



B-285788

July 18, 2000

The Honorable John McCain  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Bud Shuster  
Chairman  
The Honorable James L. Oberstar  
Ranking Minority Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: Department of Transportation, Federal Railroad Administration: Railroad Rehabilitation and Improvement Financing Program; Revisions

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Railroad Administration (FRA), entitled "Railroad Rehabilitation and Improvement Financing Program; Revisions" (RIN: 2130-AB26). We received the rule on June 29, 2000. It was published in the Federal Register as a final rule on July 6, 2000. 65 Fed. Reg. 41838.

The final rule implements the Railroad Rehabilitation and Improvement Financing Program to provide direct loans and loan guarantees to state and local governments, government-sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. Eligible projects include: (1) acquisition, improvement, or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops); (2) refinancing outstanding debt incurred for these purposes; or (3) development or establishment of new intermodal or railroad facilities.

The aggregate unpaid principal amounts of direct loans and loan guarantees made under this program cannot exceed \$3.5 billion at any one time and not less than \$1 billion is to be available solely for projects benefiting freight railroads other than Class I carriers.

Enclosed is our assessment of the FRA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FRA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is John Anderson, Director, Transportation Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy  
General Counsel

Enclosure

cc: Mr. Joseph Pomponio  
Senior Attorney, Federal Railroad  
Administration  
Department of Transportation

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
FEDERAL RAILROAD ADMINISTRATION  
ENTITLED  
"RAILROAD REHABILITATION AND  
IMPROVEMENT FINANCING PROGRAM; REVISIONS"  
(RIN: 2130-AB26)

(i) Cost-benefit analysis

The FRA considered the cost and benefits of the final rule and while unable to quantify the cost or benefits, a qualitative analysis is included in the preamble to the final rule. The potential benefits are environmental and safety benefits and avoidance of increased highway maintenance costs. The administrative costs are estimated to be \$325,000. Also, the information collection costs, discussed below under the Paperwork Reduction Act section of the report, were taken into consideration. In the future, the FRA will conduct additional cost-benefit analyses to ensure there is a net societal benefit from the program.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator of the Federal Railroad Administration has certified that the final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule will not impose a mandate, as defined in title II, of more than \$100 million dollars in any one year on either state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures at 5 U.S.C. 553. On May 20, 1999, the FRA published a Notice of Proposed Rulemaking in the Federal Register. 64 Fed. Reg. 27488. Ninety-two comments were received in response to the notice and are considered in the preamble to the final rule.

**Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520**

The final rule contains an information collection that is subject to review by the Office of Management and Budget. The collection has been approved and assigned control number 2130-0548.

The collection is an application for prospective borrowers. FRA estimates that annual burden hours will be 5,881 and the annual costs will be \$543,866.

**Statutory authorization for the rule**

The statutory authority under which the final rule is issued is the Railroad Rehabilitation and Improvement Financing Program, 45 U.S.C. 821 et seq.

**Executive Order No. 12866**

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action that complies with the requirements of the order.

**Executive Order No. 13132 (Federalism)**

FRA found that the final rule would not have a substantial effect on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government.