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United States General Accounting Office
Washington, DC 20548

B-289997

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, Federal Aviation Administration,
Transportation Security Administration: Civil Aviation Security Rules

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), Federal Aviation Administration, Transportation Security Administration, entitled "Civil Aviation Security Rules" (RIN: 2110-AA03). 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. 8340.

The final rule transfers the Federal Aviation Administration's rules governing civil aviation security to the Transportation Security Administration and requires additional qualifications, training, and testing of individuals who screen people and property carried in passenger aircraft.

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,
FEDERAL AVIATION ADMINISTRATION
TRANSPORTATION SECURITY ADMINISTRATION
ENTITLED
"CIVIL AVIATION SECURITY RULES"
(RIN: 2110-AA03)

(i) Cost-benefit analysis

Since the rulemaking is made under an emergency situation within the meaning of section 6(a)(3)(D) of Executive Order 12866, no cost-benefit analysis was prepared. Such an assessment will be prepared 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 until March 25, 2002.

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

The information collections contained in the final rule have been previously approved by the Office of Management and Budget, which will be requested to transfer these approvals to the Transportation Security Administration.

Statutory authorization for the rule

The final rule was promulgated pursuant to the authority contained in section 101 of the Aviation and Transportation Security Act, 49 U.S.C. 114.

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)

The final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.