## **DEPARTMENT OF TRANSPORTATION**

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM-208B, Notice No. 95-3]

RIN 2137-AC58

Hazardous Materials Transportation Registration and Fee Assessment Program

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** RSPA is proposing changes to the current registration and fee assessment program for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce under the Hazardous Materials Regulations. The proposed changes would increase the annual registration fee for a number of persons by distinguishing between large, medium, and small entities that conduct operations in one or more of the several categories for which registration is required. The intended effect of the proposed changes is to provide a sound basis for funding the national emergency response training and planning grant program.

**DATES:** *Written comments:* Comments must be received on or before April 3, 1995.

Public hearing: A public hearing will be held beginning at 9:00 a.m., February 16, 1995. Persons desiring to make oral statements at the hearing should notify the Research and Special Programs Administration (RSPA) Docket Clerk by telephone (202) 366–5046 or in writing by February 13, 1995.

ADDRESSES: Written comments: Address comments to Dockets Unit (DHM-30), Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket (HM-208B) and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a selfaddressed, stamped postcard showing the docket number. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001. Public dockets may be viewed between the hours of 8:30 a.m. and 5:00 p.m.,

Monday through Friday, except Federal holidays.

Public hearing: The public hearing will be held in the Auditorium of the Federal Aviation Administration Building located at 800 Independence Avenue, SW., Washington, DC 20491. Mail written requests to speak at the hearing to: Docket Clerk, Room 8421, Office of Hazardous Materials Safety, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. For further information on public hearing procedures, see Supplementary Information.

FOR FURTHER INFORMATION CONTACT: David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Joan McIntyre, Office of Hazardous Materials Standards, (202) 366–8553, RSPA, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

#### SUPPLEMENTARY INFORMATION:

# I. Public Hearing Information

Each request to speak at the public hearing must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of the presentation, not to exceed 10 minutes. Written text of the oral statement should be presented to the hearing officer and reporter prior to the oral presentation. Hearings may conclude before 5:00 p.m. if all persons wishing to give oral comments have been heard. To confirm plans to attend, contact Ms. Joan McIntyre at (202) 366–8553 by February 15, 1995.

### II. Background

On July 9, 1992, RSPA published a final rule under Docket HM-208 [57 FR 30620], establishing a national registration and fee assessment program, as required by 49 U.S.C. 5108, for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons currently subject to the registration program are required to annually file a registration statement with RSPA and pay a total annual fee of \$300.00, of which \$250.00 is to fund a nationwide emergency response training and planning grant program for States, local governments, and Indian tribes and \$50.00 is to offset Department of Transportation (DOT) processing costs. The registration fee of \$250.00 is the minimum amount permitted under the statute to be collected for funding the Interagency Hazardous Materials Public Sector

Training and Planning Grants Program. RSPA estimates that approximately 25,000 persons will register for the current (1994–1995) registration year, thereby generating \$6.25 million. This amount is not sufficient to carry out the national emergency response training and planning grant program at the level contemplated by Congress.

# III. Scope of the Current Registration Program

A. General

The current registration program is focused on persons who are under a statutory obligation to register with RSPA. Under 49 U.S.C. 5108, each person who carries out one or more of the following activities must file a registration statement with RSPA and pay an annual registration fee:

- (1) Transports or causes to be transported or shipped in commerce highway-route controlled quantities of Class 7 (radioactive) materials;
- (2) Transports or causes to be transported or shipped in commerce more than 25 kilograms (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosive) material in a motor vehicle, rail car, or freight container;
- (3) Transports or causes to be transported or shipped in commerce more than one liter (1.06 quarts) per package of a hazardous material which has been designated by RSPA as extremely toxic by inhalation;
- (4) Transports or causes to be transported or shipped in commerce a hazardous material in a bulk packaging, container, or tank if the packaging, container, or tank has a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or
- (5) Transports or causes to be transported or shipped in commerce a shipment in other than a bulk packaging of 2,268 kilograms (5,000 pounds) or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required.

In addition, RSPA holds authority under § 5108 to require registration by each person who offers for transportation or transports any form or quantity of a hazardous material in commerce, and each person that manufactures, fabricates, marks, maintains, reconditions, repairs, or tests packagings that are represented, marked, certified, or sold for use in the transportation in commerce of hazardous materials. At this time, RSPA is not proposing to expand the registration requirement to such persons.