March 18, 2019

The Honorable Roger Wicker
Chairman
The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: Department of Transportation, Federal Railroad Administration: Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets

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 “Passenger Equipment Safety Standards; Standards for Alternative Compliance and High-Speed Trainsets” (RIN: 2130-AC46). We received the rule on March 1, 2019. It was published in the Federal Register as a final rule on November 21, 2018. 83 Fed. Reg. 59,182. The effective date of the final rule was January 22, 2019.

The final rule amends FRA’s passenger equipment safety standards using a performance-based approach to adopt new and modified requirements governing the construction of conventional and high-speed passenger rail equipment. This final rule also adds a new tier of passenger equipment safety standards (Tier III) to facilitate the safe implementation of nationwide interoperable high-speed passenger rail service at speeds up to 220 mph.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The final rule was published in the Federal Register on November 21, 2018. 83 Fed. Reg. 59,182. The rule was received by the House and Senate on March 1, 2019. The rule has a stated effective date of January 22, 2019. Therefore the final rule does not have the required 60-day delay in its effective date.

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1 FRA originally submitted this final rule to us as non-major on December 14, 2018, and then resubmitted it as major on March 1, 2019. FRA then resubmitted this final rule to the House and Senate on March 1, 2019.
Enclosed is our assessment of 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. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Kathy Gresham
   Attorney, Federal Railroad Administration
   Department of Transportation
(i) Cost-benefit analysis

The Department of Transportation, Federal Railroad Administration (FRA) summarized the costs and benefits of the final rule. FRA estimated that the costs of this final rule are likely to be incurred over a 30-year period. FRA estimated the costs of this final rule using discount rates of 3 and 7 percent, respectively. For the 30-year period analyzed, the present value of the estimated high-range quantified net cost savings for this final rule is $837.8 million when discounted at 3 percent and $541.9 million when discounted at 7 percent. Annualized net costs savings total approximately $42.7 million when discounted at 3 percent and $43.7 million when discounted at 7 percent.

FRA also estimated that between $227.7 million and $523.3 million (when discounted at a 7 percent rate) or between $351.3 million and $808.8 million (when discounted at a 3 percent rate) in quantifiable costs will be borne by the industry over a future 30-year period in availing itself of the rule’s new regulatory framework.

FRA also stated that the final rule will result in significant cost savings for the industry. FRA stated that the final rule will facilitate the safe implementation of high-speed rail at speeds up to 220 mph and establishes alternative crashworthiness standards.

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

FRA determined that this final rule will not have a significant economic 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

FRA stated that this final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more (as adjusted annually for inflation) in any one year.

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

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

On February, 13, 2017, FRA reopened the comment period for the proposed rule until March 21, 2017. 81 Fed. Reg. 10,449. FRA received comments from two individuals and seven entities. FRA responded to comments in the final rule.
Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

FRA stated that the information collection requirements in this final rule are being submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Act.

Statutory authorization for the rule

FRA stated that it promulgated this rule pursuant to 49 U.S.C. §§ 103, 322(a), 20103, 20107, 20901-02, 21301, 21302, 21311; 28 U.S.C. § 2461, note; and 49 C.F.R. § 1.89.

Executive Order No. 12,866 (Regulatory Planning and Review)

FRA determined that this final rule is an economically significant regulatory action within the meaning of the Order.

Executive Order No. 13,132 (Federalism)

FRA stated that this final rule will not have a substantial effect on the states or their political subdivisions, and it will not affect the relationships between the federal government and the states or their political subdivisions, or the distribution of power and responsibilities among the various levels of government.