

(e) *Applicability date.* This section applies for plan years beginning on or after January 1, 2008.

Par. 4. Section 1.431(c)(6)–1 is added to read as follows:

§ 1.431(c)(6)–1 Mortality tables used to determine current liability.

The mortality assumptions that apply to a defined benefit plan for the plan year pursuant to section 430(h)(3)(A) and § 1.430(h)(3)–1(a)(2) are used to determine a multiemployer plan's current liability for purposes of applying the rules of section 431(c)(6). A multiemployer plan is permitted to apply either the static mortality tables used pursuant to § 1.430(h)(3)–1(a)(3) or generational mortality tables used pursuant to § 1.430(h)(3)–1(a)(4) for this purpose. However, for this purpose, a multiemployer plan is not permitted to use substitute mortality tables under § 1.430(h)(3)–2.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 07–2631 Filed 5–23–07; 9:35 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 367

[Docket No. FMCSA–2007–27871]

RIN 2126–AB09

Fees for Unified Carrier Registration Plan and Agreement

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish annual fees and a fee bracket structure for the Unified Carrier Registration Agreement as required under the Unified Carrier Registration Act of 2005, enacted as Subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

DATES: You must submit comments on or before June 13, 2007.

ADDRESSES: You may submit comments, identified by DOT DMS Docket Number FMCSA–2007–27871, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Agency Web Site:* <http://dms.dot.gov>. Follow the instructions for

submitting comments on the DOT electronic docket site.

- *Fax:* 1–202–493–2251.
- *Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.*

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, 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 (FMCSA–2004–27871) or Regulatory Identification Number (RIN) for this rulemaking (RIN 2126–AB09). Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Privacy Act: Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>. Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Parks, Regulatory Development Division, (202) 366–5370, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 or by e-mail at: FMCSAregs@DOT.gov.

SUPPLEMENTARY INFORMATION

I. Legal Basis for the Rulemaking

This proposed rule involves the fees to be set for the Unified Carrier Registration Agreement established by 49 U.S.C. 14504a, enacted by section 4305(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity

Act: A Legacy for Users (SAFETEA–LU) (119 Stat. 1144, 1764 (2005)). New section 14504a establishes the Unified Carrier Registration Plan, “an organization * * * responsible for developing, implementing, and administering the unified carrier registration agreement” (49 U.S.C. 14504a(a)(9)). The Unified Carrier Registration Agreement is “an interstate agreement governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies * * *” (49 U.S.C. 14504a(a)(8)).

Congress also repealed the statutory provisions of 49 U.S.C. 14504 governing the Single State Registration System (SSRS) (SAFETEA–LU section 4305(a)).¹ The legislative history indicates that the purpose of the UCR Plan and Agreement is both to “replace the existing outdated system [SSRS]” for registration of interstate motor carrier entities with the States and to “ensure that States don't lose current revenues derived from SSRS” (S. Rep. 109–120, at 2 (2005)).²

The statute provides for a 15–member Board of Directors for the UCR Plan and Agreement to be appointed by the Secretary of Transportation. The establishment of the UCR Board (“Board”) was announced in the **Federal Register** on May 12, 2006 (71 FR 27777). Among its responsibilities, the Board must submit to the Secretary of Transportation³ a recommendation for the initial annual fees to be assessed motor carriers, motor private carriers, freight forwarders, brokers and leasing companies under the UCR Agreement (49 U.S.C. 14504a(d)(7)(A)). FMCSA then is directed to set the fees within 90 days after receiving the Board's recommendation and after notice and opportunity for public comment (49 U.S.C. 14504a(d)(7)(B)).

II. Statutory Requirements for UCR Fees

The statute specifies several relevant factors that must be considered by the Board and FMCSA in setting the fees (see 49 U.S.C. 14504a(d)(7)(A), (f)(I) and (g)). It specifies that fees are to be determined by FMCSA based upon the recommendation of the Board. In

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

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

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

recommending the level of fees to be assessed in any agreement year, and in setting the fee level, both the Board and FMCSA shall consider the following factors:

1. Administrative costs associated with the Unified Carrier Registration Plan and Agreement.
2. Whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the Board.
3. Provisions governing fees in 49 U.S.C. 14504a(f)(1).

Subsection (f)(1) provides that the fees charged must satisfy the following criteria:

a. Fees charged to a motor carrier, motor private carrier, or freight forwarder in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder.⁴

b. Fees charged to a broker or leasing company in connection with the filing of proof of financial responsibility under the UCR Agreement shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder, or to the smallest fee charged under the UCR Agreement.

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

Overall, the fees assessed under the UCR Agreement must produce a level of revenues established by the statute. Section 14504a(g) establishes the revenue entitlements for States that choose to participate in the UCR Plan. That section provides that a participating State, which participated in the SSRS in the registration year prior to the enactment of the Unified Carrier Registration Act of 2005 (i.e., the 2004 registration year), is entitled to receive revenues under the UCR Agreement equivalent to the revenues it received in 2004. 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 equivalent to the amount received in the 2004 registration year. The section also requires that States which did not participate in SSRS in 2004, but which choose to participate in the UCR Plan, will receive revenues not to exceed \$500,000 per year.

III. UCR Board Fee Recommendation

As mentioned in I. above, the statute provides for a 15-member Board of Directors for the UCR Plan and Agreement to be appointed by the Secretary of Transportation. Section 14504a(d) specifies that the UCR Board of Directors must consist of representatives from the following groups:

U.S. Department of Transportation: One individual, either the FMCSA Deputy Administrator or another Presidential appointee from the Department as selected by the Secretary. The FMCSA Deputy Administrator was selected to represent the Department.

State Chief Administrative Officers: Four directors, one from each of the FMCSA service areas (as defined by FMCSA on January 1, 2005⁵) from among the chief administrative officers of the State agencies responsible for administering the UCR Agreement. Directors appointed in this category include: Mr. Charles "Buddy" Covert, Director, Transportation Administrative Division, West Virginia Public Service Commission for the FMCSA Eastern Service Center; Ms. Angel O. Oliver, Supervisor, Credentialing Unit, Motor Carrier Division, Texas Department of Transportation (TXDOT) for the FMCSA Southern Service Center; Ms. Ruth Sluzacek, Director of Motor Carrier Services, Iowa Motor Vehicle Division, Iowa Department of Transportation, for the FMCSA Midwestern Service Center; and Mr. Frank Laqua, Administrator of Motor Carrier Services, North Dakota Department of Transportation for the Western Service Center.

State Agencies: Five directors from among the professional staffs of State

⁵ FMCSA has designated four Service Center areas. The Eastern Service Center includes: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, New York, Maryland, Delaware, West Virginia, Virginia, Puerto Rico and the District of Columbia. The Southern Service Center includes: North Carolina, South Carolina, Tennessee, Arkansas, Oklahoma, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and Kentucky. The Midwestern Service Center includes: Iowa, Illinois, Indiana, Kansas, Michigan, Missouri, Minnesota, Nebraska, Ohio, and Wisconsin. The Western Service Center includes: American Samoa, Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, New Mexico, Nevada, North Dakota, Northern Mariana Islands, Oregon, South Dakota, Utah, Washington, and Wyoming.

agencies responsible for overseeing the administration of the UCR Agreement who must be nominated by the National Conference of State Transportation Specialists (NCSTS), a non-profit organization founded in 1959 and consisting of State agencies involved in transportation safety, insurance and consumer protection. Directors appointed in this category include: Mr. Avelino A. Gutierrez, Staff Counsel, New Mexico Public Regulation Commission (NMPRC); Ms. Barbara Hague, Special Projects Coordinator, Missouri Department of Transportation Motor Carrier Services (MODOT); Mr. Dave Lazarides, Director of Processing and Information, Illinois Commerce Commission, Transportation Bureau; Mr. William Leonard, Director of the Freight Compliance and Safety Bureau, New York Department of Transportation (NYDOT); and Mr. Terry Willert, Chief, Transportation Section, Colorado Public Utility Commission (COPUC).

Motor Carrier Industry: Five directors must represent the motor carrier industry. At least one of the five motor carrier industry representatives must be from "a national trade association representing the general motor carrier of property industry" and one of them must be from "a motor carrier that falls within the smallest fleet fee bracket." FMCSA recognizes the American Trucking Associations, Inc. (ATA) as the national trade association representing the general motor carrier of property industry. ATA is a national affiliation of State trucking organizations representing the national, State and local interests of the 50 affiliated State trucking associations; and the interests of specialized areas of the trucking industry through conferences and councils. The ATA representative is Mr. Robert Pitcher, Vice President, State Laws Division. The agency has selected the Owner-Operator Independent Drivers Association (OOIDA) as the organization from which to appoint an individual to represent motor carriers comprising the smallest fleet fee bracket. OOIDA is a national trade association representing the interests of small trucking companies and drivers. The OOIDA representative is Mr. Rick Craig, Treasurer and Director of Regulatory Affairs. The statute gives the Secretary discretion to appoint the remaining three industry representatives. In order to ensure participation on the Board by segments of the industry newly subject to the SSRS replacement system, the Secretary appointed three members as follows: (1) One director from the Transportation Intermediaries Association (TIA), Mr.

⁴ The statute generally defines "commercial motor vehicles" for this purpose as including both self-propelled and towed vehicles (49 U.S.C. 14504a(a)(1)(A) and 31101(1)).

Robert Voltmann, President and CEO, (2) one director from the National Private Truck Council (NPTC), Mr. Richard P. Schweitzer, General Counsel, and (3) one director from Wal-Mart Stores, Inc. (Wal-Mart), Mr. Craig Sharkey, Associate General Counsel, Logistics Division. TIA represents transportation intermediaries such as brokers, freight forwarders, and shippers doing business in domestic and international commerce. NPTC is a national trade association representing private motor carrier fleets. With nearly 7,000 tractors, over 40,000 trailers, and annual sales over \$285 billion, Wal-Mart is the nation's largest private motor carrier.

As required by section 14504a(d)(7), the UCR Board prepared and submitted to FMCSA a recommendation of initial fee brackets and annual fees for calendar year 2007. The Board assigned a Revenue and Fees Subcommittee to calculate the overall revenue requirement and to recommend fees and brackets. The Board then reviewed the analysis conducted by the Revenue and Fees Subcommittee and selected a bracket structure and fees that it recommended to FMCSA.⁶ The Board's fee recommendation is available in the Department's DMS.

A. Participating Jurisdictions

The Board first canvassed the States to determine how many States would participate in the UCR Agreement. The Board set a deadline of November 1, 2006, for the submission of plans by the States with their intent to participate in 2007. Although the State of Tennessee submitted its plan on November 6, 2006, the Board, on November 7, 2006, voted to allow Tennessee to participate for 2007.

Of the 38 States that participated in SSRS in 2006, all but two, California and North Carolina, agreed to participate in the UCR in registration year 2007.⁷ Of the thirteen States⁸ that did not participate in SSRS, only

⁶ The FMCSA Deputy Administrator recused himself from the Board's deliberations regarding the fee recommendation to prevent any real or potential conflict of interest due to his position within FMCSA in reviewing the Board's recommendation and setting the fees under the statute.

⁷ Participating SSRS States include: Alabama, Arkansas, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

⁸ The District of Columbia, which is not participating, is considered a State for this purpose. 49 U.S.C. 13102(21).

Oregon agreed to participate in the UCR for registration year 2007.

B. Certification of State Revenues

To develop a nationwide figure for the replacement revenues needed under the UCR Agreement, the Board next asked SSRS States to provide information on the revenues they received for the registration year 2004, the year specified in the statute as mentioned above. In their responses, the SSRS States that agreed to participate under the UCR Agreement for 2007 certified their revenue figures for 2004. The total certified SSRS State revenue figure was \$101,272,400, as shown in Appendix E to the Board's recommendation.

SAFETEA-LU caps the maximum revenue figure for UCR States that did not participate in SSRS at \$500,000 per year (49 U.S.C. 14504a(g)(3)). Because only one non-SSRS State agreed to participate in the UCR for registration year 2007 (Oregon), the Board added \$500,000 to the total entitlement figure, bringing the total State revenue requirement under the UCR to \$101,772,400.

C. Administrative Costs

Under section 14504a(d)(7) of the statute, the costs incurred by the Board to administer the UCR Agreement are eligible for inclusion in the total revenue to be collected. The Board considered that these administrative costs would include, but would not be limited to, meeting costs and start up costs of a web-based registration system that will allow the motor carrier industry to register and pay required fees on-line. In addition, the administrative costs would include costs of a repository for the administration of the Board and a depository for the revenues generated under the UCR Agreement to be distributed among the participating States. The Board estimated \$5,000,000 for administrative expenses for the first year of the UCR Plan and Agreement, as shown in Appendix F to the Board's recommendation.

D. Revenue Target

The Board's revenue target for 2007 is \$107,306,262, which is composed of \$101,772,400 for State revenue as discussed above in "III.B. Certification of State Revenues," plus the Board's estimate of \$5,000,000 for administrative expenses as discussed above in "III.C. Administrative Costs". The Board also included in its revenue target recommendation to FMCSA an additional amount of \$533,862, equal to one-half of one percent of the State revenue total and administrative

expenses. The Board stated that it added this additional amount as a reserve to offset the risk of faulty data.

E. Carrier Population

The Board's recommendation is based on the premise that revenues will be generated "from all motor carrier entities involved in interstate commerce." Each of the five categories of motor carrier entities is defined by statute (in some cases with modifications or additions found in section 14504a) as shown in Table 1 below.

TABLE 1.—CATEGORIES OF MOTOR CARRIER ENTITIES

Category	Definition in 49 U.S.C.
Motor Carrier	13102(14) and 14504a(a)(5).
Motor Private Carrier Freight Forwarder	13102(15). 13102(8) [Freight forwarders that operate motor vehicles are treated as motor carriers. 13903(b) and 14504a(b)].
Broker	13102(2).
Leasing Company ...	14504a(a)(4).

To estimate the number of carriers subject to the UCR Agreement, the Board sought an approach that would provide a number of carriers for which active status could be estimated to allow for a conservative universe of interstate carriers. FMCSA maintains the most comprehensive databases describing the entities that are subject to the UCR Agreement. The Motor Carrier Management Information System (MCMIS) and the License and Insurance System (L&I) maintained by FMCSA house information about the known universe of the motor carrier industry (in MCMIS) and brokers and freight forwarders (in L&I). Carriers that operate commercial motor vehicles in interstate commerce are required to register with FMCSA by providing carrier census data and acquiring a USDOT number. The carrier census data resides in MCMIS, and similar information on brokers and freight forwarders is in the L&I System. The States have access to data derived from MCMIS through the SafetyNet system. To determine an estimate of the active population of motor carriers, the Board used the SafetyNet system maintained by New York State to identify carriers. The Board filtered data from the SafetyNet data base to exclude carriers that neither had updated their MCS-150 census file nor had an inspection, crash, safety audit, or compliance review recorded within the past 12 months (March 1, 2006, through

February 26, 2007). Applying the filters to approximately 730,000 carriers listed in the data base, the Board filtered out almost 380,000 carriers, leaving an estimated total number of active interstate carriers of 350,698. The Board then considered freight forwarders and brokers. The total number of these entities listed in the Licensing and Insurance (L&I) System, as provided by FMCSA, was approximately 19,000. Freight forwarders that also operate commercial motor vehicles were excluded to avoid double counting, because they are already included in SafetyNet. After excluding the entities with a USDOT number in the L&I System, the Board estimated the total number of freight forwarders and brokers as 14,575. Summing the 350,698 active interstate carriers and 14,575 freight forwarders and brokers, the Board arrived at a total affected population of 365,273.

F. Number of Fee Brackets

In establishing the number and composition of the brackets, under the statute the Board had the option of choosing among four, five, or six brackets for the distribution of the 365,273 entities it determined would be expected to pay the fee as set forth above in "III.E. Estimate of Carrier Population." Given the huge range of fleet sizes (from none to over 100,000 commercial motor vehicles), the Board decided to use the maximum allowable number of brackets, thereby helping to reduce the range of sizes within individual brackets. The Board decided to make the first bracket include no more than two CMV s, recognizing the large fraction of very small carriers, as shown in Table 2 below in "III.G. Fee Levels for Each Bracket." The Board's analysis of the population showed that 182,782 of the total of 365,273 carriers, or more than half of the carriers, operated just one or two commercial

motor vehicles (e.g., one tractor and one trailer). The Board also decided that a "high-end" bracket with more than 1,000 commercial motor vehicles was necessary. The Board performed a special analysis of carriers with more than 1,000 commercial motor vehicles and calculated the high-end (sixth) bracket under the assumption that, due to errors in reporting and uncertainty in the data, only 75 percent of the carriers indicating more than 1,000 commercial motor vehicles actually operate that many. Based on a survey it undertook, the Board estimated that only 85 percent of the number of carriers listed in MCMIS as having more than 1,000 power units actually operated that many vehicles. Addition of trailers to the universe of power units adds an additional degree of uncertainty and inaccuracy. The Board, therefore, decided to further reduce the reliability rate for the top bracket to 75 percent, to account for the inclusion of trailers. This adjustment reduced the total number of motor carrier entities to 365,071.

The Board assigned the second bracket to contain carriers having no more than five motor vehicles because it found, based on its analysis of the distribution of motor vehicles across carriers as shown in Table 2, that just over 70 percent of all carriers (182,782 + 72,910/365,071) have fewer than six motor vehicles. The remaining three brackets were assigned in such a way that they built a reasonable bridge between 6 and 1,000 motor vehicles: One bracket covered carriers with 6 through 20 motor vehicles, the next covered carriers with 21 through 100 motor vehicles, and the next covered carriers with 101 through 1000 motor vehicles.

G. Fee Levels for Each Bracket

As discussed above under "III. D. Revenue Target," the Board's target

revenue figure with administrative costs and reserve is \$107,306,262. To determine how to allocate that sum among the six brackets, the Board relied upon an interactive model that calculated the number of entities in each bracket; the revenues generated by each bracket at different fee amounts; total revenues; and any surplus or deficit from the \$107,306,262 target figure. The Board also considered fairness in terms of fees per motor vehicle while assigning the fees for each bracket. The Board agreed to make sure that the maximum fee per commercial motor vehicle in a given bracket would be no higher than the maximum fee per commercial motor vehicle in the next smaller bracket, a criterion that was unanimously regarded as fair by the Board. In addition, the Board obtained data from a few States on the average fees currently paid under SSRS to provide the Board with a benchmark figure. Using these tools and after deliberations and debate, the Board agreed upon the proposed fee amounts.

The fees recommended by the Board range from a low of \$39 for carriers in the lowest bracket (0 to 2 CMVs) to a high of \$37,500 (the 1001-or-greater CMVs bracket). The Board estimated that this fee structure would generate \$107,352,364 in revenues, meeting the target figure with a projected reserve of \$579,964 for the UCR registration year 2007. Table 2 provides the bracket and fee structure recommended by the Board to FMCSA on April 2, 2007. The table is based on Page 10 of the report submitted by the Board to USDOT and FMCSA dated March 23,2007, entitled "Report of the Revenues and Fees Subcommittee Recommended Fee Structure Discussion Pursuant to the Unified Carrier Registration Agreement."

TABLE 2.—BRACKET AND FEE STRUCTURE RECOMMENDED BY THE BOARD

Bracket	Motor vehicles		Entities	Fee per entity	Revenue
	From	To			
B1	0	2	182,782	39	\$7,128,498
B2	3	5	72,910	116	8,457,560
B3	6	20	73,130	231	16,893,030
B4	21	100	27,946	806	22,524,476
B5	101	1,000	7,695	3,840	29,548,800
B6	1,001	200,000	608	37,500	22,800,000
Total	365,071	107,352,364
				UCR Board's Target Surplus	107,306,262 46,102

IV. FMCSA Fee Determination

Section 14504a requires FMCSA and the Board to consider the relevant factors laid out in detail above in "II. Statutory Requirements for UCR Fees." That statutory section also requires FMCSA to consider the recommendation of the UCR Board and the same statutory requirements in setting the UCR fees. FMCSA carefully examined the Board's entire fee recommendation including the methodology and specific findings of the Board. FMCSA also independently considered the factors specified in SAFETEA-LU, and verified and utilized the data and analysis provided by the Board in its fee recommendation. As discussed in detail below, FMCSA has concluded that the Board's recommendations are reasonable and that the Board considered all required factors specified by SAFETEA-LU. The Board satisfied the requirements for establishing the fees to be charged under the unified carrier registration agreement in the following areas:

A. Participating Jurisdictions

States may choose to participate in the UCR Plan and Agreement for 2007 by submitting the State plan that complies with section 14505a(e). The Board provided adequate opportunity for all States to participate in the UCR Plan and Agreement for registration year 2007, even going so far as to make an exception for the State of Tennessee when it filed its plan after the cutoff date set by the Board. The Board's allowance of participation by Tennessee is permitted by section 14504a(e)(1), which establishes a final deadline of August 10, 2008 for participation by the States.

B. Certification of State Revenues

The Board's calculation of the total revenue to be collected under the UCR was properly based upon the revenues collected by the participating States (both under SSRS and for intrastate registrations of interstate carriers) for the calendar year 2004. The Board provided FMCSA with the certifications from every participating State so FMCSA could independently verify the

amounts, as shown in Table 3. From Table 3, it can be seen that the Board included the revenue collected by the States that participated in the SSRS as well as the UCR Agreement while determining the revenue required from the UCR Agreement. The addition of \$500,000 for the inclusion of Oregon to the UCR Agreement is also in accordance with the revenue requirement. FMCSA has verified that the Board has accurately reflected in its recommendations the revenue entitlements certified by each participating State for 2007. In accordance with 49 U.S.C. 14504a(g)(4), FMCSA proposes to approve the amount of revenue under the UCR Agreement which each State participating in 2007 is entitled, as specified in Table 3. The Board's addition of a revenue reserve, equal to one half of one percent of the State revenue entitlement and administrative costs, offsets the risk of faulty data, especially on trailers. The intent of this addition is to offset the risk of undercollection, rather than to accumulate excess revenues.

BILLING CODE 4910-EX-M

Table 3: State Revenues Under SSRS

(CY 2004)

State	CY 2004 SSRS Revenue	Exempt Registrations	Renewable Interstate For-Hire Operating Intrastate	Renewable Interstate Private Operating Intrastate	Broker Registrations	Single Trip Interstate	Total Recorded Revenue
Alabama	2,933,718.00	6,246.00	0.00	0.00	0.00	0.00	\$2,939,964.00
Arkansas	1,817,360.00						\$1,817,360.00
California	NA	NA	NA	NA	NA	NA	NA
Colorado	1,783,985.00	17,630.00	15,600.00	0.00	0.00	0.00	\$1,817,215.00
Connecticut	3,129,840.00	0.00	0.00	0.00	0.00	0.00	\$3,129,840.00
Georgia	2,581,560.00	78,500.00					\$2,660,060.00
Idaho	547,696.68	0.00	0.00	0.00	0.00	0.00	\$547,696.68
Illinois	3,083,064.00	58,264.00	373,940.00		1,725.00		\$3,516,993.00
Indiana	2,264,863.00	0.00	100,016.00				\$2,364,879.00
Iowa	432,042.00	42,700.00	0.00				\$474,742.00
Kansas	3,948,680.00	14,290.00	0.00	381,320.00	0.00	0.00	\$4,344,290.00
Kentucky	5,348,980.00	17,000.00					\$5,365,980.00
Louisiana	5,795,694.00	197,126.00	0.00	0.00	0.00	0.00	\$5,992,820.00
Maine	1,550,096.00	5,576.00					\$1,555,672.00
Massachusetts	2,053,714.00	2,550.00	226,623.00	0.00	0.00	0.00	\$2,282,887.00
Michigan	2,631,247.00	9,710.00	4,879,760.00				\$7,520,717.00
Minnesota	1,061,103.30	18,354.00	57,675.00				\$1,137,132.30
Missouri	2,323,370.00	11,810.00	6,820.00				\$2,342,000.00
Mississippi	4,322,100.00						\$4,322,100.00
Montana	1,049,063.00						\$1,049,063.00
Nebraska	635,970.00	106,004.00	0.00	0.00	0.00	0.00	\$741,974.00
New Hampshire	2,273,299.00	0.00	0.00	0.00	0.00	0.00	\$2,273,299.00
New Mexico	3,292,233.00	0.00	0.00	0.00	0.00	0.00	\$3,292,233.00
New York	4,414,538.00	0.00	0.00	0.00	0.00	0.00	\$4,414,538.00
North Carolina	NA	NA	NA	NA	NA	NA	NA
North Dakota	2,010,434.00	0.00	0.00	0.00	0.00	0.00	\$2,010,434.00
Ohio	2,675,367.74	5,580.00	2,132,930.00				\$4,813,877.74
Oklahoma	2,122,052.00	4,977.00	330,767.00	0.00	0.00	0.00	\$2,457,796.00
Rhode Island	2,144,217.00	1,769.00	139,500.00	0.00	0.00	0.00	\$2,285,486.00
South Carolina	2,411,345.00	8,775.00					\$2,420,120.00
South Dakota	805,167.00	14,816.00	0.00	0.00	0.00	35,640.00	\$855,623.00
Tennessee	4,734,977.00	24,352.00					\$4,759,329.00
Texas	2,132,501.06	0.00	586,127.00	0.00	0.00	0.00	\$2,718,628.06
Utah	1,861,454.00	0.00	0.00	236,954.00	0.00	0.00	\$2,098,408.00
Virginia	4,852,865.00						\$4,852,865.00
Washington	2,428,900.00	38,471.00	0.00	0.00	600.00	0.00	\$2,467,971.00
West Virginia	1,374,796.00		56,931.03				\$1,431,727.03
Wisconsin	2,196,680.00						\$2,196,680.00
Total	91,024,971.78	684,500.00	8,906,689.03	618,274.00	2,325.00	35,640.00	\$101,272,399.81

Oregon	\$500,000	\$500,000
Total State Entitlement - 2007		\$101,772,399.81
Add Adm. Costs	\$5,000,000	\$5,000,000
Total UCR Revenue Target - 2007		\$106,772,399.81

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C. Administrative Costs

The Board provided an estimate of the administrative costs associated with the unified carrier registration plan and agreement, as required by section 14504a(d)(7)(A)(i)). The Board's estimate includes the following:

- The Board estimated the cost of setting a web-based registration and payment system as \$2,000,000. FMCSA believes, based upon our experience with development of information technology (IT) systems, that this amount may be within the range of

appropriate costs for the rapid development of IT systems. However, FMCSA requests comments on the reasonableness of the Board's estimate.

- The Board assumed that approximately half of the revenue will be collected online (\$50,000,000) and that credit card operating expenses would amount to 3 percent, or \$1,500,000. FMCSA believes this to be a reasonable estimate, based on its own investigation into the cost of credit card payments. FMCSA found that the expenses associated with accepting payments through credit cards arise from discount rate, fixed transaction fee, chargeback fee and other miscellaneous fees. A typical merchant

discount rate ranges from 1.5 to 3 percent, the fixed transaction fee can cost between 20 and 30 cents per transaction, and chargeback fees range from 10 to 25 dollars per chargeback. Given that the costs could be as high as 3 percent as a result of the discount rate alone, the Board's estimate of a total cost of 3 percent of the payments charged is within the normal range.

- The Board intends to send a UCR application package to all interstate carriers currently listed in MCMIS, approximately 700,000 carriers. Communication costs of \$650,000 for 700,000 mailings appears to be reasonable, given postage and printing costs.

- The Board estimated the travel cost to total \$100,000, based on the Board's projection of five meetings per year and 15 Board members. This total amounts to \$1,333 per member per meeting, which FMCSA agrees is a reasonable estimate.

- Help desk and assistance cost to address phone queries is projected at \$150,000 (5 full-time employees*40 hours/week*50 weeks*\$25 per hour). FMCSA considers this estimate to be somewhat high, but not unreasonable given uncertainty about the volume of inquiries.

- The Depository cost of \$500,000 is only 0.5% of the total revenue collected (\$100 million). Charging a fee of 0.5% of the total money managed is not unusual.

D. Revenue Target

The Board's calculation of the revenue target to be collected under the UCR was properly based upon the revenues collected by the participating States for the calendar year 2004, plus \$500,000 for each non-SSRS State as required by the statute, plus administrative costs. The Board also included a one half of one percent addition to all fees as a "reserve." Because the Board's fees recommendation pertains to the first year in which fees will be collected, the Board did not need to address whether revenues generated in the previous year and any surplus or shortage from that or prior years would enable the participating States to achieve the revenue levels set by the Board, as required by section 14504a(d)(7)(A)(ii).

E. Carrier Population

The Board based its fee recommendation on a reasonable estimate of the number of commercial motor vehicles owned or operated by motor carriers, motor private carriers, and freight forwarders, as specified by section 14504a(f)(1)(A)(i). The key question of whether the recommended fee structure would generate enough revenue to meet the statutory requirement depended on the Board's estimates of the number of motor carrier entities in each size category. FMCSA carefully reviewed the method the Board used to make these estimates and replicated to a high level of accuracy the

Board's estimates of the number of affected entities and the size distribution using its own data base. Using the same filters employed by the Board, FMCSA was able to generate the distribution and population of active carriers from the MCMIS database. The time frame for the filters in FMCSA's analysis was the calendar year 2006 while that of the Board was March 1, 2006 to February 26, 2007. In spite of this difference, FMCSA's estimate of the total affected population data differs from the Board's estimate by less than one percent. The high degree of correspondence between the two estimates gave FMCSA confidence that it understood the Board's analysis and that the Board's estimates are reasonable.

FMCSA worked with the Board to select the filters that were used to remove database entries that might not represent active interstate carriers, thereby ensuring that the filters used were reasonable: Carriers were included only if they showed recent evidence of activity. FMCSA also reviewed the Board's estimate of the total number of freight forwarders and brokers and concluded that it was likely to result in an accurate estimate. Though there was no attempt to filter them on the basis of signs of recent activity, FMCSA expects that even if any such measures were taken to determine whether they are active, the overall change that would occur in the total carrier population would be insignificant. FMCSA reached this conclusion based on the fact that the 14,575 freight forwarders and property brokers found in the L&I system represented only four percent of the total affected population, and (because they are included in the bracket with the smallest fee) an even smaller fraction of total revenue.

FMCSA notes that the Board did not separately consider the number of leasing companies when calculating the affected population or the revenues that the fees would raise. Because leasing companies that do not operate motor vehicles are assigned to the lowest bracket, and thus will pay no more than

\$39 per year, this omission is not significant. FMCSA estimates, on the basis of data from the US Census that there are only about 2,000 leasing companies that would be affected by the UCR rule. NAICS code 53212 (Truck, utility trailer, and recreational vehicle rental and leasing) represents the industry into which leasing companies fall. There are a total of 3,942 Truck rental (Product line code 52503) and 2,723 Truck leasing (Product line code 52504) establishments, for a total of 6,647 establishments. At most 6,647 leasing companies are affected by the rule. Because many firms have multiple establishments, the number of separate firms is considerably smaller. Although the Census does not show the exact number of firms, it does give enough information on firms with multiple establishments to determine a reasonable upper bound on total firms. The census data show that the largest 50 firms in this industry own a total of 4,115 establishments. The other firms must then own the remaining 2,532 establishments. Even assuming that all the remaining firms own only one establishment each, the total number of firms cannot be greater than the sum of 2,532 single-establishment firms and the 50 largest firms, or 2,582. At \$39 each, the total revenues owed by this sector would be about \$101,000. This amount is less than a tenth of one percent of total UCR revenues and would not change the fee in any bracket by more than the rounding error. Accordingly, inclusion of this amount would have a negligible or perhaps no impact on the proposed fee structure and fee levels. We do, however, invite comment on this point.

As Table 4 shows, FMCSA's estimates of the population of carriers in the various brackets corresponds closely to the estimates prepared by the Board. The high degree of correspondence between the two estimates, as shown in Table 4, gave FMCSA confidence that it understood the Board's analysis and that the Board's estimates are reasonable.

TABLE 4.—COMPARISON OF CARRIER SIZE DISTRIBUTION ESTIMATES

Bracket	FMCSA	Board	% Difference
B1	182,782	184,290	0.8
B2	72,910	74,070	1.6
B3	73,130	73,567	0.6
B4	27,946	27,969	0.1
B5	7,695	7,641	0.7
B6	810	797	1.6
Total	365,273	368,334	0.8

The Board used a 75 percent reliability factor while calculating the number of companies that own more than 1,000 motor vehicles. The Board determined the reliability rate to be 85 percent for carriers that own more than 1,000 power units based on their in-depth analysis. Though the Board provided no quantitative basis for lowering the reliability factor to 75 percent after the inclusion of trailers, FMCSA agrees that the addition of trailers to the universe of power units increases the degree of uncertainty and unreliability in the data, and that the change to 75 percent was reasonable.

F. Number of Fee Brackets

The Board's recommendation satisfied the requirements of section 14504a(f)(1)(C) by specifying no more than 6 brackets of carriers based on the size of the fleet. FMCSA adopts as reasonable the six brackets and the fleet size distribution among the brackets.

G. Fee Levels for Each Bracket

FMCSA found that the Board recommended a fee scale that is progressive in the amount of the fee, as required by section 14504a(f)(1)(D), when assessed from bracket to bracket. There are six brackets, each one defined by carrier size in terms of the numbers of CMVs. The fees per carrier clearly increase as the size of the carriers in the brackets increases, thereby meeting the Board's understanding of a fee scale that is progressive.

The fee levels for brokers and leasing companies are based on the smallest fee charged under the UCR agreement, as specified by section 14504a(f)(1)(A)(ii). As mentioned above under "IV.D. Revenue Target," the Board added one half of one percent to its revenue requirement to create what it termed a revenue reserve of \$533,862. FMCSA examined the rationale for adding this amount and determined that it had a reasonable basis. FMCSA noted that the Board provided for fees that would collect an extra \$533,862 because of the additional uncertainty resulting from data on trailers. Though it would be difficult to determine the true extent to which the accuracy of data on trailer use and ownership differs from that for power units, FMCSA did observe that the prevalence of trip-leasing of trailers is greater than that for trucks or tractors. The use of trip leases could create problems for the collection of revenues under UCR: The statute specifies that only commercial motor vehicles controlled under a long-term lease are to be included for the purpose of determining the applicable UCR fees (49 U.S.C. 14504a(f)(2)). However, the

MCS-150 form includes a category for trip-leased vehicles. That data may be included in the MCMIS database, but motor carrier entities may choose to exclude trip-leased vehicles when selecting their fee bracket. The statute also provides alternative methods by which motor carrier entities may calculate the number of commercial motor vehicles in their fleet for the purpose of determining the applicable fees (49 U.S.C. 14504a(f)(3)). These factors all introduce a degree of uncertainty in the fleet sizes upon which the fees are based, and, therefore, in the total amount of fees collected.

By examining data on a large subset of the carrier population, FMCSA determined that omitting all trip-leased vehicles from carriers' vehicle counts could reduce the UCR revenues collected from the first five brackets by on the order of \$1 million. Because carriers are not likely to omit all trip-leased vehicles, it appears that the Board would be justified in anticipating a loss of a half million for the first five brackets. There would be additional losses for the top bracket, but FMCSA considers those losses to be taken into account appropriately by the 75 percent factor used in projecting revenues from the top bracket. Thus, FMCSA concluded that the Board's 1/2 percent addition to the revenue requirement is a reasonable response to the risk of undercollection of revenues due to uncertainty about the treatment of trailers. FMCSA found that the Board's recommended fee structure, as modified, meets the requirements of the statute. As shown in Table 3, there are six brackets, each one defined by carrier size in terms of the numbers of commercial motor vehicles. The fees per carrier increase as the size of the carriers in the brackets increases, thereby meeting the statute's requirement that the fees be progressive. Finally, leasing companies and brokers are included in Bracket 1, which has the lowest fee per entity, as required.

To get a better sense of the distribution of the fees, FMCSA calculated the average fee per motor vehicle by carrier size. Table 5 shows these averages for six carrier size groups that correspond to the fee brackets in the recommended fee structure.

TABLE 5.—FEE PER MOTOR VEHICLE

Motor vehicles		Average fee per motor vehicle (\$)
From	To	
0	2	26
3	5	31
6	20	23
21	100	19

TABLE 5.—FEE PER MOTOR VEHICLE—Continued

Motor vehicles		Average fee per motor vehicle (\$)
From	To	
101	1,000	15
1,001	106,771	8
Mean for all carriers		15
Range		0.35–39.00

Based on a careful evaluation and a point-by-point comparison of the Board's process with the statutory requirements, and upon an independent analysis and consideration of the required statutory provisions, FMCSA proposes to adopt the Board's recommended fees and fee structure.

H. Fee Collection Process

The Board provided FMCSA with information on the process it anticipates following to collect the revenues under the UCR Plan and Agreement. The Board indicated that the participating States (see Table 3 above) will send a mailing to all active interstate carriers residing in FMCSA's Motor Carrier Management Information System (MCMIS) and to all brokers and freight forwarders found in FMCSA's Licensing and Insurance database. In the mailing the Board will provide contact numbers for all participating States, informational Web sites, and the Board may also establish a national call center to answer questions and direct covered entities to the appropriate State officials. The application form in the mailing will direct the entity to pay an amount based on the number of Commercial Motor Vehicles listed in their MCMIS data. The application will also allow carriers to amend that data for UCR purposes. The mailing will also direct covered entities that are domiciled in a participating State to register in that State and to pay the required fee to their State of registration or "base" State. Entities located in non-participating jurisdictions will be directed to register in the participating State that has the highest percentage of their operations. Entities that operate only in non-participating jurisdictions will be directed to choose a participating State located in their FMCSA Service Center Region. Canadian and Mexican entities will also be directed to choose the participating State with the highest percentage of their operations or to choose a contiguous State such as Maine, New York or Michigan for a Canadian entity. Covered entities will be given a set timeframe in which to register and enforcement will not begin for at least 90 days after the beginning

of registrations. The Board notes that this process is preliminary and final procedures will be worked out between the participating States and the UCR Board of Directors.

V. Regulatory Analyses and Notices

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

FMCSA has concluded that this action is a significant regulatory action within the meaning of Executive Order 12866 due to its subject matter.

This rule is not significant based on the size of the fees to be collected under the UCR. The costs of the rule are required pursuant to an explicit Congressional mandate in SAFETEA-LU. Because a majority of the fees under the proposed rule will replace fees currently being paid under the SSRS system, the total cost of the proposed rule will be substantially less than \$100 million per year. New entities paying fees under UCR that did not pay under SSRS are estimated to account for slightly less than half the fees, or about \$50 million in new costs per year. The Agency has prepared a preliminary regulatory analysis analyzing the rule. A copy of the preliminary analysis document is included in the docket referenced at the beginning of this notice.

Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

In compliance with the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), (5 U.S.C. 601–612), FMCSA has considered the effects of this proposed regulatory action on small entities. The fees being proposed in this rule would affect large numbers of small entities because the proposed rule sets fees for hundreds of thousands of carriers of all sizes, and small entities are defined to include all entities that are not dominant in their industries. In previous rulemakings, FMCSA identified for-hire carriers with fewer than 145 power units i.e., trucks or tractors) as small. FMCSA estimates that carrier size to be equivalent to about 300 CMVs. Thus, all of the for-hire carriers in Brackets 1 through 4 would be considered small, as would many of those in Bracket 5.

After careful consideration, however, FMCSA has determined that the recommended UCR fee will, in every case involving a viable small entity, be well below the threshold level of one percent of revenues used for

determining significant impacts. This conclusion is based on the observation that the maximum fee per vehicle is \$39, which is less than one percent of the annual salary of even a single employee working 40 hours per week for 50 weeks per year and earning the current Federal minimum wage of \$5.15. Because an entity without sufficient revenues to pay even one employee per vehicle would not be viable, it is clear that the recommended UCR fees will not reach the threshold of one percent of revenues. Additionally, more than 50 percent of the fees collected under the new UCR system were already being paid by many of these entities under the SSRS system, meaning the UCR fees will simply serve as substitutes for the SSRS fees these firms were previously being assessed. Thus, FMCSA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking would not impose any unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*) that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$120 million or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. FMCSA has preliminarily determined that this rulemaking would not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this proposal would preempt any State law or regulation. As detailed above, the UCR Board of Directors includes substantial State representation. The States have already had notice of this action and opportunity for input through their representatives. FMCSA also requests comments on any substantial direct effect on the States as outlined in Executive Order 13132.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

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

National Environmental Policy Act

The agency analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 D.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.h of the Order from further environmental documentation. The CE under Appendix 2, paragraph 6.h relates to establishing regulations and actions taken pursuant to the regulations implementing procedures to collect fees that will be charged for motor carrier registrations and insurance.

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

Executive Order 13211 (Energy Effects)

FMCSA has analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or VSE. We have determined preliminarily that it would not be a “significant energy action” under that Executive Order because it would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 367

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

For the reasons discussed in the preamble, the Federal Motor Carrier Safety Administration proposes to amend 49 CFR part 367 as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

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

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

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

Subpart A—Single State Registration System

3. Add a new Subpart B to read as follows: Subpart B—Fees Under the Unified Carrier Registration Plan and Agreement

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

Fees Under the Unified Carrier Registration Plan and Agreement for Registration Year 2007

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

Issued on: May 23, 2007.

John H. Hill,

Administrator.

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