the Department of Transportation [44 FR 11034] because its economic impact on certain hazardous materials offerors and transporters is not expected to exceed \$100 million annually. This proposal is expected to generate additional registration fees of approximately \$12 million per year. A preliminary regulatory evaluation is available for review in the Docket. Because the statute mandates the establishment and collection of fees, the discretionary aspects of this rulemaking are limited to setting the amount of the fee within the statutory range for each person subject to the registration program. The proposed fees are not related to the cost of RSPA's hazardous materials safety programs. The fees to be paid by shippers and carriers of certain hazardous materials in transportation are related to the benefits received by these persons from the sale and transportation of hazardous materials and from emergency response services provided by public sector resources, should an accident or incident occur. The fees are also related to expenses incurred by State, Indian tribal, and local hazardous materials emergency preparedness and response activities.

## B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). States and local governments are "persons" under 49 U.S.C. 5102, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

## C. Regulatory Flexibility Act

This proposed rule maintains the minimum fee requirement for small shippers and carriers of hazardous materials who are subject to the registration requirement. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

## D. Paperwork Reduction Act

Under 49 U.S.C. 5108, the information management requirements of the Paperwork Reduction Act [44 U.S.C. 3501 et seq.) do not apply to this proposed rule.

## E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

# List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 107 is proposed to be amended as follows:

## PART 107—HAZARDOUS MATERIALS **PROGRAM PROCEDURES**

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 U.S.C. 5101-5127, 44701; 49 CFR 1.45, 1.53.

2. In §107.601, paragraph (c) would be revised to read as follows:

\*

#### §107.601 Applicability. \*

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(c) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., "material poisonous by inhalation," as defined in §171.8 of this chapter, that meets a criteria for "hazard zone A," as specified in §§ 173.116(a) or 173.133(a) of this chapter);

3. Section 107.606 would be revised to read as follows:

#### §107.606 Exceptions.

\* \*

(a) The following are excepted from the requirements of this subpart:

(1) An agency of the Federal government.

(2) A State agency.

(3) An agency of a political subdivision of a State.

(4) An employee of any of those agencies in paragraphs (a)(1) through (a)(3) of this section with respect to the employee's official duties.

(5) A hazmat employee (including, for purposes of this subpart, the owneroperator of a motor vehicle that transports in commerce hazardous materials if that vehicle, at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 1057 or an equivalent contractual agreement).

(6) A person domiciled outside the United States who offers, solely from a location outside the United States. hazardous materials for transportation in commerce, *provided* that the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file a registration statement or to pay a registration fee.

(b) Upon making a determination that persons domiciled in the United States who offer hazardous materials for transportation to a foreign country solely from places in the United States must file registration statements, or pay fees, the U.S. Competent Authority will provide notice of such determination directly to the Competent Authority of that foreign country, and by publication in the Federal Register. Persons affected by this determination shall file a registration statement and pay the required fee no later than 60 days following publication of the determination in the **Federal Register**.

Section 107.612 would be revised to read as follows:

## §107.612 Amount of fee.

(a) Each person subject to the requirements of this subpart shall report its activities and pay the highest single (not aggregate) annual fee (which includes a \$50.00 processing fee) that reflects the type and quantity of hazardous materials offered for transportation or transported into, from, or within the United States during the prior calendar year, as specified in the following table: