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United States General Accounting Office  
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B-289153

October 25, 2001

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: Office of Management and Budget: Regulations for Air Carrier Guarantee Loan Program Under Section 101(a)(1) of the Air Transportation Safety and System Stabilization Act

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Office of Management and Budget (OMB), entitled "Regulations for Air Carrier Guarantee Loan Program Under Section 101(a)(1) of the Air Transportation Safety and System Stabilization Act" (14 CFR Chapter VI and Part 1300). We received the rule on October 9, 2001. It was published in the Federal Register as a final rule on October 12, 2001. 66 Fed. Reg. 52270.

The final rule sets forth the procedures for applications and minimum requirements for the issuance of federal credit instruments under section 101(a)(1) of the Air Transportation Safety and System Stabilization Act (ATSSSA). The purpose of these federal credit instruments is to assist air carriers who suffered losses due to the terrorist attacks on September 11, 2001, and to whom credit is not otherwise reasonably available, in order to facilitate a safe, efficient, and viable commercial aviation system in the United States.

Enclosed is our assessment of OMB'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 OMB 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: Mr. Jay P. Lefkowitz  
General Counsel  
Office of Management and Budget

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
OFFICE OF MANAGEMENT AND BUDGET  
ENTITLED  
"REGULATIONS FOR AIR CARRIER GUARANTEE LOAN PROGRAM  
UNDER SECTION 101(A)(1) OF THE AIR TRANSPORTATION SAFETY  
AND SYSTEM STABILIZATION ACT"  
(14 CFR CHAPTER VI AND PART 1300)

(i) Cost-benefit analysis

OMB states that the application procedure and minimum requirements will apply to up to \$10 billion in loan guarantees, which guarantees will translate into a “credit subsidy” of some amount not yet determined. The benefits of the final rule will be to mitigate the costs incurred by the airline industry including transaction costs associated with business closings due to short-run financial or economic dislocations caused by the September 11 attacks.

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

The Director of OMB has certified that the final rule will not have a significant economic impact on a substantial number of 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 final rule does not contain an intergovernmental or private sector mandate, as defined in title II, 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.

As the ATSSSA required that OMB issue regulations not later than 14 days after enactment, OMB issued the final rule without notice and comment and effective upon publication under the exemptions provided under 5 U.S.C. 553(b)(B) and 553(d). In addition, OMB cites section 553(a) of the Administrative Procedure Act (APA) which provides that the rulemaking requirements of the APA do not apply to agency actions that concern “loans, grants, benefits, or contracts.”

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

The information collection requirements of the final rule have been approved by OMB on an emergency basis and assigned OMB Control No. 0348-0059. OMB estimates there may be up to 150 respondents under this program and the total annual burden would be 6,000 hours or \$300,000, assuming a \$50 per hour cost.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act, Public Law 107-42.

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)

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