

Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (the Act) 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 an expenditure of \$100 million or more (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 proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Paperwork Reduction Act

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Organizations and individuals desiring to submit comments on the information, billing, and collection requirements should direct them to the U.S. Department of Transportation Dockets at the address listed in the **ADDRESSES** section of this document.

The FAA can only roughly estimate the effect of the proposed rule on air tour operators because accurate and complete data on the number of operators, tours, and aircraft is not yet available. This is because there are no formal reporting requirements for air tour operations and comprehensive industry data is scarce. One purpose of this rule is to establish a definition of Commercial Air Tour that may be used to subsequently collect data on the air tour industry.

Proposed § 136.13 would require the pilot in command to ensure that passengers are orally briefed before takeoff for an air tour flight that includes a flight segment that is conducted over water beyond any shoreline. This briefing would be in addition to the passenger briefings required by §§ 121.571, 121.573 and 135.117. The briefing would include information on water ditching procedures, use of personal flotation gear, and emergency egress from the aircraft. The FAA estimates that this requirement would affect approximately 101,550 air tours annually by approximately 825 operators, assuming half the required briefings would be provided by a recorded announcement.

Each safety briefing would take 3 minutes, and the pilot conducts the briefing at an average rate of \$29 per hour. Using these numbers, compliance will require 5,078 hours at a combined annual cost to the affected operators of \$147,275.

This proposal would require part 91 air tour operators to apply under part 119 for certification under either part 135 or part 121. The FAA estimates that approximately 60 percent of the 1,650 part 91 operators that are currently conducting air tours would convert to part 135. It is unlikely that any would apply under part 121. The FAA estimates that the remaining part 91 operators would discontinue air tours but continue in other lines of business. This burden would affect only part 91 operators. For many part 91 operators, air tours comprise only an occasional portion of their business, if at all. They would only apply for certification under parts 135 or 121 if the benefits outweigh the costs. For the approximate 980 part 91 operators that would certify under parts 135 and 119, the certification costs would become applicable. *See* OMB-2120-0039 (for part 135 certification requirements) and OMB-2120-0593 (for part 119 certification requirements).

Proposed § 136.17 would require a performance plan for helicopter tour operations. It would require a one-page document that the operator would develop per the rotorcraft flight manual for each type of helicopter considering density, altitude, gross weight, and center of gravity limits. Although required by this NPRM, an evaluation of aircraft performance is a requirement during flight planning for any flight, including for rotorcraft. The performance would be different for each make and model of helicopter and different for each flight since conditions would be different. These performance plans are already required for helicopters operating in Hawaii. The FAA estimates that 375 helicopters would be required to prepare performance plans. This would require 26,250 hours per year at a cost of \$761,250.

The agency is soliciting comments to (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through

the use of appropriate automated, information technology (for example, permitting electronic submission of responses).

Individuals and organizations may submit comments on the information collection requirement by December 22, 2003. Comments should be submitted to the address listed in the **ADDRESSES** section of this document.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public will be notified of the OMB control number when assigned.

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 determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would 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, and therefore would 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 proposed rulemaking action qualifies for a categorical exclusion.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 91

Aircraft, Airmen, Air traffic control, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 119

Administrative practice and procedures, Air carriers, Aircraft,