

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) Public Law 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 § 1540.117 to read as follows:

#### § 1540.117 Threat assessments regarding aliens holding or applying for FAA certificates, ratings, or authorizations.

(a) *Applicability.* This section applies when TSA has determined that an individual who is not a citizen of the United States and who holds, or is

applying for, an airman certificate, rating, or authorization issued by the FAA Administrator, poses a security threat.

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

*Assistant Administrator* means the Assistant Administrator for Intelligence for TSA.

*Date of service* means—

(1) The date of personal delivery in the case of personal service;

(2) The mailing date shown on the certificate of service;

(3) The date shown on the postmark if there is no certificate of service; or

(4) Another mailing date shown by other evidence if there is no certificate of service or postmark.

*Deputy Administrator* means the officer next in rank below the Under Secretary of Transportation for Security.

*FAA Administrator* means the Administrator of the Federal Aviation Administration.

*Individual* means an individual whom TSA determines poses a security threat.

(c) *Security threat.* An individual poses a security threat when the individual is suspected of posing, or is known to pose—

(1) A threat to transportation or national security;

(2) A threat of air piracy or terrorism;

(3) A threat to airline or passenger security; or

(4) A threat to civil aviation security.

(d) *Representation by counsel.* The individual may, if he or she so chooses, be represented by counsel at his or her own expense.

(e) *Initial Notification of Threat Assessment.* (1) *Issuance.* If the

Assistant Administrator determines that an individual poses a security threat, the Assistant Administrator serves upon the individual an Initial Notification of Threat Assessment and serves the determination upon the FAA Administrator. The Initial Notification includes—

(i) A statement that the Assistant Administrator personally has reviewed the materials upon which the Initial Notification was based; and

(ii) A statement that the Assistant Administrator has determined that the individual poses a security threat.

(2) *Request for materials.* Not later than 15 calendar days after the date of service of the Initial Notification, the individual may serve a written request for copies of the releasable materials upon which the Initial Notification was based.

(3) *TSA response.* Not later than 30 calendar days, or such longer period as TSA may determine for good cause, after receiving the individual's request