

Preventing 8 single-fatality accidents per year would result in at least \$24 million in benefits per year. Additional benefits would be achieved through reductions in injuries and property-damage only accidents involving small passenger-carrying CMVs.

For purposes of Executive Order 12866, this rulemaking does not impose an economic burden greater than \$100 million on these motor carriers. Therefore, a full Regulatory Impact Statement is not necessary.

Regulatory Flexibility Act Analysis

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA considered the effects of this regulatory action on small entities and determined that this final rule will not affect a substantial number of small entities that operate CMVs designed or used to transport between 9 and 15 passengers, for compensation, in interstate commerce. However, the agency believes the rule will have a significant impact on some of the small entities operating such vehicles.

FMCSA is requiring motor carriers that operate CMVs, designed or used to transport between 9 and 15 passengers, in interstate commerce, to be made subject to the safety-related operational FMCSRs when they are directly compensated for such services and the vehicle is operated beyond 75 air miles (86.3 statute miles or 138.9 kilometers) from the driver's normal work-reporting location. These motor carriers will be required to comply with 49 CFR parts 390, 391, 392, 393, 395, and 396. FMCSA estimates that this rule will affect 1,843 of the estimated 14,000 entities that operate CMVs designed or used to transport between 9 and 15 passengers for compensation, and that most, if not all, of these 14,000 businesses are small entities based on criteria established by the Small Business Administration (SBA).²

² The SBA's Office of Size Standards publishes a list of Small Business Size Standards matched to the North American Industry Classification System (NAICS). The U.S. Office of Management and Budget (OMB) classifies approximately 1,000 activities as industries under NAICS. For each industry, except those in public administration, SBA has established a size standard. Industries are described in detail in *North American Industry Classification System—United States, 1997*. It can be found in many libraries or purchased from the National Technical Information Service, by calling (800) 553-6847 or (703) 605-6000. Subsector 485 of the NAICS covers transit and ground passenger transportation. SBA has established \$6,000,000 in annual receipts as the maximum size for a small business for all of the classifications under this subsector (e.g., interurban and rural bus transportation, bus service, taxi service, limousine service, charter bus industry). Gross receipts are averaged over a firm's latest 3 completed fiscal years to determine its average annual receipts.

The estimate of 1,843 is based on the current number of for-hire motor carriers of passengers with active authority that operate only CMVs with a seating capacity of 15 passengers or less. Although the universe of for-hire motor carriers of passengers potentially subject to this rule consists of approximately 14,000 entities, we estimate that the final rule will apply to only the 1,843 carriers whose operations require interstate operating authority under the FMCSA's commercial regulations. Each of these motor carriers has on file with the FMCSA proof of financial responsibility at the minimum level required for the operation of vehicles designed to transport less than 16 passengers. This number may overstate the population of affected carriers since some of the licensed carriers may be exclusively operating equipment carrying less than 9 passengers. However, FMCSA's estimate does not include the following: (1) Motor carriers that may have pending applications for operating authority; (2) passenger carriers shown as inactive because their authority was revoked for failure to maintain evidence of the required minimum levels of financial responsibility; (3) private motor carriers of passengers; or (4) carriers which also operate larger vehicles, as well as smaller vehicles. Therefore, the agency believes its estimate of 1,843 motor carriers of passengers is a reasonable estimate of the number of entities that will be subject to this rule.

This final rule is the last in a series of rulemaking actions intended to improve the safety of operation of vehicles designed or used to transport between 9 and 15 passengers, for compensation, in interstate commerce. After reviewing the public comments received in response to previous rulemaking notices in this series, and completing an analysis of accident data, the agency continues to believe that it is appropriate to limit the applicability of the rule to those motor carriers that are most likely to have safety performance problems. Therefore, this rule involves 1,843 out of the 14,000 small entities that the agency is authorized to regulate under section 212 of MCSIA.

The rulemaking series mentioned above began with the August 5, 1998 (63 FR 41766) ANPRM in which the agency

"Receipts" means the firm's gross or total income, plus cost of goods sold, as defined by or reported on the firm's Federal Income Tax return. Therefore, only those motor carriers of passengers that averaged \$6,000,000 or less in annual receipts for the past 3 fiscal years would be considered small businesses for the purposes of the regulatory flexibility analysis.

requested public comment from all interested parties concerning the potential impact of amending the definition of "commercial motor vehicle" to make the FMCSRs applicable to the operation of small passenger-carrying CMVs. The agency specifically asked for comments concerning the types and numbers of passenger carriers that would be covered by the safety regulations under the revised definition of CMV provided in section 4008(a) of TEA–21. At that time, we indicated that due to the preliminary nature of the ANPRM and the lack of information about the potential costs of the rulemaking, the agency could not evaluate the potential regulatory changes on small entities. The agency solicited comments, information, and data on these potential impacts on small entities.

On September 3, 1999, the agency published an interim final rule (64 FR 48510) and a NPRM (64 FR 48518) based on the comments received in response to the ANPRM. The agency used the interim final rule to adopt the statutory definition of CMV provided by TEA–21, and temporarily exempt the operation of small passenger-carrying vehicles from all of the FMCSRs pending completion of a companion rulemaking that would help the agency gather additional information about the entities operating vehicles designed or used to transport between 9 and 15 passengers. The exemption was necessary because the agency viewed section 4008(a) of TEA–21 as a mandate either to impose the FMCSRs on previously unregulated smaller capacity vehicles, or to exempt through a rulemaking proceeding some or all of the operators of such vehicles. The statute provided that operators of small passenger-carrying vehicles would automatically become subject to the FMCSRs unless the agency, through a rulemaking proceeding, determines that it is appropriate to exempt such operators from the safety regulations.

While none of the commenters responded to the request for information about potential impacts of the rulemaking on small entities, the TLPA estimated that if the agency made the FMCSRs applicable to the operation of small passenger-carrying vehicles, approximately 14,000 companies, 125,000 vehicles, and 165,000 drivers would be covered. The agency reviewed its database of for-hire interstate motor carriers of passengers to determine whether TLPA's estimate was reasonable. At that time, we indicated there were 1,636 for-hire motor carriers of passengers with active operating authority that had on file with the