

*C. Executive Order 13175*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

*D. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act. However, if an agency determines a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides the head of the agency may so certify, and an RFA is not required.

The Small Business Administration criterion specifies an air carrier is "small" if it has 1,500 or fewer employees. For this rule, small entities are part 121 and part 135 air carriers, approved to carry hazardous materials, with 1,500 or fewer employees. We identified 729 air carriers meeting this standard.

As mentioned in the Paperwork Reduction Act section of this preamble, it is estimated that the cost to the airline industry of this final rule will be \$450,000 per year. This estimate comes from an examination of the data in the U.S. Department of Transportation's Air Carrier Traffic Statistic Monthly. From that data we also were able to estimate that small business airlines undertake no more than 25% of all aircraft departures, and thus 25% of the total cost. The average small business is expected to incur a cost of no more than

\$150 per year. Therefore, I certify this final rule does not have a significant economic impact on a substantial number of small entities.

*E. Unfunded Mandates Reform Act of 1995*

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

*F. Paperwork Reduction Act*

This rule results in an increase in the annual paperwork burden and costs. We currently have an approved information collection under OMB No. 2137-0034, "Hazardous Materials Shipping Papers & Emergency Response Information". These revisions regarding the maintenance of copies of notification of pilot-in-command were submitted under the NPRM to OMB for review and approval.

Section 1320.8(d), Title 5, Code of Federal Regulations required that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. The NPRM identified a new information collection requirement that RSPA submitted to OMB for approval. RSPA estimated that the new total information collection and recordkeeping burden for OMB No. 2137-034 would be as follows:

"Hazardous Materials Shipping Papers & Emergency Response Information"  
OMB No. 2137-0034

*Total Annual Number of Respondents:* 250,000.

*Total Annual Responses:* 260,000,000.

*Total Annual Burden Hours:* 6,523,611.

*Total Annual Burden Cost:* \$6,925,000.

RSPA specifically requested comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements. We received three comments regarding this information collection. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. OMB approved the revised information collection requirement on February 27, 2003.

*G. Environmental Assessment*

This final rule will improve emergency response to hazardous materials incidents involving aircraft by ensuring information on the hazardous materials involved in an emergency is readily available. By improving emergency response to aircraft incidents, this should help lessen environmental damage associated with such incidents. We find there are no significant environmental impacts associated with this rule.

*H. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

**List of Subjects***49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

*49 CFR Part 175*

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

1. The authority citation for part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101-5127; 49 CFR 1.53.

2. In § 171.14, paragraph (f) is added to read as follows:

**§ 171.14 Transitional provisions for implementing certain requirements.**

\* \* \* \* \*

(f) 49 CFR 175.33 sets out requirements regarding the availability of information for hazardous materials transported by aircraft. Until October 1, 2004, a person may elect to comply with either the applicable requirements of 49 CFR 175.33 in effect on September 30, 2003, and contained in 49 CFR Part 175 revised as of October 1, 2002, or the requirements of that section contained in 49 CFR Part 175 revised as of October 1, 2003. On October 1, 2004, all applicable regulatory requirements in 49