considered an alternative that would expand the scope of coverage of the registration program. Specifically, within this alternative, RSPA evaluated the following options:

(1) Include all shipments (bulk and non-bulk) for which placarding is required.

(2) Include all shipments (bulk and non-bulk) for which placarding is required, except for certain transportation by a private carrier exclusively for agricultural purposes (i.e., nurse tanks, as specified in 49 CFR 173.315(m)).

(3) Include certain manufacturers and reconditioners of packagings used in the transportation of hazardous materials.

(4) Include all transport vehicles and freight containers which contain more than 400 kg (882 pounds) of a hazardous material.

This alternative was not selected primarily because it would place an even greater burden on small shippers and carriers, thereby increasing the inequity that exists in the current fee structure. Moreover, in some cases, this may not add a significant number of persons required to register.

For example, RSPA recently proposed [Docket HM-206, NPRM; 59 FR 41848; August 15, 1994] several improvements to the existing hazard communications system that were identified as necessary by commenters to the ANPRM [Docket HM-206; 57 FR 24532; June 9, 1992], the National Academy of Sciences in its Special Report 239, "Hazardous Materials Shipment Information for Emergency Response", and agency initiative. RSPA is proposing to lower from 2,268 kg (5,000 pounds) to 1,000 kg (2,205 pounds) the quantity for specific hazard class placarding when one category of material is loaded on a transport vehicle at one loading facility. However, it seems probable that most persons who offer or transport at least one shipment per year of more than 1,000 kg of one class of a hazardous material will offer or transport at least a similar shipment that exceeds 2,268 kg. If so, lowering the threshold quantity, for shipments of hazardous materials in non-bulk packagings, would not result in a significant number of new persons having to file a registration statement.

However, RSPA is proposing, in this rulemaking, to broaden the scope of materials extremely toxic by inhalation covered by the registration requirement, to include every "material poisonous by inhalation" (PIH) as defined in 49 CFR 171.8 that meets the criteria for Hazard Zone A (extremely toxic). This change would add several PIH materials that are listed in the Hazardous Materials Table in 49 CFR 172.101 as a Class 3, Class 8, Division 4.2 or Division 5.1 hazardous material. It is not likely that this change will add a substantial number of persons that are required to register.

Commenters are encouraged to provide specific comments as to whether the registration requirement should be expanded in any way, including the desirability of making it parallel to the proposed placarding requirement, i.e., to 1,000 kg or more of any single class. Commenters should also provide information on the effect of any such expansion of the registration requirement, including an estimate of the number of additional persons that would be required to register.

C. Fee Reductions in Subsequent Years

Under 49 U.S.C. 5108(g)(2)(B), adjustments in registration fee levels are required if there is an uncommitted balance in the registration fee account. Therefore, if any new fee levels are adopted and result in the collection of fees significantly greater than the approximately \$19 million authorized by 49 U.S.C. 5116 and 5127, RSPA proposes to make proportional reductions, on a year-by-year basis, in the registration fees within the statutory limits (\$250.00-\$5,000.00). This would be announced by publication of a notice in the Federal Register at least 60 days prior to the beginning of the registration year.

IX. An Industry Perspective

During May 1994, an industry working group was organized by the Hazardous Materials Advisory Council to review the current registration program and to make recommendations to RSPA in regard to the future of the program. Recommendations, dated September 23, 1994, were received and are available in the public docket. They will be reviewed and considered during this proceeding.

X. Section-By-Section Summary

Section 107.601

In paragraph (c), the entry for materials extremely toxic by inhalation would be revised to include every "material poisonous by inhalation," as defined in 49 CFR 171.8, that meets the criteria for Hazard Zone A. This proposed requirement effectively captures poison inhalation hazard, Hazard Zone A, materials in divisions other than Division 2.3 and Division 6.1 (e.g., isobutyl isocyanate, a Class 3 hazardous material). The Hazard Zone A assignment for isobutyl isocyanate, and certain other materials, is specifically communicated through reference to Special Provision 1 in column 7 of the Hazardous Materials Table.

Section 107.606

This proposed revision would remove the July 1, 1996 limitation on the exception for foreign offerors. In paragraph (b), RSPA proposes to apply the registration and fee payment requirements to foreign offerors domiciled in any country that requires offerors domiciled in the United States to file a registration statement or pay a fee. See also the discussion in Section III.B. of this preamble.

Section 107.612

In this proposed rule, all persons currently required to file a registration statement with RSPA would continue to be assessed an annual registration fee, at a minimum, of \$250.00, plus a \$50.00 processing fee, for a total of \$300.00. In addition, RSPA is proposing graduated registration fee levels, up to a maximum of \$5,000.00 (plus the \$50.00 processing fee), to which certain registrants would be subject on the basis of having offered or transported during the prior calendar year: a highway route controlled quantity of Class 7 (radioactive) materials; certain size shipments of Division 1.1, 1.2 or 1.3 (explosive) materials, or materials extremely toxic by inhalation; or a specified number of different bulk packagings

The entire schedule of fees appears in a table within paragraph (a). The fees are keyed to the five activities for which registration is mandatory, and, where appropriate, specified in increments generally related to the quantity of hazardous material offered for transportation or transported.

In paragraph (b), RSPA is proposing a provision to proportionally reduce fees in subsequent registration years based on uncommitted balances, if any, in the grant account.

Section 107.616

Paragraphs (d)(2) and (d)(3) would be revised to provide procedures for the payment of any applicable increased fee required by the proposed amendment to § 107.612 when submitting a registration statement under the provisions of an expedited registration.

XI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. The rule is not considered a major rule under the Regulatory Policies and Procedures of