

§ 135.170(b) would appear to add substantial requirements for airplanes type certificated under the provisions of Part 23 and Special Federal Aviation Regulations (SFAR) No. 41.

Although commuter category airplanes may be large enough to be "large airplanes" as defined by Part 1, they are not permitted to carry more than 19 passengers. Since the flammability standards of § 135.170(b) apply only to airplanes with more than 19 passengers, commuter category airplanes would not be required to comply even though they may be "large airplanes." SFAR No. 41 provides that, contrary provisions of Part 1 notwithstanding, airplanes certificated under the provisions of that SFAR are considered to be "small airplanes" in regard to compliance with Part 135. Furthermore they, like commuter category airplanes, are not permitted to carry more than 19 passengers.

Since neither commuter category airplanes nor those type certificated under the provisions of SFAR No. 41 are permitted to carry more than 19 passengers, there is no need to amend § 135.170(b) of specifically exclude those airplanes. Specifically stating in §§ 121.312(a) and 135.170(b)(1) that only airplanes with 20 or more passenger seats are required to comply, as discussed above, will preclude confusion in this regard.

One commenter reiterates a belief that the seat cushion flammability standards of § 25.853(c) are an unnecessary burden for operators of small transport category airplanes with passenger seating capacities of fewer than 19 passengers. The commenter is referring in this regard to the provisions of § 121.312 which were previously incorporated by cross reference in § 135.169 and now are stated explicitly as new § 135.170(b)(2). Section 121.312(b) and the new § 135.170(b)(2), in turn specify that the operator must have seat cushions that meet the flammability standards of § 25.853(c). That issue has already been addressed by FAA in earlier rulemaking and is not related, in any substantive manner, to the present rulemaking.

Another commenter notes an inadvertent error in proposed § 135.169(a) in that it would incorporate § 121.311 by cross reference. The intent was to move the no longer needed reference to § 121.312, not to replace it with § 121.311. Section 135.169(a) is corrected accordingly.

Regulatory Evaluation

Regulatory Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal

agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action.

The evaluations prepared for Amendments 25-61 and 121-189, and Amendments 25-66 and 121-198 remain unchanged by this rule with respect to costs and benefits, regulatory flexibility determinations, and trade impact assessment.

None of the amendments in this rule will generate significant costs or benefits. In part, the rule clarifies the original intent of the earlier amendments. The changes to the test apparatus and procedures for determining heat release rate are minor refinements that will result only in negligible costs and benefits. The amendment to Part 135 is a nonsubstantive change that incorporates existing requirements explicitly rather than by cross reference. The remaining changes are editorial or conforming in nature.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1989 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, established threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. The FAA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

This rule will not have an adverse impact either on the trade opportunities of U.S. operators or manufacturers of transport category airplanes doing business abroad, or on foreign operators or aircraft manufacturers doing business in the United States.

Federalism Implications

The regulations adopted herein will not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion: Because the regulations adopted herein are expected to result only in negligible costs, the FAA has determined that this final rule is not major as defined in Executive Order 12291. Because this is an issue that has not prompted a great deal of public concern, this final rule is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, since there are no small entities affected by this rulemaking, it is certified, under the criteria of the Regulatory Flexibility Act, that this final rule, at promulgation, will not have a significant economic impact, positive or negative, on a substantial number of small entities. The regulatory evaluation prepared for Amendments 25-66 and 121-198 remains applicable and has been placed on the docket. A copy of this evaluation may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

14 CFR Part 25

Aircraft, Air transportation, Aviation safety, Safety.

14 CFR Part 121

Air carriers, Aircraft, Airplanes, Air transportation, Aviation safety, Common carriers, Flammable materials, Safety, Transportation.

14 CFR Part 135

Air carriers, Aircraft, Airplanes, Air transportation, Aviation safety, Cargo, Hazardous materials, Mail, Safety, Transportation.

Adoption of the Amendment

Accordingly, 14 CFR Parts 25, 121 and 135 of the Federal Aviation Regulations (FAR) are amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 106(g), 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430.

2. By revising § 25.853 to read as follows: