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#### List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.0225 to read as follows:

##### § 165.0225 Safety Zones; Coast Guard Captain of the Port New York Zone Drone Displays.

(a) *Locations.* The following areas are designated zones in which a safety zone radius up to 500-yards will be established for drone shows. The establishment of a safety zone within a designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of one of the zones described as follows:

(1) *Hudson River Zone 1.* All waters of the Hudson River to include Morris Canal Basin in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'20.9" N, 74°02'05.7" W; traveling north along the shoreline thence to 40°46'41.1" N, 74°00'30.4" W; thence to 40°46'22.2" N, 73°59'38.3" W; traveling south along the shoreline thence to 40°42'02.0" N, 74°00'51.1" W; and back to the point of origin.

(2) *East River Zone 2.* All waters of the East River in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'01.6" N, 74°00'48.7" W; traveling north along the shoreline thence to 40°46'38.0" N, 73°56'31.6" W; thence to 40°46'33.2" N, 73°56'13.4" W; traveling south along the shoreline thence to 40°44'17.2" N, 73°57'38.7" W; thence to 40°44'11.6" N, 73°57'37.0" W; continuing south along the shoreline thence to 40°41'35.7" N, 74°00'14.3" W;

and back to the point of origin. These coordinates are based on Datum WGS 84.

(b) *Definitions.* As used in this section:

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York Zone in the enforcement of the safety zone.

*Official Patrol Vessels* means any Coast Guard, Coast Guard Auxiliary, State, or local law enforcement vessels assigned as an on-scene representative approved by the COTP.

*Spectators* means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) When enforced, under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter the designated safety zone, contact the COTP or the COTP's Designated Representative via VHF–FM Marine Channel 16, or by contacting the Coast Guard Sector New York command center at 718–354–4356. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* The COTP will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, or by an on-scene oral notice and signage.

**Jonathan A. Andrechik,**

*Captain, U.S. Coast Guard, Captain of the Port Sector New York.*

[FR Doc. 2024–11446 Filed 5–23–24; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 107

[Docket No. PHMSA–2022–0033 (HM–208J)]

RIN 2137–AF59

##### Hazardous Materials: Adjusting Registration and Fee Assessment Program

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** In order to account for increased transport of hazardous materials as well as the burdens such transport places on first responders, PHMSA proposes overdue updates to the registration fees under the statutorily mandated registration and fee assessment program for persons who transport, or offer for transportation, certain categories and quantities of hazardous materials. PHMSA's proposal would increase the annual fee to be paid by those registrants qualifying as a small business or not-for-profit organization by \$125 to \$375 and by those registrants not qualifying as a small business or not-for-profit organization by \$425 to \$3,000. Actions such as fee adjustments are necessary to fund PHMSA's Hazardous Materials Emergency Preparedness grants program at newly authorized levels in accordance with the Infrastructure Investment and Jobs Act (Pub. L. 117–58). PHMSA also proposes to implement an electronic-only registration fee payment process. Finally, PHMSA proposes to revise requirements to clarify that a certificate of registration may be carried in either electronic or paper form for both motor carriers and those who transport hazardous materials by vessel.

**DATES:** Comments must be received by August 22, 2024. However, PHMSA will consider late-filed comments to the extent possible.

**ADDRESSES:** You may submit comments identified by the docket number PHMSA–2022–0033 (HM–208J) by any of the following methods:

- *Federal e-Rulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* (202) 493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation, Dockets Operations, M–30, Ground

Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• **Hand Delivery:** U.S. Department of Transportation, Docket Operations, M–30, Ground Floor, Room W12–140 in the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the agency name and docket number (PHMSA–2022–0033) or RIN 2137–AF59 for this NPRM at the beginning of the comment. Note that all comments received will be posted without change to <https://www.regulations.gov> including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

**Docket:** For access to the dockets to read background documents or comments received, go to <https://www.regulations.gov> or DOT's Docket Operations Office; see **ADDRESSES**.

**Confidential Business Information:** Confidential Business Information (CBI) is commercial or financial information that is both customarily and treated as private by its owner. Under the Freedom of Information Act (FOIA; 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPRIETARY.” PHMSA will treat such marked submissions as confidential under the Freedom of Information Act (FOIA) and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Yul B. Baker Jr., Standards and Rulemaking Division, Office of Hazardous Materials Safety, (202) 366–8553, PHMSA, East Building, PHH10, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that PHMSA receives, which is not specifically designated as CBI, will be placed in the public docket for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Yul B. Baker Jr., Standards and Rulemaking Division, Office of Hazardous Materials Safety, (202) 366–8553, PHMSA, East Building, PHH10, 1200 New Jersey Avenue SE, Washington, DC 20590 and Adam Lucas, Operations System Division, Office of Hazardous Materials

Safety, (202) 366–1074 PHMSA, East Building, PHH–60, 1200 New Jersey Avenue SE, Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. Background**

Since 1992, the Research and Special Programs Administration (RSPA)—now known as the Pipeline and Hazardous Materials Administration (PHMSA)—has conducted a national registration program for persons who offer for transportation or transport certain hazardous materials in intrastate, interstate, or foreign commerce (*see* 49 U.S.C. 5108). The registration program implements the mandate for persons to file a registration statement with the Secretary of Transportation (Secretary)—as delegated to PHMSA—and collects registration and processing fees from these registrants. The purpose of the registration program is to fund the Hazardous Materials Emergency Preparedness (HMEP) grants program and any additional related activities<sup>1</sup> and to gather information regarding the transportation of hazardous materials. The HMEP grants program supports hazardous materials emergency response planning and training activities by states, local governments, and Native American Tribes—ensuring first responders are well trained and prepared to respond to hazardous materials related incidents. HMEP grants also fund non-profit organizations to provide “train-the-trainer” and direct training programs for hazardous materials emergency response training and hazardous materials employee training. Additionally, HMEP grants support the development of the Emergency Response Guidebook (ERG)—provided to and used by nearly every fire

department in the U.S.—and provides funds for grantee monitoring and technical assistance.

PHMSA has discretion to require additional persons to register—beyond those who offer, and transport certain categories and quantities of hazardous materials listed in 49 U.S.C. 5108(a)(1)—and to set the annual registration fee between the statutorily mandated minimum and maximum amounts.<sup>2</sup> PHMSA must currently set an annual registration fee between a statutory prescribed minimum of \$250 and maximum of \$3,000. The annual registration fee is currently set at \$250 (plus a \$25 processing fee) for registrants qualifying as small businesses or not-for-profit organizations (hereafter referred to as “small businesses”) and \$2,575 (plus a \$25 processing fee) for registrants not qualifying as a small businesses or not-for-profit organizations (hereafter referred to as “large businesses”) in accordance with 49 CFR 107.612(b).

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act<sup>3</sup> into law—commonly known as the “Bipartisan Infrastructure Law” (BIL)—and authorized the Secretary to expend \$46,825,000 from emergency preparedness funds to carry out the grants program, for fiscal years 2022 through 2026. As such, the BIL increased the authorized funding level by \$18,507,000. Also, on March 9, 2024, the President signed the Consolidated Appropriations Act of 2024<sup>4</sup> which raised the obligation limitation from a previous level of \$28,318,000 to \$46,825,000. This increase gives PHMSA the ability to make legal commitments—in the form of grants—at the new authorized level. To achieve full funding of the grants program at the increased amount, PHMSA will need to adjust the fees for the national hazardous materials transportation registration and fee program. While the grant size and ability to commit funds has increased, PHMSA remains constrained by the \$3,000 statutory maximum registration fee and thus is proposing to set fees within that limitation.

#### **II. ANPRM and Comments**

PHMSA published an advance notice of proposed rulemaking (ANPRM), HM–208J,<sup>5</sup> titled “Hazardous Materials: Adjusting Registration and Fee Assessment Program” to solicit feedback

<sup>2</sup> 49 U.S.C. 5108(a)(2) and (g)(2)(A).

<sup>3</sup> Public Law 117–58.

<sup>4</sup> Public Law 118–42.

<sup>5</sup> 87 FR 57860 (Sept. 22, 2022).

<sup>1</sup> See 49 U.S.C. 5116(a), (e), (h)(3), (i), (j), and 5107(e).

on potential adjustments to the applicability and fees under the hazardous materials registration and fee assessment program. PHMSA received a total of seven sets of comments from persons that represent various industry companies and associations. Based on comments received by PHMSA, commenters generally opposed raising fees on small businesses, but were supportive of maintaining the two-tiered system currently in place. Commenters also expressed support for Congress to raise the statutory fee limit for both small and large businesses. An alphabetical listing of commenters to the HM–208J ANPRM can be found in the following table:

Commenter name	Docket No.
American Chemistry Council (ACC)	PHMSA–2022–0033–0006.
Council on the Safe Transportation of Hazardous Articles (COSTHA)	PHMSA–2022–0033–0004.
Dangerous Goods Advisory Council (DGAC)	PHMSA–2022–0033–0002.
Energy Marketers of America (EMA)	PHMSA–2022–0033–0008.
Interested Parties for Hazardous Materials Transportation	PHMSA–2022–0033–0003.
International Vessel Operators Dangerous Goods Association (IVODGA)	PHMSA–2022–0033–0005.
Owner-Operator Independent Drivers Association (OOIDA)	PHMSA–2022–0033–0007.

The comments submitted to the docket for this rulemaking may be accessed for review via the docket file numbers listed in the above table at <https://www.regulations.gov>.

III. Public Meeting

PHMSA published a notice of public meeting in the **Federal Register**<sup>6</sup> titled “Hazardous Materials: Adjusting Registration and Fee Assessment Program; Notice of Public Meeting” notifying the public that a meeting would be held on June 28, 2023, to solicit additional feedback and input on potential adjustments to the hazardous materials registration and fee assessment program. Prior to the public meeting, PHMSA received three sets of comments from persons that represent various industry companies and associations. Based on comments received by PHMSA, commenters were supportive of maintaining the two-tiered system, raising fees on large businesses, and raising the fees on small businesses with a proportional increase. Commenters also expressed support for Congress to raise the statutory fee limit for both small and large businesses. An alphabetical listing of commenters to the public meeting can be found in the following table:

Commenter name	Docket No.
American Chemistry Council (ACC)	PHMSA–2022–0033–0012.
Corteva Agriscience	PHMSA–2022–0033–0011.
Interested Parties for Hazardous Materials Transportation	PHMSA–2022–0033–0010.

The comments submitted to the docket and the audio transcripts for the public meeting may be accessed for review via the docket file numbers listed in the above table at <https://www.regulations.gov>.

IV. Summary of the Proposal To Fund the HMEP Grants Program

A registration fee system should be straightforward: employ an equity factor while reflecting the differences in the level of risk to the public and the financial impact associated with the activities of large and small businesses and ensure adequate funding for the HMEP grants program. When the ANPRM was published, PHMSA considered the following alternatives for achieving the newly authorized funding level available for the HMEP grants program:

1. Keeping the existing registration applicability and raising the registration fee for large businesses from \$2,575 to \$3,000.

2. Keeping the existing registration requirements and applying a nominal fee (*i.e.*, \$25) for each facility or geographic location from which a registered person (*i.e.*, a company) offers for transportation, or transports, certain hazardous materials.

3. Expanding the registration applicability—for example, certain Class 9 materials such as lithium batteries or environmentally hazardous materials are not subject to placarding when shipped domestically, and therefore a person who offers for transportation, or transports, these materials are generally currently excepted from registration.

4. Expanding the registration applicability to include persons who acquire approvals or special permits from PHMSA that otherwise are not subject to registration.

5. Changing the registration applicability to reduce the overall number of registrants.

6. Raising fees for specific business types, classes of hazardous material, or specific commodities (*e.g.*, a poison by inhalation material) of extremely high risk.

PHMSA did not receive substantive input from commenters that would aid PHMSA in determining which direction should be taken to raise the funds necessary to fully fund the newly authorized limits in support of the HMEP grants program. Further, Congress encouraged PHMSA to ensure small businesses are not disproportionately affected by “reasonable, limited fee changes.” PHMSA has concluded that the most equitable approach to raising additional funds at this time is to adjust for inflation the fee for both small and large businesses. Although small businesses generally offer for transportation or transport fewer and smaller amounts of hazardous materials shipments as compared to larger businesses, PHMSA notes that the small business fee has not been raised since it was adjusted to \$250 in 2006.<sup>7</sup> However, the fee for large businesses was last adjusted from \$975 to \$2,575 in 2010.<sup>8</sup> Although the fee adjustment percentage increase for small businesses is larger than the percentage increase for large businesses, PHMSA is limited by the statutory cap of \$3,000 for an annual registration fee. Therefore, PHMSA cannot charge a fee greater than \$3,000 even though an equivalent proportional adjustment for inflation for large businesses would be greater than that value.

<sup>6</sup> 88 FR 34227 (May 26, 2023).

<sup>7</sup> 68 FR 1342 (Jan. 9, 2003).

<sup>8</sup> 75 FR 15613 (Mar. 30, 2010).

For registration year 2022–2023, there were 27,723 small business registrants that paid \$6,930,750 in registration fees and \$693,075 in processing fees. There were 6,886 large business registrants that paid \$17,731,450 in registration fees and \$172,150 in processing fees. The total funds from registrants—not including processing fees—were approximately \$24,662,200, which was less than the \$28,318,000 obligated limitation Congress has included in PHMSA’s annual appropriation for many years. Currently under the BIL, the authorized funding level has increased to \$46,825,000 and if the current fee structure remains in place, PHMSA will be unable to collect the necessary funds. Therefore, PHMSA is proposing inflationary increases to the registration fees for small businesses from \$250 to \$375 (plus a \$25 processing fee) and for large businesses from \$2,575 to \$3,000 (plus a \$25 processing fee) for registration year 2024–2025 and following years to make progress toward the statutorily mandated goal of funding the HMEP grants program at the current authorized level of \$46,825,000. While the 50 percent increase for small businesses is larger than the 16 percent increase for large businesses, the actual dollar amount increase for large businesses is about three and half times larger than small businesses (\$425 vs. \$125). This is also in the context that the last upward adjustment for small businesses was in 2006 compared to 2010 for large businesses, which was a substantial upward adjustment from \$975 to \$2,575. Furthermore, if PHMSA were to limit the percentage increase for small businesses to 16 percent consistent with the percentage increase for large businesses, we would only generate an additional \$1.1 million, which would not make a significant contribution to achieving the funding levels specified in both the BIL and the FY24 appropriations. Thus, PHMSA has decided to apply the full inflationary increase to small businesses, even though it is a larger percentage increase than what is being applied to large businesses. PHMSA believes the proposed fee increases are equitable given the constraints of the statutorily maximum fee allowed of \$3,000. PHMSA remains hopeful that Congress will raise the \$3,000 statutory cap, allowing for future adjustments to large businesses to make the fee distribution even more equitable and allowing PHMSA to collect and expend the authorized funding level of \$46 million.

## V. Multi-Year Registrations

PHMSA allows a person to register up to three years in advance per registration statement.<sup>9</sup> PHMSA applies fees according to the fee structure ultimately established by regulation for the registration year rather than according to the fee set at the time of payment. Therefore, if PHMSA were to adopt an increase in registration fees proposed in this NPRM, additional fees may be required for registration years paid in advance at the lower levels in effect at the time of payment.

## VI. Section-by-Section Review of Changes

### A. Section 107.612

This section provides the requirements for determining the applicable annual registration fee and presents the fee table in paragraph (b). In support of the increase of the authorized funding level in the BIL, PHMSA is proposing to amend the table in paragraph (b) to reflect the proposed fee increases for small businesses at \$375 and large businesses at \$3,000 starting in registration year 2024–2025.

### B. Section 107.616

This section provides the requirements for payment procedures. In accordance with paragraph (a) of § 107.616, each person subject to the requirements for registration must mail their registration statement and payment in full to the U.S. Department of Transportation or submit the statement and payment electronically through the Department’s e-Commerce internet site. Additionally, in paragraph (b) of § 107.616, a person must make a payment by certified check, cashier’s check, personal check, or money order in U.S. funds and drawn on a U.S. bank that is payable to the U.S. Department of Transportation and the transaction must be identified as payment for the “Hazmat Registration Fee” or by completing an authorization for payment by credit card or other electronic means of payment acceptable to the Department on the registration statement or as part of an internet registration as provided in paragraph (a) of this section. However, the U.S. Department of the Treasury (“Treasury”) plans to phase out paper checks in favor of electronic payment due to the continued rising cost of maintaining a paper system.<sup>10</sup> To increase efficiency of the collection of payments made to the federal

government, the Treasury’s goal is to reduce the Treasury Lockbox<sup>11</sup> network volume by 25 percent by the end of 2024 for all paper checks.

PHMSA has historically used the Lockbox system for collecting checks for registration fee payments. Treasury has indicated it will no longer be servicing the PHMSA lockbox because of the small number of check payments using the system. For example, payments by paper checks to PHMSA have diminished over the past eight years and can be found in the following table:

Fiscal year (FY)	Reported total transaction count (paper checks received by PHMSA)
FY 2015 .....	2,930
FY 2016 .....	2,336
FY 2017 .....	1,884
FY 2018 .....	2,186
FY 2019 .....	1,653
FY 2020 .....	949
FY 2021 .....	859
FY 2022 .....	693

The increased use of electronic payments made online versus mailed paper checks greatly minimizes the need to maintain a lockbox. To meet the lockbox closure initiative by Treasury, payments for hazardous materials registration will only be accepted electronically. Therefore, PHMSA proposes to amend paragraph (a) by removing the reference to mailing in the registration statement and payment (which implies paper checks)—and amend paragraph (b) to remove all references to payments made by certified check, cashier’s check, personal check, or money order.

### C. Section 107.620

This section provides the requirements for recordkeeping of the Certificate of Registration. In paragraph (b) of § 107.620, each motor carrier subject to the requirements of Subpart G of part 107 must carry a copy of its current Certificate of Registration issued by PHMSA or another document bearing the registration number identified as the “U.S. DOT Hazmat Reg. No.” onboard

<sup>11</sup> Treasury Lockbox processing is accomplished by Treasury-designated financial agents that provide lockbox and remittance services to the Treasury on behalf of federal entities. The financial agents are strategically located to minimize mail, processing, and collection. Remittances are mailed directly to a P.O. Box (*i.e.*, lockbox) established by the financial agent to collect federal entity mail for processing. The lockbox accelerates the deposit of funds into the Treasury’s account and provides secure, accurate, and efficient data capture of financial and remittance data.

<sup>9</sup> 49 CFR 107.612(c).

<sup>10</sup> <https://fmvision.fiscal.treasury.gov/files/Future-of-Financial-Management.pdf>.

each truck and truck tractor used to transport hazardous materials. These requirements are in addition to the paragraph (a) which each person subject to the requirements of this subpart, or its agent designated under § 107.608(e), must maintain at its principal place of business for a period of three years from the date of issuance of each Certificate of Registration a copy of the registration statement filed with PHMSA, and the Certificate of Registration issued to the registrant by PHMSA. These requirements are applicable to each person subject to registration and can include carriers and offerors of any mode of transportation.

On January 17, 2023, PHMSA issued a letter of interpretation<sup>12</sup> clarifying that the requirements in Part 107, Subpart G do not stipulate that a paper copy of the Certificate of Registration must be carried onboard a motor vehicle when that vehicle transports hazardous materials. Rather, the requirements specify that a motor carrier must carry a copy of the current Certificate of Registration or another document bearing the registration number onboard each truck and truck tractor thus allowing for carriage in electronic form. Therefore, PHMSA proposes to amend paragraph (b) to clarify that both an electronic and paper form for the Certificate of Registration is acceptable provided the Certificate of Registration can be made available upon request to authorized personnel or DOT enforcement personnel. In conformance with this proposed change, PHMSA is also proposing similar clarifying amendments to paragraphs (c) and (d) regarding vessel transportation and furnishing information to authorized personnel (e.g., state highway patrol) or DOT enforcement personnel, respectively. Finally, PHMSA is removing sunrise dates from paragraphs (b) and (c) since they have passed and are no longer relevant to the respective provisions.

## VII. Regulatory Analyses and Notices

### A. Statutory/Legal Authority for This Rulemaking

This NPRM is published under the authority of the Federal Hazardous Materials Transportation Act (HMTA; 49 U.S.C. 5101–5127). Section 5103(b) of the HMTA authorizes the Secretary of Transportation to “prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.” The Secretary has delegated the authority granted in the HMTA to

the PHMSA Administrator at 49 CFR 1.97(b).

### B. Executive Order 12866, 14094, and DOT Regulatory Policies and Procedures

Executive Order 12866 (“Regulatory Planning and Review”)<sup>13</sup> as amended by Executive Order 14094 (“Modernizing Regulatory Review”),<sup>14</sup> requires that agencies “should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.” Agencies should consider quantifiable measures and qualitative measures of costs and benefits that are difficult to quantify. Further, Executive Order 12866 requires that “agencies should select those [regulatory] approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.” Similarly, DOT Order 2100.6A (“Rulemaking and Guidance Procedures”) requires that regulations issued by PHMSA, and other DOT Operating Administrations should consider an assessment of the potential benefits, costs, and other important impacts of the proposed action and should quantify (to the extent practicable) the benefits, costs, and any significant distributional impacts, including any environmental impacts.

Executive Order 12866 and DOT Order 2100.6A require that PHMSA submit “significant regulatory actions” to the Office of Management and Budget (OMB) for review. This rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 (as amended) and, therefore, was not formally reviewed by OMB. This rulemaking is also not considered a significant rule under DOT Order 2100.6A. A preliminary regulatory impact analysis (PRIA) with estimates of costs and benefits of the rulemaking is available in the docket. To summarize the findings in the PRIA, PHMSA anticipates that the increase in fees on existing registrants will generate roughly \$6.4 million in additional revenue for the HMEP program. However, because these fees are simply financial transfers, the proposal to raise fees will not generate any additional regulatory economic burdens. The same entities currently registered will be expected to continue to do so, and the additional fees paid represent their marginal financial burden. The other two proposed provisions in this rulemaking, the shift to electronic-only

payments, and the option for shippers to carry electronic registration documentation, are not expected to produce significant economic costs but may marginally improve efficiency. Therefore, PHMSA solicits comments on this analysis.

PHMSA does anticipate a small, but insignificant cost savings to government due to the proposed changed to electronic-only payment in the amended 49 CFR 107.616. For those that do currently choose to pay by mailing in a registration statement and check, PHMSA estimates that the cost of adjusting to the electronic system to be negligible. In terms of cost savings, PHMSA estimates that converting to an all-electronic system will save government employees a small amount of labor because they will no longer have to process paper forms and checks. Yet, PHMSA estimates this cost savings to be negligible due to the low volume of payments by check.

### C. Executive Order 13132

PHMSA has analyzed this rulemaking in accordance with the principles and criteria in Executive Order 13132 (“Federalism”)<sup>15</sup> and its implementing Presidential Memorandum (“Preemption”).<sup>16</sup> Executive Order 13132 requires agencies to assure meaningful and timely input by state and local officials in the development of regulatory policies that may have “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.”

This rulemaking may preempt state, local, and Native American Tribe requirements, but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government.

The Federal Hazardous Materials Law contains an express preemptive provision<sup>17</sup> that preempts state, local, and Native American Tribal requirements on certain subjects, unless the non-federal requirements are “substantively the same” as the federal requirements, including:

1. Designation, description, and classification of hazardous materials;
2. Packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

<sup>15</sup> 64 FR 43255 (Aug. 10, 1999).

<sup>16</sup> 74 FR 24693 (May 22, 2009).

<sup>17</sup> 49 U.S.C. 5125(b).

<sup>12</sup> Letter of Interpretation (Ref. No. 22–0133).

<sup>13</sup> 58 FR 51735 (Oct. 4, 1993).

<sup>14</sup> 88 FR 21879 (Apr. 11, 2023).

3. Preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

4. Written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

5. Design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This rulemaking does not address any subject items such as the abovementioned list. Therefore, the proposed amendments in this rulemaking will not have substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Moreover, the proposed amendments in this rulemaking do not impose direct compliance costs on state and local governments.

#### D. Executive Order 13175

PHMSA analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13175 (“Consultation and Coordination with Native American Tribal Governments”) <sup>18</sup> and DOT Order 5301.1A, “Department of Transportation Tribal Consultation Policy and Procedures.”

Executive Order 13175 and DOT Order 5301.1A require DOT Operating Administrations to assure meaningful and timely input from Native American Tribal government representatives in the development of rules that significantly or uniquely affect tribal communities by imposing “substantial direct compliance costs” or “substantial direct effects” on such communities or the relationship and distribution of power between the Federal Government and Native American Tribes.

PHMSA assessed the impact of this rulemaking and has preliminarily determined that it does not significantly or uniquely affect tribal communities or Native American Tribal governments as Native American tribes are excepted from registration requirements as prescribed in § 107.606 of the HMR. The proposed changes to the HMR as written in this rulemaking are facially neutral and have broad, national scope; PHMSA therefore expects this rulemaking not to affect tribal communities significantly

or uniquely, much less impose substantial compliance costs on Native American Tribal governments or mandate tribal action. Because PHMSA expects this rulemaking will not adversely affect the safe transportation of hazardous materials generally, PHMSA does not expect it will entail disproportionately high adverse risks for tribal communities. For these reasons, PHMSA preliminarily finds the funding and consultation requirements of Executive Order 13175 and DOT Order 5301.1A do not apply.

#### E. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires agencies to review regulations to assess their impact on small entities unless the agency head certifies that a rulemaking will not have a significant economic impact on a substantial number of small entities, including small businesses, 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. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where possible to do so and still meet the objectives of applicable regulatory statutes. Executive Order 13272 (“Proper Consideration of Small Entities in Agency Rulemaking”) <sup>19</sup> requires agencies to establish procedures and policies to promote compliance with the Regulatory Flexibility Act and to “thoroughly review draft rules to assess and take appropriate account of the potential impact” of the rules on small businesses, governmental jurisdictions, and small organizations. The DOT posts its implementing guidance on a dedicated web page.<sup>20</sup>

This rulemaking has been developed in accordance with Executive Order 13272 and with DOT’s procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered. PHMSA has developed an initial regulatory flexibility analysis (IRFA), which is included as part of the PRIA in the docket for this rulemaking. As detailed in the IRFA, the rulemaking could be said to have a somewhat disproportionate economic impact on small businesses because the percentage

increase of the registration fee will be larger than for large businesses. The increase in fee for small businesses is minor with a \$125 increase from \$250 to \$375, but not insignificant whereas the fee increase for large businesses will be a \$425 increase from \$2,575 to \$3,000. However, PHMSA is bound by statute to limit the maximum fee charged to any entity up to \$3,000. PHMSA solicits comment on the anticipated economic impacts to small businesses and the IRFA.

#### F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of federal regulatory actions on state, local, and Tribal governments, and the private sector. For any NPRM or final rule that includes a federal mandate that may result in the expenditure by state, local, and Tribal governments, or by the private sector of \$100 million or more in 1996 dollars in any given year, the agency must prepare, amongst other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the federal mandate.

As explained in the PRIA, this rulemaking is neither expected to impose unfunded mandates under the UMRA nor expected to result in costs of \$100 million or more in 1996 dollars to either state, local, or Tribal governments, or to the private sector, in any one year. A copy of the PRIA is available for review in the rulemaking docket.

#### G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) no person is required to respond to any information collection unless it has been approved by OMB and displays a valid OMB control number. Pursuant to 44 U.S.C. 3506(c)(2)(B) and Section 1320.8(d) of 5 CFR requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests. PHMSA has analyzed this NPRM in accordance with the PRA which requires federal agencies to minimize paperwork burden imposed on the American public by ensuring maximum utility and quality of Federal information, ensuring the use of information technology to improve government performance, and improving the Federal Government’s accountability for managing information collection activities. PHMSA has analyzed this NPRM in accordance with the PRA and there are no new or

<sup>19</sup> 68 FR 7990 (Feb. 19, 2003).

<sup>20</sup> DOT, “Rulemaking Requirements Related to Small Entities.” <https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities> (last accessed June 17, 2021).

<sup>18</sup> 65 FR 67249 (Nov. 9, 2000).

modified information collection requirements in this rulemaking.

#### H. Draft Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4335),<sup>21</sup> requires Federal agencies to consider the environmental impacts of their actions in the decision-making process. The purpose and function of NEPA is satisfied if federal agencies have considered relevant environmental information, and the public has been informed regarding the decision-making process. Agencies must prepare an environmental assessment (EA) for a proposed action that is not likely to have significant effects or when significance is unknown and prepare a Finding of No Significant Impact (FONSI), if based on the EA, the agency determines not to prepare an Environmental Impact Study (EIS) because the proposed action will not have significant effects. In accordance with these requirements, an agency's EA must discuss: (1) the need for the action; (2) the alternatives considered; (3) the environmental impacts of the proposed action and alternatives; and (4) a listing of the agencies and persons consulted before providing evidence for determining a FONSI. The draft EA and FONSI for the proposed action in this rulemaking are as follows:

##### 1. Need for the Action

The Bipartisan Infrastructure Law (BIL) authorized the Secretary to expend \$46,825,000 from emergency preparedness funds to carry out the grants program for fiscal years 2022 through 2026. As such, the BIL increased the authorized funding level by \$18,507,000. To achieve full funding of the grants program at the increased authorization amounts, PHMSA will need to adjust the registration fees for the national hazardous materials transportation registration and fee program.

##### 2. Alternatives Considered

###### No Action Alternative

Under the no action alternative, PHMSA would maintain the current registration and fee requirements.

###### Proposed Action Alternative—Increase Registration Fees

Under this alternative, PHMSA would increase the registration fee applied to small and large businesses based on inflation. A concise summary of the proposed changes is as follows:

- Increase fees for small businesses and not-for-profit organizations by

\$125—which will increase from \$250 to \$375; and

- Increase fees for large businesses by \$425—which will increase from \$2,575 to \$3,000.

##### 3. Environmental Impacts of Proposed Action and Alternatives

###### No Action Alternative

PHMSA expects the no action alternative to have no new impact on the environment as the proposed adjustment of registration fees would provide more funding to respond to and mitigate emergency responses.

###### Proposed Action Alternative—Increase Registration Fees

PHMSA expects the proposed action alternative to have no impact on the environment. Additionally, PHMSA notes that increasing registration fees will provide additional off-site or the increase of outreach training. However, PHMSA does note the difficulty in quantifying any environmental impact of increasing the registration fees.

##### 4. Agencies and Persons Consulted

PHMSA coordinated internally with other divisions within PHMSA, modal partners (e.g., the Federal Motor Carrier Safety Administration, the Federal Railroad Association, and the United States Coast Guard), and stakeholders to develop this proposed rulemaking.

##### 5. Environmental Justice

Executive Orders 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”),<sup>22</sup> 13985 (“Advancing Racial Equity and Support for Underserved Communities Through the Federal Government”),<sup>23</sup> 13990 (“Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis”),<sup>24</sup> 14008 (“Tackling the Climate Crisis at Home and Abroad”),<sup>25</sup> and DOT Order 5610.2C (“Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”) require DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects of their programs, policies, and activities on minority populations, low-income populations, and other

underserved and disadvantaged communities.

PHMSA has evaluated this proposed rule under the above Executive Orders and DOT Order 5610.2C and determined that it would not cause disproportionately high and adverse human health and environmental effects on minority, low-income, underserved, and other disadvantaged populations, and communities. The rulemaking is neither directed toward a particular population, region, or community, nor is it expected to adversely impact any population, region, or community. Insofar as the rulemaking would not adversely affect the safe transportation of hazardous materials generally, the proposed revisions would not entail disproportionately high adverse risks for minority populations, low-income populations, or other underserved and other disadvantaged communities.

##### 6. Proposed FONSI

As discussed in the draft EA above, the purpose of the rule is to adjust fees upward to provide additional funds for the statutorily authorized limits from emergency planning funds that support PHMSA's grants program. PHMSA proposes to find that this proposed action will have no significant impact on the environment. Although the fees collected provide funding for grants that are issued to states, territories, and Native American Tribes to assist in development, improvement, and carrying out emergency plans within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986, PHMSA preliminarily concludes that this action will not have a direct significant impact on the environment. The grant program is designed to allow grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis. PHMSA welcomes public comments about the safety and environmental risks or benefits that could result from this proposed rule as well as possible alternatives and their environmental impacts.

##### I. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform any amendments to the hazardous materials program procedures and the HMR considered in this rulemaking. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in

<sup>21</sup> Also, at 40 CFR parts 1501 to 1508.

<sup>22</sup> 59 FR 7629 (Feb. 11, 1994).

<sup>23</sup> 86 FR 7009 (Jan. 20, 2021).

<sup>24</sup> 86 FR 7037 (Jan. 20, 2021).

<sup>25</sup> 86 FR 7619 (Feb. 1, 2021).



the system of records notice (DOT/ALL-14 FDMS). DOT's complete Privacy Act Statement is in the **Federal Register**,<sup>26</sup> or on DOT's website at <https://www.dot.gov/privacy>.

#### List of Subjects in 49 CFR Part 107

Hazardous Materials Program Procedures.

In consideration of the forgoing, PHMSA proposes to amend 49 CFR chapter I as follows:

### PART 107—HAZARDOUS MATERIALS PROGRAM AND PROCEDURES

■ 1. The authority citation for part 107 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 Section 4; Pub. L. 104–121 Sections 212–213; Pub. L. 104–134 Section 31001; Pub. L. 114–74 Section 701 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97; 33 U.S.C. 1321.

■ 2. In § 107.612, revise paragraph (b) to read as follows:

#### § 107.612 Amount of fee.

\* \* \* \* \*

(b) Each person subject to the requirements of this subpart must pay the processing fee specified in paragraph (c) of this section and the annual registration fee set forth in the following table:

TABLE 1 TO PARAGRAPH (b)

Registration year	Small business	Not-for-profit organization	Other than small business or not-for-profit organization
2024–2025 and later .....	\$375	\$375	\$3,000
2014–2015, 2015–2016, 2016–2017, 2017–2018, 2018–2019, 2019–2020, 2020–2021, 2021–2022, 2022–2023, 2023–2024 .....	250	250	2,575
2013–2014 .....	125	125	1,300
2012–2013, 2011–2012, 2010–2011 .....	250	250	2,575
2009–2010, 2008–2009, 2007–2008, 2006–2007 .....	250	250	975
2005–2006, 2004–2005, 2003–2004 .....	125	125	275
2002–2003, 2001–2002, 2000–2001 .....	275	( <sup>1</sup> )	1975
1999–2000 and earlier .....	250	250	250

<sup>1</sup> Fee appropriate for small or other than small business.

\* \* \* \* \*

■ 3. In § 107.616, revise paragraphs (a) and (b) to read as follows:

#### § 107.616 Payment procedures.

(a) Each person subject to the requirements of this subpart must submit the registration statement and payment electronically in full through the Department's e-Commerce internet site. Access to this service is provided at <https://www.phmsa.dot.gov/hazmat/registration>. A registrant required to file an amended registration statement under § 107.608(c) of this subpart must submit it through the same internet site.

(b) Payment must be made by completing an authorization for payment by credit card or other electronic means of payment acceptable to the U.S. Department of Transportation as part of an internet registration as provided in paragraph (a) of this section.

\* \* \* \* \*

■ 4. In § 107.620, revise paragraphs (b), (c), and (d) to read as follows:

#### § 107.620 Recordkeeping requirements.

\* \* \* \* \*

(b) Each motor carrier subject to the requirements of this subpart must carry a copy of its current Certificate of Registration issued by PHMSA or another document bearing the registration number identified as the "U.S. DOT Hazmat Reg. No." onboard

each truck and truck tractor (not including trailers and semi-trailers) used to transport hazardous materials subject to the requirements of this subpart. The Certificate of Registration or document bearing the registration number may be carried in electronic or paper form and must be made available, upon request, to authorized personnel or DOT enforcement personnel.

(c) In addition to the requirements of paragraph (a) of this section, each person who transports by vessel a hazardous material subject to the requirements of this subpart must carry onboard the vessel a copy of its current Certificate of Registration or another document bearing the current registration number identified as the "U.S. DOT Hazmat Reg. No." The Certificate of Registration or document bearing the registration number may be carried in electronic or paper form and must be made available, upon request, to authorized personnel or DOT enforcement personnel.

(d) Each person subject to this subpart must furnish its Certificate of Registration (or a copy thereof) and all other records and information pertaining to the information contained in the registration statement to authorized personnel or DOT enforcement personnel upon request. The Certificate of Registration and all

other records and information may be furnished in electronic or paper form.

\* \* \* \* \*

Issued in Washington, DC, on May 20, 2024, under the authority delegated in 49 CFR 1.97.

**William S. Schoonover,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

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### DEPARTMENT OF TRANSPORTATION

#### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA–2024–0012]

**RIN 2127–AM43**

#### Federal Motor Vehicle Safety Standards; FMVSS No. 305a Electric-Powered Vehicles: Electric Powertrain Integrity Global Technical Regulation No. 20, Incorporation by Reference

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM); Correction.

<sup>26</sup> 65 FR 19477 (Apr. 11, 2000).