

441 G St. N.W.
Washington, DC 20548

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February 18, 2021

The Honorable Maria Cantwell
Chair
The Honorable Roger F. Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Aviation Administration: Remote Identification of Unmanned Aircraft*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Aviation Administration (FAA) entitled “Remote Identification of Unmanned Aircraft” (RIN: 2120-AL31).¹ We received the rule on December 29, 2020. It was published in the *Federal Register* as a final rule on January 15, 2021. 86 Fed. Reg. 4390. The effective date of the rule is March 16, 2021.

According to FAA, the final rule requires the remote identification of unmanned aircraft. FAA stated the remote identification of unmanned aircraft in the airspace of the United States will address safety, national security, and law enforcement concerns regarding the further integration of these aircraft into the airspace of the United States, laying a foundation for enabling greater operational capabilities.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The Senate received the final

¹ The due date for this major rule report was February 1, 2021. Due to a processing error on our part, we are delayed in our issuance of this report.

rule on February 2, 2021, and the *Congressional Record* does not yet indicate when the House of Representatives received the rule. 167 Cong. Rec. S612 (daily ed. Feb. 9, 2021). The final rule was published on January 15, 2021. 86 Fed. Reg. 4390. The final rule has a stated effective date of March 16, 2021. Therefore, the final rule does not have the required 60-day delay in effective date.

Enclosed is our assessment of FAA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Kimberly Young
Management and Program Analyst
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION
ENTITLED
“REMOTE IDENTIFICATION OF UNMANNED AIRCRAFT”
(RIN: 2120-AL31)

(i) Cost-benefit analysis

The Department of Transportation, Federal Aviation Administration (FAA) estimated in its base scenario-primary estimate the final rule would lead to a 10-year present value cost savings of \$3.58 million and costs of \$230.69 million, for a net cost of \$227.11 million, at a 3 percent discount rate. FAA also estimated the final rule would lead to a 10-year present value cost savings of \$2.85 million and costs of \$189.38 million, for a net cost of \$186.53 million, at a 7 percent discount rate.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FAA prepared a Final Regulatory Flexibility Analysis. The analysis included (1) a statement of the need for, and objectives of, the final rule; (2) a statement of significant issues raised by public comments and a summary of FAA’s response; (3) a summary of FAA’s response to comments from the Chief Counsel for Advocacy; (4) a description and estimate of the number of small entities subject to the final rule; (5) a description of the reporting, recordkeeping, and other compliance requirements of the final rule; and (6) a statement of the efforts taken by FAA to minimize the economic impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The agency determined the final rule does not contain a federal mandate for purposes of the Act, and, therefore, the requirements of the Act do not apply.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On December 31, 2019, FAA published a proposed rule. 84 Fed. Reg. 72438. FAA received approximately 53,000 comments from individuals, unmanned aircraft manufacturers, other aviation manufacturers, interest groups, state and local governments, media, and others. FAA addressed the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

FAA determined the final rule contains information collection requirements (ICRs) subject to the Act. The ICRs are:

- Additional Elements for Small Unmanned Aircraft Registration System (Office of Management and Budget (OMB) Control Number 2120-0785)
- Identification of Foreign-Registered Civil Unmanned Aircraft Operating in the Airspace of the United States (OMB Control Number 2120-0782)
- Remote Identification Means of Compliance, Declaration of Compliance, and Labeling Requirements (OMB Control Number 2120-0781)
- Remote Identification Message Elements (OMB Control Number 2120-0783).

FAA estimated the burdens of the ICRs in the final rule.

Statutory authorization for the rule

FAA promulgated the final rule pursuant to sections 106, 40101, 40101 note, 40103, 40105, 40109, 40113, 40114, 40120, 44101-44108, 44110-44113, 44502, 44701-44704, 44709, 44711, 44712, 44713, 44715, 44717, 44722, 44805, 44807, 44809, 45302, 45305, 46102, 46104, 46301, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, 47534 of title 49; and 50901-50923 of title 51, United States Code, as well as Public Laws 108-297, 112-95 and 114-190, and the International Civil Aviation Convention, 61 Stat. 1180.

Executive Order No. 12866 (Regulatory Planning and Review)

FAA prepared a Regulatory Impact Analysis and performed the analysis under the Order.

Executive Order No. 13132 (Federalism)

FAA determined the final rule would not have a substantial direct effect on the states, or the relationship between the federal 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.