

**BEFORE THE**

**UNITED STATES DEPARTMENT OF TRANSPORTATION**

**PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

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**COMMENTS OF**

**THE OWNER OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC**

**IN RESPONSE TO A**

**NOTICE OF PROPOSED RULEMAKING WITH REQUEST FOR COMMENTS**

**[Docket No. PHMSA-2009-0201 (HM-208H)]**  
**RIN 2137-AE47**

**Hazardous Materials Transportation;**  
**Registration and Fee Assessment Program**

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**JAMES JOHNSTON**  
**President**  
**Owner-Operator Independent**  
**Drivers Association, Inc**

**March 4, 2010**

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**I. INTRODUCTION**

**A. Procedural Statement**

These comments are submitted by the Owner-Operator Independent Drivers Association, Inc. (“OOIDA” or “Association”) related to a Notice of Proposed Rulemaking (“NPRM”) published in the Federal Register by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), Docket No. PHMSA-2009-0201 (HM-208H) [75 FR No. 21] (February 2, 2010). This NPRM proposes to increase registration and fee assessments for “persons, who transport, or offer for transportation, certain categories and quantities of hazardous materials.”

**B. The Interest of the Owner-Operator Independent Drivers Association, Inc**

The Owner-Operator Independent Drivers Association, Inc. is a not-for-profit corporation incorporated in 1973 under the laws of the State of Missouri, with its principal place of business in Grain Valley, Missouri. OOIDA is the largest international trade association representing the interests of independent owner-operators, small-business motor carriers and professional drivers. The more than 157,000 members of OOIDA are professional drivers and small-business men and women located in all 50 states and Canada. One-truck motor carriers represent nearly half the total number of active motor carriers operating in the United States while approximately 96 percent of active motor carriers operate 20 or fewer trucks. The address of the Association is:

Owner-Operator Independent Drivers Association, Inc.  
P.O. Box 1000  
1 NW OOIDA Drive  
Grain Valley, Missouri 64029  
[www.oida.com](http://www.oida.com)

The Association actively promotes the views of small-business truckers and professional drivers through its interaction with state and federal government agencies, legislatures, the courts, other trade associations, and private businesses to advance an equitable and safe environment for commercial drivers. OOIDA is active in all aspects of highway safety and transportation policy, and represents the position of small-business truckers and professional drivers on numerous committees and in various forums on the local, state, national, and international levels. This NPRM proposes to increase the registration fee on some entities but maintain the current registration fee for not-for-profit organizations and small businesses that transport certain categories and quantities of hazardous materials.

## **II. SUMMARY**

PHMSA is required by 49 U.S.C. 5108 to conduct a registration program for persons who transport, or offer for transport, certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. The registration program allows PHMSA to collect information specific to the transportation of hazardous materials and to fund the national Hazardous Materials Emergency Preparedness (“HMEP”) grant program.

PHMSA is proposing in this NPRM to meet current and expected funding obligations of \$28.3 million for the national HMEP grant program by raising the fee associated with the registration program for certain larger entities who transport hazardous materials. PHMSA also proposes to maintain the current fee level for both not-for-profit organizations and small business entities. OOIDA supports the proposed determination by PHMSA in this NPRM to limit the fee increase to larger entities.

### **III. COMMENTS OF THE ASSOCIATION**

#### **A. Proposed fee structure is equitable.**

The current fee structure imposed by PHMSA is two tiered and differentiates between business entities based on their size and status. Currently, not-for-profit organizations and small businesses must pay an annual registration fee of \$250 plus a \$25 administrative fee. By contrast, larger entities currently pay \$975 plus \$25. As stated in the summary, fees collected are used to fund grants under the HMEP program.

This NPRM proposes to maintain current fees for not-for-profit organizations and small businesses but increase the fee assessed for larger entities to the statutory maximum of \$3,000. The justification offered by PHMSA for this proposal is that not-for-profit organizations and small businesses generally offer fewer and smaller hazardous materials shipments when compared to their larger counterparts. PHMSA also believes raising the registration fee on larger entities would more accurately “correlate the fee structure to the level of risk associated with shipments offered for transportation and transported by larger companies.”

OOIDA agrees with both of these factors. However, an additional consideration supporting this proposed rulemaking is the proportionality of the fee. Small-business motor carriers are already paying a significantly higher per unit cost than their larger competitors. A one-truck motor carrier faces a total cost of \$275 for that one unit whereas a large fleet is able to apportion the fee across a wider base of motor vehicles. For instance, a certain large motor carrier with 15,000 trucks pays the equivalent of 20 cents for each truck in its fleet under the proposed higher fee. This additional consideration in maintaining the current fee for not-for-profit organizations and small businesses is complementary to the determination made by

PHSMA in this NPRM that those entities transport fewer shipments when compared to larger entities. Current economic conditions are also such that any significant increase in regulatory costs can easily discourage many small businesses from competing in the marketplace, especially if transporting certain hazardous materials is a small part of their overall business model.

#### IV. CONCLUSION

OOIDA agrees with PHMSA in this proposed rulemaking to maintain the current fee structure for small businesses and not-for-profit organizations. It is an eminently fair proposed rulemaking that properly places a fee increase on those with a greater level of risk exposure from transporting certain hazardous cargo.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Johnston', written over a light blue horizontal line.

JAMES JOHNSTON  
President  
Owner-Operator Independent  
Drivers Association, Inc.

March 4, 2010