

The FAA estimates that for the firm with no public financial data available was also adversely affected by the rule. Therefore, the FAA estimates that six of the Group 2 firms were adversely affected by the final rule.

The FAA estimated the financial impact on Group 3 entities using the same methodology as that for Group 1. Group 3 consists of 7 firms (Table XI-3 in the full Regulatory Evaluation) that qualified as small entities. Financial data was available for two of the seven Group 3 firms. Neither of the two firms had a value of this ratio of less than 2%. The two firms had ratio values ranging from 5.9 percent to 25.5 percent. In both cases the financial data indicated that the firms will be adversely affected by the final rule. Therefore, the FAA estimates that all seven firms will be adversely impacted.

The FAA estimated the financial impact on Group 4 entities using the same methodology as that used for Group 2. Group 4 consists of 14 firms (Table XI-4 in the full Regulatory Evaluation) that qualified as small entities. Financial data was available for four of these fourteen 4 firms. One of the four firms had a value of this ratio of less than 2%. The remaining three firms had ratio values ranging from 10.9 percent to 32.8 percent. The FAA estimates that 13 of the 14 Group 4 firms will be adversely affected by the final rule.

Of the 33 firms considered to be small, and for which information was available, over 36 percent are estimated to have costs less than 2 percent of annual revenue. For these firms the FAA believes compliance is affordable. For the remaining 64 percent of the firms the FAA estimates that there will be a significant, negative economic impact.

Competitive Analysis

Nearly all of the firms considered to be small entities and with an affordability measure greater than 2 percent appear to operate in markets with little or no competition. These markets require very specialized service such as remote air delivery service. Of the 31 part 121 only two were headquartered in the same city and most were located in remote locations. All of the part 125 operators, by regulation, provide non-competitive services. Part 125 operators are restricted from offering for-hire services to the public, such as advertising or marketing. To provide for-hire services, these operators must, in effect, have the customer find them. Thus in terms of competition, this rulemaking is

expected to have a minimal competitive impact.

Disproportionality Analysis

Relative to larger air cargo operators, smaller air cargo operators are likely to be disproportionately impacted by this rulemaking. Large cargo carriers' cost is a smaller percentage of their annual revenue, than those of the smaller cargo carriers.

Business Closure Analysis

Seven firms have an extremely high compliance cost per annual revenue ratios (compliance cost greater than 10% of annual revenue). Some or even many of these firms could potentially face a business closure due to this final rulemaking. The FAA does not have sufficient information to provide a more refined estimate of the potential business closures.

Analysis of Alternatives

The FAA acknowledges that the rule is likely to have a significant economic impact on a substantial number of small entities. For the final rule the FAA changed the NPRM requirements in way that may benefit small entities. The agency considered various four alternatives for the final rule. These alternatives are:

1. Issue the rule as proposed in the NPRM.
2. Exclude small entities.
3. Extend compliance deadline for small entities.
4. Establish lesser technical requirements for small entities.

Based upon safety considerations the FAA concludes that the option to exclude small entities from all the requirements of the final rule is not justified.

The FAA considered options that will lengthen the compliance period for small operators. The FAA believes that the compliance requirement will place only a modest burden on small entities. Small entities will have 2 years from the effective date of the rule to complete installation work. Further time extensions only provide modest cost savings and leave the system safety at risk. In addition, the Congressional Mandate does not provide for a time extension beyond December 31, 2004.

The FAA considered establishing lesser technical requirements for small entities. However, the FAA believes that this will result in a lower level of safety than will the implementation of the final rule. The FAA believes that the greatest safety benefits will come from a common collision avoidance system for all operators who fly in the same

airspace under the same operating environment.

In contrast to the NPRM, the FAA eliminated the CAS requirement for the owners of turbine-powered airplanes weighing less than 33,000 MCTOW. Operators of these airplanes tend to be small entities.

The FAA considered alternatives that would lessen the economic burden to small entities and achieve the needed safety objectives. To that end the FAA removed the CAS requirement for turbine-powered airplanes weighing less than 33,000 MCTOW and the required only TCASI for piston-powered airplanes. Given the real safety concerns and the Congressional mandate, the FAA worked hard to provide additional flexibility to small entities and provide the safe operating environment expected.

International Trade Impact Analysis

The Trade Agreement Act of 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. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

In accordance with the above statute and policy, the FAA has assessed the potential affect of this final rule and has determined it uses international standards as the basis for U.S. standards. Thus this final rule is in accord with the Trade Agreement Act.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1501-1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the