

TABLE 5.—ESTIMATED TEN-YEAR COSTS TO INDUSTRY—Continued

Costs incurred by—	Total cost	Present value
3 makes of 3- or 4-engine airplanes	11,875,500	9,797,100
5 Business Aircraft Manufacturers Part 25 Costs	36,065,000	33,720,900
5 Business Aircraft Manufacturers Part 33 Costs	50,625,000	47,337,500
Current Part 135 Operators:		
Aircraft Replacement Costs	24,000,000	22,440,000
Total Costs	265,303,400	217,678,800

Initial 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 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.

This proposed rule would affect airframe and engine manufacturers and part 121 and part 135 operators engaged in ETOPS operations. All United States manufacturers of transport category airplanes exceed the Small Business Administration small entity criteria of 1,500 employees for aircraft manufacturers. Those U.S. manufacturers include: Boeing, Cessna, Gulfstream, Lockheed Martin, McDonnell Douglas, Raytheon, and Sabreliner. All United States manufacturers of ETOPS-capable engines exceed the Small Business Administration small entity criteria of 1,000 employees for aircraft engine

manufacturers. Those U.S. manufacturers include: General Electric, Pratt & Whitney, and Rolls Royce. All United States operators of transport category airplanes that are currently authorized to conduct 180-minute ETOPS operations exceed the Small Business Administration small entity criteria of 1,500 employees for scheduled and non-scheduled air transportation firms. Those U.S. operators include: American, American Trans Air, Continental, Delta, United, U.S. Airways, and UPS. There are a number of small non-scheduled part 121 operators that operate 3- or 4-engine aircraft that have the capability to operate ETOPS flights beyond 180 minutes. Those operators include: Atlas, Evergreen, Gemini, Kalitta, Southern Air, Polar, and World. There are a number of small non-scheduled part 135 operators that operate 2-engine aircraft that have the capability to operate ETOPS flights beyond 180 minutes. These non-scheduled part 121 and part 135 operators are not required to conduct beyond 180-minute ETOPS operations. Those who voluntarily decide to equip their aircraft and conduct the required training and planning under this proposed rule will have made their own business decisions that the costs associated with this NPRM are less than the cost savings of operating beyond 180-minute ETOPS flights. The FAA therefore certifies that the proposed rule would not have a significant economic impact on a substantial number of small operators. The FAA seeks public comments regarding this finding and requests that all comments be accompanied with detailed supporting data.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in 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 proposed rule and determined that it would impose requirements on airframe and engine manufacturers that both domestic and foreign firms would have to comply with. U.S. operators of 3- and 4-engine aircraft that seek authority to operate beyond 180-minutes ETOPS flight would have to comply with the same proposed equipment and training provisions regardless of the country of origin of the aircraft or engine manufacturer. Also the FAA does not believe that U.S. operators of 3- and 4-engine airplanes would be placed at a competitive disadvantage to foreign operators of 3- and 4-engine airplanes as a result of this proposed rule. The FAA seeks public comments regarding this finding and requests that all comments be accompanied with detailed supporting data.

The FAA concludes that these proposed requirements would have a neutral impact on foreign trade and, therefore, create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Reform Act Assessment

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.