such as The Air Cargo Tariff (TACT), are inadequate since they are infrequently issued and incomplete; that these sources often do not include all rates available, especially the lowest ones; and that shipper costs will increase due to de facto cargo rate increases.

In addition, the shipping consultants assert that, because these tariffs are a matter of public record, they also serve to protect unsophisticated shippers by discouraging carriers from engaging in unreasonable practices and charging unfair rates; that the proposal will undermine this public benefit, which facilitates the recovery of thousands of dollars annually from overcharges; that the elimination of easily monitored, published tariffs, defining carriers' maximum rates, would increase forwarders' opportunities for misrating; and that without filed tariffs, shippers will lose their ability to apply reasonable controls on shipping expenses.[21]

ISS contends that the lack of complaints indicates that the current system is working, and provides important protection to consumers; and that while many shipments tendered by large volume forwarders or ''consolidators'' are governed by negotiated ''contract rates,'' most of the air waybills issued by forwarders acting as carrier agents are governed by filed tariffs and are often misrated. Athearn contends that the Department has overstated the proposal's cost savings since, even with the exemption, carriers will still bear the costs of disseminating their prices. If the Department needs to reduce costs, it should recognize that paper tariffs are obsolete, and explore converting them to less expensive electronic media so that they will continue to be available to the public at one central location.

These commenters have not substantiated their basic contention that filed tariffs are an essential source of pricing information that is not, or will not be, available to shippers through normal marketplace incentives and mechanisms. Notwithstanding the contrary experience following domestic cargo and international forwarder tariff deregulation, Athern states that it is ''questionable'' whether carriers will continue to publish and routinely make available to the public the comprehensive rate information contained in tariffs. However, Athern also states that the general source of international rate information for forwarders today is the unofficial memorandum tariff identified as TACT, and further that ''because most rates have been available through tariff publication firms, there has not been the need by shippers or their auditors to deal with each carrier.'' This corresponds with the Department's experience that very few requests are received each year from the public for certified copies of present or past cargo tariffs, as well as with our findings in support of the alternative notice requirement in 14 CFR 221.177 that most carrier tariffs maintained at sales offices were incomplete, inaccessible and infrequently used by the public.[22] In general, both the CAB and the Department have found that filed tariffs are not an effective means of informing the public of a carrier's prices and services. The airline commenters in this proceeding agree, affirming that they will continue to publish international rates and rules in formats similar to those used now for both legal and promotional reasons.[23]

Finally, the rate consultants have not substantiated their contentions that tariff-filing discourages unreasonable carrier practices and prices, and acts as a necessary check on ''misrating.'' As the Department has found, it is competition in the marketplace, not the filing of tariffs or the Department's substantive review policies, that keeps prices and practices within reasonable bounds. The concepts of ''overcharging'' and ''misrating'' used by these commenters have meaning only in the context of approved tariffs, not the free marketplace where shippers are free to negotiate the best deal for each contract and may be expected to place their business with carriers and/or agents that provide the best information and the best rate options. It is this competition and this freedom to negotiate which provides the greatest economic benefits to the shipping public. The rate consultants have provided no sound basis for their argument that cargo tariffs should continue to be required.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department has determined that this rule is not significant under Executive Order 12866 and the Department's Regulatory Policies and Procedures (44 CFR 11034; Feb. 26, 1979). A regulatory evaluation in this Docket shows that the benefits of the proposed rule exceed the costs to the industry and the Federal government significantly, since it eliminates a regulatory burden, without imposing other requirements. This rule could result in net savings to the airlines of approximately $600,000 per year.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities, because the tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international (''foreign'') air cargo tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this rule eliminates information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. This proposal reduces paperwork burdens, as described in detail in the Regulatory Evaluation in this docket.

The implementation of these regulations will reduce tariff filings of cargo rates, rules and charges by almost 10,000 cargo tariff pages and about 200 Cargo Special Tariff Permission Applications (STPA's) filed each year, saving the air carriers a filing fee of $2 a cargo page and $12 a cargo STPA (which generally consists of about three double-sided pages for each STPA form).

Such filing fees, now paid to DOT, total about $22,400 or less annually. In addition, ATPCO charges carriers $18 for preparing each STPA for submission to the Department, which amounts to an additional $3,600 per year for an average of 200 STPA's.

Air carriers and their cargo filing agents also will avoid the burden of filing the tariffs with DOT, estimated to be about 5.34 hours for each of the 10,200 cargo tariff pages and STPA

[21] OFC asks that any final rule give shippers access to the Department's resources so as to ensure that carriers will furnish complete information on their cargo rates and rules to shippers on request and within a reasonable amount of time. We do not believe this to be necessary. Normal contract law has the tools needed to accomplish these goals.

[22] 53 FR 52677, December 29, 1988.

[23] IATA also concurs that shippers and interested agent/intermediaries can access applicable rates directly from carriers ''as efficiently as through tariff filings.''