

Regional Medical Center, excluding that airspace within the Detroit, MI, Class E airspace area.

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Issued in Des Plaines, Illinois, on November 13, 2002.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2002-13817; Airspace Docket No. 02-AGL-09]

Modification of Class E Airspace; Indianapolis, IN

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Indianapolis, IN, Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs) to several Runways (RWYS) have been developed for Indianapolis International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of existing controlled airspace at Indianapolis International Airport.

EFFECTIVE DATE: 0901 UTC, January 23, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294-7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, August 16, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Indianapolis, IN (67 FR 53531). The proposal was to modify existing Class E airspace at Indianapolis International Airport, IN, in order to protect for several new RNAV SIAPs.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are

published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Indianapolis, IN, for Indianapolis International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, regulation—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective

September 16, 2002, is amended as follows:

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Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Indianapolis, IN [Revised]

Indianapolis International Airport, IN (Lat. 39° 43' 02"N., long. 86° 17' 40"W.)
Indianapolis, Greenwood Municipal Airport, IN (Lat. 39° 37' 42", long. 86° 05' 16"W.)
Indianapolis, Eagle Creek Airpark, IN (Lat. 39° 49' 51"N., long. 86° 17' 40"W.)
Indianapolis, Eagle Creek Airpark, IN (Lat. 39° 49' 51"N., long. 86° 17' 40"W.)
Indianapolis, Helicopter VOR/DME 287° Approach Point in Space (Lat. 39° 42' 12" long. 86° 06' 28"W.)
Brickyard VORTAC (Lat. 39° 48' 53"N., long. 86° 22' 03"W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Greenwood Municipal Airport, within a 6.3-mile radius of Eagle Creek Airpark, and within 2.6 miles each side of the Brickyard VORTAC 257° radial, extending from the 6.3-mile radius of the Eagle Creek Airpark and the 7.4-mile radius of the Indianapolis International Airport to 7-miles west of the VORTAC, and within a 6-mile radius of the Point in space serving the helicopter VOR/DME 287° approach.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. OST 2000-8164]

RIN 2139-AA09

Reporting the Causes of Airline Delays and Cancellations

AGENCY: Office of Secretary, DOT.

ACTION: Final rule.

SUMMARY: As required by Federal statute, the Department of Transportation is modifying certain reporting requirements. We are requiring air carriers that file airline service quality performance reports to collect and report the causes of airline

delays and cancellations. Currently, there is a lack of data on the specific causes of airline delays and cancellations. The changes are designed to fill the data gaps in reference to the causes of airline delays and cancellations and to provide this information to the public and other interested parties.

EFFECTIVE DATE: This rule is effective on June 1, 2003.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus or Clay Moritz, Office of Airline Information, K-14, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4387 or 366-4385, respectively. You can also contact them by e-mail at bernard.stankus@bts.gov or clay.moritz@bts.gov or by fax at (202) 366-3383.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Services at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>. You can also view and download this document by going to the webpage of the Department's Docket Management System (<http://dms.dot.gov/>). On that page, click on "search." On the next page, type the last four digits of the docket number shown in the heading of this document. Then click on "search."

Background

Section 227 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21) requires that we modify our airline data collection system, 14 CFR Part 234—Airline Service Quality Performance Reports, to explain more fully to the public the nature and source of airline delays and cancellations (See Pub. L. 106-181, 114 Stat. 61). AIR-21 also directed that DOT establish a Task Force to review airline delays and cancellations and develop recommendations for the associated reporting criteria. Since the passage of AIR-21, Congress has continued to express concern that DOT needs more accurate data to better understand gate, tarmac, and airborne delays. The DOT Office of the Inspector General (OIG) also highlighted the need to examine airline delays and cancellations in its July 25, 2000 report on air carrier flight

delays and cancellations. Our own consumer complaint statistics also support regulatory action to reduce airline delays. Also, passengers have expressed frustration when not advised of the cause and length of delays.

In August 2000, we formed the Air Carrier On-Time Reporting Advisory Committee (the Task Force). The Task Force members were chosen to reflect a balanced cross section of interests. In addition to government representatives, they included representatives from consumer airline groups, air carriers, labor unions and airport operators. On September 25, 2000, the Task Force was chartered as a Federal advisory committee. Its mission was to consider changes to the current on-time reporting system so that the public would have clear information about the nature and sources of airline delays and cancellations.

In the Fall of 2000 (*i.e.*, October 25 and 26, November 1 and 2, and November 13), the Task Force held several meetings to identify the issues surrounding airline delays and cancellations and to develop reporting criteria. The meetings were announced in the **Federal Register** (65 FR 63285) and were open to the public. We opened a public docket for the submission of comments, Docket OST-2000-8164. On November 29, 2000, the Task Force submitted its report to DOT. The Task Force made a number of recommendations, including that we establish a reporting framework for collecting information about the causes of airline delays and cancellations. The Task Force also recommended that, prior to rulemaking, we conduct a pilot program to test the proposed reporting categories. Following up on that recommendation, we contacted a number of air carriers; four air carriers agreed to participate in a voluntary pilot project. The four carriers were American Airlines, Delta Air Lines, Southwest Airlines and United Air Lines. Over several months, we met with the four carriers and discussed what causal delay and cancellation information should be collected and how best to report that delay and cancellation data. After the parties agreed on a reporting framework, the carriers began submitting delay and cancellation data to us.

We used the recommendations from the Task Force, the results of our pilot project and our outreach efforts to craft the Notice of Proposed Rulemaking (NPRM) which was published on December 27, 2001 (66 FR 66833). In response to the NPRM, we received 16 comments.

The Proposed Rule

The Department proposed requiring air carriers that file airline service quality performance reports under Part 234 regulations to collect and report the causes of airline delays and cancellations. There was a lack of data on the specific causes of airline delays and cancellations. The Department proposed four delay categories and three cancellation categories as follows:

Delays	Cancellations
Air Carrier	Air Carrier.
Weather	Weather.
National Aviation System.	National Aviation System.
Late Arriving Aircraft	

The proposed changes were designed to fill the data gaps in reference to the causes of airline delays and cancellations and to provide this information to the traveling public and the parties most capable of addressing the causes of the delays and cancellations.

Public Comments

We received comments from America West Airlines, American Trans Air, Southwest Airlines, the Air Transport Association of America (ATA), the Regional Airline Association (RAA), the American Society of Travel Agents (ASTA), the Airports Council International—North America (ACI-NA), the American Automobile Association (AAA), the City of Boston, Save the Bay Association, the San Francisco Boardsailing Association (SFBA), the Paralyzed Veterans of America, Mr. B.E. Wendling, Mr. George Rummell, Ms. Melissa Davis, and Mr. Paul Asmus. The substance of these comments is discussed below under a series of topical captions.

The Continuing Need for Causal Reporting

Southwest Airlines believes that the operating environment since September 11, 2001, negates the need to impose new reporting requirements in the near future.

Mr. Paul D. Asmus believes that modifying the on-time data collection system, to explain more fully to the traveling public the source and nature of airline delays, may create a serious safety problem. Mr. Asmus states that, "The NPRM as envisioned, plans to add delays for aircraft maintenance in the data that the carriers are required to provide." He believes this could lead to mechanics being pressured "to work faster and cut corners." Mr. Asmus requested an Office of the Inspector

General (IG) audit and, while the IG conducts its audit, that the Department place a hold on the rulemaking.

It is only a matter of time before traffic is back to or above the levels of the summers of 2000 and 2001. The Department wants to be pro-active in identifying problem areas and making the necessary improvements to the aviation system to avoid the gridlock which reached a peak in the summer of 2000. For the first eight months of 2001, on-time arrivals increased to 77.4% as compared to 72.7% for the first eight months of 2000. This was accomplished despite an increase of 17,440 flight operations. The improvement was accomplished in a large measure because the FAA made significant progress in correcting problems identified with respect to improving the flow of traffic through seven major airspace choke points in our national airspace system, American and Delta reduced operations at peak times at their hub airports, and Continental and United increased the size of aircraft operated at selected airports. The Department does not want to become complacent in its initiative to reduce air carrier delays. In the Office of the Inspector General's report titled Actions to Enhance Capacity and Reduce Delays and Cancellations (August 17, 2001), the number one item listed as needing attention is the creation of a uniform system for tracking the causes of flight delays and cancellations.

As to the inclusion of flights that are delayed or cancelled for maintenance, the Department has included statistics for such flights beginning in January 1995. While the Department tracked whether the flights experienced delays, the reasons for delays were not identified. The inclusion of all carrier operations in the airline service quality performance data base provides consumers with a more accurate picture of a carrier's overall on-time record. Moreover, we have seen no evidence whatsoever that inclusion of cancellations and delays related to maintenance has in any way diminished safety. To the contrary, there is an incentive for carriers to keep their equipment in top working condition. While the present proposal recommends collection of the causes of delays and cancellations, the proposed cause categories are broad and do not specifically identify maintenance delays or cancellations. As proposed, maintenance delays and cancellations would be reported as "Air Carrier" caused delays.

The safety of passengers and crew has always been the most important responsibility of air carriers and the

number one priority of the Department. The Department does not believe a delay in the rulemaking is appropriate; however, the Department will investigate any specific allegation that air safety is being compromised and take appropriate action, including enforcement action, where necessary.

In the aftermath of the terrorist attacks of September 11, 2001, large certificated air carriers decreased commercial operations by about 20 percent, as many airlines grounded large numbers of older less efficient aircraft and deferred delivery of new aircraft. As a result of a less congested air transportation system, on-time performance has improved. In March 2002, the FAA held its Annual Commercial Aviation Forecast Conference. During the conference the FAA released The FAA Aerospace Forecasts, Fiscal Years 2002–2013, which estimates that domestic capacity will gradually return to pre-September 11 capacity levels over a 3-year period. At the same time, U.S. regional/commuter air operations continue to grow, albeit at a slower rate than the pre-September 11 growth rate. Thus, although recent on-time performance would not in and of itself indicate need for regulatory action, the Department's statutory mandate, the growing post September 11 airline operations, and our long-range forecasts require regulatory action in this area.

Extending the Reporting Requirements to Other Carrier Groups

We proposed that the requirement to report causes of delays at the present time apply only to the air carriers that are already required to report on-time data under Part 234. These air carriers not only account for the vast majority of domestic operations and enplanements, but they are in a position to quickly adopt the new reporting system, thus minimizing the regulatory burden on the industry and, at the same time, providing valuable information to the public, and to the parties best able to rectify delay problems.

Comments from the ATA, ACI-NA, Save the Bay, SFBA, the City of Boston, and Mr. George Rummell were in favor of extending the reporting requirements to code-share partners of the major carriers, to national air carriers and to large regional air carriers. The RAA is opposed to extending the requirements beyond the current major carriers and believes that American Eagle should be relieved of its current reporting obligation.

SFBA stated that code-share partners of major airlines should begin reporting as soon as practicable. It pointed out that many airports have extensive

operations by such code-share carriers and the data from these flights "would be valuable in assessing the delay problems." SFBA stated that although the large certificated air carriers account for 87% of domestic enplanements, they account for a lower percentage of domestic operations. As an example, SFBA pointed to statistics for United Air Lines and its code-share partners at San Francisco-Oakland (SFO) airport for March 4, 1999, stating that while United accounted for 84% of the available seats at SFO, it accounted for only 69% of the operations there. SFBA claims that smaller aircraft "contribute to delay more than larger aircraft" because smaller aircraft are slower, require more space to avoid wake turbulence, and serve less passengers. According to SFBA, as a way to minimize reporting burden on code-share partners, reporting could be limited to reportable airports where the code-share operations account for 10% or more of the operations. A reportable airport is an airport that accounts for at least one percent of domestic scheduled enplanements.

The City of Boston believes that excluding from the proposed new causal reporting requirement 17% of passenger enplanements limits the usefulness of the proposed new data. It stated that "it will be impossible for the DOT to implement well-informed market-based approaches to minimize delays," without delay information from the carriers not required to report.

ACI-NA believes that DOT must design a system for tracking the causes of delays that is accurate and complete. The omission of code-share partners and other scheduled air carriers which account for 17% of passengers distorts and undermines the utility of delay data. According to ACI-NA, "More accurate data will enable smaller and regional carriers to understand their flight delay problems and ultimately help solve those problems. Currently, there is no mechanism that serves this function."

ATA stated that "all major, national and code-sharing partners should be included in the Part 234 reporting system," and each carrier must be responsible for its own reporting. ATA believes that "The 17% of enplanements exempt from reporting contribute a disproportionate, higher number of airplanes to the congestion mix since these airplanes generally have fewer seats." According to ATA, "By leaving out this 17%, we may inadvertently deny ourselves the ability to find out the triggering causes of delays, which increase exponentially at congested airports with each added flight, no

matter how small the aircraft.” ATA cited La Guardia as a good example of an increase in small aircraft operations overwhelming the system.

AAA supports extending the reporting requirements to all air carriers.

Mr. George Rummell believes that the airline industry should report all delays.

The RAA strongly opposes the expansion of the reporting requirements to all medium and large code-sharing regional airlines. It states that regional airlines generally operate routes in the 250 to 500 mile range, which subjects the regional carriers to a high level of ground delays not experienced by major carriers. Regional carriers do not have the technology to easily capture delay data. RAA cites a cost estimate, provided by one of its members, concerning the additional personnel needed to collect and report the data. The estimate places the additional costs at \$75,000 per year. RAA further claims that, given the current environment of increased insurance costs and new security fees, the smaller communities served by regional airline may not be capable of absorbing higher air fares which the carriers would need to charge to recover the reporting costs.

The Department realizes that it is a difficult decision to determine the cutoff for which carriers should report on-time data. There were numerous comments that point out the difficulty of making accurate and informed decisions about correcting delay problems when 17% of enplanements and a higher share of operations are omitted. This is compounded by the fact that many of the missing operations are flown by slower moving aircraft. On the other hand, the Department is concerned about adding to the operating cost of small carriers. The Department is attempting to strike a balance between the competing interests. The public interest is best served at this time by applying the new reporting requirements to those airlines that already report on-time data to the Department. Therefore we disagree with RAA’s request to relieve American Eagle from the reporting system. American Eagle operated almost 493,000 scheduled domestic passenger flights with almost 12 million domestic enplanements. Relieving American Eagle of its reporting obligation would create a data gap at a time when the Department is looking for economical ways to fill its data needs. American Eagle’s data are especially important because American Eagle is the only carrier reporting regional jet operations.

The Department intends to revisit, at a later date, the issue of whether to expand the air carrier universe for on-

time reporting. The Department will continue to analyze delay data to see if the reporting burden is too costly for smaller carriers to participate in the data collection. Also, the Department will look at alternative reporting means for less burdensome and costly reporting.

Causal Categories and Methodology

The City of Boston stated that it was unclear from the proposed rule as to which delay category deicing activities should be assigned. It also stated that “bird strikes” are associated with individual airports and should be assigned to the National Aviation System (“NAS”). The City of Boston took issue with the following statement in the NPRM:

Consistent high volume delays are an indication to airport operators and to state and local governments that there is a need for infrastructure investments and improvements.

It believes volume delays can be addressed by actions such as peak-period pricing, auctioning of landing and takeoff rights, or increased use of secondary airports.

American Trans Air believes that “bird strikes” are acts of God and should be reported under “NAS” delays. The carrier also stated that:

* * * the National Aviation System category for reporting delays is not adequately defined. There are codes and situations that fall under this category, which are now classified elsewhere or are not specific enough to be meaningful. For example, should not airport delays due to infrastructure, terminal and runway limitations and local and regional curfews fall under NAS? The current allocation of codes, we believe, needs to be less subjective, and include more government-controlled conditions to be labeled as NAS.

ATA believes that “bird strikes” should be attributed to NAS. FAR Part 139 requires airports to have a wildlife management program and there are specific air traffic control (ATC) procedures to alerting pilots to bird hazards. ATA also believes that data on late arriving aircraft is not useful. “Root delay causes for down-line late arriving aircraft cannot be consistently determined when multiple delay causes are involved.”

America West asked, “What is the difference between extreme and non-extreme weather delays?” It believes that “bird strikes” should be coded as an external delay/cancellation (e.g. extreme weather), not as “Air Carrier” or “NAS.” America West questions the logic of allowing carriers to choose whether or not to report the initial cause of delay for late arriving aircraft delays.

Weather

The Department realizes that reporting the causes of airline delays and cancellations adds subjectivity to the reporting system. There is a fine line between some delays coded as “Weather” (extreme weather) and others coded as “NAS” (non-extreme weather). The purpose of the assignment of codes is to identify the party or organization which is in the best position to take corrective action. Delays or cancellations coded “Air Carrier” are best corrected by the air carriers; delays or cancellations coded “NAS” are best corrected by the FAA, airport operators, or State or local governments; and delays or cancellations coded “Weather” (extreme weather) cannot be reduced by corrective action. Delays or cancellations coded “NAS” are the type of weather delays that could be reduced with corrective action by the airports or the FAA. Therefore, delays attributed to deicing are coded as “Weather” delays.

Extreme weather delays or cancellations are caused by weather conditions (e.g., significant meteorological conditions), actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior delay or cancellation attributable to weather.

Security Delays

Ms. Melissa Davis believes that, in light of the terrorists attacks of September 11, 2001, airport disruption or security delays should be added to the list of delay or cancellation causes. Ms. Davis cites the evacuation of Hartsfield International Airport on November 16, 2001, as a prime example of the need for security delay reporting.

ATA recommends that a separate delay category be established to report security delays. ATA asserts that security delays are easily identified and these delays should be distinguished from “NAS” or “Air Carrier” caused delays.

The Department agrees with the commenters that requested a separate category for delays and cancellations that relate to security. We will adopt a new category known as “Security.” Congress has assigned responsibility for aviation and other transportation security to the Transportation Security Administration (TSA). One of TSA’s primary functions is to provide security screening of passengers and their

accessible property transiting from an airport's common areas to its sterile areas where passengers board their flights. Delays in flight departures are not properly attributable to "Security" if they are caused by routine passenger screening. Carriers may or may not elect to delay a flight's departure for such passengers. Flight delays occurring because an air carrier holds a flight for screening are "Air Carrier" delays not "Security" delays. Not all screening and other security-related delays are attributable to "Security." Some security delays may result from actions of air carriers or airport employees who fail to follow security requirements. Air carriers should take care to ensure that delays and cancellations assigned to the "Security" category are not attributable to their own actions or caused by their own employees.

National Aviation System (NAS)

Delays and cancellations attributable to "NAS" refer to a broad set of conditions: weather-non extreme, airport operations, heavy traffic volume, air traffic control, etc.

Delays or cancellations resulting from "bird strikes" should be coded "NAS." While bird strikes could be viewed as an Act of God, improved wildlife management at airports could reduce the frequency of bird strikes.

While air traffic volume delays and cancellations in the short term are generally the result of over-scheduling by the airline industry, these types of delays and cancellations are coded "NAS." Volume delays occur when there are more flights scheduled than the airport can handle for a given period of time. An individual air carrier's schedule by itself does not create volume delays. Rather, it is the accumulation of all the commercial, general aviation, and military operations at the airport that contribute to the problem. Air carriers schedule flights to meet consumer demand. Volume delays can be reduced in the short term through changes in the air carriers' scheduling practices, which includes using larger equipment, or as the City of Boston suggests, by creating incentives to change consumer preference. Such delays may in the long term be reduced by improving the airport's infrastructure (e.g. building runways, improving FAA tower facilities, etc.). The airline industry must work together reduce volume delays.

Air carriers only track delays up to "push back from the gate." These delays are departure delays. After push back, the aircraft is under air traffic control. Delays occurring after departure are assigned by air carriers to the NAS.

Therefore, whenever the arrival delay is greater than the departure delay, the air carriers apportion NAS minutes to make up the difference between the departure delay and the arrival delay (Departure delay + NAS delay = Arrival delay).

Whenever the departure delay is more than the arrival delay, the en route time savings would be prorated back to the departure delay categories. For example, if a 50 minute departure delay consists of a 15 minute "Air Carrier" delay, a 10 minute "NAS" delay, and a 25 minute "Late Arriving Aircraft," then the departure delay would be 30% "Air Carrier," 20% "NAS" and 50% "Late Arriving Aircraft". If the flight arrived 40 minutes late, this would be reported in minutes as 12 minutes "Air Carrier," 8 minutes "NAS" and 20 minutes "Late Arriving Aircraft."

Using the available internal data, the FAA will review the delays reported by the air carriers in the "NAS" category to identify the actual causes of the delays. Air carriers track delays up to the time the aircraft pushes away from the departure gate. Delays that occur after "push-back" are generally assigned to the "NAS" category. The FAA has various data sets that can be used to identify delays after "push-back." One of these is FAA's Air Traffic Operations Network (OPSNET) information. This data set provides information on delays incurred by aircraft while under the control of the air traffic system.

In addition, the National Oceanic and Atmospheric Administration provides the FAA with weather information. Airport operators provide the FAA with information on runway closures and other airport incidents. With these data sets, the FAA has the capability to refine the NAS delays into weather-non extreme, volume, equipment outages, runway closures, other, or "no match."

Carrier Delays

The Paralyzed Veterans of America requested that the Department remove the specific reference to "handling disabled passengers" from the guidance list of "Air Carrier" delays.

The Department concurs with the request of The Paralyzed Veterans of America to remove the specific reference to "handling disabled passengers" from the guidance list of "Air Carrier" delays. Slow boarding or seating covers all passengers and there is no intent to focus on an individual group. Delays attributed to slow boarding are coded as "Air Carrier."

The Department disagrees with the proposal to attribute to "NAS" a delay caused by an air carrier observing an airport curfew. Curfews are in place at many airports and air carriers must plan

their schedules taking into account these curfews. If a delay or cancellation is the result of an airport curfew, the delay is an "Air Carrier" delay.

Delays caused by positive passenger/baggage matches are coded "Air Carrier" when the air carrier is responsible for conducting the match. Air carriers are responsible for advising passengers of the time needed for pre-boarding clearances and security screening. If delays are caused by inoperative security equipment or if the government institutes a security action which delays flights, then the delays will be coded as "Security."

Delays Attributed to Late Arriving Aircraft

Consumers have an interest in knowing if particular flights are consistently late due to late arriving aircraft. Delays reported under the "Late Arriving Aircraft" category demonstrate the ripple effects of an earlier flight delay problem. The cause of the initial delay must be addressed to cure the delays associated with late-arriving aircraft. Some carriers track the initial causes and use an internal code to identify the initial cause for downline late arriving aircraft. Other carriers do not track the downline effects of earlier delays and only record that the flight was late because of the previous flight's late "turn around." While data that identify the initial causes of downline delays are useful data, they are not critical. Originally, we proposed in the NPRM to create a two-tier system where carriers had the option to report the root cause of late arriving aircraft delays. We agree with ATA that this two-tier reporting system could be confusing to data users and not produce the desired results. Therefore, in such cases we have decided to require that carriers report only that the delay was the result of a "late arriving aircraft" and not report the initial delay cause. The Department will have the ability to track the ripple effects of downline delays since carriers report the aircraft tail number, which will enable the Department to follow an aircraft through its daily flight schedule.

Thus, based on our review of the public comments, we are adopting the following reporting codes:

Cancellation Codes

- (A) Air Carrier;
- (B) Extreme Weather;
- (C) National Aviation System (NAS);
- and
- (D) Security.

Delay Causes

Air Carrier;

Extreme Weather;
National Aviation System (NAS);
Security; and
Late Arriving Aircraft.

Delay and Cancellations Causes

Below is a list of examples of causes for delays and cancellations. This list should be used as a guide for relating the types of occurrences and the associated delay or cancellation code. This list should not be considered a complete list. Carriers report delay categories when the arrival delay is 15 minutes or more. The rule does not require carriers to report causal data for flights that are considered "on-time."

Air Carrier

Aircraft cleaning
Aircraft damage (except bird strikes, lightning/hail damage)
Airport curfew
Awaiting the arrival of connecting passengers or crew
Awaiting alcohol test
Awaiting gate space
Baggage loading
Cabin servicing
Cargo loading
Catering
Computer outage—carrier equipment
Crew legality (pilot or attendant rest)
Damage by hazardous goods
Engineering Inspection
Flight paperwork
Fueling
Gate congestion
Government forms not properly completed—INS, FAA, Agriculture, Public Health, etc.
Ground equipment out of service
Hot brakes restriction
Last minute passenger
Late mail from Post Office
Late crew
Lavatory servicing
Maintenance
Medical emergency
Out of service aircraft
Oversales
Positive passenger baggage match
Passenger services
Potable water servicing
Pre-flight check
Ramp congestion—blocked by another aircraft under carrier's control
Ramp service
Removal of unruly passenger
Revised weight sheet
Shortage of ramp equipment
Slow boarding or seating
Snow removal (when it is a carrier ramp service function)
Stowing carry-on baggage
Weight and balance delays

Weather

Below minimum conditions

Clear ice inspection
Deicing aircraft
Earthquake
Extreme high or low temperatures
Hail Damage
Holding at gate for enroute weather
Hurricane
Lightning damage
Pre-planned cancellations that result from predicted weather
Snow Storm
Thunder Storm
Tornado

National Aviation System (NAS)

Airport conditions
Airport construction
Air Traffic Control (ATC)
Awaiting ATC clearance while still at gate
Air Traffic Quota Flow Program—ATC
Closed Runways
Computer failure—air carrier equipment
Equipment Outage—ATC
Gate hold—ATC
Ground delay program—ATC
Flow control program—FAA
Other disabled aircraft blocking runway
Ramp congestion—blocked by aircraft not under carrier's control
Ramp Traffic—Air Traffic Control
Restricted aircraft movement on runways
Volume Delays

Security

Bomb threat
Inoperative screening equipment
Evacuation of terminal or concourse or re-boarding aircraft resulting from security breach
Weapon confiscation

Late Arriving Aircraft

Means a previous flight with same aircraft arrived late which caused the present flight to depart late.

Passenger Notification

Several commenters stated that they support the rule to collect causal data, but more should be done to require passenger notification and to relieve passenger inconvenience at the time of the delay or cancellation. Mr. Rummell states that a passenger should receive compensation, similar to denied boarding compensation, when an air carrier's delayed flight causes a passenger to miss a connecting flight.

The Department agrees that air carriers should make their best efforts to alert passengers as early as possible of delays, the reason for the delay, and the actions the carrier is taking to deal with the problem. The instant rulemaking is focused on collecting data that can be used by consumers in making future travel plans and by the operators and

managers of the air transportation system for strategic planning to decrease the frequency and severity of flight irregularities. Thus, these proposals suggesting notification requirements in the event of delays or cancellations as well as the proposal for compensation are outside the scope of this rulemaking.

Standardizing Flight Times

ACI-NA states that the current system does not take into account the common practice by air carriers of increasing flight times in their schedules to avoid the appearance of frequent delays. According to ACI-NA system inefficiencies are masked when carriers' flights are counted as "on-time" only because the air carriers padded their schedules. ACI-NA believes that, "DOT's establishment of a more uniform delay reporting system would go a long way towards rectifying these problems, but will only do so if most or all air carriers are required to comply."

We agree that the current reporting system has the capacity to conceal inefficiencies in the aviation system. However, we also believe that airlines are acting responsibly and in the best interests of the public in adjusting their schedules to reflect actual departure and arrival times. It is more important for the public to be able to rely on the stated time that their flight actually will arrive at its destination, than it is for them to know the time the flight would arrive if there were no inefficiencies in the system. Generally, carriers schedule their flight times based on the unimpeded taxi-out time, the unimpeded air time, the unimpeded taxi-in time, and the time of all anticipated delays. For example, if each morning an air carrier's flight experiences a 20 minute wait in a queue for take-off clearance, the air carrier will incorporate those 20 minutes into its flight schedule. Flights are late when the carrier experiences an unanticipated delay. If events causing delays occur regularly, these events are built into a carrier's schedule, which precludes the public from otherwise being deceived and permits the public to rely on the carrier's stated schedule.

The Department's Inspector General audited some flights at certain heavily used airports and found that scheduled flight times have increased in duration over time. The increase in scheduled flight time is related to the rise in operations in the aviation system. Generally, an increase in the volume of operations at an airport means an increase in taxi-out times. This is especially true during peak operating periods. Rather than creating a more "uniform" system for carriers to report

their scheduled times, the Department has plans to develop an efficiency index for routes and airports. The route index would be based on the sum of the unimpeded taxi-out time, the unimpeded air time, the unimpeded taxi-in time divided into the scheduled times. The airport index would be an average of all route indices originating at the airport. High indices would represent an inefficiency on the route or at the airport. Accordingly, we do not find it in the public interest to adopt ACI-NA's suggestion to alter the way on-time flights are calculated.

Airline Service Quality Performance Data vs. Operations Network Data

ACI-NA states that, "The current system for reporting flight delays and cancellations is deeply flawed because of inconsistencies between the Airline Service Quality Performance (ASQP) data reported by the airlines to the BTS and the delay data collected by FAA personnel from manually recording aircraft via the FAA's Operations Network ("OPSNET" data). The OPSNET data are intended to measure system-wide ATC performance and to identify areas for ATC operational improvement."

The Department does not believe the reporting systems are flawed because ASQP and OPSNET reports have different delay results. As ACI-NA correctly points out, OPSNET measures how well the ATC system is performing. If a flight cannot lift-off within 15 minutes after departing the boarding gate, OPSNET records a departure delay because the ATC system did not service that aircraft in a timely manner. Conversely, ASQP measures how well the air carriers are meeting their published schedules. The most important delay statistic of ASQP is the percentage of scheduled on-time arrivals. As stated earlier, if an air carrier's flight routinely experiences a 20 minute wait in a departure queue, the carrier will add those 20 minutes into its flight schedule. That flight will probably have a consistent OPSNET delay and an on-time ASQP arrival. The largest discrepancies between OPSNET and ASQP occur when there are long ATC delays in the early morning. In these cases, both systems record delays for the initial morning flights. ASQP will continue to record delayed flights until the air carriers are able to meet their published schedules. OPSNET, on the other hand, would not record another delay unless there was another ATC problem.

The Department does not view different statistics from OPSNET and ASQP as flawed data. However, the

public can be confused when the media uses OPSNET and ASQP data interchangeably without explaining the differences in the two systems. We believe that the proper source to advise the public of air carrier on-time performance is the ASQP data. OPSNET data are the proper data source for analyzing ATC delays. However, once causal data are included in the ASQP system, it should become the primary source for all delay studies.

Publication of Causal Data

The ATA believes air carrier causal data are proprietary and confidential and should only be released to the public in an aggregate form and that no individual carrier causal data should be publicly released. ATA also believes that the Department should not release the "refined" NAS data until the Department and airlines have had ample time to evaluate its utility for this purpose. In the NPRM, the Department stated that it would use OPSNET data and information from the National Oceanic and Atmospheric Administration to identify the actual causes of delays reported in the "NAS" category.

Given the existing reporting requirements in this area, ATA has failed to demonstrate why causal data should be viewed as proprietary data. Indeed, Congress and the Department have made the determination that overriding public interest calls for release of the data. Moreover, the causal category "Air Carrier" is inclusive of all types of delays under the control of the carrier. This level of summarization does not allow a competitor air carrier to gain a competitive advantage by studying another carrier's reported "Air Carrier" delays. For example, you could not gain insight as to a carrier's policy of holding a flight for delayed connecting passengers from delays coded "Air Carrier."

The Department also disagrees with the suggestion that the FAA should not identify the delays coded "NAS." It is important for management purposes for the FAA to identify the specific cause of "NAS" delays. The FAA has had ample experience using OPSNET data to identify ATC, airport, and weather related delays. The Department realizes that there will be some "NAS" delays which it will not be able to match with its internal data. For example, there probably will not be internal FAA data to identify delays or cancellations caused by bird strikes. From the information gathered by the Air Carrier On-Time Reporting Advisory Committee and our experience with the follow-on pilot program on causal reporting, it

appears air carriers presently lack the necessary information to code those flight delays which occur after the aircraft pushes back from the departure gate. Because of this, air carriers code all delays after push back as "NAS" delays. Since air carriers lack the causal knowledge of delays after push back, we believe the FAA is the proper party to identify "NAS" delays. Moreover, if "NAS" delays were not identified, the public may be left with the perception that all "NAS" delays are solely ATC delays, which is not accurate.

Diverted Flights

We have concluded that air carriers should not report causal codes for diverted flights. Air carriers track and code delays only up to the time the aircraft pushes back from the gate at the origin airport. Carriers are instructed to code delays after push back as "NAS" delays because, after push back, the aircraft is generally under the command of the air traffic control system. Most diversions are caused by extreme weather conditions or mechanical malfunctions. There are only a minimal number of diverted flights and most diversions would be mis-coded if carriers followed the reporting instructions to code in-flight delays as "NAS" delays.

The Five Minute Rule

In the interest of keeping the reporting burden to a minimum, carriers will be required only to track delay causes of five minutes or more, however carriers may elect to track delays by the minute. Regardless of the method chosen, a carrier must ensure that, in all cases, the total minutes of the reported causal delays equal the actual minutes of arrival delays. For instructions, see examples 2, 3, 8, and 11 under the caption "Examples of delayed flight coding."

Reporting of Delayed Flights

Carriers use a fixed-length file format to report on-time data. We have added four-position numeric fields for each of the five possible causes of delays. Instead of reporting delay codes, carriers will report the number of minutes attributed to the cause of delay into the assigned fields for the appropriate cause of delay. There often are multiple reasons for delayed flights, and we are requiring air carriers to report each category of flight delay, as applicable. The Department has adopted the fixed-length file format as follows:

FIELD SPECIFICATIONS FOR FORM 234, ON-TIME PERFORMANCE REPORTS

Field and description	Type	Location	Length	Comments
A—Carrier code	Alpha	1–2	2	
B—Flight number	Num	3–6	4	
C—Origin airport code	Alpha	7–9	3	
D—Destination airport code	Alpha	10–12	3	
E—Date of flight operation	Num	13–20	8	Format yyyymmdd.
F—Day of the week of flight operation	Num	21	1	Mon = 1, Sun = 7.
G—Scheduled departure time per OAG	Num	22–25	4	Local time 24 hour clock.
H—Scheduled departure time per CRS	Num	26–29	4	Local time 24 hour clock.
I—Gate departure time (actual)	Num	30–33	4	Local time 24 hour clock.
J—Scheduled arrival time per OAG	Num	34–37	4	Local time 24 hour clock.
K—Scheduled arrival time per CRS	Num	38–41	4	Local time 24 hour clock.
L—Gate arrival time (actual)	Num	42–45	4	Local time 24 hour clock.
M—Difference between OAG and CRS scheduled departure times.	Num	46–49	4	In minutes (2 hrs = 0120 min).
N—Difference between OAG and CRS scheduled arrival times.	Num	50–53	4	In minutes.
O—Scheduled elapsed time per CRS	Num	54–57	4	In minutes.
P—Actual gate-to-gate time	Num	58–61	4	In minutes.
Q—Departure delay time (actual minutes CRS)	Num	62–65	4	In minutes.
R—Arrival delay time (actual minutes CRS)	Num	66–69	4	In minutes.
S—Elapsed time difference (actual minutes CRS) ...	Num	70–73	4	In minutes.
T—Wheels-off time (actual)	Num	74–77	4	Local time 24 hour clock.
U—Wheels-on time (actual)	Num	78–81	4	Local time 24 hour clock.
V—Aircraft tail number	Alpha/ Num	82–87	6	Left justified, trailing blanks.
W—Cancellation code	Num	88	1	(A, B, C, or D).
X—Minutes late for delay	Num	89–92	4	Carrier Caused Delays—In minutes.
Y—Minutes late for delay	Num	93–96	4	Extreme Weather Delays—In minutes.
Z—Minutes late for delay	Num	97–100	4	NAS Delays—In minutes.
AA—Minutes late for delay	Num	101–104	4	Security—In minutes.
AB—Minutes late for delay	Num	105–108	4	Late Arriving Aircraft—In Minutes.

Cancellation codes	Delay causes
A—Carrier Caused ...	Carrier Caused.
B—Extreme Weather	Extreme Weather.
C—National Aviation System.	National Aviation System.
D—Security	Security. Late Arriving Aircraft.

All numeric fields for which data are unavailable will be zero-filled.

All alpha fields for which data are unavailable will be left blank.

The data fields in this document are Y2K compliant.

Examples of delayed flight coding: 1. A flight received a 20 minute ground hold because of congestion at the destination airport, and the flight was 18 minutes late arriving at the destination airport gate. The delayed flight would be coded 18 minutes for NAS.

2. A flight was 4 minutes late pushing back from the gate and arrived 21 minutes late. The delayed flight would be coded 21 minutes for NAS. Please note in this example that the air carrier delay was less than 5 minutes, and thus unless the carrier tracks delays by the minute, the 4 minute push-back delay would not be attributed to the air carrier.

3. A flight was delayed 4 minutes due to slow boarding of passengers and

another 3 minutes to load late-arriving baggage. The flight arrived 15 minutes late. The delayed flight would be coded 7 minutes for air carrier and 8 minutes for NAS. Please note in this example that while no single air carrier caused delay was 5 minutes or more, the sum of the carrier delay was more than 5 minutes and the total delay was 15 minutes, and thus, reportable.

4. A flight was delayed 20 minutes waiting for connecting passengers from another flight and arrived 28 minutes late. The delayed flight would be coded 20 minutes for air carrier and 8 minutes for NAS.

5. A flight had a 16 minute ground hold and arrived 14 minutes late. There is no delay coding as the flight arrived within 15 minutes of scheduled arrival time, and thus, is considered on-time.

6. A flight is 20 minutes late because of weather and is coded 20 minutes for weather. The next flight with that aircraft is 15 minutes late leaving the gate and arrives 20 minutes late. The delayed flight would be coded 15 minutes for late arriving aircraft and 5 minutes NAS. Please note in this example that the air carrier made up 5 minutes of the initial late arriving aircraft delay, but then experienced a 5 minute en-route delay.

7. A flight was 30 minutes late pushing back from the gate. The 30 minute delay consisted of 10 minutes for a late arriving aircraft and 20 minutes for slow boarding process because of an oversales problem. The flight arrived 24 minutes late. The delayed flight would be coded 8 minutes for late arriving flight and 16 minutes for air carrier. Please note in this example that the 6 minutes gained after push back was prorated back to the two recorded delays. In this example, late arriving aircraft was 33.3% of the original delay and the air carrier delay was 66.6% of the delay. Therefore, late arriving aircraft was computed as 33.3% of 24 which equals 8; and air carrier was computed as 66.6% of 24 which equals 16.

8. A flight was 20 minutes late because of a thunderstorm and 6 minutes late because of a crew problem. The flight arrived 18 minutes late. The delayed flight would be coded 14 minutes for weather and 4 minutes for air carrier. In this example, the air carrier must round the prorated minutes to whole numbers. Carriers should not report fractions or decimals. Also, the

carrier would report an air carrier delay of less than 5 minutes because the carrier was required to track the crew delay because it was 5 minutes or more.

9. Flight number 234 was 20 minutes late departing the gate because the air carrier substituted a spare aircraft to reduce a known upcoming delay. The flight was scheduled to be operated with an aircraft that, at the time, was experiencing a 3 hour extreme weather delay. Flight number 234 arrived 16 minutes late, and was reported as a 16 minute late arriving aircraft—extreme weather.

10. A flight was 2 hours late because the carrier's concourse was evacuated and passengers re-screened because of a breach of security. The flight would be coded 120 minutes—Security.

11. A flight was 3 minutes late because of late crew and 4 minutes late because of severe weather. The flight arrived 19 minutes late. Since the flight was 7 minutes late departing the gate, the carrier could report the delay as 7 minutes "Weather" (the predominant cause of the gate delay of over five minutes) and a "NAS" delay of 12 minutes. Also, acceptable would be 3 minutes "Air Carrier," 4 minutes "Weather" and 12 minutes "NAS."

Examples of cancelled flight coding:

1. A flight cancelled because of mechanical problems is coded "A" for air carrier.

2. Flight 123, BOS–DCA was cancelled because, overnight, the airport had two feet of snow. The cancellation would be coded "B" for weather.

3. The next segment of Flight 123, DCA–MIA was cancelled because the aircraft that was to be used for this flight is stuck in two feet of snow in Boston. The weather in Washington and Miami is clear. The cancellation would be coded "B" for weather, because the intended aircraft was out of position as a result of a prior cancellation attributed to weather.

4. It's a clear day at O'Hare, but there is a ground hold for flights to DFW because of a severe thunderstorm around the DFW airport. After a 3 hour wait, the weather at DFW has not changed, and the carrier cancels the flight. The cancellation would be coded "B" for weather.

5. It's a rainy, misty day at O'Hare. Operations have been slow all morning. The air carrier receives a call from air traffic control asking that it cancel one of its next five flights to allow the airport to return to normal operations. Other carriers receive similar calls. These cancellations would be coded "C" for NAS.

6. The airport is closed for two hours because of a breach in security. The

carrier cancelled three flights because the number of scheduled departures exceeded airport capacity; and the FAA advised all air carriers that they must reduce the remainder of their daily schedule. The cancellation would be coded AD" for Security.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule is "significant" under Executive Order 12866 and the regulatory policies and procedures of the Department of Transportation (44 FR 11034), and was reviewed by the Office of Management and Budget. As discussed above, the purpose of the rule is to disclose more fully to the public and aviation managers the nature and source of the delays and cancellations experienced by air travelers. This objective is achieved by amending 14 CFR 234 to require reporting air carriers to identify and report causes of airline delays and cancellations. Based on information collected during the pilot project, we estimate that the new reporting requirements would require each reporting carrier to expend 10–20 hours to reconfigure its data system. Once these initial resources are expended, we estimate that there will be no additional costs or burdens for delay and cancellation reporting. We estimated reprogramming costs of \$100.00/hour. Thus, we estimate that for the 10 reporting air carriers in total, there would be an initial reprogramming cost of \$10,000—\$20,000.

Prior to the issuance of the NPRM, the Air Carrier Association of America stated that the start-up costs for air carriers not presently reporting under Part 234 would be approximately \$25,000, with annual costs as high as \$100,000. The Air Carrier Association of America did not submit a comment in response to the NPRM. American Trans Air estimated its initial programming costs at \$136,000 and an annual cost of \$100,000 "to report on-time performance as well as causal data." The ATA stated that it would be "inappropriate" for it to estimate the costs to its members because "on-time flight performance reporting is the responsibility of each certificated carrier."

This final rule applies only to carriers reporting under Part 234 and, while American Trans Air submitted cost estimates, it has not reached the Part 234 reporting threshold at this time and thus, is not covered by the requirements of this rule. Thus, none of the air carriers covered by this final rule face development costs since they are

already reporting under Part 234. None of the carriers, presently reporting under Part 234, indicated that the annual costs for reporting the causes of delays and cancellations would be \$100,000 or more. A carrier whose business expands to such a point that it meets the Part 234 reporting requirements, must develop a computer system to file its quality performance reports of which the casual delay information would be a minor part of the overall development costs.

Finally, even using slightly higher cost estimates (\$25,000–\$50,000), we believe that the benefits to the traveling public and the availability of more accurate information for the allocation of transportation resources outweigh the modest costs that would be incurred by the reporting air carriers.

Executive Order 12612

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and we have determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review its regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of "small business" has the same meaning as under the Small Business Act (15 CFR parts 631–657c). For those companies providing scheduled passenger air transportation, the SBA defines a small business as an air carrier that has 1,500 employees or fewer (See NAICS Number 48111).

The rule applies only to those air carriers that meet the Part 234 reporting criteria (*i.e.*, carriers that hold a certificate under 49 U.S.C. 41102 and account for at least 1 percent of the domestic scheduled-passenger revenues in the past 12 months). We have reviewed our data base and find that none of the air carriers that report under Part 234 have 1,500 employees or fewer. In fact, our information indicates that all of these carriers employ more than 10,000 employees. Therefore, we believe that this rule does not apply to any "small business" as defined by the SBA. Thus, based on the above discussion, I certify this rule will not have a

significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

Environmental Assessment

We believe that the changes to the Part 234 reporting system have no significant impact on the environment. The changes proposed in this final rule should increase the quality of data collected on the causes of airline delays and cancellations, thus increasing our ability to evaluate potential air traffic problems and allocate the appropriate resources toward mitigating these problems. These revisions should produce a small net benefit to the environment by improving the data sources used in regulatory development. Therefore, we find that there are no significant environmental impacts associated with this rule.

Paperwork Reduction Act Analysis

The reporting and record keeping requirements associated with this final rule are being sent to the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2138-0040. *Administration:* Bureau of Transportation Statistics; *Title:* Airline Service Quality Performance Reports; *Need for Information:* Statistical information on the causes of airline delays and cancellations; *Proposed Use of Information:* To disclose more fully to the public the nature and source of the delays and cancellations experienced by air travelers; *Frequency:* Monthly; *Burden Estimate:* 150 hours; *Average Annual Burden Hours per Respondent After Final Rule is Issued—No burden.* Based on information collected during the pilot project, we estimate that these reporting requirements will require each affected carrier to expend 10–20 hours to reconfigure its data system. We estimate reprogramming costs of \$100.00/hour. Thus, we estimate that for the 10 reporting air carriers in total, there would be an initial reprogramming cost of \$10,000–\$20,000. Once these initial resources are expended, we estimate that there would be no additional annual burden. We invite comments on our burden estimates. For further information or to comment on the burden hour estimate contact: The Office of Information and Regulatory Affairs, Office of Management and

Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention Desk Office for the Department of Transportation or Bernie Stankus at the address listed under **FOR FURTHER INFORMATION CONTACT.**

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139-AA09 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Regulatory Text

Accordingly, the Bureau of Transportation Statistics, under delegated authority pursuant to 49 CFR part 1, amends Chapter II of 14 CFR, as follows:

List of Subjects in 14 CFR Part 234

Advertising, Air carriers, Consumer protection, Reporting requirements, Travel agents.

PART 234—[AMENDED]

1. The authority citation for Part 234 continues to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Section 234.4 is amended by adding paragraphs (a)(16) through (a)(21), revising paragraph (b), and adding paragraph (g), (h) and (i) as follows:

§ 234.4 Reporting of on-time performance.

- (a) * * *
- (16) Causal code for cancellation, if any.
- (17) Minutes of delay attributed to the air carrier, if any.
- (18) Minutes of delay attributed to extreme weather, if any.
- (19) Minutes of delay attributed to the national aviation system, if any.
- (20) Minutes of delay attributed to security, if any.
- (21) Minutes of delay attributed to a previous late arriving aircraft, if any.
- (b) When reporting the information specified in paragraph (a) of this section for a diverted flight, a reporting carrier shall use the original scheduled flight number and the original scheduled origin and destination airport codes. Carriers are not required to report causal information for diverted flights.

* * * * *

(g) Reporting carriers should use the following codes to identify causes for cancelled flights:

Code
A—Air Carrier
B—Extreme Weather
C—National Aviation System (NAS).
D—Security

(1) Air Carrier cancellations are due to circumstances that were within the control of the air carrier (*e.g.*, lack of flight crew, maintenance, etc.).

(2) Extreme weather cancellations are caused by weather conditions (*e.g.*, significant meteorological conditions), actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior cancellation or delay attributable to weather.

(3) NAS cancellations are caused by circumstances within the National Aviation System. This term is used to refer to a broad set of conditions: weather-non-extreme, airport operations, heavy traffic volume, air traffic control, etc.

(4) Security cancellations may be the result of malfunctioning screening or other security equipment or a breach of security that causes the evacuation of the airport or individual concourses, or the need to re-screen passengers.

(h) Reporting carriers should use the following causes to identify the reasons for delayed flights:

CAUSE
Air Carrier
Extreme weather
NAS
Security
Late arriving aircraft

(1) Air carrier delays are due to circumstances within the control of the air carrier.

(2) Extreme weather delays are caused by weather conditions (*e.g.*, significant meteorological conditions, actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior cancellation or delay attributable to weather.

(3) NAS delays are caused by circumstances within the National Aviation System. This term is used to refer to a broad set of conditions: weather-non-extreme, airport operations, heavy traffic volume, air traffic control, etc.

(4) Security delays may be the result of malfunctioning screening or other security equipment or a breach of security that causes the evacuation of the airport or individual concourses or the need to re-screen passengers.

(5) Late arriving aircraft delays are the result of a late incoming aircraft from the previous flight.

(i) When reporting causal codes in paragraph (a) of this section, reporting carriers are required to code delays only when the arrival delay is 15 minutes or greater; and reporting carriers must report each causal component of the reportable delay when the causal component is 5 minutes or greater.

3. Section 234.5 is revised as follows:

§ 234.5 Form of reports.

Except where otherwise noted, all reports required by this part shall be filed within 15 days of the end of the month for which data are reported. The reports must be submitted to the Office of Airline Information in a format specified in accounting and reporting directives issued by the Bureau of Transportation Statistics' Assistant Director for Airline Information.

Issued in Washington, DC on November 15, 2002.

Rick Kowalewski,

Acting Director, Bureau of Transportation Statistics.

[FR Doc. 02-29910 Filed 11-22-02; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 738, 746, 758 and 774

[Docket No. 021009232-2232-01]

RIN 0694-AC57

Exports and Reexports to the Federal Republic of Yugoslavia: Lifting of UN Arms Embargo-Based Controls; Clarification of UN Arms Embargo-Based Controls on Rwanda

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by removing the special controls on the export and reexport of arms-related items imposed on July 14, 1998 on the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY). Consequently, arms embargo-based licensing requirements for exports and reexports of certain items subject to the EAR (e.g.,

water cannon) to the FRY are removed, and a case-by-case license review policy is reinstated for the export and reexport of items controlled for regional stability and crime control reasons. This rule is consistent with United Nations Security Council (UNSC) Resolution 1367 of September 10, 2001, which terminated the international arms embargo against the FRY mandated by UNSC Resolution 1160 of March 3, 1998. This rule also makes a minor clarification to the arms embargo-based controls in place with respect to Rwanda pursuant to UNSC Resolution 918 of May 17, 1994.

DATES: This rule is effective November 25, 2002.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Industry and Security, Telephone (202) 482-0171, e-mail jroberts@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Consistent with United Nations Security Council (UNSC) Resolution 1160 of March 3, 1998, the Bureau of Industry and Security (BIS), formerly the Bureau of Export Administration (BXA), imposed new controls on the export and reexport of arms-related items subject to the EAR to the Federal Republic of Yugoslavia (Serbia and Montenegro) (FRY). UNSC Resolution 1160 mandated an embargo on the sale or supply of arms and arms-related matériel to the FRY. On July 14, 1998, BIS issued a rule consistent with the UNSC embargo against the FRY, applying a policy of denial on the export and reexport of items controlled for crime control and regional stability reasons and making additional items subject to control (e.g. certain shotgun shells, military helmets, water cannon and certain civil aircraft). BIS placed the specific provisions that implemented the embargo in section 746.9 of the EAR.

On September 10, 2001, in Resolution 1367, the UNSC terminated the international arms embargo against the FRY. Consistent with UNSC Resolution 1367, this rule removes the provisions in section 746.9 of the EAR that implemented the arms embargo against the FRY. With the publication of this rule, BIS is removing the UN arms embargo-based license requirements for the export and reexport of items controlled under Export Classification Control Numbers (ECCNs) 0A018, 0A984, 0A985, 0A986, 0A987, 0A988, 0B986, 0E018, 0E984, 1A005, 1B018, 1C018, 1C992 1D018, 2A993, 2B018, 2D018, 2E018, 6A002, 6A003, 6A018, 6E001, 6E002, 8A018, 9A018, 9A991,

9D018, 9E018 to the FRY. BIS is removing altogether ECCN 0A989, water cannon and specially designed components for water cannon, because it was a UN arms embargo-based control applying solely to the FRY. BIS also is reinstating a case-by-case licensing policy for the export and reexport of these items controlled for crime control or regional stability reasons destined to the FRY.

This rule also adds a new note number 4 in the License Exception sections of entries for "Technology" controlled by ECCNs 6E001 and 6E002, making License Exception Technology and Software under Restriction (TSR) unavailable for exports or reexports of 6E001 and 6E002 "Technology" to Rwanda, which is still subject to a UN arms embargo pursuant to UNSC Resolution 918 of May 17, 1994. With respect to Rwanda, "Technology" controlled by ECCN 6E001 is for the "development" of equipment, materials or "software" controlled by Category 6A002 or 6A003, and "Technology" controlled by ECCN 6E002 is for the "production" of equipment or materials controlled by 6A002 or 6A003. The license requirements for Rwanda are set forth in section 746.8 of the EAR.

Finally, this rule makes changes to sections 732.3 and 758.1 of the EAR to reflect the removal of the UN arms embargo-based controls against the FRY and removes Supplement 2 to part 746 describing international arms embargoes administered by the Department of State. For information on such embargoes, exporters are advised to consult with the Department of State, Office of Defense Trade Controls.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) These collections have been approved by the Office of Management and Budget under control number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BIS-748P. Send comments regarding these burden