

The proposed noise standard would provide noise certification standards for Stage 4 airplanes certificated in the United States that would be consistent with those for airplanes certificated under the International Civil Aviation Organization Annex 16 Chapter 4 noise standards, and would ensure that the best available, economically reasonable, and technologically practicable noise reduction technologies would be incorporated into the aircraft design.

The proposed rule was developed by assessing the feasibility and availability of the best noise abatement technologies for jet and propeller-driven large airplanes. The stringency alternatives were judged against the database of current and project airplanes that incorporate these technologies. The proposed rule is a representation of current industry practice and of projected technologies. All but four currently produced aircraft types meet the proposed Stage 4 standards. The FAA found that under current industry practice three of the four currently produced airplane types have configurations that do not meet the proposed Stage 4 noise standard. However, these airplanes have one or more configurations that meet Stage 4. The remaining airplane type for which no Stage 4 configuration exists, was type certified in 1981 and can still operate under this rule.

In 2006, when the proposed rule would become effective, all new type design subsonic jet airplanes and subsonic transport category large airplanes will be able to meet the Stage 4 noise standard by using the current available noise reduction technologies. Therefore, the proposed rule would have minimal, if any, cost. However, in order to meet the proposed Stage 4 standard, weight and engine constraints could be imposed on certain aircraft configurations. The FAA specifically requests comments from entities that could be negatively affected as a result of any weight and engine constraint and requests that all comments be accompanied by clear documentation.

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 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 proposed or 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.

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 1980 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.

In view of the minimal cost impact of the proposed rule, the FAA has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the FAA certifies that this proposal would not have a significant economic impact on a substantial number of small entities. The FAA invites industry comments on this determination and requests that all comments be accompanied with clear and detailed supporting data.

International Trade Impact Analysis

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. The FAA has assessed the potential effect of this proposed rule and determined that it would accept ICAO standards as the basis for United States regulation.

Unfunded Mandates Reform Act

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. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Environmental Analysis

In accordance with the provisions of regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508), FAA Order 1050.1D identifies certain FAA actions that may be categorically excluded from the preparation of an Environmental Assessment or an Environmental Impact Statement. Pursuant to FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation and no extraordinary circumstances exist as prescribed under paragraph 32 of Order 1050.1D.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Parts 36 and 91

Aircraft, Noise control, Reporting and recordkeeping requirements.

The Proposed Amendments

In consideration of the foregoing the FAA proposes to amend parts 36 and 91 of title 14 Code of Federal Regulations, as follows:

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

1. The authority citation for part 36 continues to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 106(g), 40113, 44701–44702, 44704, 44715; sec. 305, Pub. L. 96–193, 94 Stat. 50, 57; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902.