telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226(a)(2)). For the purposes of this part, the term ''telecommunications carrier'' or ''carrier'' shall include an interconnected VoIP service provider.

(j) *Telecommunications service.* The term ''telecommunications service'' refers to the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. For purposes of this part, the term ''telecommunications service'' shall include interconnected VoIP service as that term is defined in 47 U.S.C. 153(25).3.

■ 3. Amend § 52.15 by revising paragraphs (g)(2)(i) and (ii) to read as follows:

Subpart B—Administration

§ 52.15 Central office code administration.

* * * * *

(g) * * *

(2) * * *

(i) The applicant is authorized to provide service in the area for which the numbering resources are being requested; and the applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date.

(ii) Interconnected VoIP service providers may use the appropriate pages of their most recent FCC Form 477 submission as evidence of authorization to provide service in the area for which resources are being requested. Interconnected VoIP service providers must also provide the relevant state commission with regulatory and numbering contacts upon first requesting numbers in that state.

* * * * *

§ 52.16 [Amended]

■ 4. Amend § 52.16 by removing paragraph (g).

§ 52.17 [Amended]

■ 5. Amend § 52.17 by removing paragraph (c).

Subpart C—Number Portability

§ 52.21 [Amended]

■ 6. Amend § 52.21 by removing paragraph (h) and redesignating paragraphs (i) through (w) as (h) through (v).

§ 52.32 [Amended]

■ 7. Amend § 52.32 by removing paragraph (e).

■ 8. Amend § 52.33 by revising paragraph (b) to read as follows:

§ 52.33 Recovery of carrier-specific costs directly related to providing long-term number portability.

* * * * *

(b) All telecommunications carriers other than incumbent local exchange carriers may recover their number portability costs in any manner consistent with applicable state and federal laws and regulations.

■ 9. Amend § 52.34 by adding paragraph (c) to read as follows:

§ 52.34 Obligations regarding local number porting to and from interconnected VoIP or Internet-based TRS providers.

* * * * *

(c) Telecommunications carriers must facilitate an end-user customer's valid number portability request either to or from an interconnected VoIP or VRS or IP Relay provider. ''Facilitate'' is defined as the telecommunication carrier's affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the NANP-based telephone number.

§ 52.35 [Amended]

■ 10. Amend § 52.35 by removing paragraph (e)(1) and redesignating paragraphs (e)(2) and (3) as (e)(1) and (2).

§ 52.36 [Amended]

■ 11. Amend § 52.36 by removing paragraph (d).

[FR Doc. 2013–13703 Filed 6–18–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 233

[Docket No. FRA–2012–0104, Notice No. 1]

RIN 2130–AC44

Signal System Reporting Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: As part of a paperwork reduction initiative, FRA is proposing to eliminate the regulatory requirement that each carrier must file with FRA a signal system status report every five years. FRA believes the report is no longer necessary because advances in technology have made it possible for more updated information regarding railroad signal systems to be available to FRA through alternative sources. Separately, FRA is proposing to amend the criminal penalty provision in the Signal System Reporting Requirements by updating an outdated statutory citation.

DATES: Written comments must be received by August 19, 2013. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

FRA anticipates being able to resolve this rulemaking without a public, oral hearing. However, if FRA receives a specific request for a public, oral hearing prior to July 19, 2013, one will be scheduled, and FRA will publish a supplemental notice in the **Federal Register** to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: You may submit comments related to Docket No. FRA–2012–0104, Notice No. 1, by any one of the following methods:

- *Fax:* 1–202–493–2251;
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590;
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Web site:* Electronically through the Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Crain, Electronic Engineer, Signal and Train Control Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., W35–226, Washington, DC 20590 (telephone: (202) 493–6257), *sean.crain@dot.gov,* or Stephen N. Gordon, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., W31–209, Washington, DC 20590 (telephone: (202) 493–6001), *stephen.n.gordon@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Explanation of Proposed Regulatory Action

A. Elimination of the Signal System Five-[Y]ear Report

On May 14, 2012, President Obama issued Executive Order (E.O.) 13610—Identifying and Reducing Regulatory Burdens, which seeks ''to modernize our regulatory system and to reduce unjustified regulatory burdens and costs.'' *See* 77 FR 28469. The Executive Order directs each executive agency to conduct retrospective reviews of its regulatory requirements to identify potentially beneficial modifications to regulations. Executive agencies are to ''give priority, consistent with the law, to those initiatives that will produce significant quantifiable monetary savings or significant quantifiable reductions in paperwork burdens while protecting public health, welfare, safety and our environment.'' *See id.* at 28470.

FRA has initiated a review of its existing regulations in accordance with E.O. 13610 and the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* with the goal of identifying regulations that can be amended or eliminated, thereby reducing the paperwork and reporting burden on carriers that are subject to FRA jurisdiction. One area where FRA believes it can help reduce the railroad industry's reporting burden is by eliminating the Signal System Five-Year reporting requirement. *See* 49 CFR 233.9.

Section 233.9 currently requires each carrier to complete and submit an FRA Form F6180.47, Signal System Five-Year Report, in accordance with the instructions and definitions on the form. The information reported on FRA Form F6180.47 is intended to update FRA on the status of a railroad's signal system. It historically has been used to monitor changes in the types of signal systems installed and the methods of operation used on the Nation's railroads.

Prior to 1997, carriers were required to submit a Signal System Annual Report by April 15 of each year. However, based on a regulatory review, FRA extended the reporting requirement to every five years rather than annually. *See* 61 FR 33871 (July 1, 1996). FRA determined that a five-year reporting period would significantly reduce the reporting burden on the railroads while still meeting the informational needs of the government. Therefore, in July 1996, FRA amended § 233.9 to require that ''[n]ot later than April 1, 1997 and every 5 years thereafter, each carrier shall file with FRA a signal system status report ''Signal System Five-[Y]ear Report'' on a form to be provided by FRA in accordance with instructions and definitions provided on the report.''

For the 2012 reporting period, FRA transitioned the Signal System Five-Year Report form into an electronic format. The electronic form required all of the same information as the paper form but could be submitted via the Internet. The form was due to be submitted by no later than April 1, 2012, and pertained to signal systems in service on or after January 1, 2012. The next five-year report is not due until April 2017. The present rulemaking would eliminate the reporting requirement in its entirety for April 2017 and thereafter.

FRA believes that the Signal System Five-Year Report is no longer necessary for several reasons. The data collected in the Signal System Five-Year Report can quickly become outdated. Railroads normally modify signal systems far more frequently than once every five years. Indeed, FRA has generally found that signal system modifications occur with such frequency under 49 CFR §§ 235.5 and 235.7, that the Signal System Five-Year Report often is out-of-date by the time it is received by FRA.

Moreover, FRA has other viable means to monitor a carrier's signal system. It is better able to monitor the status of a railroad signal system through the use of more frequently collected agency data—such as the Block Signal Application, *see* 49 CFR 235.5—which provide the agency much more detailed and useful information. The development and expansion of electronic reporting methods also allow railroads to more frequently report to FRA information similar to that which is captured in the Signal System Five-Year Report. This ability gives FRA a better ''real-time'' understanding of a carrier's signal system than the agency can get from a report that is filed once every five years. As a result, FRA currently relies on the more up-to-date sources for signal system data and has little use for the information collected in the Signal System Five-Year Report.

Finally, the railroad industry and the general public do not appear to derive any useful benefit or information from the Signal System Five-Year Report. The feedback FRA has received from the industry and the general public indicates that, as expected, the data contained in the report was not useful in providing up-to-date information about railroad signal systems. As a result, FRA is confident that eliminating the report will not result in the railroad industry or the general public being less informed about railroad signal systems.

B. Updating U.S. Code Citations in Part 233

Administrative amendments are sometimes necessary to address citations that have become outdated due to the actions of Congress. This is particularly true when the basis for a legal requirement is moved to a different title, chapter, or section of the U.S. Code. Federal regulations do not ''auto-correct'' for these types of changes. Therefore, it is incumbent on agencies to monitor their regulations and make appropriate changes whenever feasible. FRA has identified a citation in 49 CFR 233.13(b)—referencing 49 U.S.C. 438(e)—that should be amended for this reason, and proposes to make that amendment in this rulemaking.

The subject statutory provision arises out of the former Federal Railroad Safety Act of 1970 (FRSA), which was enacted on October 16, 1970. *See* Public Law 91–458. Section 209 of the FRSA, as originally enacted, contained a civil penalty provision that was codified at 45 U.S.C. 438. While the statute did not contain a criminal penalty provision when it was first enacted, Congress eventually determined that there may be situations where criminal penalties are warranted for violations of the law. Accordingly, the FRSA was amended on October 10, 1980. *See* Public Law 96–423. Among other things, the 1980 amendment added paragraph (e) to section 209, establishing that criminal penalties may be assessed against any person who knowingly and willfully makes a false entry in a required record or report; destroys, mutilates, changes, or otherwise falsifies a required record or report; fails to enter specified facts or transactions in a required record or report; makes, prepares, or preserves a record or report in violation of an applicable regulation or order; or files a false record or report with the Secretary of Transportation. This revision to the FRSA was codified at 45 U.S.C. 438(e).

In 1984, FRA amended its Signal and Train Control Regulations, including 49 CFR Part 233. *See* 49 FR 3374 (Jan. 26, 1984). Section 233.13(b) was amended

at this time to read ''[w]hoever knowingly and willfully—[f]iles a false report or other document required to be filed by this part is subject to a $5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522(a) and section 209(e) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438(e)).'' This language reflected the added statutory authority that Congress provided in its 1980 amendment to the FRSA.

Congress, however, was not done making changes that applied to section 209(e) of the FRSA. In 1994, Congress enacted a law to ''revise, codify, and enact without substantive change certain general and permanent laws, related to transportation'' under title 49 of the U.S. Code. *See* Public Law 101–272. As a result, most Federal railroad safety laws were moved from title 45 to title 49. This included the criminal penalty provision of the FRSA, which was repealed at 45 U.S.C. 438(e) and recodified at 49 U.S.C. 21311. This statutory change rendered the citation in 49 CFR 233.13(b) outdated, and FRA has not, prior to this date, sought to amend the regulatory provision. Given that FRA has begun the present rulemaking addressing part 233, it views now as an appropriate time to update the citation in paragraph (b) of section 233.13.

II. Section-by-Section Analysis

Part 233—Signal System Reporting Requirements

Section 233.9 Reports

FRA proposes eliminating the Signal System Five-Year Report required by this section and reserving the section for future use. Eliminating this reporting requirement will reduce the railroad industry's paperwork burden in a way that does not endanger the public health, welfare, and safety or our environment. FRA has identified three specific reasons supporting the elimination of this reporting requirement. First, the information contained in the Signal System Five-Year Report quickly becomes obsolete. Second, FRA is better able to determine the status of a railroad's signal system through other more frequently collected types of information. Third, the report does not generally appear to contain information that is useful to the railroad industry or the general public.

Section 233.13 Criminal Penalty

FRA proposes making an administrative change to paragraph (b) of this section to correct an out-of-date citation to the U.S. Code. Paragraph (b) provides that it is unlawful to knowingly and willfully file a false report required by part 233. Such conduct is punishable with a fine of $5000 and up to two years imprisonment. The paragraph cites to 45 U.S.C. 438(e) as statutory support for the criminal penalties; however, this statutory provision was repealed and recodified under a different title of the U.S. Code as part of a reorganization of the Federal railroad safety statutes by Congress. The provision is currently housed at 49 U.S.C. 21311. The proposed amendment would correct the outdated citation in paragraph (b) by replacing 45 U.S.C. 438(e) with 49 U.S.C. 21311.

Appendix A to Part 233—Schedule of Civil Penalties

Appendix A to part 233 contains a schedule of civil penalties for use in connection with this part. Because such penalty schedules are statements of agency policy, notice and comment are not required prior to their issuance. *See* 5 U.S.C. 553(b)(3)(A). Nevertheless, FRA intends to amend this appendix in issuing the final rule to remove and reserve the entry for § 233.9, in accordance with this proposal.

III. Regulatory Impact

A. Executive Order 12866 and 13563 and DOT Regulatory Policies and Procedures

This rulemaking proposes eliminating the requirement in 49 CFR 233.9 that each railroad file with FRA a Signal System Five-Year Report. The proposed rule has been evaluated in accordance with existing policies and procedures. It is not considered a significant regulatory action under E.O. 12866 and E.O. 13563. This rule also is not significant under the DOT Regulatory Policies and Procedures. 44 FR 11034 (Feb. 26, 1979). A regulatory impact analysis addressing the economic impact of this proposed rule has been prepared and placed in the docket.

As part of the regulatory evaluation, FRA has explained the benefits of this proposed rule and provided monetized assessments of the value of such benefits. The proposed rule would eliminate the cost associated with submitting a Signal System Five-Year Report. Each railroad currently expends approximately one hour of labor to prepare and submit the report to FRA every five years. For the 20-year period analyzed, the estimated cost savings would be $234,265. The present value of this is $113,929 (using a 7 percent discount rate). This regulation only reduces the burden on railroads; it does not impose any additional costs. Therefore, the net benefit of this proposed rulemaking would be $113,929 (present value, 7 percent). FRA requests comments on all aspects of this regulatory evaluation and its conclusions.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.,* and E.O. 13272, 67 FR 53461 (Aug. 16, 2002), require agency review of proposed and final rules to assess their impact on small entities. An agency must prepare an initial regulatory flexibility analysis (IRFA) unless it determine and certifies that a rule, if promulgated, would not have a significant impact on a substantial number of small entities. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the FRA Administrator certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect all railroads, including small railroads. However, the effect on these railroads would be purely beneficial and not significant, as it would reduce their labor burden by eliminating the need to file a Signal System Five-Year Report.

''Small entity'' is defined in 5 U.S.C. 601 as including a small business concern that is independently owned and operated, and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a ''small entity'' in the railroad industry is a for profit ''line-haul railroad'' that has fewer than 1,500 employees, a ''short line railroad'' with fewer than 500 employees, or a ''commuter rail system'' with annual receipts of less than seven million dollars. *See* ''Size Eligibility Provisions and Standards,'' 13 CFR Part 121, subpart A. Additionally, 5 U.S.C. 601(5) defines as ''small entities'' governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. Federal agencies may adopt their own size standards for small entities, in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes ''small entities'' or ''small businesses'' as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of

50,000 or less. *See* 68 FR 24891 (May 9, 2003), codified at appendix C to 49 CFR Part 209. The $20-million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. FRA is using this definition for this rulemaking.

FRA estimates that there are 719 Class III railroads, all of which would be affected by this proposed rule. However, the impact on these small railroads would not be significant. FRA estimates that each report takes approximately one labor hour to prepare and submit to FRA. The elimination of this reporting requirement would save each railroad one hour of labor every five years. Therefore, this proposed rule would have a positive effect on these railroads, saving each railroad approximately $307 (non-discounted) in labor costs over the 20-year analysis. Since this amount is extremely small and entirely beneficial, FRA concludes that this proposed rule would not have a significant impact on these railroads.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601(b), FRA certifies that this proposed rule would not have a significant impact on a substantial number of small entities. Although a substantial number of small railroads would be affected by the proposed rule, the impact on these entities would be minimal and positive. FRA requests comments on all aspects of this certification.

C. Federalism

Executive Order 13132, ''Federalism'', 64 FR 43255 (Aug. 10, 1999), requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

This NPRM has been analyzed in accordance with the principles and criteria contained in E.O. 13132. FRA has determined that, if adopted, the proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In addition, FRA has determined that this proposed rule will not impose substantial direct compliance costs on State and local governments. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

However, this proposed rule could have preemptive effect by operation of law under certain provisions of the Federal railroad safety statutes, specifically the former Federal Railroad Safety Act of 1970 (FRSA), repealed and recodified at 49 U.S.C. 20106, and the former Signal Inspection Act of 1937, repealed and recodified at 49 U.S.C. 20501–20505. *See* Pub. L. 103–272 (July 5, 1994). The former FRSA provides that States may not adopt or continue in effect any law, regulation, or order related to railroad safety or security that covers the subject matter of a regulation prescribed or order issued by the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters), except when the State law, regulation, or order qualifies under the ''local safety or security hazard'' exception to section 20106.

In sum, FRA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13132. As explained above, FRA has determined that this proposed rule has no federalism implications, other than the possible preemption of State laws under the former FRSA. Accordingly, FRA has determined that preparation of a federalism summary impact statement for this proposed rule is not required.

D. International Trade Impact Assessment

The Trade Agreement Act of 1979, Public Law 96–39, 93 Stat. 144 (July 26, 1979), prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501, *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. FRA has carefully reviewed the proposed rule and any potential PRA implications. Since the present rulemaking would eliminate the reporting requirement associated with § 233.9 in its entirety for April 2017 and thereafter, there is no change to the currently approved burden under OMB No. 2130–0006.

Organizations and individuals desiring to obtain a copy of the above currently approved collection of information should contact Mr. Robert Brogan or Ms. Kimberly Toone via mail at FRA, 1200 New Jersey Ave. SE., Third Floor, Washington, DC 20590. Copies may also be obtained by telephoning Mr. Brogan at (202) 493–6292 or Ms. Toone at (202) 493–6132. (These numbers are not toll-free). Additionally, copies may be obtained via email by contacting Mr. Brogan or Ms. Toone at the following addresses: *Robert.Brogan@dot.gov*; *Kim.Toone@dot.gov.*

F. Compliance with the Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 2 U.S.C. 1531, each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act, *see* 2 U.S.C. 1532, further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for

which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. The proposed rule would not result in the expenditure, in the aggregate, of $100,000,000 or more (adjusted for inflation) in any one year, and thus preparation of such a statement is not required.

G. Environmental Assessment

FRA has evaluated this proposed rule in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures), 64 FR 28545 (May 26, 1999), as required by the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this proposed rule is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this proposed rule is not a major Federal action significantly affecting the quality of the human environment.

H. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' *See* 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) [t]hat is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' FRA has evaluated this NPRM in accordance with E.O. 13211. FRA has determined that this NPRM is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this NPRM is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Privacy Act

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, *see* 65 FR 19477–78, or you may visit *http://www.regulations.gov/#!privacyNotice.*

List of Subjects in 49 CFR Part 233

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Proposal

In consideration of the foregoing, FRA proposes to amend part 233 of chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 233—[AMENDED]

■ 1. The authority citation for part 233 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20501–20505, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

§ 233.9 [Removed and reserved]

■ 2. Section 233.9 is removed and reserved.

§ 233.13 [Amended]

■ 3. Amend § 233.13 in paragraph (b) by removing the citation ''45 U.S.C. 438(e)'' and adding ''49 U.S.C. 21311'' in its place.

Appendix A to Part 233—[Amended]

4. Appendix A is amended by removing and reserving the entry for ''§ 233.9 Annual reports''.

Issued in Washington, DC on June 7, 2013.

Joseph C. Szabo,

Administrator, Federal Railroad Administration.

[FR Doc. 2013–14602 Filed 6–18–13; 8:45 am]

BILLING CODE 4910–06–P