

the aircraft. As such, these individuals could represent a definitive threat to security.

Comparison of Costs and Benefits

It is estimated this rule will have insignificant incurred costs when compared to the potential benefits. The potential benefits are huge in the number of lives and amount of property within the United States saved from a catastrophic terrorist act by this rule. As such, the small amount of costs and the large positive value of the cost-benefit analysis support the rule as cost-beneficial.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) established "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 businesses, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA 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 as described in the RFA. However, if an agency determines that 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 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

TSA has determined that this rule will not have a significant economic impact on a substantial number of small entities, pursuant to the RFA, 5 U.S.C. 605(b). This determination is based on the fact that the rule affects only individuals, not entities. Additionally, based on the comparison of costs and benefits set forth above, the costs incurred by individuals will be insignificant compared to potential benefits of the rule. Therefore, pursuant to the RFA, 5 U.S.C. 605(b), TSA certifies that this rule will not have a significant impact on a substantial

number of small entities. The FAA has also issued a final rule regarding denial and revocation of FAA-issued certificates, ratings, or authorizations and has determined that such denial or revocation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the TSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new requirements for information collection associated with this final rule. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid Office of Management and Budget (OMB) control number.

International Trade Impact Statement

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 and security, 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. The TSA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and, therefore, no effect on any trade-sensitive activity.

Unfunded Mandates Determination

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this final rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1540

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

The Amendment

In consideration of the foregoing, the Transportation Security Administration amends Chapter XII of Title 49, Code of Federal Regulations, as follows:

PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

1. The authority citation for part 1540 continues to read as follows:

Authority: 49 U.S.C. 114, 5103, 40119, 44901-44907, 44913-44914, 44916-44918, 44935-44936, 44942, 46105.

2. Amend part 1540 by adding § 1540.115 to read as follows:

§ 1540.115 Threat assessments regarding citizens of the United States holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is a United States citizen and who holds, or is applying for, an airman certificate, rating, or authorization issued by the Administrator, poses a security threat.

(b) *Definitions.* The following terms apply in this section: