

adjusted by applying the railroad revenue deflator adjustment. *See* 49 CFR part 1201. The same dollar limit on revenues is established to determine whether a railroad shipper or contractor is a small entity. FRA proposed to use this alternative definition of "small entity" for this rulemaking, and requested comments on its use. No comments were received related to this proposal.

Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," requires in part that a Federal agency notify the Chief Counsel for Advocacy of the SBA of any of its draft rules that would have a significant economic impact on a substantial number of small entities. This Executive Order also requires Federal agencies to consider any comments provided by the SBA, and to include in the preamble to the final rule the agency's response to any written comments by the SBA unless the agency head certifies that including such material would not serve the public interest. 67 FR 53461 (Aug. 16, 2002). Since this final rule does not have a significant economic impact on a substantial number of small entities, FRA has not notified the Office of Advocacy at SBA, and therefore, has not received any comments from Advocacy.

In accordance with the Regulatory Flexibility Act of 1980, FRA has prepared and placed in the docket an RFA, which assesses the small entity impact of this final rule. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC 20590. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590. Access to the docket may also be obtained electronically through the Web

site for the DOT Docket Management System at <http://dms.dot.gov>.

As stated in the RFA, FRA has determined that there are over 650 small railroads that could potentially be affected by this rulemaking; however, the frequency of accidents/incidents, and therefore reporting burden, is generally proportional to the size of the railroad. A railroad that employs thousands of employees and operates trains millions of miles is exposed to greater risks than one whose operation is substantially smaller, all other things being equal. For example, in 1998, only 327 railroads reported one or more casualties.

The economic impacts anticipated from final rule are primarily a result of an increase in casualty reporting due to the reporting of some casualties, due to OSHA recordkeeping requirements which this rulemaking is adopting into FRA reporting requirements. In addition, the railroad industry will incur small burdens for an increase in telephonic reporting of some accident/incidents, and for modifications made to computer software and databases. However, FRA does not anticipate that any of these burdens will be imposed on small entities due to the decreased likelihood of a casualty occurring on a small railroad. The computer-based burdens are not expected to impact small entities either since most small railroads report using personal computer (PC)-based software provided by FRA. It is estimated by FRA that small entities will incur five percent or less of the total costs for this final rule.

It is important to note that this final rule will also reduce recordkeeping burdens by simplifying the method used to count employee absences and work restrictions, and by reducing the requirement to keep track of lengthy employee absences. The final rule also simplifies reporting requirements with clarifying definitions for things such as

"medical treatment" and "first aid." Train accident cause codes and injury occurrence codes would be added, so that accident and injury data would be more precise and the need for some narratives will be eliminated.

This final rule does not provide alternative treatment for small entities in the regulation or reporting requirements. However, small railroads that report using PC-based software will not be burdened with any costs for modifying or changing the software, since FRA provides this software free to all railroads that utilize it. It is important to note that just by the fact that small railroads report fewer accidents/incidents and casualties, they are less likely to be burdened by the final rule.

The RFA concludes that this final rule will not have a significant economic impact on a substantial number of small entities; therefore, FRA certifies that this final rule is not expected to have a significant economic impact on a substantial number of small entities. For the same reason, consistent with Executive Order 13272, the draft rule has not been submitted to the SBA. In order to determine the significance of the economic impact for this RFA, FRA invited comments from all interested parties concerning the potential economic impact on small entities in the notice of proposed rulemaking. The Agency considered the lack of comments and data it received in making this decision and certification.

### C. Paperwork Reduction Act of 1995

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The sections that contain the new information collection requirements and the estimated time to fulfill each requirement are as follows:

CFR Section—49 CFR	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
225.9—Telephone Reports—Certain Accidents/Incidents and Other Events.	685 railroads .....	500 reports .....	15 minutes .....	125	\$5,250
225.11—Reporting of Rail Equipment Accidents/Incidents (Form FRA F 6180.54).	685 railroads .....	3,000 forms .....	2 hours .....	6,000	252,000
225.12(a)—Rail Equipment Accident/Incident Reports—Human Factor (Form FRA F 6180.81).	685 railroads .....	1,000 forms .....	15 minutes .....	250	10,500
225.12(b)—Rail Equipment Accident/Incident Reports—Human Factors (Part 1, Form FRA F 6180.78).	685 railroads .....	4,100 notices/copies .....	10 minutes and 3 minutes	372	15,624
225.12(c)—Rail Equipment Accident/Incident Reports—Human Factor—Joint Operations.	685 railroads .....	100 requests .....	20 minutes .....	33	1,386
225.12(d)—Rail Equipment Accident/Incident Reports—Human Factor—Late Identification.	685 railroads .....	20 attachments + 20 notices.	15 minutes .....	10	420
225.12(e)—Rail Equipment Accident/Incident Reports—Human Factor—Employee Supplement (Part II, Form FRA F 6180.78).	685 railroads .....	75 statements .....	1.5 hours .....	113	2,938