DHS considers this rule to be an Executive Order 13771 deregulatory action. See OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). This rule is not a major rule under 5 U.S.C. 804.

There are no quantified costs or cost savings to this rule as it simply rescinds requirements that have already been shifted to the FAR. DHS believes there are non-monetized efficiency and streamlining benefits to this rule as it removes outdated provisions of the HSAR.

IV. Regulatory Flexibility Act

This action rescinds HSAR clause 3052.219–70 and, as such, DHS certifies that this final rule will not result in a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

The total hours and costs associated with existing HSAR clause 3052.219–70, as set forth in HSAR OMB Control Number, 1600–0003, Post-award Contract Information, are as follows:

Estimated Respondents: 11,885.
Average Responses Annually: 3.
Total Annual Responses: 35,655.
Estimated Hours: 12.
Total Hours: 427,860.
Hourly Rate: $67.86.
Total Costs: $29,034,579.60.

List of Subjects in 48 CFR Parts 3019 and 3052.

Government procurement.

For the reasons set forth above, DHS amends 48 CFR parts 3019 and 3052 as follows:

PART 3019—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 3019 is revised to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1702, 41 U.S.C. 1707, and 48 CFR part 1 and subpart 1.3.

3019.708–70 [Amended]

■ 2. Section 3019.708–70 is amended by:

■ a. Removing paragraph (a); and

■ b. Redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for 48 CFR part 3052 continues to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1702, 41 U.S.C. 1707, and 48 CFR part 1 and subpart 1.3.

3052.219–70 [Removed]

■ 4. Remove section 3052.219–70.

Soraya Correa,

Chief Procurement Officer, Department of Homeland Security.

[FR Doc. 2018–28142 Filed 12–27–18; 8:45 am]

BILLING CODE 4410–9B–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2018–0068]

RIN 2126–AC12

Fees for the Unified Carrier Registration Plan and Agreement

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

ACTION: 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 2019, 2020 and thereafter. For the 2019 registration year, the fees will be reduced below the 2017 registration fee level that was in effect by 18.62 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 beginning with the 2020 registration year will be reduced below the 2017 level by approximately 9.9 percent. The reduction of the current 2019 registration year fees (finalized on January 5, 2018) range from approximately $11 to $10,282 per entity, depending on the number of vehicles owned or operated by the affected entities. The reduction in fees for 2020 and subsequent registration years range from approximately $5 to $3,899 per entity.

DATES: This final rule is effective December 28, 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:

I. Rulemaking Documents

A. Availability of Rulemaking Documents

For access to docket FMCSA–2018–0068 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:

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. Revenues collected are allocated to the participating States and the UCR Plan. A 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 subsequent fees charged must be adjusted further in order 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 at least the next two registration years to the annual registration fees established for the UCR Agreement.

For the 2019 registration year, the fees will be reduced below the 2017 registration fee level that was in effect by 18.62 percent 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 2020 registration year will be reduced below the 2017 level by approximately 9.9 percent. The reduction of the current 2019 registration year fees (finalized on January 5, 2018) ranges from approximately $11 to $10,282 per entity, depending on the number of vehicles owned or operated by the affected entities. The reduction in fees for 2020 and subsequent registration years ranges from approximately $5 to $3,899 per entity.

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 2017, the total revenues collected were 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.[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 a reduction 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).

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, 2019. 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 DOT; 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 annual fees charged for registration year 2018 are set out in 49 CFR 367.40.

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

[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).

[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.

registration year, which is the same period as the calendar year. Generally, 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. 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 year before the Act's 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 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.'' 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. Recommendation from the UCR Plan

On December 14, 2017, the UCR Board voted unanimously to submit a recommendation to the FMCSA to reduce the fees collected by the UCR Plan for registration years 2019 and thereafter. The recommendation was submitted to the FMCSA on January 11, 2018.[3] The requested fee adjustments are required by 49 U.S.C. 14504a because, for registration year 2017, the total revenues collected were expected to exceed the total revenue entitlements of $107.78 million distributed to the 41 participating States plus the $5 million established for ''the administrative costs associated with the unified carrier registration plan and agreement.'' 49 U.S.C. 14504a(d)(7)(A)(i). The maximum revenue entitlements for each of the 41 participating States, established in accordance with 49 U.S.C. 14504a(g), were set out in a table attached to the January 11, 2018, recommendation.

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

The UCR Plan's recommendation estimated the minimum projection of revenue collections for December 2017 through December 2018 by summing the collections within each of the registration years 2013 through 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 605 (January 5, 2018).

Under 49 U.S.C. 14504a(d)(7), the costs incurred by the UCR Plan to administer the UCR Agreement are eligible for inclusion in the total revenue 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)), has been $112,777,059.81, including $5,000,000 for administrative costs. The UCR Plan's latest recommendation included a reduction in the amount of the administrative costs to $3,500,000 for the 2019 and 2020 registration years. The reduction of $1,500,000 recommended by the UCR Plan was based on estimates of future administrative costs needed to operate the UCR Plan and Agreement. No changes in the State revenue entitlements were recommended, and the entitlement figures for 2019 and 2020 for the 41 participating States are the same as those previously approved for the years 2010 through 2018. Therefore, for registration years 2019 and 2020, the UCR Plan recommended a total revenue target of $111,277,060.

A notice of proposed rulemaking (NPRM) reflecting the recommendation from the UCR Board was published by FMCSA. 83 FR 42244 (August 21, 2018). Comments addressing both the proposed adjustment in the fees and the separate new total revenue target recommendation were due on August 31, 2018.

VII. Discussion of the Comments

FMCSA received six comments on the NPRM. The commenters were: (1) Avelino Gutierrez, UCR Board Chairman, and G. Scott Morris, Board Member; (2) National Motor Freight Traffic Association, Inc.; (3) Small Business in Transportation Coalition

[3] The January 11, 2018, recommendation from the UCR Plan and all related tables are available in the docket for this rulemaking. (See I.A. above.)

[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.

(SBTC); (4) National School Transportation Association; (5) Kevin Johnson; and (6) ''Anonymous.''

Avelino Gutierrez and G. Scott Morris

The comment was submitted by the two UCR Board members in their individual capacities and provided updated information on the actual and estimated revenue collections for the 2017 registration year.

Based on the updated information provided about actual and estimated collections, and as required by the statutory provisions involved, the fees established in this final rule have been adjusted and are slightly lower than the fees proposed in the NPRM but are still expected to enable the total revenue target to be met.

National Motor Freight Traffic Association, Inc. and Kevin Johnson

The National Motor Freight Traffic Association and Kevin Johnson both support the proposed fee adjustment.

Small Business in Transportation Coalition

The comment from the Small Business in Transportation Coalition (SBTC) raises several issues, not all of which are relevant to the proposed fee adjustment.[5] SBTC first asserts that the current provisions of 49 CFR 367.50 setting the fees for 2019 and subsequent years, as adopted in the final rule in Fees for Unified Carrier Registration Plan and Agreement (83 FR 605 (January 5, 2018)), are ''unlawful and unenforceable.'' SBTC bases that contention on the notion that the final rule was not adopted within 90 days after the submission of the fee recommendation from the UCR Plan for the adjustment made in the January 5 final rule. 49 U.S.C. 14504a(d)(7).

FMCSA notes that SBTC made the same contention regarding the effect of this statutory provision in its comments in the previous rulemaking. FMCSA rejected that contention in the January 5, 2018 final rule (see 83 FR 608) because it is now a well-established principle of administrative law that a statutory deadline for agency action cannot, in the ordinary course, bar action after the deadline unless that consequence is stated explicitly in the statute. In the leading case, Justice Marshall, in an opinion expressing the views of a unanimous Supreme Court, stated:

> We would be most reluctant to conclude that every failure of an agency to observe a procedural requirement voids subsequent agency action, especially when important public rights are at stake. When, as here, there are less drastic remedies available for failure to meet a statutory deadline, courts should not assume that Congress intended the agency to lose its power to act.

Brock v. *Pierce County,* 476 U.S. 253, 260 (1976) (footnotes omitted). *In U.S.* v. *James Daniel Good Real Prop,* 510 U.S. 43, 63 (1993), the Court stated that ''if a statute does not specify a consequence for noncompliance with statutory timing provisions, the Federal courts will not in the ordinary course impose their own coercive sanction.'' See also *Gottlieb* v. *Pena,* 41 F.3d 730, 733–35 (D.C. Cir. 1994).

SBTC cannot point to any explicit statement in the provisions of 49 U.S.C. 14504a that bars action by FMCSA if the 90-day period is not met, because there is none. Thus, as explained by the Supreme Court's decisions, the appropriate remedy for SBTC or any other interest allegedly aggrieved by the Agency's failure to meet the statutory time limit is to commence an action under the Administrative Procedure Act ''to compel agency action unlawfully withheld or unreasonably delayed.'' 5 U.S.C. 706(1) and *Brock* v. *Pierce County,* 476 U.S. at 260, n. 7. SBTC has not sought such a remedy, and, of course, its availability is now removed by the issuance of this final rule. *Cf. Telecommunications Research & Action Center* v. *F.C.C.,* 750 F.2d 70, 80 (D.C. Cir. 1984).

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 (with a minor adjustment), is necessary under the terms of 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).

SBTC renews its contention in its comment in this rulemaking that FMCSA has lost the power to act on the new proposed adjustment based on the 90-day provision in the statute. For the same reasons that this contention was rejected in the previous rulemaking, it is rejected again, and FMCSA and the Secretary have full power to act on the proposed fee recommendation.

SBTC's further contention that the fees in current section 367.50 are unenforceable for the 2019 registration year because, it alleges, proper procedures were not followed in setting the current fees for 2019, overlooks the fact that in this rulemaking the UCR Plan is recommending, and FMCSA has properly considered, proposed, and is now adopting, an adjustment in the fees for the 2019 registration year by revising 49 CFR 367.50. 83 FR 42250–51. In any event, FMCSA notes that the delay setting the fees for the 2019 registration year has not prejudiced entities subject to the registration fees. The UCR Plan has amended the UCR Agreement to provide that when an adjustment in fees is pending before FMCSA and DOT, registration and collection of fees will not begin until the effective date of the adjusted fees. Therefore, the fees established for registration year 2019 by either current 49 CFR 367.50 or its proposed amendment will not be collected by the UCR Plan and the participating States until this final rule and any adjustment in the fees for 2019 becomes effective.

Another contention by SBTC is that the UCR Plan should not be recommending, nor should FMCSA be acting on, a fee change for the 2020 registration year (see proposed 49 CFR 367.60, 83 FR 42251), claiming that it should not be done until information is available about the prior year's revenues. SBTC fails to recognize that the proposed two-step adjustment in the fees is required by the statute. As indicated in the NPRM, 49 U.S.C. 14504a(f)(1)(E)(ii) requires the fees to be reduced so that the revenues collected meet the total revenue target, and 49 U.S.C. 14504(a)(h)(4) requires a further one-year reduction in order to return to the industry excess revenues held in the depository established by the UCR Plan. Such a process necessarily relies on initial estimates and projections of revenue collections, with fee adjustments based on actual revenue collections as appropriate.

SBTC also states that the Agency would not be informed about the increase in the total actual and estimated revenues collected for the 2017 registration year. But as explained in the discussion above, the increase of $1,578,968 in the total collections available is public information and has been provided for the record in this rulemaking, and has been taken into account in setting the fees in this final rule.

National School Transportation Association

The National School Transportation Association supports the proposed fee reduction. But it also requests that

[5] The SBTC comment incorporates the text of a letter dated August 8, 2018, addressed to the Secretary. The disposition of SBTC's comments in this final rule also disposes of the contentions in the August 8 letter.

FMCSA and the UCR Plan reconsider recent determinations by the UCR Plan regarding the treatment of school buses for purposes of the UCR Agreement.

FMCSA does not have authority to reconsider the determination on this issue by the UCR Plan. The UCR Board has sole authority to administer the UCR Agreement in accordance with the statute. 49 U.S.C. 14504a(d)(2), (f)(2) and (f)(3). This issue is beyond the scope of this rulemaking. Therefore, the request for reconsideration cannot and will not be acted upon by FMCSA.

Anonymous

One anonymous comment was submitted and supported the Agency's determination in the NPRM that Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, was not applicable to this rulemaking. The comment was otherwise not relevant to this rulemaking.

VIII. Approval of Total Revenue Target

No comments to the NPRM addressed the proposed adjustment in the total revenue target to $111,277,060.00, which reflects a reduction in the amount of the administrative costs from $5,000,000 to $3,500,000. Therefore, in accordance with 49 U.S.C. 14504a(d)(7) and (g)(4), the following table of State revenue entitlements, administrative costs, and the total revenue target under the UCR Agreement, as proposed in the NPRM, is approved. These State revenue entitlements, the administrative costs, and the total revenue target will remain in effect for 2019 and subsequent years unless and until approval of a revision occurs.

STATE UCR REVENUE ENTITLEMENTS AND FINAL 2019 TOTAL REVENUE TARGET

State	Total 2019 UCR revenue entitlements
Alabama	$2,939,964.00
Arkansas	1,817,360.00
California	2,131,710.00
Colorado	1,801,615.00
Connecticut	3,129,840.00
Georgia	2,660,060.00
Idaho	547,696.68
Illinois	3,516,993.00
Indiana	2,364,879.00
Iowa	474,742.00
Kansas	4,344,290.00
Kentucky	5,365,980.00
Louisiana	4,063,836.00
Maine	1,555,672.00
Massachusetts	2,282,887.00
Michigan	7,520,717.00
Minnesota	1,137,132.30
Missouri	2,342,000.00
Mississippi	4,322,100.00
Montana	1,049,063.00
Nebraska	741,974.00
New Hampshire	2,273,299.00
New Mexico	3,292,233.00
New York	4,414,538.00
North Carolina	372,007.00
North Dakota	2,010,434.00
Ohio	4,813,877.74
Oklahoma	2,457,796.00
Pennsylvania	4,945,527.00
Rhode Island	2,285,486.00
South Carolina	2,420,120.00
South Dakota	855,623.00
Tennessee	4,759,329.00
Texas	2,718,628.06
Utah	2,098,408.00
Virginia	4,852,865.00
Washington	2,467,971.00
West Virginia	1,431,727.03
Wisconsin	2,196,680.00
Sub-Total	106,777,059.81
Alaska	500,000.00
Delaware	500,000.00
Total State Revenue Entitlement	107,777,060.00
Administrative Costs	3,500,000.00
Total Revenue Target	111,277,060.00

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 367.50 (which were adopted in the January 5, 2018, final rule) are revised to establish new reduced fees applicable only to registration year 2019. A new 49 CFR 367.60 establishes the fees for registration year 2020, which will remain in effect for subsequent registration years unless revised in the future.

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, 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, 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 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 January 5, 2018) ranges from approximately $11 to $10,282 per entity, depending on the number of vehicles owned or operated by the affected entities. The reductions in fees for subsequent registration years range from approximately $5 to $3,899 per entity.

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.[6]

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

[6] 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.

(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 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 [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 $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 $11 to $10,282 per entity, in the first year, and from approximately $5 to $3,899 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 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 $161 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2017 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 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.

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 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, eliminates ambiguity, and reduce burden.

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

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (April 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to

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

[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).

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 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. 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 § 367.50 to read as follows:

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

TABLE 1 TO § 367.50—FEES UNDER THE UNIFIED CARRIER REGISTRATION PLAN AND AGREEMENT FOR REGISTRATION YEAR 2019

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0–2	$62	$62
B2	3–5	185	.....
B3	6–20	368	.....
B4	21–100	1,283	.....
B5	101–1,000	6,112	.....
B6	1,001 and above	59,689	.....

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

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

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	$68	$68
B2	3–5	204	
B3	6–20	407	
B4	21–100	1,420	
B5	101–1,000	6,766	
B6	1,001 and above	66,072	

Issued under authority delegated in 49 CFR 1.87 on: December 20, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–28170 Filed 12–27–18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2017–0063; 4500030113]

RIN 1018–BC16

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Trispot Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for trispot darter (*Etheostoma trisella*), a fish species found in the Coosa River system in Alabama, Georgia, and Tennessee. This rule adds this species to the List of Endangered and Threatened Wildlife.

DATES: This rule is effective January 28, 2019.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0063, and at the U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office, 1208 Main Street, Daphne, AL 36526; telephone 251–441–5181. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0063, and by appointment, during normal business hours at the Alabama Ecological Services Field Office.

FOR FURTHER INFORMATION CONTACT: Bill Pearson, Field Supervisor, U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office (see **ADDRESSES**). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

On October 4, 2017, we published a proposed rule in the **Federal Register** (82 FR 46183) to list the trispot darter as a threatened species under the Act (16 U.S.C. 1531 *et seq.*). Please refer to that proposed rule for a detailed description of previous Federal actions concerning this species.

Elsewhere in today's **Federal Register**, we propose to (1) designate critical habitat for the trispot darter under the Act; and (2) issue a rule under section 4(d) of the Act that provides measures necessary and advisable for the conservation of the trispot darter.

Background

Please refer to the October 4, 2017, proposed rule (82 FR 46183) and the Species Status Assessment (SSA) Report for a full summary of species information. Both documents are available *at http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0063, and on the Service's Southeast Region website at *https://www.fws.gov/southeast/*.

The trispot darter is a freshwater fish found in the Coosa River System in the Ridge and Valley ecoregion of Alabama, Georgia, and Tennessee. This fish has a historical range from the middle to upper Coosa River Basin with collections in the mainstem Coosa, Oostanaula, Conasauga, and Coosawattee Rivers, and their tributaries. Currently, the trispot darter is known to occur in four populations in the Little Canoe Creek and tributaries (Coosa River), Ballplay Creek tributaries (Coosa River), Conasauga River and tributaries, and Coosawattee River and one tributary.

The trispot darter is a migratory species that utilizes distinct breeding and non-breeding habitats. From approximately April to October, the species inhabits its non-breeding habitat, which consists of small to medium river margins and lower reaches of tributaries with slower velocities. It is associated with detritus, logs, and stands of water willow, and the substrate consists of small cobbles, pebbles, gravel, and often a fine layer of silt. During low flow periods, the darters move away from the peripheral zones and toward the main channel; edges of water willow beds, riffles, and pools; and mouths of tributaries. In late fall, this migratory species shifts its habitat preference and begins movement toward spawning areas; this is most likely stimulated by precipitation, but temperature changes and decreasing daylight hours may also provide cues to begin migration. Migration into spawning areas begins approximately late November or early December with fish moving from the main channels into tributaries and eventually reaching adjacent seepage areas where they will congregate and remain for the duration of spawning, approximately until late April. Breeding sites are intermittent seepage areas and ditches with little to no flow; shallow depths (12 inches (30 centimeters) or less); moderate leaf litter covering mixed cobble, gravel, sand, and clay; a deep layer of soft silt over clay; and emergent vegetation. Trispot darters predominantly feed on mayfly nymphs and midge larvae and pupae.

The trispot darter was first described in 1963 from a single specimen collected in Cowans Creek in Cherokee County, Alabama. This species was originally described as a member of the