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United States General Accounting Office
Washington, DC 20548

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January 28, 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, Office of the Secretary: Procedures for Compensation of Air Carriers

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), Office of the Secretary, entitled "Procedures for Compensation of Air Carriers" (RIN: 2105-AD06). We received the rule on January 14, 2002. It was published in the Federal Register as a final rule on January 2, 2002. 67 Fed. Reg. 250.

The final rule amends the DOT rule published on October 29, 2001 (66 Fed. Reg. 54616) which established application procedures for air carriers interested in requesting compensation under the Air Transportation Safety and System Stabilization Act. The Act authorized \$5 billion in compensation to air carriers for direct and incremental losses incurred as a result of the September 11, 2001, attacks.

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 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 Transportation Analyst
Department of Transportation

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY
ENTITLED
"PROCEDURES FOR COMPENSATION OF AIR CARRIERS"
(RIN: 2105-AD06)

(i) Cost-benefit analysis

Since the final rule is being issued on an emergency basis, DOT has determined that section 6(a)(3)(D) of Executive Order No. 12866 is applicable and did not conduct a formal cost-benefit analysis. However, the impact is expected to be favorable by making funds available to compensate air carriers for losses resulting from September 11, 2001.

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

Since the final rule was not preceded by a notice of proposed rulemaking, DOT was not required to prepare a Regulatory Flexibility Analysis. However, DOT expects the rule to have a favorable impact on small entities since it consists of small entities (i.e., air taxis) receiving compensation.

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

As defined in title II, the final rule does not contain either an intergovernmental or private sector mandate of more than \$100 million in any one year.

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

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

DOT has found that it is impracticable, unnecessary, and contrary to the public interest to delay the rule's effective date and obtain public comments under 5 U.S.C. 553 and has made the rule effective immediately. However, DOT is providing a 14-day comment period following publication.

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

The Office of Management and Budget (OMB) has approved the information collections contained in the final rule and assigned Control Number 2105-0546.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 101(a)(2) of the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 49 U.S.C. 40101 note.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

DOT has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.