

The FAA conducted the required review of this final rule, and finds the following:

(1) Engineering and manufacturing costs of this rule apply to manufacturers of part 25 airplanes. No such manufacturer is a small business;

(2) In December 2000, the FAA identified 28 airlines that were small businesses. This evaluation assumes each will replace about 2.8% of the insulation in each of its airplanes with rule compliant insulation yearly, on a maintenance-driven basis. Fleet sizes of those 27 carriers still in business range from 2 to 24. The FAA believes the average annual cost of compliance for these carriers will approximate \$60 per airplane. Based on fleet size, the annual costs incurred by average small business carrier is estimated at \$420. This amount is less than an hour of annual operating cost for the airplanes affected by this rule;

(3) Because the FAA believes that manufacturers will pass along their increased compliance costs to the airlines the agency reviewed the scope and significance of these costs to operators. The discounted present (2001) value of the average airplane newly delivered in 2006 (the first year both flame propagation and burnthrough requirements will be implemented) is about \$34.8 million in constant 2001 dollars. Assuming the manufacturer spreads engineering costs (for each requirement) over a 10-year production run, about \$12,000 will be added to the cost of the average airplane. Material costs for both requirements will add another \$11,000. Thus, about \$23,000, or just under seven one-hundredths of one percent is added to the cost of the average airplane that might be acquired by the average small business airline. The FAA believes a small business airline that will acquire, or will secure the use of a \$34.8 million capital asset will not be burdened by this small increment.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### **International Trade Impact Assessment**

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 accordance with the above statute, the FAA has assessed the potential effect of this final rule and has determined that it will impose the same costs on domestic and international manufacturing entities, and will impose minimal operating costs on domestic operators. The agency believes this final rule will approximate a neutral impact on trade.

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, 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 Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate."

A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any significant Federal intergovernmental or private sector mandate. Therefore, the analytical requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

In estimating the costs associated with this final rule, we refined the analysis that we prepared for the September 20, 2000 NPRM. See 65 FR 56998. At that time, we estimated the total discounted costs of the NPRM to be \$68.2 million. As stated above, we estimate the total discounted cost of the final rule to be

\$108.4 million. The primary reason for the increase in the cost estimate is that we believe that the NPRM cost estimate of configuration management was too low. Based on comments we received on the NPRM about the complexity of managing aviation parts nomenclature, we revised the cost estimate upward.

Several commenters on our estimates of the costs of the proposed rule address our use of a particular commercial product in the cost and benefit assessment. Some commenters note that the material discussed is actually a family of materials, rather than a single product, and it could be misleading to imply that only one material is being considered. Other commenters object to the use of any trade name, and state that this implies that the FAA is endorsing a particular product.

As discussed in the NPRM, the FAA specifically requested information on materials that manufacturers would use to comply with the requirement. This was because we could not obtain definitive information on the optimal means of compliance, and were forced to rely on information available to make an assessment of the costs of compliance. In so doing, we used as an example a product where the performance and cost information could be readily obtained. This is not a product endorsement, or even a suggestion of a preferred means of compliance. It is merely an example that could be quantified to illustrate what the cost of compliance could be. In order for this information to be of any value, the particular product has to be mentioned. Otherwise, there would be no way for the public to comment on the validity of our estimates.

#### **Executive Order 13132, Federalism**

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

#### **Environmental Analysis**

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.