

it has been approved by the Office of Management and Budget.

#### IV. International Compatibility

The FAA has reviewed the International Civil Aviation Organization (ICAO) Annex 18, International Standards and Recommended Practices for the Safe Transport of Dangerous Goods by Air; the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air; the (proposed) European Union regulations OPS 1.1135, Approval to Transport Dangerous Goods; and the Joint Aviation Requirements—Operations, and other regulations, where they exist. The agency has evaluated similarities and differences in these proposed amendments and foreign regulations. Differences would affect U.S. aircraft operators only, and, therefore, it would not be necessary for the FAA to file any differences with ICAO. Foreign carriers operating in the United States would not be affected by the proposed rule.

#### V. Economic Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531 through 2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards. Where appropriate, agencies are directed to use those international standards as the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules. This requirement applies only to rules that include a Federal mandate on State, local or tribal governments or the private sector, likely to result in a total expenditure of \$100 million or more in any one year (adjusted for inflation).

In conducting these analyses, FAA has determined this proposed rule: (1) Would have benefits which would justify its costs, would be a “significant regulatory action” as defined in the Executive Order and would be “significant” as defined in DOT’s

Regulatory Policies and Procedures; (2) would not have a significant economic impact on a substantial number of small entities; (3) would impose no barriers to international trade; and (4) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. The FAA has placed these analyses in the docket and summarized them below.

#### *Benefits*

The proposed rule is intended to reduce the improper carriage of hazardous materials aboard part 121 and 135 aircraft by updating and clarifying the current hazardous material requirements for these operators and by amending the certification procedures and requirements for part 145 repair stations that use or handle hazardous materials.

A review of the National Transportation Safety Board database indicates that there have been six hazardous materials related accidents in the 10-year period 1989 through 1998. The FAA sanctioned 64 violations of the hazardous materials regulations and imposed fines amounting to \$1.3 million for these violations during 2000. The potential for further accidents is significant given the number of serious incidents being investigated by the FAA. A review of active cases in 1999 indicated that at least 59 were for serious hazardous materials violations against certificate holders. Given that there have been six accidents in the past in which hazardous materials were involved, the FAA estimates that there almost certainly will be a hazardous materials related accident in the next decade based on the past accident history. Furthermore, given that one of the six accidents involved fatalities, the FAA believes there is a chance that there will be one or more fatal accidents attributable to hazardous materials violations if the current regulations are not improved. The FAA estimates that a single fatal accident would result in 79 lives lost and a monetary loss of \$232 million.

#### *Costs*

The FAA has analyzed the expected costs of this proposal for a 10-year period, 2002 through 2011. All costs in this analysis are expressed in 1999 dollars. The estimated industry costs over 10 years total \$107.5 million, or \$75.8 million discounted. These costs consist of the initial cost of revising manuals and upgrading databases, annual recordkeeping, and annual notifications. In addition, some carriers would incur the cost for initially training personnel in the more

comprehensive hazardous materials recognition programs and for recurrent training. The cost of revising manuals is estimated at \$321,000, (\$300,000 discounted); database upgrades at \$617,000 (\$577,000 discounted); recordkeeping at \$13,526,000 (\$9,294,000 discounted); and notifications at \$549,500 (\$449,800 discounted). The training of aircraft operator and repair station persons is estimated at \$91.6 million (\$64.5 million discounted). Repair station record submission and staff notification costs are estimated at \$878,000 (\$612,000 discounted).

Public comment is invited. The FAA requests that all comments be accompanied by clear economic documentation.

#### *Cost-Benefit Analysis*

The National Transportation Safety Board’s accident database shows one fatal accident in the past 10 years. Applying the Poisson probability distribution to that one fatal accident suggests that, under the proposed rule, there would be more than a 60 percent chance that one or more fatal accidents would be avoided. (See the discussion of “Benefits” in the complete Regulatory Impact Analysis, which is contained in the public docket.) The monetary benefit of avoiding a single accident resulting in fatalities is estimated at \$232 million. The cost of implementing this proposed rule is estimated at \$107.5 million over the next 10 years.

The cost of a final rule (“Hazardous Materials: Chemical Oxidizers and Compressed Oxygen Aboard Aircraft” (64 FR 45388; Aug. 19, 1999)) published by the Research and Special Programs Administration, using the same accident database, was estimated at \$865,000, thus raising total costs to industry to \$108.3 million. Since the potential benefits exceed the additional costs of this proposed rule and the RSPA final rule, the proposed rule would be cost beneficial.

The FAA invites public comments and requests that all comments be accompanied with clear and detailed supporting economic documentation.

#### VI. Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) 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, organization, and government jurisdictions subject to regulation.” To achieve that principle, the RFA requires