

COMPLIANCE BULLETIN

2008-2009 ANNUAL U.S. DOT HAZMAT REGISTRATION REQUIREMENTS

BACKGROUND: The U.S. DOT's Pipeline and Hazardous Material Safety Administration (PHMSA) requires hazardous material transporters to register and pay a fee each year in return for a certificate of operation. PHMSA began mailing the 2008-2009 registration information to HAZMAT transporters earlier this month.

Who must register and pay the fee?

HAZMAT Transporters - Any business (intrastate or interstate) shipping hazardous materials requiring a U.S. DOT placard must register each year and pay the fee. Petroleum jobbers, common carriers of petroleum products, oil heat dealers and propane suppliers who ship their products in trucks must register and pay the fee.

What happens if I don't register?

Loss of Operating Authority - If you fail to register by the deadline then you lose your authority to operate your trucks in both *intrastate* and *interstate* commerce. Your authority to operate is the certificate you receive from PHMSA once you register and pay the fee. A current certificate must be kept in the cab of each HAZMAT vehicle at all times. If you are subject to a roadside inspection or DOT audit and do not have a current certificate your authority to operate will be revoked and you could be fined up to \$32,500 per day of violation.

Why is the U.S. DOT collecting the fee?

Emergency Response Funding -The money collected from the registration program is given back to state emergency response authorities in the form of training grants for fire and police and emergency preparedness organizations.

How do I register?

Registration Options - There are several ways to register, pay the fee and receive your certificate of operation:

U.S. Mail - You must register by filling out the 2008-2009 registration application and sending it by U.S. Mail to PHMSA (along with the required fee). PHMSA generally mails new registration forms out to all registrants. If you have not yet received a form for the 2008-2009 registration year, one may be downloaded from the Internet at <http://hazmat.dot.gov/regs/register/register.htm>.

Online Registration - On-line registration is available <http://hazmat.dot.gov/regs/register/register.htm>. On-line registration allows you to fill out the registration form, pay the fee and download your operating certificate instantaneously.

When is the HAZMAT registration deadline?

Deadline - July 1, 2008.

What documentation should I put in my trucks after July 1, 2008?

Certificate Documentation - Place a photocopy of the updated certificate in the cab of each HAZMAT motor vehicle by July 1, 2008.

How much is the annual HAZMAT registration fee?

Two-Tiered Fee System -The annual registration fee is based on whether you operate a small business or a large business.

a) Small Business Registration Fee - For registration year 2008-2009 the fee for small businesses is \$275 for one year; \$525 for two years (2008-2010) and \$775 for three years (2008-2011).

b) Large Business Registration Fee - For registration year 2008-2009 the fee for large businesses is \$1,000 for one year; \$1,975 for two years (2008-2010), and \$2,950 for three years (2008-2011).

How do I determine the size of my business so I know which fee to pay?

Business Size Calculation for Determining the Fee Amount - It is very likely that your business qualifies for the lower registration fee. Determining size is left up to the company applying for the registration certificate. PHMSA follows Small Business Administration (SBA) size categories to classify whether a business is large or small for the purposes of determining the amount of the annual registration fee. The SBA determines business size according to NAICS (North American Industrial Classification System) codes based on either the number of employees in the company or on annual gross receipts. The following NAICS codes and size criteria apply when calculating which fee to pay:

NAICS CODE 424710 - Petroleum Bulk Stations or Terminals: Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

NAICS CODE 424720 - Petroleum and Petroleum Product Wholesalers (no bulk storage): Petroleum marketers in this category are considered small businesses and must pay the \$275 fee if the company employs fewer than 100 employees.

NAICS CODE 454311 - Heating Oil Dealers: Heating oil dealers are small businesses and subject to the \$275 registration fee if annual gross receipts total \$11.5 million or less.

IMPORTANT! The U.S. Small Business Administration will release a new rulemaking this month reclassifying the small business size threshold for heating oil and propane dealers. It is very likely that this change will replace the gross receipts threshold with an employee based threshold for determining size. The change will mean that most heating oil and propane dealers will continue to qualify for the small business HAZMAT fee.

NAICS CODE 454312 - Liquefied Petroleum Gas Dealers: LPG dealers are small businesses and subject to the \$275 registration if annual gross receipts total \$6 million or less.

IMPORTANT! PHMSA does not make business size determinations. Instead, it is left up to individual businesses owner to determine size categories and ultimately which fee to pay. Nearly all petroleum marketers should qualify for the \$275 small business fee.

GOT QUESTIONS? CONTACT Mark S. Morgan, Esq. at (202) 364-6767 or mmorganpsa@cox.net