

III. *Items Prohibited in Sterile and Cabin Areas but that May Be Placed in Checked Baggage.* Passengers may place prohibited items other than explosives, incendiaries, disabling chemicals and other dangerous items (other than individual self-defense sprays as noted below), and loaded firearms in their checked baggage, subject to any limitations provided in DOT's hazardous materials regulation. 49 CFR part 175.

(1) *Pepper spray or mace.* A passenger may have one self-defense spray, not exceeding 4 fluid ounces by volume, that incorporates a positive means to prevent accidental discharge. See 49 CFR 175.10(a)(4)(ii).

(2) *Small arms ammunition.* A passenger may place small arms ammunition for personal use in checked baggage, but only if securely packed in fiber, wood or metal boxes, or other packaging specifically designed to carry small amounts of ammunition. 49 CFR 175.10(a)(5).

(3) *Unloaded firearms.* A passenger may place an unloaded firearm or starter pistol in a checked bag if the passenger declares to the airline operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded; the firearm is carried in a hard-sided container; and the container is locked, and only the passenger has the key or combination. 49 CFR 1540.111(c).

(4) *Club-like items.* A passenger also may transport club-like objects and sharp objects in checked baggage, as long as they do not contain explosives or incendiaries.

(5) *Self-defense spray.* A passenger may have one self-defense spray (pepper spray or mace) not exceeding four fluid ounces in a checked bag if the spray container has a positive means to prevent accidental discharge. See 49 CFR 175.10(a)(4)(ii).

(6) *Other items.* Compressed air guns, fire extinguishers, flare pistols, and gun lighters are regulated as hazardous materials and may only be transported in checked baggage under strict limitations in quantity and packaging. 49 CFR part 175.

IV. *Lists are not Exclusive.* Neither the prohibited items list nor the permitted items list contains all possible items. A screener has discretion to prohibit an individual from carrying an item into a sterile area or onboard an aircraft if the screener determines that the item is a weapon, explosive, or incendiary, regardless of whether the item is on the prohibited items list or the permitted items list. For example, if a cigar cutter or other article on the permitted list appears unusually dangerous, the

screener may refuse to allow it in sterile areas. Similarly, screeners may allow individuals to bring items into the sterile area that are not on the permitted items list. In addition, items may be prohibited from the cabin of an aircraft, or allowed in only limited quantities, by Department of Transportation regulations governing hazardous materials. Individuals with questions about the carriage of hazardous materials on passenger aircraft may call the Hazardous Materials Information Center at 1-800-467-4922 for more information.

Regulatory Impact Analyses

Regulatory Evaluation

This is not a substantive rule. Rather, it explains to the public, airport personnel, screeners, and airlines how the TSA interprets certain terms used in an existing rule, 49 CFR 1540.111. Generally, an interpretive rule is not likely to impose an economic impact distinct from the impact of the underlying rule. This interpretive rule does not expand the universe of items that passengers will not be allowed to bring into sterile areas or on board aircraft beyond the types of items that currently are considered prohibited weapons, explosives, and incendiaries under the underlying rule.

The resulting economic impact of this rule is non-significant. Passengers and other persons with items that may not be brought into sterile areas have several options, some of which include transporting the prohibited item in checked baggage, mailing it to a destination, or returning it to their car. These persons can also choose to voluntarily abandon the property in TSA-provided receptacles, at which point title of the property transfers to the Government. The rule does not affect manufacturers' or distributors' ability to sell items that may not be brought into sterile areas or passengers' ability to purchase them (prohibited items sold in sterile areas must be shipped to the purchaser).

While little or no adverse economic impact is expected, some unquantifiable economic benefit may result from the fact that this interpretive rule will expedite the screening process at the nation's airports by assisting passengers in deciding how to handle specified items before passengers reach the checkpoint.

Based on this analysis, this interpretive rule is not considered a "significant regulatory action" for purposes of Executive Order 12866.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980, as amended, (RFA) was enacted by Congress to ensure that small entities (small businesses, small not-for-profit organizations, and small governmental jurisdictions) are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires agencies to review rules to determine if they have "a significant economic impact on a substantial number of small entities." Based on the analysis discussed in the section above, this interpretative rule does not impose a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis is not required.

Trade Impact Assessment

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 and security, 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. TSA has assessed the potential effect of this interpretative rule and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, is intended to discourage imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement that assesses the effect of any Federal mandate found in a rulemaking action 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 identified as a "significant regulatory action." The interpretive rule does not impose an unfunded mandate on state, local, or tribal governments because it does not require any action on the part of those entities.

Executive Order 13132, Federalism

TSA has examined this rule under the principles and criteria of Executive Order 13132, Federalism. TSA has 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