under the heading ''Data Elements'', the words ''Car rental, Taxis, Other'' and adding ''Car rental, Taxi, TNC, Innovative mobility technology company, Other'' in its place.

PART 302–1—GENERAL RULES

■ 17. The authority citation for part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§ 302–1.102 [Removed]

■ 18. Remove § 302–1.102.

PART 302–4—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

■ 19. The authority citation for part 302–4 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1973 Comp., p. 586.

§ 302–4.302 [Amended]

■ 20. Amend § 302–4.302, by removing from paragraph (b), ''taxicab fares'' and adding ''taxi or TNC fares, or the cost of utilizing an innovative mobility technology company,'' in its place.

PART 304–2—DEFINITIONS

■ 21. The authority citation for part 304–2 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–2.1 [Amended]

■ 22. Amend § 304–2.1, in the definition ''Travel, subsistence, and related expenses (travel expenses)'', in the first sentence, by removing ''taxi fares'' and adding ''taxi or TNC fares, or the cost of utilizing an innovative mobility technology company,'' in its place.

[FR Doc. 2017–28503 Filed 1–4–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2017–0118]

RIN 2126–AC03

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 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 2018, 2019 and subsequent years. For the 2018 registration year, the fees will be reduced below the current level by approximately 9.10% to ensure that fee revenues do not exceed the statutory maximum, and to account for the excess funds held in the depository. For the 2019 registration year and subsequent years, the fees will be reduced below the current level by approximately 4.55% to ensure the fee revenues in that and future years do not exceed the statutory maximum.

DATES: This final rule is effective January 5, 2018.

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 or by telephone at 202–385–2405.

SUPPLEMENTARY INFORMATION:

This Final Rule is organized as follows:

I. Rulemaking Documents

A. Availability of Rulemaking Documents

For access to docket FMCSA–2017–0118 to read background documents, go to *https://www.regulations.gov* at any time, or to Docket Services at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

Board Unified Carrier Registration Board of Directors
CAA Clean Air Act
CE Categorical Exclusion
FMCSA Federal Motor Carrier Safety Administration
OMB Office of Management and Budget
OOIDA Owner-Operator Independent Drivers Association
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SBA Small Business Administration
SBREFA Small Business Regulatory Enforcement Fairness Act
SBTC Small Business in Transportation Coalition
SSRS Single State Registration System
Texas DMV Texas Department of Motor Vehicles
UCR Unified Carrier Registration
UCR Agreement Unified Carrier Registration Agreement
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. Revenues collected are allocated to the participating States and the UCR Plan. The statute sets a statutory maximum amount that the UCR Plan may collect. If annual revenues will exceed the statutory maximum allowed, then the UCR Plan must request adjustments to the fees. 49 U.S.C. 14504a(f)(1)(E). Also, 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 subsequent fees charged are reduced 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 at least the next two registration years to the annual registration fees established for the Unified Carrier Registration (UCR) Agreement.

The UCR Plan and the participating States collect registration fees for each registration year, which is the same period as the calendar year. Generally, collection begins on October 1st of the previous year, and continues until December 31st of the year following the registration year. For example, collection for the 2016 registration year began on October 1, 2015, and will end on December 31, 2017. Currently the UCR Plan estimates that by December 31, 2017, total revenues will exceed the statutory maximum for the 2016 registration year by $5.13 million, or approximately 4.55%. This is the first time that revenues collected will exceed the statutory maximum. Therefore, in March 2017, the UCR Board requested that FMCSA adjust the fees in a two-stage process. For the 2018 registration year, with collection beginning on October 1, 2017 and ending December 31, 2019, the fees would be reduced below the current level by approximately 9.10% to ensure that fee revenues do not exceed the statutory maximum, and to reduce the excess funds held in the depository. For the 2019 registration year, with collection beginning on October 1, 2018 and ending December 31, 2020, the fees would be reduced below the current level by approximately 4.55% to ensure the fee revenues in that and future years do not exceed the statutory maximum.

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. 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.

The UCR Plan's formal recommendation requested the Secretary (delegated to FMCSA) to set annual fees beginning in the registration year 2018, as required by 49 U.S.C. 14504a(d)(7). FMCSA issued a notice of proposed rulemaking proposing to reduce the fees paid by motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies based on an analysis of current collections and past trends. The Agency reviewed the UCR Plan's formal recommendation prior to issuing the NPRM and concluded that the UCR Plan's projection of the total revenues received for registration year 2016 may have been understated. 49 U.S.C. 14504a(d)(7). This understatement would result in slightly higher fees for certain brackets. FMCSA conducted its own analysis, adjusted the methodology for projecting collections through the remainder of 2017, and updated the fees accordingly. The total amount targeted for collection by the UCR Plan will not change as a result of this rule, but the fees paid, or transfers, per affected entity will be slightly reduced from the UCR Plan's original formal recommendation.

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 2016, 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 Board 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 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).

The APA also 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 immediately 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, 2018. 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 Unified Carrier Registration 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 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'' (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 of Transportation. The statute specifies that the UCR Board should consist of one individual (either the FMCSA Deputy Administrator or another Presidential appointee) from the Department of Transportation; 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, 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 current annual fees charged are set out in 49 CFR 367.30. These fees were adopted by FMCSA in 2010 after a rulemaking proceeding that considered the substantial increase in fees over the fees initially established in 2007. Compare Fees for the Unified Registration Plan and Agreement, 75 FR 21993 (Apr. 27, 2010) (''2010 Final Rule'') with Fees for Unified Registration Plan and Agreement, 72 FR 48585 (Aug. 24, 2007) (''2007 Final Rule'').

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).

B. Fee Requirements

The statute specifies that fees are to be based upon 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 agreement year, and in setting the fee level, both the Board 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 Board; and
- Provisions governing fees in 49 U.S.C. 14504a(f)(1).

The Secretary, if asked by the Board, may also adjust the fees 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 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. Participating States that also collected intrastate registration fees from interstate motor carrier entities (whether or not they participated in SSRS) are also entitled to receive revenues of this type under the UCR Agreement, in an amount equivalent to the amount received in the previous registration year. The statute 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 Board calculates the amount of revenue that each participating State is entitled to under the UCR Agreement which is then approved by the Secretary.

FMCSA's responsibilities under 49 U.S.C. 14504a in setting fees for the UCR Plan and Agreement are 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.'' 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)).

Additionally, section 14504a(h)(4) 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. Background

Recommendation From the UCR Plan

On March 14, 2017, the Board voted unanimously to submit a recommendation to the Secretary for a reduction of registration fees collected by the UCR Plan for 2018, with an adjustment in fees in 2019 and subsequent years. The recommendation was submitted to the Secretary on March 22, 2017, and a copy has been placed in the docket.[1] The requested fee adjustments are required by 49 U.S.C. 14504a because, for the registration year 2016, the total revenues collected have, for the first time, exceeded 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, totaling $107.78 million and already established in accordance with 49 U.S.C. 14504a(g), are set out in the table attached to the March 22, 2017 recommendation. These revenue entitlements for the States are the same as those that were approved in the 2010 final rule (75 FR at 22008–9 and Table 5) that have continued in effect for each of the eight registration years from 2010 to 2017, inclusive.

As indicated in the analysis attached to the March 22, 2017 letter, as of the end of February 2017, the UCR Plan had already collected $4.15 million more than the statutory maximum of $112.78 million for 2016. The UCR Plan estimates that by the end of 2017, total revenues will exceed the statutory maximum, for 2016, by $5.13 million, or approximately 4.55%. The excess revenues collected will be held in a depository maintained by the Plan as required by 49 U.S.C. 14504a(h)(4).

Because of the collection of excess revenue, the UCR Plan requested adjustments to the fees in accordance with 49 U.S.C. 14504a(f)(1)(E)(ii), which requires the Board to request an adjustment 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.'' These two provisions are distinct, and are the basis for the two-stage adjustment in the recommendation.

The requested adjustments would occur in two stages; an initial reduction below the current level by approximately 9.10% for 2018 to account for the excess revenues already

[1] The UCR recommendation submitted March 22, 2017 including the letter request from the Board and all related tables is located in docket FMCSA–2017–0118 at: *www.regulations.gov.*

collected in 2016, followed by a reduction below the current level by approximately 4.55% for 2019 and subsequent years to keep future revenues below the statutory maximum. The adjusted fees recommended for each bracket for 2018 and 2019 are shown in the analysis attached to the March 22 letter. The UCR Plan requested that the reduction for the 2018 registration year be adopted not later than August 31, 2017, to enable the participating States and the UCR Plan to reflect the new fees when fee collection for the 2018 registration year that began on October 1, 2017.

VII. Discussion of the Comments

FMCSA received 7 comments on the NPRM. Five commenters disagreed with some aspect or another of the NPRM, including the Texas Department of Motor Vehicles (Texas DMV), Owner-Operator Independent Drivers Association (OOIDA), Small Business in Transportation Coalition (SBTC) and two anonymous commenters. Two additional anonymous commenters agreed with the NPRM favoring the fee reduction. The major comments included a request to have the NPRM withdrawn, as well as a recommendation to have the UCR Board submit a new recommendation to implement the fee reduction with a new 2019 fee schedule and a request for assurance that the State of Texas will be able to collect all of the revenues to which it is entitled. Also comments addressed recommendations for changing the current design of the fee structure. Additional concerns included the absence of consistent enforcement of penalties, and the difficulty for small businesses to realize benefits from the mandated fees paid due to the existing structure and administration of the program.

A. Small Business in Transportation Coalition

Comments

The Small Business in Transportation Coalition (SBTC) contended that the NPRM published September 21, 2017, is unlawful and should be withdrawn. It contends that while the UCR Plan notified the FMCSA of its recommendation for a reduction in the fees on March 22, 2017, the Agency failed to set the new fees within the 90-day period specified in the statute.

As a result of the lack of action within 90 days, SBTC asserts that on September 14, 2017, the Board held an ''improperly noticed secret meeting'' that changed the date for commencement of the registration and payment of fees from October 1, 2017, to November 1, 2017. SBTC claims that this action by the UCR Plan thereby shortens the period for carriers to comply with the UCR requirement, even though the affected registrants would then be paying a reduced fee.

After the close of the comment period, SBTC and a broker, 12 Percent Logistics, Inc., brought a civil action in the United States District Court for the District of Columbia (Civil Action No 1:17–cv–2000) in which they sought injunctive relief to set aside the UCR Plan's postponement of the date for commencement of registration and fee payment. On October 18, the court denied the request to set aside the postponement of the registration period but ordered the UCR Board and the operator of its on-line registration system (the Indiana Department of Revenue) to post the draft minutes of a September 14, 2017, meeting of the UCR Board on their respective websites and to make an announcement of these postings at the Board's October 26, 2017, meeting. The draft minutes of the Board's September 14, 2017 meeting were posted on websites *www.ucrplan.org* and *www.ucr.in.gov/ucrHome.html* on October 20, 2017 and October 24, 2017, respectively. The Board announced the availability of the draft minutes on these websites at its October 26, 2017 meeting.

FMCSA Response

SBTC cites no authority for its contention that FMCSA and the Secretary no longer have the authority to set new fees for 2018 because the statutory deadline for such action of 90 days in 49 U.S.C. 14504a(d)(7) has not been met. SBTC's contention that FMCSA ''has missed its lawful opportunity'' to set the fees based on the UCR Plan's March 22 recommendation is legally incorrect.

SBTC cannot point to any explicit statement in the provisions of 49 U.S.C. 14504a that bars action by FMCSA when the 90-day period is not met, because there is none. In addition, there are important public rights at stake that would be affected if FMCSA lost its power to act on the UCR Plan's recommendation, as contended by SBTC. The fee reduction recommended by the UCR Plan, proposed for implementation in the NPRM and now adopted in this final rule, is necessary to comply with two important provisions in the statute that require compliance with the statutory maximum amount of revenues to be collected by the UCR Plan and the participating States. 49 U.S.C. 14504a(f)(1)(E)(ii) and (h)(4). Instead of allowing SBTC's members and the rest of the motor carrier industry to benefit as soon as possible from the reduction in fees based on excess revenues that the UCR Plan has already recognized were collected for registration year 2016, SBTC's request would have the harmful effect of delaying the benefits of the reduction until 2019.

FMCSA and the Secretary have not lost the power to take action to implement the reduction in fees for 2018 and later years because the Agency did not complete such action within 90 days. SBTC's request for withdrawal of this rulemaking is therefore denied.

B. Revenue Entitlement for the State of Texas

Comments

The Texas Department of Motor Vehicles requested that FMCSA ''take the necessary steps to ensure that the state of Texas receives the full amount of UCR revenues to which Texas is entitled under 49 U.S.C. 14504a(g)(1).'' Texas DMV stated that after the State's move from the SSRS to the UCR Plan and Agreement, it had not received the amount of funds from the UCR Plan and Agreement to which it believes it is entitled. Since 2007, under the revenue entitlement calculations submitted by the UCR Plan to the Secretary and FMCSA, the revenue entitlement for Texas has been set at $2,718,628.06. 72 FR at 48588 and Table 1 (2007 Final Rule) and 75 FR at 22008–9 and Table 5 (2010 Final Rule). Texas DMV now claims that the State's revenue entitlement for every year since 2007 should have been set at $5,765,819.93, representing a difference of $3,047,191.87 for each registration year. In total, Texas DMV claims that the State did not receive revenues of $33,519,110.57 for the years 2007 to 2017, inclusive.

Texas DMV now asks that the Agency approve a revised annual revenue entitlement for Texas of $5,765,819.93, starting with the year 2018, and approve the ''shortage'' amount of $33,519,110.57 for the years 2007–2017. Most significantly, for the purpose of this rulemaking, Texas DMV asks the Agency to revise the current fees established in 49 CFR part 367 ''as necessary to ensure enough UCR fees are collected to cover the full amount to which Texas is entitled for years 2007 through 2017 and beyond.''

FMCSA Response

The actions by the Agency that Texas DMV requests would not only require declining to implement the reduction in fees requested by the UCR Plan, but taking two additional steps: (1) Revising the approved revenue entitlement for Texas; and (2) increasing the fees by an uncertain but clearly substantial amount, not only to provide revenues for the new entitlement, but also to cover eleven years of a claimed ''shortage.'' FMCSA does not have authority under the provisions of 49 U.S.C. 14504a to take either of these additional actions. Both the approval of a revised revenue entitlement for Texas and an adjustment of the fees to cover both Texas' claimed revised entitlement and the ''shortage'' would require that a recommendation be made to the Secretary by the Board. Because no such request has been made for either action, FMCSA is without authority to take the action requested by Texas. The fees are based on the only set of revenue entitlements submitted by the UCR Plan to the Secretary, which were approved in the 2010 final rule and which includes a revenue entitlement of $2,718,628.06 for Texas.

The statute has provisions in 49 U.S.C. 14504a(g)(1) to (3) governing how the revenue entitlement for each participating State should be determined. Texas DMV asserts that the Texas revenue entitlement should be determined under paragraph (g)(1), based on the revenues Texas received during the calendar year 2004 under SSRS. But the Texas DMV does not explain how or why its revenue entitlement under this provision should be $5,765,819.93 for each year under the UCR Agreement, instead of the $2,718,628.06 that has been in effect since 2007. It also does not explain why it has waited more than 11 years to assert that it is entitled to a larger revenue entitlement.

Even if Texas DMV is correct that the larger amount is appropriate under the statute, it has failed to submit its claim to the Board. The statute provides that the amount of revenues generated under the UCR Agreement to which a State is entitled shall be calculated by the Board and approved by the Secretary. 49 U.S.C. 14504a(g)(4). A revised calculation of the Texas revenue entitlement, which shows that it complies with the statutory requirements in section 14504a(g)(1), has not been submitted to the Board for its review and confirmation, and it has not been submitted by the Board to FMCSA for approval. FMCSA is without authority to consider or approve a revised revenue entitlement for Texas unless and until a revised calculation is submitted by the UCR Plan's board of directors.

The statute has similar provisions governing adjustments in the fees. The Board may ask FMCSA to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees are insufficient to provide the revenues to which the States are entitled. 49 U.S.C. 14504a(f)(1)(E)(i). No request has been made by the Board to adjust the fees in order to provide any revenues to satisfy the claim by Texas for a larger annual revenue entitlement or to provide funds to make up the ''shortage'' Texas has supposedly incurred for 11 years. The only request before the Agency from the Board is the reduction in fees submitted on March 22, 2017 after a unanimous vote of the UCR Board. FMCSA is without authority to consider or approve any adjustment in the fees (other than the one submitted on March 22) unless and until the Board makes a recommendation that would reflect the effects of the revised revenue entitlement claimed by Texas.

C. Change Design of Fee Structure

Comments

OOIDA stated that single-truck operators or small fleet carriers represented approximately 95% of the motor carrier industry and that the current fee structure is burdensome and costly to its members due to the limited resources they have in comparison to larger competitors. OOIDA stated that the inequalities are particularly noted between and within the arbitrary payment brackets in effect and proposed that a standard flat fee per vehicle should be considered to reduce inequity amongst small, medium, and large fleets. An anonymous commenter felt that the current structure appears punitive to companies who are on the lower end of the tiered brackets that are currently in effect. The commenter cited the following examples in the current fee structure in which by going from 100 power units to 101 power units or even 1000 power units to 1001 power units companies would incur enormous percentage fee increases for a single power unit. The commenter recommended that the fee should be charged on a per unit basis. The per unit fee recommendation was also supported by another anonymous commenter.

FMCSA Response

Three commenters suggested changing the UCR fees to a ''per-unit'' (*i.e.* on a per vehicle) basis. FMCSA has not evaluated the merits of this suggestion because it is not an alternative available to the Agency. The statute requires that the Board set the fee structure based on 4 to 6 brackets depending on the size of the fleet. 49 U.S.C. 14504a(f)(1)(C). Implementing the commenters' ''per unit'' suggestion would require a statutory amendment. Unless and until that occurs, neither the Board nor FMCSA has authority to change the current fee structure using brackets.

D. Other Concerns

Comments

OOIDA expressed other specific concerns regarding the proposed rule including the fact that smaller carriers lack the resources to assist payment processing and submission of paperwork. OOIDA also expressed concerns regarding the lack of consistency among states in their use of the fees for enforcement or administration purposes. Overall, OOIDA felt that the existing organization and administration of the UCR program makes it difficult for small-business truckers and owner-operators to recognize any benefits from the mandated fees they are expected to pay. OOIDA recommended a federal audit of the UCR plan to review how states are actually spending UCR revenues.

FMCSA Response

OOIDA's concerns described above are outside of the scope of this rulemaking.

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

Under this final rule, the provisions of 49 CFR 367.30 are revised to apply to registration years 2010 to 2017, inclusive. A new 49 CFR 367.40 establishes the reduced fees for registration year 2018. A second new section, 49 CFR 367.50, establishes fees for 2019, which will remain in effect in subsequent registration years unless and until 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 determined that this final rule is not a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; (44 FR 11034), February 26, 1979).

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 adjustments in the annual registration fees for the UCR Plan and Agreement. The total amount targeted for collection by the UCR Plan will not change as a result of this rule, but the fees paid, or transfers, per affected entity will be reduced. The primary entities affected by this rule are the participating States, motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. Because the total amount collected will continue to be the statutory maximum, 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 will range from approximately $7 to $6,700 per entity in the first year, and from approximately $3 to $3,400 per entity in subsequent years, depending on the number of vehicles owned and/or operated by the affected entities.

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

E.O. 13771 requires that for ''every one new [E.O. 13771 regulatory action] issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' [2] Implementation guidance for E.O. 13771 issued by the Office of Management and Budget (OMB) on April 5, 2017, defines two different types of E.O. 13771 actions: An E.O. 13771 deregulatory action, and an E.O. 13771 regulatory action.[3]

An E.O. 13771 deregulatory action is defined as ''an action that has been finalized and has total costs less than zero.'' As this is a zero total cost rulemaking and consequently does not have total costs less than zero, it therefore is not an E.O. 13771 deregulatory action.

An E.O. 13771 regulatory action is defined as:

(i) a significant action as defined in Section 3(f) of E.O. 12866 that has been finalized, and that imposes total costs greater than zero; or

(ii) a significant guidance document *(e.g.,* significant interpretive guidance) reviewed by Office of Information and Regulatory Affairs under the procedures of E.O. 12866 that has been finalized and that imposes total costs greater than zero.

The Agency action, in this case a rulemaking, must meet both the significance and the total cost criteria to be considered an E.O. 13771 regulatory action. This rulemaking is not a significant regulatory action as defined in Section 3(f) of E.O. 12866, and therefore does not meet the significance criterion for being an E.O. 13771 regulatory action. Consequently, this rulemaking is not an E.O. 13771 regulatory action and no further action under E.O. 13771 is required.

C. 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.[4] 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 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 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 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 [5] 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 $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

[2] Executive Office of the President. *Executive Order 13771 of January 30, 2017. Reducing Regulation and Controlling Regulatory Costs.* 82 FR 9339–9341. February 3, 2017.

[3] 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.

[4] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Available at: *https://www.sba.gov/advocacy/regulatory-flexibility-act* (accessed February 13, 2017).

[5] 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 April 27th, 2017).

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 $7 to $6,700 per entity, in the first year, and from approximately $3 to $3,400 per entity in subsequent years, depending on the number of vehicles owned and/or operated by the affected entities. FMCSA asserts that the reduction in fees will be entirely beneficial to these entities, and 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.

D. 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.

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 million in 1995, adjusted for inflation to 2015 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.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no new information collection requirements are associated with this final rule, nor are there any revisions to existing, approved collections of information. Therefore, the PRA does not apply to this final rule.

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 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 of Directors 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.

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

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

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

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

K. Privacy Impact Assessment

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

L. E.O. 12372 (Intergovernmental Review)

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

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

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that 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.

N. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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

The National Technology Transfer and Advancement Act (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 (National Environmental Policy Act, Clean Air Act, Environmental Justice)

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 for inspection or copying in the *Regulations.gov.*

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 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 final rule in accordance with the E.O. 12898, and has determined that no environmental justice issue is associated with this final rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects in 49 CFR Part 367

Insurance, Intergovernmental relations, Motor carriers, Surety bonds.

For the reasons discussed in the preamble, the Federal Motor Carrier Safety Administration 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 § 367.30 to read as follows:

§ 367.30 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2010 and ending in 2017.

TABLE 1 TO § 367.30—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR EACH REGISTRATION YEAR 2010–2017

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	$76	$76
B2	3–5	227	
B3	6–20	452	
B4	21–100	1,576	
B5	101–1,000	7,511	
B6	1,001 and above	73,346	

■ 3. Add new §§ 367.40 and 367.50 to subpart B to read as follows:

§ 367.40 Fees under the Unified Carrier Registration Plan and Agreement for registration year 2018.

TABLE 1 TO § 367.40—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2018

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	410	
B4	21–100	1,431	
B5	101–1,000	6,820	
B6	1,001 and above	66,597	

§ 367.50 Fees under the Unified Carrier Registration Plan and Agreement for registration years beginning in 2019.

TABLE 1 TO § 367.50—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2019 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	$73	$73
B2	3–5	217	
B3	6–20	431	
B4	21–100	1,503	
B5	101–1,000	7,165	
B6	1,001 and above	69,971	

Issued under authority delegated in 49 CFR 1.87 on: December 29, 2017.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2017–28509 Filed 1–2–18; 4:15 pm]

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