees to be assessed on motor carriers, motor private carriers, freight forwarders, brokers and leasing companies under the UCR Agreement (49 U.S.C. 14504a(d)(7)(A)). The FMCSA then was directed to set the fees within 90 days after receiving the Board's recommendation and after notice and opportunity for public comment (49 U.S.C. 14504a(d)(7)(B)).

II. Statutory Requirements for UCR Fees

The statute specifies several relevant factors that must be considered by the Board and FMCSA in setting the fees (see 49 U.S.C. 14504a(d)(7)(A), (f)(1) and (g)). It specifies that fees are to be determined by FMCSA based upon the recommendation of the Board. The FMCSA described the statutory requirements in detail in a Notice of Proposed Rulemaking (NPRM) published on May 29, 2007 (72 FR 29472).

Section 14504a(f)(1) also stipulates that for the purpose of charging fees the Board shall develop no less than 4 and no more than 6 brackets of carriers based on the size of the fleet, i.e. the number of commercial motor vehicles owned or operated. Finally, the fee scale is required to be progressive in the amount of the fee.

Overall, the fees assessed under the UCR Agreement must produce a level of revenues established by the statute. Section 14504a(g) establishes the revenue entitlements for States that choose to participate in the UCR Plan. That section provides that a participating State, which participated in the SSRS in the registration year prior to the enactment of the Unified Carrier Registration Act of 2005 (i.e., the 2004 registration year), is entitled to receive revenues under the UCR Agreement

[1] This repeal became effective on January 1, 2007, in accordance with section 4305(a).

[2] The Senate bill's provisions were enacted ''with modifications.'' H. Conf. Rep. No. 109–203, at 1020 (2005).

[3] The Secretary's functions under section 14504a have been delegated to the Administrator of the Federal Motor Carrier Safety Administration. 49 CFR 1.73(a)(7), as amended, 71 FR 30833 (May 31, 2006).

equivalent to the revenues it received in 2004. Participating States that collected intrastate registration fees from interstate motor carrier entities (whether or not they participated in SSRS) are entitled to receive revenues of this type under the UCR Agreement equivalent to the amount received in the 2004 registration year. The section also requires that States which did not participate in SSRS in 2004, but which choose to participate in the UCR Plan, will receive revenues not to exceed $500,000 per year.

III. Background

Following receipt by FMCSA of the Board's fee recommendation, a copy of which is included in the docket for this rulemaking, FMCSA conducted a review of the recommendation and prepared a detailed Regulatory Evaluation, also included in the docket. The FMCSA described the results of that review in the NPRM. The FMCSA carefully examined the Board's entire fee recommendation, including the methodology and specific findings of the Board. The FMCSA also independently considered the factors specified in section 14504a, and verified and utilized the data and analysis provided by the Board in its fee recommendation. In the NPRM, FMCSA provided a detailed description of its examination of the Board's recommendation and announced its conclusion that the Board's recommendation was reasonable and that the Board considered all required factors. The FMCSA also described the basis for its conclusion that the Board had satisfied the requirements for establishing the fees to be charged under the Unified Carrier Registration Agreement. The Board has provided an adequate opportunity for all States to participate in the UCR Plan and Agreement for registration year 2007 and the Board had adequately calculated the total revenue to be collected under the UCR.

In a correction of the NPRM published on June 5, 2007 (72 FR 31048), FMCSA explained that the comment period for the proposed rulemaking was limited to fifteen days because of the very short time period set by section 14504a(d)(7)(B) for completion of the rulemaking. The FMCSA also provided corrections to its May 29, 2007, NPRM, none of which materially affected the proposed rule, and provided notice concerning the new address for the Department of Transportation.

IV. Discussion of Comments to the NPRM

FMCSA received 17 comments, including comments from commercial motor carriers, the Commercial Vehicle Safety Alliance (CVSA), the California Trucking Association (CTA), the National School Transportation Association (NSTA), the Transportation Intermediaries Association (TIA), an attorney representing an interstate transportation carrier, an interstate property and household goods broker, private individuals, the North Dakota Department of Transportation (NDDOT), and three State public service commissions. After reviewing and evaluating the comments, as described below, FMCSA has concluded that no revisions are necessary to the annual fees and bracket structure for the Unified Carrier Registration Agreement that were specified in the NPRM. The FMCSA, therefore, is adopting those annual fees and the bracket structure in this Final Rule.

Two of the public service commissions (Alabama and Michigan), TIA, and CVSA supported the proposed fee structure and urged FMCSA to expedite promulgation of the final rule. The other commenters suggested changes to the fees or bracket structure or made other recommendations regarding UCR.

CTA, the attorney to the interstate carrier, and four private individuals questioned the fairness of the fee structure, calling attention to disparities between smaller and larger carriers. Their recommendations for addressing the issue included adding another bracket to the fee structure to divide carriers with more than 20 and less than 50 vehicles and assessing the fee on a per-truck basis. One commenter argued that the last bracket represents too significant an increase in fees for carriers operating just over 1,000 units when compared to carriers operating 1,000 units. Another stated that the fee schedules penalized carriers with fewer than 100 vehicles for being small because they were required to pay ''substantially more'' than large carriers. NDDOT believes the Board needs the flexibility to be able to make reasonable adjustments to the fees if the revenue goals cannot be reached, without going through the rulemaking amendment process every year. NDDOT argues the Board should be allowed to adjust the fee schedule for the first three years with a modified rule amendment process so as not to hinder the timeliness of states' keeping the program operating efficiently. However, the statutory requirements for the UCR fee structure, the statutory limitation of the number of brackets to a maximum of six in 49 U.S.C. 14504a(f)(1), and the statutory process for adjusting the amount of the fees in subsequent years preclude FMCSA from adopting the actions these commenters advocate. The statute does not grant either the Board or FMCSA the latitude to set fees on a per-vehicle basis, to add more brackets, or to adjust the fee schedule without complying with section 14504a(d)(7)(B) and the Administrative Procedure Act (5 U.S.C. 551 et seq.).

FMCSA has ensured that the fee scale is progressive across the brackets, in that the fees per carrier increase as the size of the carrier increases. The statute only requires that the ''fee scale shall be progressive in the amount of the fee.'' 49 U.S.C. 14504a(f)(1)(D). The fee scale is clearly ''progressive'' in this sense, because the fee scale increases with each bracket containing a larger range of commercial motor vehicles for the motor carrier entities included. Moreover, the statute also requires that the fees be applied uniformly to entities in each bracket ''based on the size of the fleet.'' 49 U.S.C. 14504a(f)(1)(C). For particular entities, the fee may or may not be progressive as compared to a carrier in another bracket that is close in size, or that has almost the same number of commercial motor vehicles in its fleet, but that is an expected result of a fee scale based on applying uniform fees to entities with a range of fleet sizes.

Another commenter, TIA, expressed agreement with the findings of the Board concerning the size of the industry and supported the adoption of the maximum number of fee levels and the proposed breakdown within each level. TIA found the proposed fee levels ''fair, equitable, and proportional.'' TIA did, however, request clarification on two fee-related topics. It asked, first, that freight forwarders that are not part of a trucking company pay at the same level as brokers and leasing companies. It also noted what it considered a conflict between the definition of freight forwarder in section 14504a and the definition in 49 U.S.C. 13102(8), and urged that freight forwarders that are not part of trucking companies should register in the same category as brokers and leasing companies. The FMCSA has determined there is no conflict. Freight forwarders that operate commercial motor vehicles in line-haul service to transport consolidated shipments in interstate commerce are required to register as motor carriers, and are treated as such under the UCR Plan. 49 U.S.C. 13903(b). Freight forwarders that operate motor vehicles providing transfer, collection and delivery service

are required to file proof of financial responsibility with FMCSA by 49 U.S.C. 13906(c)(1). Freight forwarders operating commercial motor vehicles in such local service ''shall be subject to the provisions of [section 14504a] as if the freight forwarder is a motor carrier.'' 49 U.S.C. 14504a(b). Therefore, all freight forwarders that operate commercial motor vehicles are subject to fees under the UCR Plan and Agreement in accordance with the number of such vehicles operated. If a freight forwarder operates no such vehicles, it is subject to the fee set for the lowest bracket. See also 49 U.S.C. 14504a(f)(1)(A)(i). This is the interpretation of the statute utilized by the Board and FMCSA in determining the fees, because any freight forwarder that also had a USDOT number (only issued to operators of commercial motor vehicles) was treated as a motor carrier.

TIA also requested a clarification on whether fees are cumulative or a company should pay only once at the highest applicable rate, noting that a company could have motor carrier authority, broker authority, and freight forwarder authority. TIA recommended adoption of the highest applicable fee approach rather than the cumulative fee approach. FMCSA and the Board both adopted the highest applicable fee approach in their analyses.

The FMCSA notes that the commenters, in discussing the brackets and fee structure, consistently referred to trucks, vehicles, and/or power units rather than to commercial motor vehicles, the term used in the proposed and final rules. The statute defines ''commercial motor vehicle,'' in general, as including both self-propelled and towed vehicles (49 U.S.C. 14504a(a)(1)(A) and 31101(1)). Both self-propelled and towed vehicles should be considered in deciding the appropriate bracket for determining the fee to be paid by a motor carrier, motor private carrier, or freight forwarder.

A commercial carrier argued that the proposed fee structure ignored the fact that some motor carriers do not have traffic in every participating State and that vehicles without extensive interstate operations are included in determining brackets and fees. An individual commenter also asserted that the Board's calculation of fees had included commercial motor vehicles that operate only in intrastate commerce. If such vehicles did leave the State, according to this commenter, they would be required to purchase a Trip Permit, and thus would be charged out-of-State fees twice. The FMCSA notes, however, that section 14504a does not allow either the Board or FMCSA to adjust the fees to account for the extent of interstate operations. The statute requires that interstate carriers of the same size be assessed the same fees regardless of the number of States in which they operate. After considering these comments in light of the statute, FMCSA determined that the proposed fee structure adequately accounts for equity concerns within the statute's constraints.

The NSTA noted what it perceived to be a conflict between the possibility under the UCR Plan that private interstate school bus carriers that register with DOT and obtain a USDOT number will be required to pay the UCR fees in spite of the provisions of 49 U.S.C. 13506(a)(1) from the ICC Termination Act of 1995 (Pub. L. 104–88, title I, Sec. 103, Dec. 29, 1995, 109 Stat. 861) that exempt such carriers from registration requirements for school bus carriers under the proposed Unified Registration System (URS). One individual asked for clarification on whether farmers and ranchers are considered private carriers under UCR. For the purpose of the UCR agreement, the statutory definition of ''motor carrier,'' as modified by 49 U.S.C. 14504a(a)(5) includes for-hire carriers that are otherwise exempt such as farmers, ranchers and school bus operators because they are now subject to the fees in connection with the filing of proof of financial responsibility under the UCR agreement. In addition, motor private carriers that meet the applicable statutory definition in 49 U.S.C. 13102(15) are subject to the fees in connection with the filing of proof of financial responsibility under the UCR agreement. This is the interpretation of section 14504a followed by the Board and FMCSA in recommending and setting the fees.

Some commenters addressed implementation of the UCR fee system. TIA argued that an unreasonable burden could be placed on small businesses and on interstate commerce if companies are required to register in person at their base State. Instead, TIA asked for the creation of a national registration interface through which companies could pay by credit card. Another suggested that the fees should be collected along with the heavy-duty vehicle tax. TIA and the NDDOT expressed support for the Board's decision to set aside funds to pay various administrative costs, including development of a web-based registration and payment system, communications, credit card processing fees, operation of a depository, and Board travel and expenses and staffing of a help desk, as well as a set-aside to cover the risk of under collection of revenue. TIA noted that additional amounts could be needed for information technology and communications. TIA also noted that the Board may not have the necessary funds to pay administrative costs until fees are collected. NDDOT suggested that rule language be added stipulating that administrative costs can only be paid after participating States are made whole. Because section 14504a assigned implementation of the UCR Agreement to the Board, FMCSA has concluded that the comments pertaining to the method adopted for registration, and the mechanisms for fee collection and distribution are outside the scope of this rulemaking and should be directed to the Board. FMCSA will provide the Board with a copy of all comments received. In addition, FMCSA will place a document outlining the UCR Board's mechanisms for fee collection and distribution in docket FMCSA–2007–27871. This document will be updated as information becomes available from the UCR Board. The public may consult the Board or the docket for up to date information about the mechanisms for fee collection and distribution.

The FMCSA reviewed the estimated administrative costs as part of the analysis described in the May 29, 2007, NPRM and concluded that they were reasonable. As TIA points out, however, once the new system has developed a ''proven track record,'' estimates of the amounts needed for administration may change.

The NDDOT commented that it is not concerned about the number of leasing companies in calculating the affected population or the revenues from the leasing companies. NDDOT estimates the number is less than 2,600 and the revenues will be about $101,000. NDDOT believes this amount is less than one tenth of one percent of the total UCR revenues. FMCSA agrees with NDDOT.

The Michigan Public Service Commission (MPSC) suggested that if for some reason the program cannot be implemented in 2007, FMCSA should allow States to collect both 2007 and 2008 revenue simultaneously. In addition to being outside the scope of this rulemaking, FMCSA believes that this approach would be contrary to the terms of section 14504a. MPSC also recommended that credit card fees for revenue collected on line should not be deducted from the total due to States. The revenue target for 2007 is composed of State revenue entitlement, administrative expenses, and revenue reserve. The credit card operating expense is a component of the administrative cost and is separate from

the State revenue entitlement. Thus, including credit card expenses in the revenue target does not affect the State revenue entitlement, (see 49 U.S.C. 14504a(h)) and FMCSA has concluded that the MPSC concern is unwarranted. CVSA encouraged FMCSA to consider making a loan to the Board to support the development of the infrastructure necessary to register the carriers and collect and to deposit the fees in an efficient manner. Although FMCSA takes note of the suggestion, it has concluded that the comment is outside the scope of this rulemaking. CVSA also encouraged FMCSA to use the opportunity presented through UCR to consolidate the regulations, requirements, and information systems relative to operation authority, registration, and licensing/insurance. The FMCSA has concluded this comment is outside the scope of this rulemaking.

TIA asked that the UCR should not become a new system to regulate brokers and freight forwarders by the States, noting that section 14504a(f)(1)(A) refers to UCR fees charged ''in connection with the filing of proof of financial responsibility under the UCR Agreement.'' TIA requested FMCSA to limit specifically any reporting or enforcement of proof of financial responsibility by brokers and freight forwarders to their required filings with the Department of Transportation. However, as discussed above under ''II. Statutory Requirements for UCR Fees,'' the fees charged to the various entities are required to be in connection with the requirement in 49 U.S.C. 14504a(f)(1)(A). Not all of the entities included in the five categories are currently required to file financial responsibility information with FMCSA. The Board has authority to issue rules and regulations to govern the UCR Agreement, and to require annual submission of a set of information required of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (49 U.S.C. 14504a(d)(2)(A)(i)). FMCSA expects that the Board will establish requirements for filing of financial responsibility information as necessary to subject all entities in all five categories to the UCR fees, and to ensure that the required revenue levels will be achieved.

Similarly, FMCSA notes TIA's request that DOT and the Board work together to ensure that participating States provide usable safety and enforcement data to DOT's reporting systems, but finds the comment outside the scope of this rule.

One commenter recommended that the State revenue requirements increase over time to reflect growing needs. Another commenter noted that impacts on small entities could become a problem if fees increase over time. Capping UCR revenues at 2004 levels, according to the commenter, is not viable in the long term. The FMCSA notes in response that section 14504a provides that fees under UCR are to be established on a yearly basis. Therefore, fees for future years will be the subject of subsequent rulemaking, if and when the Board asks for an adjustment in the fees in accordance with section 14504a(f)(1)(E). On the other hand, the revenues to be derived from the fees were fixed by Congress as of 2004 by section 14504a(g). The only variation would occur because of changes in the participating States under section 14504a(e) or Congressional action.

The Pennsylvania Public Utility Commission (PaPUC), contends that Pennsylvania, which did not participate in SSRS, may be prohibited from collecting assessments from intra-state revenues of motor carriers to support its motor carrier safety enforcement program. PaPUC interprets 49 U.S.C. 14504a(c) of the UCR Act as potentially preempting such assessments. The FMCSA believes that this issue involves a legal interpretation of the preemption provisions of section 14504a(c); and, therefore, is outside the scope of this rulemaking. PaPUC, supported by CVSA, then requests that the UCR program fee schedule provide a mechanism to make it whole. However, Pennsylvania has not complied with 49 U.S.C. 14504a(e), is therefore not a participating State in the UCR agreement, and is not entitled to any revenues under 49 U.S.C. 14504a(g)(2) and (3).

An interstate property and household goods broker noted that some States currently do not recognize the Federal broker license issued by FMCSA and do not issue intrastate broker licenses. This commenter asked FMCSA to preempt State law and to secure agreements from States participating in the UCR that they will acknowledge broker's rights to arrange for transportation without the need for intrastate motor carrier authority. The FMCSA has concluded that this comment requests actions that are outside the scope of this rulemaking.

V. The Final Rule

The FMCSA is adopting the proposed rule as final without any changes. In addition, the FMCSA has verified that the Board has accurately reflected in its recommendations the revenue entitlements certified by each State for 2007. In accordance with 49 U.S.C. 14504a(g)(4), FMCSA proposed in the NPRM to approve the amount of revenue under the UCR Agreement to which each State participating in 2007 is entitled. FMCSA received no comment on this aspect of the proposal. FMCSA, is, therefore, approving the amount of revenue under the UCR Agreement to which each State participating in 2007 is entitled, as specified in the following table 1.

TABLE 1.—2007 STATE UCR REVENUE ENTITLEMENTS

State	Total 2007 UCR revenue entitlements
Alabama	$2,939,964.00
Arkansas	1,817,360.00
Colorado	1,817,215.00
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	5,992,820.00
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 Dakota	2,010,434.00
Ohio	4,813,877.74
Oklahoma	2,457,796.00
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
Total	101,272,399.81
Oregon	500,000
Total State Entitlement—2007	101,772,399.81

Regulatory Analyses and Notices

Administrative Procedure Act

The Administrative Procedure Act's rulemaking provision in subsection (d)(3) of 5 U.S.C. 553 allows FMCSA to make a final rule effective on its publication date for good cause. Congress expected the Board to make recommendations and the Agency to set the fees through this final rule well before January 1, 2007. The Board experienced delays Congress had not

envisioned in promulgating 49 U.S.C. 14504a. Making this final rule effective on the date of publication will not cause harm to any person or regulated entity. No commenter opposed the proposal and the fees are required by statute. Due to the exhaustive efforts of the Board in developing the recommendations and the amount of time needed, the States participating in the UCR have been losing current revenues they would have been deriving from SSRS to offset expenses involved in administering their enforcement and compliance of State motor carrier laws and regulations. Michigan and Alabama authorities made these points in their comments in the docket. These States and the others in the UCR may have to lay off State employees and curtail enforcement and compliance efforts if the States cannot collect 2007 revenue. Congress intends section 14504a to ''ensure that States don't lose current revenues derived from SSRS'' (S. Rep. 109–120, at 2 (2005)). This intent remains unfulfilled as long as this final rule setting the fees is not effective. FMCSA finds that it is necessary to make this final rule effective immediately upon publication to reduce the serious dislocation of State government programs and reduce or avoid imminent harm to State employees and the traveling public in the UCR States that may have to, or have had to, curtail their compliance and enforcement efforts.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 due to its subject matter and the impact on the participating States.

However, this rule is not economically significant based on the size of the fees to be collected under the UCR. The costs of the rule are required pursuant to an explicit Congressional mandate in section 14504a. Because a majority of the fees under the rule will replace fees motor carriers paid under the SSRS system, the total cost of the rule will be substantially less than $100 million per year. New entities paying fees under UCR that did not pay under SSRS are estimated to account for slightly less than half the fees, or about $50 million in new costs per year. The Agency has prepared a regulatory analysis analyzing the rule. A copy of the regulatory analysis document is included in the docket referenced at the beginning of this notice. The Office of Management and Budget (OMB) has reviewed this document.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA considered the effects of this regulatory action on small entities and determined that this rule will affect a substantial number of small entities, as defined by the U.S. Small Business Administration's Office of Size Standards. Accordingly, FMCSA has considered the economic impacts of the requirements on small entities and determines that this rule will not have a significant economic impact on a substantial number of small entities. The fees adopted in this rule would affect large numbers of small entities because the rule sets fees for hundreds of thousands of carriers, brokers, and freight forwarders of all sizes, and small entities are defined to include all entities that are not dominant in their industries. In previous rulemakings, FMCSA identified for-hire carriers with fewer than 145 power units (i.e., trucks or tractors) as small. The FMCSA estimates that carrier size to be equivalent to a carrier operating about 300 commercial motor vehicles. Thus, all of the for-hire carriers in Brackets 1 through 4 would be considered small, as would many of those in Bracket 5.

After careful consideration, however, FMCSA has determined that the UCR fee will, in every case involving a viable small entity, be well below the threshold level of one percent of revenues used for determining significant impacts. This conclusion is based on the observation that the maximum fee per vehicle is $39, which is less than one percent of the annual salary of even a single employee working 40 hours per week for 50 weeks per year and earning the current Federal minimum wage of $5.85. Because an entity without sufficient revenues to pay even one employee per vehicle or per broker or freight-forwarder operation would not be viable, it is clear that the UCR fees will not reach the threshold of one percent of revenues. Additionally, more than 50 percent of the fees collected under the new UCR system were already being paid by many of these entities under the SSRS system, meaning the UCR fees will simply serve as substitutes for the SSRS fees these firms were previously being assessed. Thus, the FMCSA Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

This action will meet applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We determined that this rulemaking would not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rulemaking does not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

The FMCSA analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. FMCSA has determined that this rulemaking will not have a substantial direct effect on States, nor will it limit the policy-making discretion of the States. Nothing in this document will preempt any State law or regulation. The FMCSA has therefore determined this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this final rule.

National Environmental Policy Act

The FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.h of the Order from further environmental documentation. In addition, the Agency believes that this action includes no extraordinary circumstances that will have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

The FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it involves policy development.

Executive Order 13211 (Energy Effects)

The FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a ''significant energy action'' under that Executive Order because it will not be likely to have a significant adverse effect on the supply, distribution, or use.

List of Subjects in 49 CFR Part 367

Commercial motor vehicle, Financial responsibility, Motor carriers, Motor vehicle safety, Registration, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, FMCSA amends title 49, Code of Federal Regulations, part 367, as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 is revised to read as follows:

Authority: 49 U.S.C. 13301, 14504, 14504a; and 49 CFR 1.73.

■ 2. Add a new Subpart A heading preceding § 367.1 to read as follows:

Subpart A—Single State Registration System

Appendix A [Amended]

■ 3. Amend the heading of Appendix A to part 367 by removing the phrase ''Part 367'' and adding in its place ''Subpart A''.

■ 4. Add a new Subpart B to read as follows:

Subpart B—Fees Under the Unified Carrier Registration Plan and Agreement

§ 367.20 Fees under the Unified Carrier Registration Plan and Agreement for Registration Year 2007.

FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2007

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per company for broker or leasing company
B1	0–2	$39	$39
B2	3–5	116	.....
B3	6–20	231	.....
B4	21–100	806	.....
B5	101–1,000	3,840	.....
B6	1,001 and above	37,500	.....

Issued on: August 15, 2007.

John H. Hill,

Administrator.

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