

\$74.1 in downtime costs) or \$751,316.00 per operator. However, this would compromise safety as it would result in some 2,400 non-approved aircraft operating in the RVSM stratum. Therefore, the FAA rejects this alternative in favor of the rule.

#### **Alternative Three—Phased Implementation of RVSM**

This alternative would involve the implementation of RVSM for a smaller altitude band such as FL330–370 with eventual expansion to the full RVSM envelope of FL290–410. Although this alternative would create some flexibility for small operators to continue operating near their desired flight levels and delaying their implementation plans, airspace complexity would be increased. The simulations conducted at the FAA Technical Center showed that when RVSM was applied in any altitude band other than FL 290–410, system safety and airspace management were negatively impacted. Controller workload, potential for controller error and operational complexity all increased. Therefore, we reject this alternative in favor of the rule. The “Final Report for Domestic Reduced Vertical Separation Minimum (DRVSM) Initial Simulation” is in the docket and can be accessed at <http://dms.dot.gov> and searching for docket number 12261.

#### **Alternative Four—The Final Rule**

This alternative represents the Final Rule. Under this alternative, airspace users and air traffic providers will receive \$5.3 billion (\$3.0 billion, discounted) in cost-savings for the years 2005 to 2016. These benefits will be realized through the investment of \$869.2 million (\$764.9 million discounted) in costs associated with this rule. We estimate that the costs for 380 small entities would be \$211.4 million, or \$556,000.00 on average. This alternative is preferred, as we believe it provides the best balance of costs and benefits for airspace users and air traffic providers without a reduction in aviation safety.

#### **International Trade Impact Statement**

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. We have assessed the potential effect of this rulemaking and

have determined that it will impose the same costs on domestic and international entities and thus it has a neutral trade impact.

#### **Federalism**

We have 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, or 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.

#### **Paperwork Reduction Act of 1995**

Information collection requirements in the final rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB control number 2120–0679. This final rule adds the OMB control number to the table of OMB control numbers in 14 CFR 11.201(b).

#### **Unfunded Mandates Reform Act of 1995 Assessment**

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 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 in the aggregate, or by the private sector; such as a mandate is deemed to be a “significant regulatory action.”

This rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

#### **International Civil Aviation Organization and Joint Aviation Regulations**

In keeping with U.S. obligations under the Convention on ICAO, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to maximum extent practicable. The operator and aircraft approval process was developed jointly by the FAA and the JAA under the auspices of NATSPG. We have determined that this amendment does not present any difference.

#### **Environmental Analysis**

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), regulations, standards, and exemptions (excluding those, which if implemented may cause a significant impact on the human environment) qualify for a categorical exclusion. We believe that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation.

#### **Energy Impact**

We have assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA) and Pub. L. 94–163, as amended (42 U.S.C. 6362). We have determined that this rule is not a major regulatory action under the provisions of the EPCA.

#### **Executive Order 13211—Energy Supply, Distribution, or Use**

Executive Order 13211 requires agencies to submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, for matters identified as significant energy actions. A significant energy action is an action that (1) is significant under Executive Order 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy or (2) is designated by the administrator of the Administrator of OIRA as a significant energy action. We are not required to submit a Statement of Energy Effects for this proposed rule because we do not expect this rule to have a significant adverse effect on the supply, distribution, or use of energy and the Administrator of OIRA has not identified it as a significant energy action.

#### **List of Subjects**

##### *14 CFR Part 11*

Administrative practice and procedure, Reporting and recordkeeping requirements.

##### *14 CFR Part 91*

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