

in the airspace where RVSM will be applied.

The majority of turbo-prop aircraft do not normally operate at or above FL 290, due to performance or design limitations. Operators would most likely avoid RVSM upgrade costs and continue to operate below FL 290. Costs and benefits to turbo-prop operators, therefore were not a factor in the benefit/cost analysis. The vast majority of turbo-propeller aircraft already operate below the floor of RVSM airspace, FL 290, and would retain the option to do so if we implement domestic RVSM.

Second, neither Canada nor Mexico has elected to pursue this proposal for their airspace. U.S. operators are required by 14 CFR part 91, § 91.703 to comply with the regulations in force in foreign countries related to aircraft flight. U.S. operators, therefore, would not be allowed to file a flight plan or accept ATC vectors that would place them in Canadian or Mexican airspace. This would add unnecessary complications to air traffic control in the airspace that borders neighboring countries.

Third, during the comment period, we received comments from other civil aviation authorities and pilot associations advocating that we retain a single standard for RVSM aircraft equipage. They noted that the FAA and world standard for aircraft equipage for the past five years has been for RVSM aircraft to be equipped with two compliant altimeters. They also noted that the Edition 2 (2002) of ICAO Doc 9574 distributed in spring 2002 does not retain the single RVSM compliant altimeter provision provided in Edition 1.

We believe that in the interest of harmonization and standardization of policy and procedures with neighboring states and civil aviation authorities worldwide, we should withdraw the proposal to allow single RVSM compliant altimeter equipped aircraft to conduct RVSM operations within the United States. We have concluded that the potential benefit is not significant enough to warrant revising a standard that has been applied worldwide for the past five years.

Economic Summary

We expect domestic RVSM to produce efficiency benefits for aircraft operators who fly at altitudes from FL 290 through 400. The NPRM for domestic RVSM proposed to require dual altimeters for all aircraft except turbo-propeller aircraft. Canada and Mexico do not permit an exemption from the dual altimeter requirement for turbo-

propeller aircraft. Some civil aviation authorities have expressed concern that the proposal in the NPRM is incompatible with Canadian, Mexican, and international standards for RVSM. We have agreed to withdraw the proposal to exempt turbo-propeller aircraft from the dual altimeter requirement. Though this would affect a relatively small number of operators, our decision to require dual altimeters for all aircraft is necessary to achieve the overall benefits attributed to domestic RVSM. U.S. aircraft flying in domestic U.S. RVSM airspace without dual altimeters would not be able to continue at RVSM flight levels on entering Canada or Mexico and would therefore lose the benefits of flying at more efficient altitudes.

We have examined the potential aircraft upgrade costs associated with a dual altimeter requirement for turbo-propeller aircraft to fly in RVSM airspace under part 91 and find the cost to average \$140,000 per turbo-propeller aircraft. Flights by turboprop aircraft at (FL) 290–410 and above account for only 0.4 percent of all flights, only 0.1 percent of which are other than part 91 flight. This suggests that, though there may be a large number of turbo-propeller aircraft subject to this rule, few of those aircraft fly at FL 290–410 regularly. We also believe that only a small percentage of those affected operators will find it economical to upgrade their aircraft for RVSM. Those that choose to upgrade would do so because the fuel savings that they would receive regularly from flying at their optimal altitude would pay for the cost of these upgrades. In the economic analysis for the final rule for DRVSM, we have calculated, for the industry as a whole, the cost savings exceeded the upgrade cost by a factor of 6. You can find the analysis for the final rule to Domestic RVSM in the docket on the Internet at <http://dms.dot.gov>, docket number FAA–2002–12261. We believe that those operators that would upgrade their aircraft are not small entities and would not be significantly impacted in an adverse way should they elect to upgrade their aircraft for this requirement.

The FAA recognizes that these upgrade costs could have a significant impact on small operators, but the FAA believes that most small operators would choose not to upgrade. For small operators, the fuel savings associated with flying in FL 290–410 would not exceed the cost of the equipment upgrade. The operational penalties associated with not upgrading or delaying aircraft upgrade plans would not prevent the operators from

continuing to operate. Small operators that elect not to upgrade or delay their aircraft upgrade plans would incur on average a 6 percent fuel penalty from conducting operations beneath FL290. We do not believe these operators would fly in RVSM airspace often enough or long enough to incur a significant fuel penalty cost if they choose to fly below RVSM airspace. We request comments on this determination.

Adding Gulf of Mexico High and Atlantic High Offshore Airspace and airspace between Florida and Puerto Rico and the San Juan FIR benefits operators by implementing RVSM in all U.S. domestic airspace. This allows operators who are authorized to fly in RVSM airspace to achieve the full benefits of flying at efficient altitudes.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and 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 Act 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 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 (RFA) 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 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As flights by turboprop aircraft at FL 290–410 and above account for only 0.3 percent of all flights, we believe that only a small percentage of those affected operators will upgrade their aircraft for RVSM. These upgrade costs are estimated to be \$140,000 per aircraft. We believe that those operators that upgrade their aircraft are not small entities.