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Washington, DC 20548

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January 6, 2025

Committee on Commerce, Science, and Transportation
United States Senate

Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Aviation Administration: Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes*

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 "Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes" (RIN: 2120-AL72). We received the rule on December 30, 2024. It was published in the *Federal Register* on November 21, 2024. 89 Fed. Reg. 92296. The stated effective date of the rule is January 21, 2025, except for amendatory instruction 52, which is effective July 21, 2025.

According to FAA, this rule adopts permanent amendments and a Special Federal Aviation Regulation for a period of ten years to: facilitate the certification of powered-lift pilots, clarify operating rules applicable to operations involving a powered-lift, and finalize other amendments which are necessary to integrate powered-lift into the National Airspace System. FAA also stated that this rule finalizes its alternate framework to stand-up initial groups of powered-lift pilots and flight instructors. Additionally, FAA stated that this rule makes changes to practical tests in aircraft that require type ratings, including airplanes and helicopters, training center rotorcraft instructor eligibility, training and testing requirements, and training center use of rotorcraft in flight training.

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 rule was published in the *Federal Register* on November 21, 2024. 89 Fed. Reg. 92296. The *Congressional Record* reflects that the House of Representatives received the rule on December 23, 2024. 170 Cong. Rec. H7433 (Dec. 31, 2024). The *Congressional Record* does not yet reflect the date of receipt by the Senate. According to documents submitted by FAA, the Senate received the rule on December 20, 2024. Email from FAA to GAO, *Subject: FW: FAA Rule 2120-AL72 sent on 12-19-2024* (Dec. 30, 2024). With the exception of amendatory instruction 52, which is effective July 21, 2025, the rule has a stated effective date of January 21, 2025. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

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 Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Sharice Jefferson
Management Analyst
Federal Aviation Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
ENTITLED
“INTEGRATION OF POWERED-LIFT: PILOT CERTIFICATION AND OPERATIONS;
MISCELLANEOUS AMENDMENTS RELATED TO ROTORCRAFT AND AIRPLANES”
(RIN: 2120-AL72)

(i) Cost-benefit analysis

The Department of Transportation, Federal Aviation Administration (FAA), prepared a summary of the costs and benefits of this rule. See 89 Fed. Reg. 92300 (Nov. 21, 2024). According to FAA, the rule would result in present value costs of about \$914.2 million with a two percent discount rate with annualized costs of about \$101.8 million. According to FAA, the rule will result in unquantified benefits including mitigating risk and narrowing a safety gap, establishing an alternate pathway to pilot certification, and providing relief from the provision of dual-control aircraft for training. 89 Fed. Reg. 92466–92467.

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

FAA determined that this rule may have an economic impact on substantial numbers of small entities and prepared a Final Regulatory Flexibility Analysis. See 89 Fed. Reg. at 92476.

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

FAA determined that this rule will not result in the expenditure of \$183 million or more by state, local, or tribal governments, in the aggregate, or the private sector, in any one year. 89 Fed. Reg. 92478.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that

directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

FAA did not discuss the Act in this rule or in its submission to us.

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

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

On June 14, 2023, FAA published a proposed rule. 88 Fed. Reg. 38946. FAA reported receiving 81 comments from a variety of commenters on the proposed rule. 89 Fed. Reg. 92304. FAA summarized and responded to comments in this rule. *Id.*

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

FAA determined that this rule amends information collection requirements previously approved under OMB Control Numbers 2120-0009, 2120-0021, 2120-0039, 2120-0600, 2120-0607, and 2120-0663. 89 Fed. Reg. 92478.

Statutory authorization for the rule

FAA promulgated this rule pursuant to sections 40113, 44701, 44702, 44703, 44704, 44705, 44707, 44712, 44713, 44715, 44716, and 44722 of title 49 of the United States Code and section 955 of the FAA Reauthorization Act of 2024.

Executive Order No. 12866 (Regulatory Planning and Review)

FAA stated that this rule is significant under the Order. See 89 Fed. Reg. 92466.

Executive Order No. 13132 (Federalism)

FAA determined that this rule does not have federalism implications. See 89 Fed. Reg. 92842.