

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 91, 121, 125, and 135**

[Docket No. FAA-2005-22045; Amendment Nos. 91-289, 121-314, 125-48, and 135-100]

RIN 2120-AI36

FAA-Approved Child Restraint Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is amending its operating regulations to allow the use, on board aircraft, of Child Restraint Systems (CRSs) that are approved by the FAA through a Type Certificate, Supplemental Type Certificate, or Technical Standard Order. Current FAA regulations do not allow the use of CRSs other than those that meet specific standards for the automobile environment. The intended effect of this regulation is to reduce the regulatory burden to industry while maintaining or increasing safety.

DATES: This final rule is effective September 26, 2005. Comments must be filed on or before September 26, 2005.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2005-22045 at the beginning of your comments, and you should file two copies of your comments.

You may also file comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing comments to these regulations in person in the Dockets Office between 9 a.m. and 5 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 public dockets on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Nancy Lauck Claussen, Federal Aviation Administration, Flight Standards Service, Certificate Management Office, 2800 N. 44 Street, Suite 450, Phoenix, AZ 85008, telephone (602) 379-4350, e-mail nancy.l.claussen@faa.gov.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA is adopting this final rule without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Therefore, we invite interested persons to participate in this rulemaking by filing such written data, views, or arguments, as they may desire. We also invite comments about environmental, energy, federalism, or international trade impacts that might result from this amendment. Please include the regulatory docket or amendment number and send two copies to the address above. We will file all comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, in the public docket. The docket is available for public inspection before and after the comment closing date.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

The FAA will consider all comments received on or before the closing date for comments. We will consider late comments to the extent practicable. We may amend this final rule in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA-2005-22045." The postcard will be date-stamped by the FAA and mailed to the commenter.

Availability of Final Rule

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies; or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending 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.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.faa.gov/avr/arm/sbreffa.cfm>.

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

The FAA is issuing this rulemaking under the authority described in subtitle VII, part A, subpart i, section 40101. Under that section, the FAA is charged with developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of the commerce of the United States.

Purpose of Final Rule

Current FAA regulations require that, to be used on aircraft, a CRS meet Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child restraint systems (49 CFR 571.213), meet the standards of the United Nations, or be approved by a foreign government. FMVSS No. 213 regulates the certification of CRSs for use in trucks and automobiles. It is illegal to sell CRSs for use in motor vehicles that are not properly certified to FMVSS No. 213. Since FMVSS No. 213 CRSs are used in automobiles and trucks, these are the types of CRSs a parent or guardian is most likely to own. Therefore, these are the types of CRSs

most likely to be carried onto an airplane by a parent or guardian. The FAA has found, however, that many of the CRSs that meet FMVSS No. 213 requirements do not perform optimally in the aircraft environment. However, as stated in the preamble to Amendment No. 121–255, Child Restraint Systems, “While some forward facing child restraint devices do not provide a desired level of protection in a worst case survivable aircraft crash, there are no better alternatives available at this time.” (61 FR 28418; June 4, 1996)

To improve the safety of children, the FAA is amending its regulations to allow the use of alternative CRSs that improve the restraint system for children otherwise belted only with a lap belt, subject to special approval by the FAA. This approval will occur using the type certificate (TC), supplemental type certificate (STC) or Technical Standard Order (TSO) process. For more information on how the FAA will assure that FAA-approved CRSs demonstrate efficacy, see the preamble discussion under “FAA Approval Process.”

Currently, operators wanting to use CRSs that are approved by the FAA through a TC, STC, or TSO, need to petition for an exemption to use such restraints. This final rule allows the use of CRSs that have received FAA approval through a TC, STC, or TSO without having to go through an additional process to get an exemption from our operating rules. If the FAA did not go forward with this final rule, an operator would have to petition the FAA for an exemption to use a CRS the FAA has already found to be safe through the TC, STC, or TSO process because the FAA-approved CRS would not have the required labeling. The FAA believes this final rule will reduce an administrative burden and encourage the development of innovative CRSs, while ensuring safety through the TC, STC, and TSO processes.

Existing CRS Standards

During the latter half of 1982, DOT had two standards for CRSs. CRSs for use in motor vehicles had to be certified as complying with the requirements of FMVSS No. 213. CRSs for use in aircraft had to be certified as complying with the requirements of FAA’s TSO C100. In early 1983, the National Transportation Safety Board considered the safety problems posed for young children traveling in motor vehicles and aircraft and urged that a variety of actions be taken to promote the increased use of CRSs. One recommendation called for DOT to simplify its two different standards setting forth requirements for CRSs by combining the standards into a

single standard. After considering the benefits that would result from the increased use of CRSs, the FAA and the National Highway Traffic Safety Administration (NHTSA) jointly concluded the process of certifying CRSs for use in both motor vehicles and aircraft could and should be simplified. The agencies proposed that NHTSA would be the sole agency responsible for administering the new FMVSS No. 213, which would be applicable to both CRSs designed for use in motor vehicles and CRSs designed for use in aircraft.

On October 15, 1992, the FAA broadened the categories of CRSs that were allowed to be used on aircraft to include CRSs that meet the standards of the United Nations or are approved by a foreign government (57 FR 42662; September 15, 1992). NHTSA does not set these standards. In the preamble, the FAA stated “Using these restraints in an aircraft will provide a level of safety greater than that which would be provided if the young children were held in the arms of adults or if safety belts alone were used.” (57 FR 42664)

In 1994, the FAA issued a study, included in the docket, entitled, “The Performance of Child Restraint Devices in Transport Airplane Seats” (the CAMI study). Among the findings, the CAMI study found that, as a class of child restraint devices, shield-type booster seats, in combination with other factors, contributed to an abdominal pressure measurement higher than in other means of protection while not preventing a head impact. In addition, the CAMI study found that vest- and harness-type devices allowed excessive forward body excursion, resulting in the test dummy sliding off the front of the seat with a high likelihood of the child’s entire body impacting the seat back of the seat directly in front of it. For more information on the CAMI Study, see the preamble discussion under “CAMI Study.”

In a final rule dated June 4, 1996, the FAA withdrew FAA approval for the use of booster seats and vest- and harness-type CRSs based on the results of the CAMI study (61 FR 28416). However, in the final rule preamble the FAA stated “at this time, booster seats and vest- and harness-type devices put children in a potentially worse situation than the allowable alternatives. If in the future a manufacturer designs such a device that the FAA determines is a safe alternative, it will review the prohibition.” (61 FR 28419)

On July 16, 2002 the FAA issued TSO C100b, Child Restraint System. For more information on this current TSO, see the preamble discussion under “FAA Approval Processes.”

CAMI Study

The research for the CAMI study involved dynamic impact tests with a variety of CRSs installed in transport category aircraft passenger seats. Some of the tests were configured to represent a typical multi-row seat installation and included testing the effects of an adult occupant impact against the back of a seat in which a CRS was installed. The tests also investigated other aspects of CRS use in aircraft, including whether they fit within an aircraft passenger seat and their ease of installation.

The CAMI study made the following findings:

1. Rear-facing CRSs, for children under 20 pounds, performed well, protected the child, and could be adequately restrained with existing aircraft seat belts.
2. All eight forward-facing CRSs that were tested, for children from 20–40 pounds, when restrained with aircraft seat belts and subjected to the 16g longitudinal aircraft deceleration, failed to prevent the head from impacting the forward seatback. Routing the aircraft seat belt through a forward-facing CRS and buckling, adjusting proper tension, and unbuckling it was difficult, leading to the conclusion that some CRSs might not be easily and adequately secured to aircraft seats.
3. Normal lap belts, for children who weighed 33 pounds, provided adjustable tight fit, a belt path over the pelvic bone, and no indication of submarining or roll out during dynamic tests. However, because lap belts are not designed to inhibit upper torso flail, head impacts against the seat structure that were severe enough to cause head injury occurred during testing. These impacts were substantially higher than those exhibited in the forward CRS tests.
4. The child anthropomorphic test dummy (ATD) moved forward and over the front edge of the seat cushion and proceeded to submerge to the floor during dynamic testing of harness restraints. Elasticity in the webbing of the harness and seat belts then pulled the ATD rearward. These restraints consisted of a torso harness for the child ATD, placed in its own seat, with the airplane seat belt routed through a loop of webbing attached to the back of the harness.

You can view dynamic video of the FAA Office of Aerospace Medicine Report “The Performance of Child Restraint Devices in Transport Airplane Passenger Seats” at: <http://www.cami.jccbi.gov/AAM-600/Biodynamics/600Biody.html>.

Detailed Discussion of the Final Rule

The FAA is broadening the types of CRSs allowed on aircraft to include CRSs approved by the FAA through TC, STC, or TSO, similar to when we broadened the types of CRSs allowed on aircraft in 1992. This rule does not affect the use of CRSs that are already approved for use on aircraft. (See <http://www.faa.gov/passengers/childdtips.cfm> for FAA recommendations on choosing the correct CRS for air travel.) If, however, a parent does not have available an FMVSS No. 213 approved CRS, a CRS that meets United Nations standards, or a CRS that is approved by a foreign government, the FAA has determined a CRS approved through the TC, STC or TSO process will better protect children who would otherwise be restrained only by a lap belt.

Properly restraining children is difficult. There is a large variance in muscle development, height, weight, and upper body strength. While CRSs meeting the FMVSS No. 213 standard do not always fit well in an aircraft, CRSs meeting this standard markedly improve the safety of a child in the under 44 pound range who would otherwise be restrained by a lap belt, or be unrestrained on a parent's lap. However, because these CRSs are bulky and sometimes difficult to install properly, many parents or guardians elect to use the standard aircraft lap belt for their child. The FAA has determined this final rule will help to make a wider variety of safe CRSs available to be used by children in the aircraft environment, thereby increasing the safety of children who would otherwise only be restrained with a lap belt.

As discussed in the preamble to the 1996 final rule, we are reviewing the prohibition against certain types of CRSs because we are aware of one innovative CRS that is safe in the aircraft environment. This CRS, made by AMSAFE, improves lap belt performance for children between 22 and 44 pounds who would otherwise be restrained only with the lap belt. The FAA's Los Angeles Aircraft Certification Office worked with AMSAFE to issue STC No. ST01781LA on April 15, 2005, for a simple supplemental adjustable restraint. The STC approves installation of this device for a specific aircraft make and models and a specific seat model. A copy of the STC may be found at http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgSTC.nsf/MainFrame?OpenFrameSet.

Unlike the harness devices tested in the CAMI study, the AMSAFE restraint uses an additional belt/shoulder harness that goes around the seat back and

attaches to the passenger lap belt, providing improved upper torso restraint. The device can be easily stowed and installed and does not need to be installed by a mechanic. Because of the design of the CRS and the additional training they will receive, the FAA has determined it is acceptable for flight attendants to install the CRS in the passenger seat. As part of the STC process, AMSAFE was required to submit to the FAA obvious, clear, and concise instructions readily available to the flight and cabin crew about the proper installation and use of the CRS.

To reduce the regulatory burden to industry while maintaining or increasing safety, the FAA is proposing to add regulatory language in 14 CFR parts 91, 121, 125, and 135 that would allow the use of CRSs the FAA has approved through a TC, STC, or TSO, even if such CRSs are booster-type or vest- and harness-type CRSs. The FAA anticipates that other manufacturers with CRSs not meeting FMVSS No. 213 will seek FAA approval through the TC, STC, or TSO process. As with the AMSAFE device, we would need to determine if the CRS is a safe alternative to methods of restraint that are already approved for use on aircraft. In each case, the CRS will need to be approved by the FAA for use in specific aircraft.

FAA Approval Processes

Under this final rule, CRSs will be approved via several different processes: TC; STC; TSO; FMVSS No. 213; foreign governments; or the standards of the United Nations. Most standards approved by foreign governments or the United Nations are similar to FMVSS No. 213. Foreign governments are responsible for determining whether to accept under their operating regulations CRSs approved by the FAA through TC, STC, or TSO. However, most countries automatically accept FAA certification without further review. The TC, STC, and TSO processes address differences in CRS design and performance. The FAA believes that allowing several methods of CRS approval will encourage CRS innovation because each manufacturer will have the ability to select the approval process that is most appropriate for its CRS, based on CRS design and proposed equivalent level of safety.

A. TC Process

A TC is an original FAA design approval in which an applicant applies for, and the FAA issues, a type certificate for a product or a major design change to a product. A product is an aircraft, an aircraft engine, or an aircraft propeller. The TC process is

appropriate if a CRS is incorporated into the original aircraft design. 14 CFR part 21 contains the requirements for the issuance of a type certificate or an amendment to an existing type certificate (<http://www.gpoaccess.gov/ecfr/>).

B. STC Process

The final rule allows a specific CRS that has met the STC testing and evaluation criteria established by the FAA to be used on a specific type of aircraft operated by a specific operator. Under the STC process, a CRS manufacturer would approach the FAA to obtain approval, via STC, for their CRS to be used on specific aircraft. In this way, the FAA can address novel and unusual design features associated with any new type of CRS when the applicable regulations do not contain adequate and appropriate safety standards for the design features of a CRS that is presented for FAA approval. The STC process is appropriate for a CRS that does not meet FMVSS No. 213 requirements.

When the FAA considers granting an STC, it publishes the proposed special conditions in the **Federal Register** for notice and comment (<http://www.gpoaccess.gov/fr/index.html>). These proposed special conditions contain the additional safety standards the FAA considers necessary to establish a level of safety equivalent to that established by existing regulations. The proposed special conditions address the required performance of the CRS and the capability of the CRS to be installed and used without creating any safety concerns. As an example of Special Conditions, you can look at the AMSAFE Special Conditions that were part of the STC the FAA granted to AMSAFE for their CRS on April 15, 2005 (70 FR 18271; April 11, 2005).

Pertinent regulations and guidance regarding the STC process are contained in:

(1) 14 CFR part 21 subpart E, <http://www.gpoaccess.gov/ecfr/>.

(2) AC 21-40 Application Guide for Obtaining a Supplemental Type Certificate, http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf.

C. TSO Process

A TSO is a minimum performance standard issued by the FAA for specified materials, parts, processes, and appliances used on aircraft. These performance standards must be used for an applicant to receive TSO authorization. The current listing of TSO information (<http://www.airweb.faa.gov/>

Regulatory and Guidance Library/rgTSO.nsf/MainFrame?OpenFrameSet) contains a list of authorized manufacturers and articles produced by TSO Holders under a TSO Authorization or Letter of TSO Design Approval. The Web site also contains TSO C100b, Child Restraint System. TSO C100b tells people seeking a TSO Authorization or Letter of Design Approval what minimum performance standards their CRS must first meet to obtain FAA approval under the TSO process.

TSO C100b contains standards for performance testing and evaluation, operating instructions, equipment limitations, installation procedures and limitations, as well as instructions for continuing maintenance of the CRS. Unlike the STC, a TSO authorization or letter of design approval does not give installation approval. Installation approval must still be obtained via an STC, the FAA field approval process, TC, or airframe manufacturer's service bulletin.

TSO C100b is a performance standard that is similar to FMVSS No. 213. However, TSO C100b makes the testing more realistic to an aviation environment, so the chances of a CRS built to the TSO standards performing "as tested" on an aircraft in an accident are greater than a CRS tested under FMVSS No. 213 standards. At this point, there are not any CRSs that have been built to TSO C100b standards. The TSO process would be appropriate if a CRS is similar in design to a CRS that meets FMVSS No. 213 requirements, and also is designed to meet the specific aviation performance standards contained in TSO C100b.

Advance Notice of Proposed Rulemaking

On February 18, 1998, the FAA published an Advance Notice of Proposed Rulemaking (ANPRM) that sought public comment on issues relating to the use of CRSs in aircraft during all phases of flight (63 FR 8324). The ANPRM did not propose specific regulatory changes. Rather, it requested comments, data, and analysis to help the FAA decide the best regulatory approach to ensure the safety of children who are passengers in aircraft. The FAA has issued a separate document concerning the ANPRM. That document is being published in the **Federal Register** concurrently with this final rule.

FAA CRS Initiatives

This final rule is part of a multi-faceted FAA initiative designed to encourage the use of CRSs and to

encourage the development of innovative CRSs that work well in the aviation environment. As well as working to reduce the regulatory burden to operators and CRS manufacturers by this rulemaking, the FAA has actively worked with CRS manufacturers who are seeking FAA approval by STC or TSO for innovative CRS designs. The FAA has also started a public education campaign and developed more advisory material on the use of CRSs.

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 current 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 has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Good Cause for Immediate Adoption

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

The FAA finds that notice and public comment to this final rule is unnecessary. This final rule adds language to allow the use of CRSs that have received FAA approval through a TC, STC, or TSO, without having to go through the exemption process. Prior public comment is unnecessary because this amendment simply allows alternative processes, such as the TC, STC, or TSO processes, by which a CRS can be approved for use in aircraft. We do not anticipate significant public comment on this amendment, since it does not impose a requirement. In addition, there is already precedent for allowing alternative methods of approving a CRS that do not have required labeling for use in aircraft. In

the current rule, this includes a label showing approval from a foreign government or a label showing the CRS was manufactured under the standards of the United Nations.

Adding this language will not have an adverse safety impact, because the language merely recognizes alternative approval processes for CRSs, and makes FAA-approved CRSs available to operators and their passengers without using the exemption process. As a result, the FAA has determined that there is no reason to further delay this relief and good cause exists for making this rule effective 30 days after publication.

Economic Assessment, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Final rules 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 impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 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 requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected cost impact is so minimal that a rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble and a full regulatory evaluation cost benefit evaluation need not be prepared. Such a determination has been made for this rule. The reasoning for that determination follows.

This final rule adds language to allow the use of CRSs that have received FAA approval, through a TC, STC, or TSO, without having to go through the exemption process. This final rule simply allows alternative processes, such as the TC, STC, or TSO processes, by which a CRS can be approved for use in aircraft. Adding this language does not have an adverse safety impact, because the language merely recognizes alternative approval processes for CRSs. This final rule reduces the regulatory burden to industry by taking away the necessity to go through the exemption process after the successful completion of the rigorous TC, STC, or TSO process for a particular CRS. It also lessens the need for FAA resources to process numerous exemption requests.

Regulatory Flexibility Act

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 final rule adds language to allow the use of CRSs that have received FAA approval through a TC, STC or TSO, without having to go through the exemption process. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreements 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 rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates 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." The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action does 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, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this final rule qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule 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

14 CFR Part 91

Aircraft, Aviation safety.

14 CFR Part 121

Air carriers, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat.1180).

■ 2. Amend § 91.107 by revising paragraphs (a)(3)(iii)(B)(3) and (4) to read as follows:

§ 91.107 Use of safety belts, shoulder harnesses, and child restraint systems.

- (a) * * *
- (2) * * *
- (3) * * *
- (iii) * * *
- (B) * * *

(3) Seats that do not qualify under paragraphs (a)(3)(iii)(B)(1) and (a)(3)(iii)(B)(2) of this section must bear a label or markings showing:

- (i) That the seat was approved by a foreign government;
- (ii) That the seat was manufactured under the standards of the United Nations; or
- (iii) That the seat or child restraint device furnished by the operator was

approved by the FAA through Type Certificate, Supplemental Type Certificate, or applicable Technical Standard Order.

(4) Except as provided in § 91.107(a)(3)(iii)(B)(3)(iii), notwithstanding any other provision of this section, booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

■ 4. Amend § 121.311 by revising paragraphs (b)(2)(ii)(C) and (D) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

- (b) * * *
- (2) * * *
- (ii) * * *

(C) Seats that do not qualify under paragraphs (B)(2)(ii)(A) and (b)(2)(ii)(B) of this section must bear a label or markings showing:

(1) That the seat was approved by a foreign government;

(2) That the seat was manufactured under the standards of the United Nations; or

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate, Supplemental Type Certificate, or applicable Technical Standard Order.

(D) Except as provided in § 121.311(b)(2)(ii)(C)(3), notwithstanding any other provision of this section, booster-type child restraint

systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–4717, 44722.

■ 6. Amend § 125.211 by revising paragraphs (b)(2)(ii)(C) and (D) to read as follows:

§ 125.211 Seat and safety belts.

- (b) * * *
- (2) * * *
- (ii) * * *

(C) Seats that do not qualify under paragraphs (b)(2)(ii)(A) and (b)(2)(ii)(B) of this section must bear a label or markings showing:

(1) That the seat was approved by a foreign government;

(2) That the seat was manufactured under the standards of the United Nations; or

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate, Supplemental Type Certificate, or applicable Technical Standard Order.

(D) Except as provided in § 125.211(b)(2)(ii)(C)(3), notwithstanding any other provision of this section, booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held

child restraints are not approved for use in aircraft; and

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

■ 7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 13. Amend § 135.128 by revising paragraphs (a)(2)(ii)(C) and (D) to read as follows:

§ 135.128 Use of safety belts and child restraint systems.

- (a) * * *
- (2) * * *
- (ii) * * *

(C) Seats that do not qualify under paragraphs (a)(2)(ii)(A) and (a)(2)(ii)(B) of this section must bear a label or markings showing:

(1) That the seat was approved by a foreign government;

(2) That the seat was manufactured under the standards of the United Nations;

(3) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate, Supplemental Type Certificate, or applicable Technical Standard Order.

(D) Except as provided in § 135.128(a)(2)(ii)(C)(3), notwithstanding any other provision of this section, booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

Issued in Washington, DC, on July 28, 2005.

Marion C. Blakey,

Administrator.

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