Proposed Rules

Federal Register
Vol. 67, No. 89
Wednesday, May 8, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the nonmanufacturer rule.

SUMMARY: The Small Business Administration (SBA) is considering a waiver of the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and source information from interested parties.

DATES: Comments and sources must be submitted on or before May 23, 2002.

ADDRESSES: Submit comments to: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416, Tel: (202) 619–0422.

SUPPLEMENTARY INFORMATION:

Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on two coding systems. The first is the Office of Management and Budget *Standard Industrial Classification Manual.* The second is the Product and Service Code established by the Federal Procurement Data System.

This notice proposes to waive the Nonmanufacturer Rule for bearings, plain, unmounted and bearings mounted, SIC code 3562 and North American Industry Classification System (NAICS) 333613 public is invited to comment or provide source information to SBA on the proposed waiver of the nonmanufacturer rule for bearings, plain, unmounted and bearings mounted.

Luz A. Hopewell,

Associate Administrator for Government Contracting.

[FR Doc. 02–11244 Filed 5–7–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2002–12244; Notice No. 02–08]

RIN 2120–AH65

Powerplant Controls on Transport Category Airplanes, General

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning design requirements for powerplant valves controlled from the flight deck. The proposed rule would clarify the requirements for a means to select the intended position of the valve, to indicate the selected position, and to indicate if the valve has not attained the selected position. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

DATES: Send your comments on or before July 8, 2002.

ADDRESSES:

Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12244 at the beginning of your comments, and you should send two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. ____.'' We will date-stamp the postcard and mail it back to you.

You also may submit comments through the Internet to: *http://dms.dot.gov*. You may review the public docket containing comments to this proposed regulation in person in the Dockets Office, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review the public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael McRae, FAA, Propulsion/Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone 425–227–2123; facsimile 425–227–1320, e-mail *mike.mcrae@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any

recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page *(http://dms.dot.gov/search)*.

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at *http://www.faa.gov/avr/armhome.htm* or the **Federal Register**'s web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Any person interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular 11–2A, ''Notice of Proposed Rulemaking Distribution System,'' which describes the application procedure.

What Are the Relevant Airworthiness Standards in the United States?

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25. Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

What Are the Relevant Airworthiness Standards in Europe?

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)–25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR–25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR–25 standards for export to Europe.

What Is ''Harmonization'' and How Did It Start?

Although part 25 and JAR–25 are similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR–25 can result in substantial added costs to manufacturers and operators. These added costs, however, often do not bring about an increase in safety. In many cases, part 25 and JAR–25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to ''harmonize'' their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR–25. Both the FAA and the JAA consider ''harmonization'' of the two sets of standards a high priority.

What Is ARAC and What Role Does It Play in Harmonization?

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures were neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**. Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working

groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language ''recommended'' by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

What Is the Status of the Harmonization Effort Today?

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR–25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry [including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)] proposed an accelerated process to reach harmonization.

What Is the ''Fast Track Harmonization Program''?

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled ''The Fast Track Harmonization Program,'' is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

Category 1: Envelope—For these standards, parallel part 25 and JAR–25 standards would be compared, and harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be ''enveloped'' into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

Category 2: Completed or near complete—For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

Category 3: Harmonize—For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR–25 standards cannot be ''enveloped'' (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC recommended a number of changes to the NPRM. The FAA agrees with the intent of some of those recommendations, but we disagree with others. Those recommendations, and our reasons for disagreeing, are described below in the section entitled ''What Comments Did ARAC Have Concerning the Proposed Action?''

Discussion of the Proposal

How Does This Proposed Regulation Relate to ''Fast Track''?

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this action, the FAA proposes to amend § 25.1141, concerning general design requirements for power plant controls. This action was designated a Category 1 project under the Fast Track program.

What Is the Underlying Safety Issue Addressed by the Current Standards?

The intent of this standard is to mitigate the potential for flightcrews to select an inappropriate position for, or be unaware of the position of, powerplant valves that are controlled from the flight deck.

What Are the Current 14 CFR and JAR Standards?

The current text of 14 CFR 25.1141(f) [amendment 25–72 (55 FR 29785, July 20, 1990)] is:

''(f) Powerplant valve controls located in the cockpit must have—

(1) For manual valves, positive stops or in the case of fuel valves suitable index provisions, in the open and closed position; and

(2) For power-assisted valves, a means to indicate to the flight crew when the valve—

(i) Is in the fully open or fully closed position; or

(ii) Is moving between the fully open and fully closed position.''

The current text of JAR–25.1141(f) (Change 15, October 2000) is:

''(f) Powerplant valve controls located in the cockpit must have—

(1) For manual valves, positive stops or in the case of fuel valves suitable index provisions, in the open and closed positions; and

(2) In the case of valves controlled from the cockpit other than by mechanical means, where the correct functioning of such a valve is essential for the safe operation of the aeroplane, a valve position indicator operated by a system which senses directly that the valve has attained the position selected, unless other indications in the cockpit give the flight crew a clear indication that the valve has moved to the selected position.

(See Advisory Circular Joint (ACJ) 25.1141(f).)''

The JAA also has issued ACJ 25.1141(f), which serves as interpretative material that supplements JAR 25.1141(f). The text of the ACJ is:

''A continuous indicator need not be provided.''

What Are the Differences in the Standards and What Do Those Differences Result In?

There are four differences between the two standards in paragraph (f)(2). These differences are:

1. To describe the applicable valves, part 25 uses the term ''power-assisted.'' The JAR uses the phrase ''other than by mechanical means.''

2. The JAR uses the phrase ''where the correct functioning of such a valve is essential for the safe operation of the aeroplane'' to reduce the applicability to be more consistent with the requirements of JAR 25.1309(c) relating to indications. Part 25 does not use such a phrase.

3. For the basic indicating requirement, the JAR uses the phrase ''a valve position indicator operated by a

system which senses directly that the valve has attained the position selected.'' Part 25 uses the phrase ''a means to indicate to the flight crew when the valve is in the fully open or fully closed position, or is moving between the fully open and fully closed position.''

4. By including the phrase ''unless other indications in the flight deck give the flightcrew a clear indication that the valve has moved to the selected position,'' the JAR specifically acknowledges that a dedicated indication is not required. Part 25 does not.

What, if Any, Are the Differences in the Means of Compliance?

The only significant differences in the means of compliance are those associated with the differences in the scope of the applicability of the standards.

What Is the Proposed Action?

The FAA proposes to revise the current standard to include the more stringent requirements of the parallel JAR. The text of the rule would be updated, however, so that it more clearly reflects the existing practices that have been found to achieve an acceptable level of safety. Specifically, the proposed revision would require that powerplant valve controls located in the flight deck must provide the crew with means to:

- Select each intended position of the valve;
- Indicate the selected position of the valve; and
- Indicate when the valve has not responded as intended to the selected position or function.

As used in the proposed rule, the ''means to indicate'' can be:

- Provided either by a dedicated ''indicator'' or through the inherent response of the airplane, system, or valve control;
- Provided by either the presence or lack of indication; or
- Provided either continuously or on an ''as required'' basis.

In any case, however, the means to indicate must be clearly evident to the crew.

As used in the proposed rule, the ''means to indicate'' must comply with all other relevant regulations such as §§ 25.1309(c), 25.1321, 25.1322, etc.

What Comments Did ARAC Have Concerning the Proposed Action?

During its review of this proposed rule, ARAC suggested changes to certain parts of the proposed action. Those suggestions and the FAA's response are as follows:

Suggestion 1. The powerplant valve controls should provide the crew with means to ''determine''—rather than ''indicate''—the selected position of the valve and when the valve has not responded as intended to the selected position or function.

FAA Response to Suggestion 1: The FAA does not agree with this change in wording because such a change would change the purpose of the rule in a way that is not intended or desired, and would go ''beyond the scope'' of harmonizing this part 25 rule with that of the parallel JAR–25. The intent is for there to be a means that directly or inherently indicates to the flightcrew the position of the valve and any incorrect response of the valve. The intent is not for the flightcrew to have to deliberate and determine these things.

Suggestion 2. The requirement for the powerplant valve controls to provide a means to indicate when the valve has not responded as intended should be accomplished in accordance with the provisions of an upcoming revision to § 25.1322 (Warning, caution, and advisory lights).

FAA Response to Suggestion 2: The FAA agrees with the intent of this suggestion, but considers it inappropriate to (1) refer to rules in transition, and (2) single out one indication requirement (§ 25.1322) when there are other rules that are just as relevant, such as § 25.1321 (Instruments: Installations, Arrangements and visibility). As an alternative, we have added a clarification in the preamble to indicate that the ''means to indicate'' must necessarily comply with all other relevant regulations, such as §§ 25.1309(c), 25.1321, 25.1322, etc.

Suggestion 3. The ARAC questioned what was meant by the phrase ''the means to indicate must be provided * * * through the inherent response of the airplane * * *'' The ARAC asked if it meant, for example, when the stick force lightens because of inappropriate fuel transfer to give the airplane an aft center of gravity, or when an engine quits for lack of fuel.

FAA Response to Suggestion 3: The FAA intends for that phrase to potentially include such examples and any others that the applicant claims and the FAA Aircraft Certification Office can substantiate as effective.

How Does This Proposed Standard Address the Underlying Safety Issue?

The proposed standard continues to address the identified safety issue. It continues to ensure that flight crews will not select an inappropriate position for, or be unaware of the position of, powerplant valves that are controlled from the flight deck. The proposed standard also clarifies the current industry practices that have been found to achieve an acceptable level of safety.

What Is the Effect of the Proposed Standard Relative to the Current Regulations?

The proposed standard specifically requires a means to indicate when the valve has not responded as intended to the selected position or function, while the current standard only implies this is a requirement for ''manual valves.''

Since the proposed rule takes the more ''stringent'' parts of both part 25 and JAR–25, it may be viewed as increasing the current level of safety. However, the intent of the proposed standard is not to increase the level of safety, but to help standardize current design practices.

What Is the Effect of the Proposed Standard Relative to Current Industry Practice?

In effect, the proposed standard duplicates the current requirements for those applicants who certify their designs to both 14 CFR and the JAR. Since these standards are what have resulted in the existing practices, this ''enveloped'' standard should also be considered capable of achieving an acceptable level of safety.

What Other Options Have Been Considered and Why Were They Not Selected?

One option considered was to delete § 25.1141(f) altogether and rely on § 25.1309(c). However, this would reduce the overall level of safety provided by part 25. Additionally, it would not fulfill the objectives of the FAA's tasking to harmonize standards.

Another option was to revise the text of § 25.1141(f) to state:

''(f) Powerplant valve controls located in the flight deck must have—

(1) For manual valves, positive stops or in the case of fuel valves suitable index provisions, in the open and closed positions; and

(2) For power-assisted valves, a valve position indicator operated by a system which senses directly that the valve has attained the position selected, unless other indications in the flight deck give the flight crew a clear indication that the valve has moved to the selected position.''

While this, like the proposal, represents an ''enveloped'' standard, it does not reflect the existing practices as clearly and effectively as the proposed standard. Consequently, additional

interpretive and guidance material probably would be needed to make this somewhat dated and narrow iteration of the rule more relevant for modern designs.

Who Would Be Affected by the Proposed Change?

The proposed standard would affect manufacturers of transport category airplanes and components. However, manufacturers are either already complying, or fully intend to comply with the more stringent standards as a means of obtaining joint certification.

Is Existing FAA Advisory Material Adequate?

With the change in the proposed standard, the FAA does not consider that additional advisory material is necessary.

What Regulatory Analyses and Assessments Has the FAA Conducted?

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more annually (adjusted for inflation).

The FAA has determined that this proposal would result in a cost-savings by a reduction in duplicative testing, and that it is not ''a significant regulatory action'' as defined in Executive Order 12866, nor ''significant'' as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

The DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. We provide the basis for this determination as follows:

Currently, airplane manufacturers must satisfy both part 25 and the European JAR–25 standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as harmonization.

This proposal would replace some requirements of existing § 25.1141(f) with the ''more stringent'' requirements in JAR 25.1141(f) . It also would revise the wording of the section to reflect common industry terminology. This proposed rule results from the FAA's acceptance of recommendations made by ARAC. We have concluded that, for the reasons previously discussed in the preamble, the adoption of the proposed requirements in 14 CFR part 25 is the most efficient way to harmonize these sections and, in so doing, the existing level of safety will be preserved.

There was consensus within the ARAC members, comprised of representatives of the affected industry, that the requirements of the proposed rule will not impose additional costs on U.S. manufacturers of part 25 airplanes. In fact, manufacturers are expected to receive cost-savings by a reduction in the FAA/JAA certification requirements for new airplanes. The cost-savings from this proposed rule would be a reduction in duplicative testing to generate data to demonstrate compliance with each standard. We have reviewed the cost analysis provided by industry through the ARAC process. Based on this analysis, we consider that a full regulatory evaluation is not necessary.

We invite comments with supporting documentation regarding the regulatory evaluation statements based on ARAC's proposal.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, 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.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule 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.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule would require that new transport category aircraft manufacturers meet just one certification requirement, rather than different standards for the United States and Europe. Airplane manufacturers already meet or expect to meet this standard as well as the existing 14 CFR part 25 requirement.

Second, all U.S. transport-aircraft category manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers. The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream

Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

International 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, 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 the proposed rule and has determined that it complies with the Act because this rule would use European international standards as the basis for U.S. standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any year; therefore, the requirements of the Act do not apply.

What Other Assessments Has the FAA Conducted?

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in 14 CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, and 44704

2. Amend section 25.1141 by revising paragraph (f) to read as follows:

§ 25.1141 Powerplant controls: general.

* * * * *

(f) Powerplant valve controls located in the flight deck must provide the flightcrew with means to:

(1) Select each intended position or function of the valve;

(2) Indicate the selected position or function of the valve; and

(3) Indicate when the valve has not responded as intended to the selected position or function.

Issued in Renton, Washington, on April 26, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–11493 Filed 5–7–02; 8:45 am]

BILLING CODE 4910–13–U