

United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined this rule: (1) Has benefits that justify its costs, is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures; (2) will not have a significant economic impact on a substantial number of small entities; (3) will reduce barriers to international trade; and (4) does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Costs and Benefits

The FAA determines that there will be no additional costs associated with the rule and the current level of safety will be maintained or improved. As discussed in the previous section, in addition to harmonizing § 25.613 and JAA requirements, the amendments will clarify the current rule, codify current practice, and reinstate the provision that permits the Administrator to approve other material design values. Consequently, manufacturers of transport category airplanes will not incur any additional costs. In fact, in certain cases, the manufacturer and the FAA will realize cost savings as a result of the revisions. These cost savings are examined in further detail in the following paragraphs.

Under the current rule, there are three potential options on which to base material strength properties and material design values. First, a manufacturer could conduct a material properties development program for each material, product form, and heat treatment. Second, a manufacturer could test each aircraft structural part (on a sampling basis) to verify strength characteristics. Third, a manufacturer could use another method for establishing material design values and then request FAA approval of an equivalent safety finding. The FAA estimates that the initial cost of the

latter method, which is the least costly, is between \$100,000 and \$150,000.

There will be cost savings to the manufacturer and the FAA associated with the provision in the rule permitting the Administrator to approve other material design values (such as those listed in the draft AC). First, under certain conditions, manufacturers of transport category airplanes will no longer need to employ one of the options, described above. If the material design values can be found in the accepted military or industry handbooks, the manufacturer would avoid the initial or recurring cost of establishing material design values. Based on analysis of the available options described above, the FAA estimates that this cost saving (*i.e.*, benefits) will be at least \$100,000 per initial aircraft certification (the lower estimate of the least costly option).

Second, the (new) provision will eliminate the need for an equivalent safety finding in the third option. The manufacturer will realize minimal cost savings through a reduction in paperwork. For the FAA, the rule will eliminate approximately 30 hours of paperwork per aircraft certificate for an FAA aerospace engineer (GS-14, step 5) to conduct an equivalent safety finding. This converts to a cost savings of approximately \$1,577 in administrative costs per certificate.

Given the findings of no incremental costs, benefits of at least \$100,000 (*i.e.*, cost-savings associated with rule-harmonization), and continuation of the necessary high level of safety, the FAA deems this final rule cost-beneficial.

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 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.

If, however, an agency determines that a final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act 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.

As stated in the initial regulatory flexibility determination, the proposed rule affected only manufacturers of transport category airplanes. And, since all United States transport category airplane manufacturers exceed the Small Business Administration (SBA) small-entity standard of 1,500 employees for aircraft manufacturers, the FAA determined that the proposal "would not have a significant economic impact on a substantial number of small entities." There were no comments to the docket contesting this finding. Consequently, the FAA now certifies that the final 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 rule and has determined that it complies with the Act since it harmonizes U.S. standards with similar European standards. In addition, the rule will impose no incremental costs on either domestic or international manufacturers.

Unfunded Mandates Assessment

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,