

to the flight deck. DOD commercial air carrier evaluators have relied upon the authority contained in 14 CFR 121.547(a)(4) to evaluate part 121 air carriers. Section 121.547 states in relevant part: "(a) No person may admit any person to the flight deck of an aircraft unless the person being admitted is . . . (4) Any person who has the permission of the pilot in command and is specifically authorized by the certificate holder management and by the administrator." There is no analogous section in part 135.

For many years, DOD commercial air carrier evaluators have relied on the FAA, the air carrier, and the pilot in command authorizing their access to conduct the air carrier evaluation mission. The current process is both cumbersome, including the issuance of FAA Form 8430-6, and unnecessary. It requires the DOD Survey and Analysis Office to obtain and maintain specific approval from each and every air carrier their evaluators are to assess. DOD's ten commercial air carrier evaluators are responsible for conducting cockpit evaluations on over 140 different carriers contracted with the Department of Defense.

The absence of explicit authority in the regulation listing "DOD commercial air carrier evaluator" and the lack of a well-known DOD evaluator credential is significantly hindering the congressionally mandated DOD air carrier evaluation mission, especially in the wake of 9/11. While DOD and FAA Flight Standards Service personnel understand the role of the DOD commercial air carrier evaluator, it is often misunderstood by those in aviation security and the crewmembers on those flights being evaluated by DOD.

The DOD will continue to ensure the proper coordination with the air carrier in advance of these evaluations through a simplified process. These amendments will make clear the authority of DOD commercial air carrier evaluators to conduct cockpit evaluations by explicitly including them in the regulation text. These changes, accompanied by the creation of an S&A Form 110B evaluator credential should alleviate the problems DOD commercial air carrier evaluators are facing in the field with minimum impact.

The FAA believes the efficiency of the DOD cockpit observation program will be greatly enhanced by amending the relevant sections of 14 CFR 119, 121, and 135 to specifically include DOD commercial air carrier evaluators. Further, the creation of the S&A Form 110B credential will allow DOD commercial air carrier evaluators to gain

cockpit access without having to follow the FAA Form 8430-6 process, and without having to obtain and maintain the specific permissions for every cockpit evaluation. The DOD will require its commercial air carrier evaluators to carry with them an S&A Form 110B credential, their military orders, and a current military ID while conducting an evaluation. The S&A Form 110B credential will be analogous to the 110A credential held by FAA inspectors in terms of gaining cockpit access. However, a DOD commercial air carrier evaluator may not use his S&A Form 110B credential on any air carrier that is not under contract with the Department of Defense. A DOD commercial air carrier evaluator may use the credential on specific flights that may not be contracted so long as the air carrier itself maintains a contract with the DOD. The only exceptions to the existing contract criteria are when an air carrier is going through an initial survey or applying for a contract or both—in these instances the credential is valid without a contract.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has reviewed and determined that these amendments do not constitute a new or additional information collection activity.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

Justification for No Notice and Immediate Adoption

This action is being taken without providing the opportunity for prior notice and public comment. The FAA finds that prior notice and public comment are impracticable and contrary to the public interest, pursuant to section 553 of the Administrative Procedure Act (APA). Section 553(b)(B) of the APA permits an agency to forego notice and comment rulemaking when "the agency for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary or contrary to the public interest." The use of notice and comment prior to issuance of this rule would delay the potential safety benefit of this

rulemaking. FAA asks for comment with publication of this rule, and will consider all comments received during the comment period. If changes to the rule are necessary to address aviation safety more effectively, or in a less burdensome but equally effective manner, FAA will make such changes. The FAA finds the need to facilitate the use of a new credential for DOD commercial air carrier evaluators is good cause for making this final rule effective immediately.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory impact analysis." Similarly, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

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, organizations, and governmental jurisdictions subject to regulation." To achieve that 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 as described in the Act.

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