



GAO

Accountability \* Integrity \* Reliability

United States General Accounting Office  
Washington, DC 20548

---

B-289996

March 11, 2002

The Honorable Ernest F. Hollings  
Chairman  
The Honorable John McCain  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Don Young  
Chairman  
The Honorable James L. Oberstar  
Ranking Minority Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: Department of Transportation, Transportation Security Administration:  
Security Programs for Aircraft 12,500 Pounds or More

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 (DOT), Transportation Security Administration, entitled "Security Programs for Aircraft 12,500 Pounds or More" (RIN: 2110-AA04). We received the rule on February 25, 2002. It was published in the Federal Register as a final rule on February 22, 2002. 67 Fed. Reg. 8205.

The final rule requires certain aircraft operators using aircraft with a maximum certificated takeoff weight of 12,500 pounds or more carry out security measures. The rule requires that certain aircraft operators conduct criminal history records checks on their flightcrew members and restrict access in the flight deck.

Enclosed is our assessment of the DOT's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the DOT complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is John Anderson,

Managing Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Jennifer Abdul-Wali  
Senior Regulations Analyst  
Department of Transportation

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
TRANSPORTATION SECURITY ADMINISTRATION  
ENTITLED  
"SECURITY PROGRAMS FOR AIRCRAFT 12,500 POUNDS OR MORE"  
(RIN: 2110-AA04)

(i) Cost-benefit analysis

DOT states that the rulemaking is made under an emergency situation within the meaning of section 6(a)(3)(D) of Executive Order 12866, and therefore no cost-benefit analysis was prepared. DOT will prepare such an assessment in the future.

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

Since the rule did not follow the issuance of a Notice of Proposed Rulemaking, the requirements of the Regulatory Flexibility Act are not applicable.

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

Since the rule did not follow the issuance of a Notice of Proposed Rulemaking, the requirements of the Unfunded Mandates Reform Act of 1995 are not applicable.

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

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

The Under Secretary of Transportation for Security has found good cause under 5 U.S.C. 553(b) to forego prior notice and public comment in promulgating the rule as contrary to the public interest. DOT is soliciting comments on the rule until April 23, 2002.

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

The final rule contains an information collection that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act. DOT is submitting the required information regarding the collection to OMB and will publish the OMB control number in the Federal Register after approval of the collection. DOT estimates that the collection's annual burden will be 60,850 hours at a cost of \$1,461,300.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 132(a) of the Aviation and Transportation Security Act, Public Law 107-71.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be a “significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

DOT found that the final rule did not have sufficient federalism implications to warrant the preparation of a federalism assessment.