

international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 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 have a significant economic impact on a substantial number of small entities; (3) will not constitute a barrier to international trade; and (4) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. The FAA has placed these analyses in the docket and summarized them below.

Costs

The FAA estimates the total cost of this rule at \$29.8 million or \$20.9 million, discounted. The costs reflect maintenance and operating costs attributable to flotation devices and life vests, operating costs required for calculating helicopter performance plans and providing a passenger briefing for emergency egress in the event of a water landing. Lost opportunity costs will also be incurred due to the minimum weather provisions.

The rule requires single-engine helicopters conducting air tours beyond the shore of any island to be either amphibious or equipped with flotation devices. The capital costs associated with this provision are reflected in the maintenance costs. In addition, there are operating costs from increased fuel consumption. The cost for required float inspections is estimated at \$4.0 million over a 10-year period, \$2.8 million, discounted. The helicopters will incur an operating penalty from increased fuel consumption due to the extra weight of the floats. The FAA estimates the 10-year weight-related costs at \$4.6 million or \$3.2 million, discounted. The total operating costs of these provisions over a 10-year period are estimated at \$8.6 million or \$6.0 million, discounted.

Each person on board an air tour helicopter is required to wear a life vest. Air tour operators in Hawaii had provided life vests aboard helicopters prior to the issuance of SFAR 71 in 1994

and thus already complied with the equipment requirement so there are no acquisition costs associated with this provision. Prior to SFAR 71, the life vests were stowed under the passenger's seat. Since the issuance of SFAR 71, passengers have to wear a life vest during the helicopter air tour. This results in additional continuing maintenance costs associated with these life vests since the rule requires the vests to be worn as well as a weight penalty. The 10-year cost totals \$485,000 or \$341,000, discounted.

Each helicopter air tour operator must develop and comply with a performance plan. The development costs have already been incurred but each pilot must complete the performance plan before each flight. The 10-year cost of preparing the performance plans are estimated at \$4.9 million or \$3.5 million, discounted.

The pilot in command must ensure each passenger is briefed on water ditching procedures, use of required life vests, and emergency egress from the aircraft in event of a water landing. The 10-year cost of this provision is estimated at \$8.1 million or \$5.7 million, discounted.

Opportunity costs will also be incurred due to the minimum weather provisions. The total lost net revenue due to cancelled air tours is estimated at \$7.6 million or \$5.3 million, discounted.

Benefits

The FAA has quantified the benefits of the life vests and minimum altitude provisions and estimates the monetary benefits of these provisions at \$125.3 million. An estimated 39 fatalities will be avoided, if the rule is 100 percent effective. This rule would be cost beneficial if it were only 24 percent effective. The benefits of the briefing provision are reflected in the life vest provision. The benefits of the performance plan have not been quantified.

Between 1982 and 1994 there were 3 helicopter water-landing accidents in which 8 persons drowned. These 3 accidents occurred in the course of an estimated 1.176 million flights or 2.55 accidents per million helicopter air tour flights. Applying this accident rate to the forecast of 1.157 million flights over the next 10-years results in 8 fatalities averted and a monetary benefit of \$24 million.

There were 7 helicopter accidents between 1982 and 1994 related to weather or flying low. These accidents resulted in 11 fatalities, 9 serious and 12 minor injuries. The helicopter air tour accident rate related to weather equaled

5.95 accidents per million flights. Between 1995 and 2002 there were 2 helicopter accidents resulting in 13 fatalities and a weather related accident rate of 2.43 accidents per million flights. The difference in accident rates was 3.514 accidents per million flights. Based on a forecast of 1.16 million helicopter tours over the next 10-years, applying this accident rate results in 4 accidents avoided and 11 fatalities averted and monetary benefits of \$38.8 million.

Airplane air tour operators experienced 5 weather related accidents between 1982 and 1994 (24.04 weather-related accidents per million operations) but only 1 weather-related accident between 1995 and 2002 (6.9 weather-related accidents per million operations). These 6 accidents resulted in 39 fatalities and 4 serious injuries. The difference in accident rates was 17.14 per million operations. Applying this accident rate differential to the forecast of 183,000 flights over the next 10-years results in 3 accidents avoided and 20 fatalities averted and a monetary benefit of \$62.5 million.

Regulatory Flexibility Analysis

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 RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA 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 agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

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 entities, section 605(b) of the RFA 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.